

PRIVACY POLICY

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Purpose & Scope:

The purpose of this policy and procedure is to:

- i) ensure personal information is managed in an open and transparent way;
- ii) protect the privacy of personal information including Health Information of clients, residents and staff;
- iii) provide for the fair collection and handling of personal information;
- iv) ensure that personal information Wintringham collect is used and disclosed for relevant purposes only;
- v) regulate the access to and correction of personal information; and
- vi) ensure the confidentiality of personal information through appropriate storage and security.

Responsibility:

Wintringham's Privacy Officer is the General Manager – Operations (GMO). The GMO will manage and administer all matters relating to protecting the privacy of individual's Personal Information.

All Wintringham Managers will be aware of this policy and ensure that all personal information collected is managed as per the requirements set down in this policy keeping in mind the Privacy Policy purpose and policy statements.

All staff are to be aware of this policy and ensure that they maintain each person's privacy as directed herein.

Staff (including contractors), volunteers, clients and residents or their legal representative are responsible for advising us when the information provided to us has changed.

Definitions:

What is "Personal Information"?

Personal Information is information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

What is "Sensitive Information"?

Sensitive Information includes information or an opinion about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record, biometric information, biometric templates, health information about an individual and genetic information.



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What is “Health Information”?

Health Information is:

- i) information or an opinion about:
 - A. the health or a disability (at any time) of an individual;
 - B. an individual’s expressed wishes about the future provision of health services to him or her; or
 - C. a health service provided, or to be provided, to an individual that is also personal information; or
- ii) other personal information collected to provide, or in providing, a health service;
- iii) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or
- iv) genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

What is “Unsolicited Information”?

Unsolicited Information is all personal information received from an individual that Wintringham did not actively seek to collect.

What is an “Employee Record”?

An Employee Record is a record of personal information relating to the employment of the employee. Examples of personal information relating to the employment of the employee are Health Information about the employee and personal information about all or any of the following:

- i) the engagement, training, disciplining or resignation of the employee;
- ii) the termination of the employment of the employee;
- iii) the terms and conditions of employment of the employee;
- iv) the employee’s personal and emergency contact details;
- v) the employee’s performance or conduct;
- vi) the employee’s hours of employment;
- vii) the employee’s salary or wages;
- viii) the employee’s membership of a professional or trade association;
- ix) the employee’s trade union membership;
- x) the employee’s recreation, long service, sick, personal, maternity, paternity or other leave; and
- xi) the employee’s taxation, banking or superannuation affairs.



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Policy:

- Wintringham will use all reasonable efforts to protect the privacy of individuals' personal information and to comply with the obligations imposed by the *Privacy Act 1988*, the Australian Privacy Principles (APP), requirements as set down by the Victorian Department of Health and Human Services, DHHS (including the Housing Registrar), the Aged Care Act and the Aged Care Principles.
- This policy applies to all staff (including contracted agency staff) and volunteers.
- Wintringham will only collect personal information by lawful and fair means and will only collect personal information that is necessary for one or more of our organisation's functions or activities.
- If it is reasonable and practicable to do so, Wintringham will collect personal information about an individual only from that individual.
- In meeting our obligations with respect to the privacy of our clients Wintringham will acknowledge that people with vision or hearing impairments and those of culturally and linguistically diverse people may require special consideration.
- Any suspected breach of privacy is to be assessed and reported to the Wintringham Privacy Officer who will assess each case and report to the Office of the Australian Information Commissioner (OAIC), if deemed appropriate.

Procedure:

1. COLLECTION, USE AND DISCLOSURE

- 1.1 Wintringham will collect and use information about staff (including contractors), clients and residents during the course of their relationship with Wintringham. Please find below when and how Wintringham may collect, use and disclose this information.
- 1.2 It is important that the information Wintringham holds about staff (including contractors), clients and residents is up to date. Staff (including contractors), volunteers, clients and residents must let the appropriate Wintringham personnel know when the information provided has changed.
- 1.3 For the purposes of this policy, unless otherwise stated, the term 'individual' or 'individuals' is used to describe staff (including contractors), clients or residents (including a client or resident's legal representative).



