**Chaplaincy Information, Records and Reporting Policy**

**1. Background**

This policy is for use by Victorian government schools that are not participating in the Commonwealth Government’s National School Chaplaincy Programme (NSCP). Note: Chaplains can also be employed via the NSCP. For guidelines applying to the engagement of chaplains via the NSCP, see: [National School Chaplaincy Programme](http://www.education.vic.gov.au/school/principals/health/Pages/nscpchaplaincy.aspx).

The aim of Chaplaincy Services in Victorian government schools is to support the emotional wellbeing of students by providing pastoral care services and strategies to support the emotional wellbeing of the broader school community.

Chaplains can be engaged directly by schools:

* via the school’s Student Resource Package (SRP), or
* through a community partnership (voluntary or paid).

Schools can:

* employ a chaplain directly, usually as an Education Support Staff member; or
* engage a chaplain as a contractor through an agency that provides Chaplaincy Services.

Contracting Chaplaincy Services (outside of the NSCP) can be done using a [General Service Agreement for](http://www.education.vic.gov.au/Documents/school/principals/safety/AgreementnonNSCP.doc) further information see [Chaplaincy](http://www.education.vic.gov.au/school/principals/spag/safety/Pages/chaplaincy.aspx)

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Chaplains and Chaplaincy Providers are required to comply with all of the following:

* the *Public Records Act 1973* (Vic) and any standards, policies or guidelines issued from time to time, including any retention and disposal authorities that may be relevant to the records (**Public Records Act**)
* the *Health Records Act 2001* (Vic) and any applicable principles and code of practice (**Health Records law**)
* the *Privacy and Data Protection Act 2014* (Vic) and any applicable principles and code of practice (**Privacy law**)
* this Policy as published on the Department of Education and Training website and as amended from time to time.
1. **Purpose of this Policy**

The purpose of this Policy is to clarify the roles, responsibilities and obligations of Chaplaincy Providers and Chaplains who provide Chaplaincy Services in schools in regard to Information, Records and Reporting. This Policy includes guidance in relation to:

* Consent to Chaplaincy Services
* Referral
* Purpose of collection
* Collection of Information
* Recording of Information
* Quality of Information
* Security and storage of Information
* Transfer of information between schools
* Ownership and custody of Information
* Use of Information
* Disclosure of Information
* Retention of Information
* Access to and correction of Information
* Other requests for Information
* Management of complaints about the handling of Information
* Management of other complaints
* Reporting obligations
* Training

This Policy will be regularly reviewed and updated to take account of new laws and technology practices, and to ensure it is appropriate for the changing school environment.

1. **Definitions**

**Authorised Representative** has the same meaning as the definition provided in section 28(6) of the *Privacy and Data Protection Act 2014* (Vic) and section 85(6) of the *Health Records Act 2001* (Vic).

**Business Day** means a day which is not a Saturday, Sunday or public holiday (being a public holiday appointed as such under the *Public Holidays Act 1993* (Vic)) in Melbourne.

**Chaplain** means the person engaged via a Chaplaincy Provider or directly by the school who will provide Chaplaincy Services to that school.

**Chaplaincy Provider** means the person, corporation, other legal entity, partnership or joint venture, including any employees and agents, who provides Chaplaincy Services in a Victorian government school.

**Chaplaincy Services** means pastoral care services and strategies that support the emotional wellbeing of students and the broader school community.

**Department** means the Department of Education and Training.

**DHHS Child Protection** means the Department of Health and Human Services Child Protection.

**Health Information** is information or an opinion about:

* the physical, mental or psychological heath of an individual
* the disability of an individual
* an individual’s expressed wishes about the provision of services to him or her.

**Information** means “personal information”, “health information”, and “sensitive information” about an individual.

**Personal Information** means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

**School** means a Victorian Government school.

**Sensitive Information** includes information or an opinion about an individual’s racial or ethnic origin, political opinions, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices, or an individual’s criminal record.

**General Service Agreement** is the Agreement between a Victorian Government School Council and a Chaplaincy Provider for the provision of Chaplaincy Services in that Victorian government school in accordance with legislation and Departmental guidelines.

1. **Application**

This Policy applies to the following persons or entities:

* Chaplaincy Providers providing Chaplaincy Services in government schools
* Chaplains engaged by Chaplaincy Providers providing Chaplaincy Services in schools
* Chaplains employed directly by the School Council.
1. **Consent for Chaplaincy Services**

CONSENT FOR CHAPLAINCY SERVICES TO BE PROVIDED TO AN INDIVIDUAL STUDENT

School staff who identify that a student may benefit from Chaplaincy Services must obtain informed written consent for the student to receive Chaplaincy Services before referring a student to the Chaplain.

Such consent can only be provided by completing the Department’s Chaplaincy Parent Consent Form (Consent Form) which provides detailed information about the Chaplaincy Services to enable the student and/or their parents/guardians/carers to make an informed decision about whether to engage with the Chaplaincy Services offered. This detailed information includes:

* information about the Chaplain and Chaplaincy Provider
* the type of information that will be collected
* the purpose of collecting the information
* how the information will be used and disclosed
* the right to access and correct information and the process for doing so
* potential consequences of providing inaccurate, incomplete or outdated information.

