

INFORMATION SHEET 3 – IMPLEMENTING PRIVACY LEGISLATION

Quick Reference

This information is primarily intended for all Executive Officers/Managers and Administrative Staff

Health Records Act 2001 requires full compliance by 1 March 2002 (target date) and no later than 1 July 2002

'Organisation' includes a person or body that is a health service provider or that collects, holds or uses health information.

Schedule 1 of the HRA details all Health Privacy Principles

Most health care providers will already have protocols, standards and practices around information handling and confidentiality – draw on existing standards when considering whether to introduce new measures to meet privacy law requirements

HEALTH RECORDS ACT 2001

The Health Records Act (HRA) 2001 is the privacy law that will apply to most information handled by member agencies in a Primary Care Partnership (Partnership).

It applies to all **health information** defined as (refer HRA for complete text): -

- (a) Personal information (including an opinion) held by any organisation about a person's physical, mental or psychological health or disability or about actual or desired provision of health services
- (b) All personal information collected by **health service** providers to provide, or in providing a health service in Victoria and including
- (c) Personal information relating to organ and other body part donation and genetic information.

The HRA will come into effect by no later than 1 July 2002 with a target date of 1 March 2002. It will apply to all public sector and private sector **organisations** that handle health information, including multi-service organisations that provide health and related care services and sole providers such as General Practitioners. It also includes health information handled by organisations that are not in themselves health service providers, such as residential services, which hold some health details of residents.

Partnership members may include a variety of health care related services (eg drug and alcohol services, formal counselling services). Those services while not always specifically regarded as health related services will also be covered by the provisions of the HRA.

HEALTH PRIVACY PRINCIPLES

The HRA contains 11 legally binding Health Privacy Principles (HPPs) with which organisations must comply. In summary, HPPs describe the standards that underpin the collection, use and disclosure of a person's health information. HPPs also set direction on data security and enable consumers to request access to their health records, as well as correction of any information that is incorrect, incomplete, out of date or misleading. Partnership member agencies should ensure that all staff (including volunteers) become familiar with the HPPs and understand the Partnership's approach to fulfilling its obligations under the terms of each HPP.

PREPARING FOR NEW PRIVACY PROVISIONS

Partnerships and their member agencies should prepare now in order to be fully compliant with the legislation by the implementation date. Key tasks for consideration include, but are not limited to:

- Review of existing **health information management practices** to assess current compliance and identify any gaps
- Development of **privacy protocols** that outline the Partnership's approach to meeting its obligations under privacy laws
- Identification of a **privacy officer** with key responsibility for the implementation of the privacy policy and handling of complaints
- Development of **promotional material** such as information pamphlets and posters to promote the Partnership's privacy policy to its consumers
- Development of promotional materials in a range of **communication mediums** such as local community languages and large print publications, audio material and website facility to ensure accessibility to the wider community
- Identification of **training needs** for all staff, including any special requirements for casual employees, outreach, voluntary staff and contracted services

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Privacy protocols should cover all stages of the information lifecycle through collection, disclosure, storage & transfer, retention & disposal of information

*Information Sheet 8 **Security of Information** provides further guidance on security issues.*

In a multiple service organisation a Privacy Officer should ideally be someone who holds the key responsibility for management of information

*Information sheet 10 provides guidance on **Handling Privacy Complaints***

KEY ASPECTS OF A PRIVACY PROTOCOL

In developing a fair and open privacy protocol, consideration should be given, but not limited to:

- An approach that limits collection and recording to relevant information only
- Access arrangements that facilitate the consumer's ability to access their health records
- Security principles and work practices that offer appropriate protection of computer and hard copy files and set guidelines for appropriate verbal communication
- Appropriate mechanisms to deal with consumer complaints internally and to respond to those directed to external bodies such as the Health Services Commissioner.

APPOINTING A PRIVACY OFFICER

In a Partnership arrangement identifying a privacy officer may be difficult given the multiple service configuration and in some instances geographical limitations. Partnerships may wish to consider identifying either:

- A key privacy contact in each member agency or
- A lead agency to handle all privacy related issues on behalf of all member agencies

Regardless of what approach the Partnership may take in appointing a privacy officer the following points will need to be addressed at a minimum:

- Development of a role statement to clarify the scope of the privacy officer's responsibilities within the context of the Partnership
- Identification of appropriate training opportunities and reference materials and resources to support the privacy officer in undertaking the role.

The scope of responsibilities for a privacy officer should include, but not be limited to:

- Development and promotion of privacy protocols across member agencies, including a complaints mechanism
- First line contact where consumers may have complaints or concerns about the information handling practices of the Partnership or member agencies
- Identification of privacy training requirements and sourcing of appropriate privacy training and education opportunities
- Development of a risk management strategy to manage identified privacy risks across Partnership and member agencies
- Quality assurance role to monitor member agency compliance with privacy legislation

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Encourage and reinforce good work practices:

Do not allow sharing of passwords or security access personal identification numbers

Avoid where possible collection of personal information in an open office environment

REVIEW OF HEALTH INFORMATION MANAGEMENT PRACTICES

Partnerships should encourage regular reviews of health information management practices among their member agencies to ensure ongoing compliance with privacy legislation. An effective approach may be the development of a review checklist that covers key elements such as (but not limited to):

- Security of electronic business systems (eg use of protective passwords, time activated screensavers and firewalls)
- Storage of hard copy files and secure access arrangements (eg use of locked filing cabinets)
- Assessment of physical environments (eg use of private interviewing rooms v open reception)
- Process and mechanisms (eg fax, e-mail, courier) to track transfer of documents within the organisation and disclosure of information to a third party

SOME TIPS FOR MANAGING INFORMATION IN THE NEW PRIVACY ENVIRONMENT

- ❑ Most PCP member agencies will have existing work practices that will already be compliant with privacy legislation – use the legislation to strengthen and support those practices
- ❑ Partnerships should develop agreed protocols that include practices and processes for implementing statutory privacy requirements within member agencies
- ❑ Promote the Partnership's privacy protocols in an open manner and make information on the new regulatory environment available to consumers in a variety of user friendly formats

LEGAL ADVICE: DISCLAIMER

Information contained within this information sheet is not intended to substitute for legal advice. Primary Care Partnerships and / or member agencies should take advice from their legal advisors in determining whether their policies and practices comply with all relevant legislation.