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2. PURPOSE OF COLLECTION OF PERSONAL INFORMATION

- 2.1 Wintringham will only collect Personal Information about an individual by fair and lawful means and only if the information is necessary for one or more of our functions as an aged care provider and collection of the Personal Information is necessary to:
- i) comply with the provisions of state or commonwealth law;
 - ii) provide data to government agencies in compliance with state or commonwealth law;
 - iii) determine eligibility to entitlements provided under any state or commonwealth law;
 - iv) provide appropriate services and care;
 - v) enable contact with a nominated person regarding a client's health status; and
 - vi) lawfully liaise with a nominated representative and to contact family if requested or needed.
- 2.2 Some individuals may not want to provide information to Wintringham. The information Wintringham request is relevant to providing them with the care and services they need. If the individual chooses not to provide us with some or all of the information Wintringham request, Wintringham may not be able to provide them with the care and services they require. In the case of staff, certain information is required in order for them to be employed or continue to be employed at Wintringham. One example of this is the Police Records Check which Wintringham require on employment and every three years thereafter. While an employee may choose not to provide this information, legislation states that Wintringham cannot employ individuals without a valid police record check.
- 2.3 Wintringham will not collect an individual's Sensitive Information (including Health Information) unless the collection of the information is reasonably necessary for or directly related to one or more of our functions and:
- i) the individual has consented to the collection of this information; or
 - ii) the collection of the information is required to authorised by or under an Australian law or a court/tribunal order; or
 - iii) a permitted general situation exists to the collection of the information; or
 - iv) a permitted health situation exists in relation to the collection of the information; or
 - v) the information relates to our activities and the information relates only to the members of the organisation, or to individuals who have regular contact with Wintringham and our activities (this final point only applies to not-for-profit



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organisations such as Wintringham).

3. METHODS OF COLLECTION

3.1 Personal Information and Sensitive Information (including Health Information), may be collected:

- i) from a client or resident;
- ii) from any person or organisation that assesses health status or care requirements, for example the Aged Care Assessment Service;
- iii) from the health practitioner of a client or resident;
- iv) from other health providers or facilities;
- v) from family members or significant persons of a client or resident; and
- vi) from a legal advisor of a client or resident.

Wintringham will collect Personal Information from the client or resident unless:

- i) Wintringham have the consent of the client or resident to collect the information from someone else; or
- ii) Wintringham are required or authorised by law to collect the information from someone else; or
- iii) it is unreasonable or impractical to do so.

At admission, a client or resident should identify any parties from whom they do not wish Personal Information accessed or to whom they do not wish Personal Information provided. This should be recorded on the 'Consent to Obtain and Exchange Information' form which should then be kept in the file of the client or resident and complied with to the extent permitted by law.

3.2 Unsolicited Information

If Wintringham receive Personal Information from an individual that Wintringham have not solicited and Wintringham could not have obtained the information by lawful means, Wintringham will destroy or de-identify the information as soon as practicable and in accordance with the law.

3.3 Staff records

Wintringham must keep a record in respect of staff about:

- i) basic employment details such as the name of the employer and the employee and the nature of their employment (eg part-time, full-time, permanent, temporary or casual);
- ii) pay;
- iii) overtime hours;
- iv) police check number;
- v) averaging arrangements;
- vi) leave entitlements;



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- vii) superannuation contributions;
- viii) termination of employment (where applicable); and
- ix) individual flexibility arrangements and guarantees of annual earnings.

Wintringham may also collect Personal Information about a staff member relating to their employment being Employee Records (as defined above).

3.4 Notification

Wintringham will at or before the time or as soon as practicable after we collect Personal Information from an individual take all reasonable steps to ensure that the individual is notified or made aware of:

- i) our identity and contact details;
- ii) the purpose for which Wintringham are collecting Personal Information;
- iii) the identity of other entities or persons to whom Wintringham usually disclose Personal Information to;
- iv) that our privacy policy contains information about how the individual may complain about a breach of the APPs and how Wintringham will deal with a complaint;
- v) whether Wintringham are likely to disclose Personal Information to overseas recipients and if so, the countries in which such recipients are likely to be located and if practicable, to specify those countries.

4. USE AND DISCLOSURE OF INFORMATION

4.1 Permitted disclosure

Wintringham may not use or disclose Personal Information for a purpose other than the primary purpose of collection, unless:

- i) the secondary purpose is related to the primary purpose (and if Sensitive Information directly related) and the individual would reasonably expect disclosure of the information for the secondary purpose;
- ii) the individual has consented;
- iii) the information is Health Information and the collection, use or disclosure is necessary for research, the compilation or analysis of statistics, relevant to public health or public safety, it is impractical to obtain consent, the use or disclosure is conducted within the privacy principles and guidelines and Wintringham reasonably believe that the recipient will not disclose the Health Information;
- iv) Wintringham believe on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to an individual's life, health or safety or a serious threat to public



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- health or public safety;
- v) Wintringham have reason to suspect unlawful activity and use or disclose the Personal Information as part of our investigation of the matter or in reporting our concerns to relevant persons or authorities;
 - vi) Wintringham reasonably believe that the use or disclosure is reasonably necessary to allow an enforcement body to enforce laws, protect the public revenue, prevent seriously improper conduct or prepare or conduct legal proceedings; or
 - vii) the use or disclosure is otherwise required or authorised by law.

If Wintringham receive Personal Information from an individual that Wintringham have not solicited, Wintringham will, if it is lawful and reasonable to do so, destroy or de-identify the information as soon as practicable.

4.2 Cross border disclosure

Wintringham will not disclose an individual's Personal Information to an overseas recipient. If Wintringham do, Wintringham will take all steps that are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles, unless:

- i) the overseas recipient is subject to laws similar to the Australian Privacy Principles and the individual has mechanisms to take action against the overseas recipient;
- ii) Wintringham reasonably believe the disclosure is necessary or authorised by Australian Law; or
- iii) the individual has provided express consent to the disclosure.

4.3 Disclosure of Health Information

Wintringham may disclose Health Information about an individual to a person who is responsible for the individual if:

- i) the individual is incapable of giving consent or communicating consent;
- ii) the service manager is satisfied that either the disclosure is necessary to provide appropriate care or treatment or is made for compassionate reasons or is necessary for the purposes of undertaking a quality review of our services (and the disclosure is limited to the extent reasonable and necessary for this purpose); and
- iii) the disclosure is not contrary to any wish previously expressed by the individual of which the service manager is aware, or of which the service manager could reasonably be expected to be aware and the disclosure is limited to the extent reasonable and necessary for providing care or treatment.

A person responsible is a parent, a child or sibling, a spouse, a relative, a



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member of the individual's household, a guardian, an enduring power of attorney, a person who has an intimate personal relationship with the individual, or a person nominated by the individual to be contacted in case of emergency, provided they are at least 18 years of age.

5. ACCESS

5.1 Each individual has a right to request that Wintringham provide access to the Personal Information Wintringham hold about that specific individual (and Wintringham shall make all reasonable attempts to grant that access) unless providing access:

- i) is frivolous or vexatious;
- ii) poses a serious threat to the life or health of any individual;
- iii) unreasonably impacts upon the privacy of other individuals;
- iv) jeopardises existing or anticipated legal proceedings;
- v) prejudices negotiations between the individual and us;
- vi) be unlawful or would be likely to prejudice an investigation of possible unlawful activity;
- vii) an enforcement body performing a lawful security function asks us not to provide access to the information; or
- viii) giving access would reveal information Wintringham hold about a commercially sensitive decision making process.

5.2 Requesting access

Requests for access to information can be made orally or in writing and addressed to the service manager of the relevant service or directly to the Privacy Officer. Wintringham will respond to each request within a reasonable time.

5.3 Declining access

The Service Manager or Privacy Officer will ensure that the individual's identity is established prior to allowing access to the requested information. If unsatisfied with the individual's identity or access is requested from an unauthorised party, Wintringham can decline access to the information.

Wintringham can also decline access to information if:

- i) there is a serious threat to life or health of any individual;
- ii) the privacy of others may be affected;
- iii) the request is frivolous or vexatious;
- iv) the information relates to existing or anticipated legal proceedings;
or
- v) the access would be unlawful.

Wintringham will provide in writing the reasons for declining access to the requested information.



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5.4 Granting access

On request (and after determining an individual's right to access the information) Wintringham should provide access to Personal Information.

5.5 Charges

If Wintringham charge for providing access to Personal Information, those charges will not be excessive.

5.6 Personnel files belong to employers, not employees.

Despite Clauses 5.1 to 5.4, it must be noted that employee personnel files are the property of the employer. The Australian Privacy Principles (APP) contained in the Privacy Act 1988 allow a person to seek access and correction of personal information held about them. However, employee records are exempt from the application of the Act and the APPs. This means that when an employer handles current and past employee records for something that is directly related to the employment relationship, that information is not subject to the APPs (including the right to seek access and correction).

6. PERSONAL INFORMATION QUALITY

Wintringham aim to ensure that the Personal Information Wintringham hold is accurate, complete and up-to-date. Please contact us if any of the Personal Information you have provided to us has changed. Please also contact us if you believe that the information Wintringham have about you is not accurate, complete or up-to-date.

7. CORRECTION

If an individual establishes the Personal Information held about them is inaccurate, incomplete, out-of-date, irrelevant or misleading Wintringham must take reasonable steps to correct the information.

If Wintringham disagree with an individual about whether information is accurate, complete and up- to-date, and the individual asks us to associate with the information a statement claiming that the information is inaccurate, incomplete, out-of-date, irrelevant or misleading Wintringham must take reasonable steps to do so.

If Wintringham refuse to correct the Personal Information as requested by the individual, Wintringham will give the individual written notice that sets out:

- i) the reasons for the refusal, except to the extent that it would be unreasonable to refuse;
- ii) the mechanisms available to complain about the refusal; and
- iii) any other matter prescribed by the regulations.



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8. DIRECT MARKETING

8.1 Personal Information

Wintringham will not use or disclose Personal Information about an individual for the purposes of direct marketing, unless the information is collected directly from the individual themselves and:

- i) the individual would reasonably expect us to use or disclose the individual's Personal Information for the purpose of direct marketing; and
- ii) Wintringham have provided the individual concerned with a means to 'opt-out' and they have not opted out.

8.2 Sensitive Information

Wintringham will not use or disclose Sensitive Information about an individual for the purposes of direct marketing, unless the individual has consented to the information being used for direct marketing.

8.3 An individual's rights in relation to direct marketing activities

If Wintringham use information for the purposes of direct marketing the individual may:

- i) ask us not to provide direct marketing communications to them
- ii) ask us not to disclose or use the information
- iii) ask us to provide the source of the information.

9. PERSONAL INFORMATION SECURITY

Wintringham are committed to keeping secure the Personal Information you provide to us. Wintringham will take all reasonable steps to ensure the Personal Information Wintringham hold is protected from misuse, interference, loss, from unauthorised access, modification or disclosure.

Information of a Client or Resident

- i) Wintringham must keep the records of a client or resident in a secure storage area.
- ii) If the records are being carried while providing care only the staff member carrying the records will have access to them.
- iii) Records of previous clients and residents and earlier unused volumes of current clients or residents shall be archived and stored in a locked service away from general use.
- iv) Only designated Wintringham staff and associated health professionals attending to the care of a client or resident are to have access to information of the client or resident. All records shall only be used for the purpose it was intended.
- v) A client or resident, or their representatives shall be provided access to records as requested and after consultation with the service manager. At these times, a qualified staff member is to



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- remain with a client or resident or representative to facilitate the answering of any questions raised.
- vi) Details of a client or resident are not to be provided over the phone, unless the staff member is sure of the person making the inquiry. If in doubt, consult the service manager.
 - vii) No staff shall make any statement about the condition or treatment of a client or resident to any person not involved in the care except to the immediate family or representative of the client or resident and then only after consultation with the service manager.
 - viii) All staff must be discrete with their comments at all times, protecting and respecting the privacy, dignity and confidentiality of all clients and residents.
 - ix) Handovers shall be conducted in a private and confidential manner.

Security measures

Our security measures include, but are not limited to:

- (i) training our staff on their obligations with respect to your Personal Information;
- (ii) use of passwords when accessing our data storage system;
- (iii) the use of firewalls and virus scanning tools to protect against unauthorised interference and access.

Wintringham will, as soon as practicable and in accordance with the law, destroy or de-identify any Personal Information that is no longer required for our functions.

10. BREACH OF PRIVACY

A privacy breach is reportable if it is likely to result in serious harm to any of the individuals to whom the information relates. Not all privacy breaches are reportable. If a privacy breach is assessed and action to address the breach is not likely to result in serious harm, there is no requirement to notify any individuals or the Commissioner.

Reportable Privacy Breaches

A privacy breach occurs when three criteria are satisfied:

- (i) there is unauthorised access to or unauthorised disclosure of personal information, or a loss of personal information;
- (ii) it is likely to result in serious harm to one or more individuals;
- (iii) Wintringham has not been able to prevent the likely risk of serious harm with remedial action



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An Incident Report must be completed and the issue escalated to the Privacy Officer or delegate to assess whether the breach is reportable to OAIC. The assessment should be completed and a decision made whether to report the breach, within 30 days.

Individuals affected by the breach must be notified as soon as practicable if the assessment is made to report the breach. Notification can occur before or after notifying OAIC.

If a breach is reportable, the Notifiable Data Breach Form can be found on the OAIC website - <https://www.oaic.gov.au>

11. MEDIA

No member of staff shall make any statement to the press, radio or television station or to any reporter for the media. If a staff member is approached to make a statement or comment they must refer the person to our CEO.

12. GRIEVANCE PROCEDURE

12.1 How to make a complaint

If you wish to make a complaint about the way Wintringham have managed your Personal Information you may make that complaint verbally or in writing by setting out the details of your complaint to any of the following:

(a) Our Privacy Officer: General Manager Operations

Phone: 03 9376 1122

Fax: 03 9376 8138

Email: admin@wintringham.org.au (please state 'Attention GMO in the subject line)

(b) Facility Manager

(c) The CEO

Phone: 03 9376 1122

Fax: 03 9376 8138

Email: admin@wintringham.org.au (please state 'Attention CEO in the subject line)

Alternatively, complaints may also be referred to a number of services as set out below:

(d) Office of the Australian Information Commissioner (OAIC)



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The Office of the Australian Information Commissioner receives complaints under the Act. Complaints can be made:

Online: <http://www.oaic.gov.au/privacy/making-a-privacy-complaint>

By phone: on 1300 363 992

By fax: on +61 2 9284 9666

In writing:

Address your letter to the Australian Information Commissioner at the:

Office of the Australian Information Commissioner

GPO Box 5218

Sydney NSW 2001

OR

Office of the Australian Information Commissioner

GPO Box 2999

Canberra ACT 2601 NSW 2001

(e) DHHS Victoria Funded Agencies

Under service agreement clause 17.3(i), funded organisations must immediately notify the department when becoming aware of a breach or possible breach of the organisation's obligations under the Privacy and Data Protection Act 2014 or the Health Records Act 2001. This applies to breaches by the organisation (or any person acting on the organisation's behalf) of information that it is funded by the department to manage. The purpose of notifying the department is to ensure timely and effective management of privacy incidents, and to learn from incidents to improve how client information is handled. For more information, contact the department's Privacy Team on 9096 0888 or email privacy@dhhs.vic.gov.au

(f) Aged Care Quality and Safety Commission

The Aged Care Quality and Safety Commission receives complaints under the Act. Complaints can be made:

Online: www.agedcarequality.gov.au

By phone: 1800 951 822

Or if you need an interpreter you can phone the Translating and Interpretation Service on 131 450 and ask them to put you through to the Aged Care Quality and Safety Commission on 1800 951 822.

For hearing or speech impaired TTY users phone 1800 555 677 then ask for 1800 550 552. For Speak and Listen users phone 1800 555 727 then ask for 1800 951 822.

For Internet relay users connect to

<https://www.iprelay.com.au/call/index.aspx> and enter 1800 951 822.



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In writing:

Address your letter to:

Aged Care Quality and Safety Commission
GPO Box 9819
Melbourne, VIC., 3000

11.2 How Wintringham will deal with your complaint

The complaint will be investigated by us in accordance with our internal procedures and processes.

The complainant may be invited to participate in a conference by the staff member conducting the investigation at the discretion of the General Manager – Operations. Other interested parties may also be invited to participate in the conference to discuss the nature of the complaint and attempt to resolve it. This may include the presence or participation of a support person or advocate for the complainant.

The complainant will be provided with a response to their complaint within a reasonable timeframe after completion of any investigation. This response will be in writing and will include the outcome of the investigation, any proposed action and details of the right to lodge a complaint with any relevant external organisations.

13. PRIVACY OFFICER

Wintringham have appointed a Privacy Officer to manage and administer all matters relating to protecting the privacy of individual's Personal Information.

The Privacy Officer can be contacted if any relevant person wishes to obtain more information about any aspect of this policy or about the way in which Wintringham operate to protect the privacy of individual's Personal Information.

As stated above, complaints may also be made to the Privacy Office if any person suspects Wintringham have breached this Privacy Policy, the Australian Privacy Principles or they are otherwise unhappy with the management of their or if they are responsible for another person, that person's Personal Information.



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References:

Information Privacy Act (Vic) 2000
Privacy Act 1988
Office of the Australian Information Commissioner
Charter of Human Rights and Responsibilities Act (Vic) 2006
Health Record Act 2001
Privacy Amendment (Enhancing Privacy Protection) Act 2012
Australian Privacy Principles
L_M Fm 35a Consent to Obtain and Exchange Information Form
L_M Fm 34a Wintringham Freedom of Information Request Form
L_M 34A Privacy Collection Statement
L_M 34B Privacy Procedures
L_M 34C Closed Circuit Television
L_M Fm 34d Information Technology Access Agreement
L_M Fm 34e Information Technology Access Agreement Guide