The Consent Form must be completed by the student (if an adult or a mature minor) or the student’s parent/guardian/carer. For further information about who should complete the Consent Form refer to the information provided in the [Chaplaincy Parent Consent form](http://www.education.vic.gov.au/Documents/school/principals/health/1571006genchapparent.docx), the [Chaplaincy Parent Consent Form FAQs](1571007genchaplaincyparentfaq.docx) and the Department’s policy: Decision Making Responsibilities for Students (http://www.education.vic.gov.au/school/principals/spag/safety/Pages/parentalresponsibility.aspx).

Alternatively, schools can request that students or their parent/guardian/carer complete the Consent Form at the beginning of each school year.

CONSENT FOR CHAPLAINCY SERVICES TO BE PROVIDED TO GROUPS OF STUDENTS

School staff may also arrange for a select group of students to receive Chaplaincy Services. This may be in the form of mentoring, group work or a presentation to a select group of students.

In these circumstances, school staff should still obtain informed written consent for the student to receive these Chaplaincy Services even if personal and health information about the student may not be collected or recorded in any form.

The Consent Form should be adapted for the specific proposed chaplaincy service and should include detailed information about the Chaplaincy Services to enable the student and/or their parents/guardians/carers to make an informed decision about whether the student should engage with the Chaplaincy Services offered. The detailed information should include:

* information about the Chaplain and the Chaplaincy Provider
* description of the proposed Chaplaincy Services to be provided
* the date, time and place in which the Chaplaincy Services will be provided.
1. **Referral**

Once informed written consent has been provided, the school staff, parents/guardians/carers or the student can complete the Department’s [Chaplaincy Referral/Intake Form](http://www.education.vic.gov.au/Documents/school/principals/health/1571010generalchapreferral.docx). This form contains relevant information to be provided to the Chaplain so that he/she can provide appropriate Chaplaincy Services to the student(s).

1. **Purpose of Collection**

Chaplains will collect information about students for the following purposes:

* to work as a member of the school’s wellbeing team and provide a chaplaincy service which forms part of the wellbeing services available at the school
* to assist the school to provide for the educational, social and emotional wellbeing, and health of students.
* to assist the school to:
	+ meet its duty of care obligations
	+ make reasonable adjustments for students with disabilities; and
	+ comply with occupational health and safety obligations.
1. **Collection of Information**

Chaplains may collect student information when providing the Chaplaincy Services. Chaplains may collect information from a number of sources, including:

* the Chaplaincy Referral/Intake Form
* directly from the student
* from the student’s parents/guardians/carers
* from school staff
* from other professionals or organisations who may be working with the student or family, as appropriate, if those organisations have obtained informed written consent to share the information with the Chaplain.

Chaplains must only collect information that is necessary to provide the Chaplaincy Services.

Chaplains will rely on information provided by students, their parents/guardians/carers, school staff and/or other professionals or organisations to adequately provide the Chaplaincy Services. If a Chaplain receives incomplete, inaccurate or outdated information this may adversely affect the assistance provided by the Chaplain to a student.

1. **Recording of Information**

The Chaplaincy Provider is expected to implement and administer a record keeping system that creates and maintains full and accurate hard copy and/or electronic records of the Chaplaincy Services provided in the school.

These records should include all relevant information and documentation such as:

* information provided by the student and the referrer
* support or advice provided to the student
* any referrals or reports made to other staff in the school
* any referrals or reports made to external agencies.

Creating, maintaining and retaining accurate records are important to the Chaplaincy Provider and the school for the following reasons:

* It enables the parties to meet their legislative obligations under the Privacy law, Health Records law and Public Records Act.
* It facilitates good decision making that is based on complete and accurate information.
* It facilitates appropriate, effective, efficient and timely services to be provided to students.
* II limits legal liability.

The records must be easily retrievable so that the Chaplaincy Provider, the Principal and the Department can access the records as soon as is practicable upon request.

The Department may require Chaplains to use a specific record keeping system if required.

1. **Quality of Information**

The Chaplain and the Chaplaincy Provider must take reasonable steps to ensure the information they collect, record, use, disclose and store is accurate, complete and up-to-date.

1. **Security and storage of Information**

The Chaplain and the Chaplaincy Provider must take reasonable steps to protect the information from misuse, loss, unauthorised access, modification and disclosure. These reasonable steps should include developing policies, systems and processes that facilitate the security of all the information that is collected when providing the Chaplaincy Services.

Any electronic records should be backed up or archived on a regular basis to prevent accidental loss.

1. **Transfer of information between schools**

Where a student who is receiving services from a Chaplain transfers to another school, the Chaplain and the Chaplaincy Provider should ensure that all information related to the Chaplaincy Services is provided to the Principal of the current school. This will ensure that the Principal of the current school is able to provide the information to the Principal of the receiving school to:

* ensure continuity of service provision (if needed);
* assist the receiving school to provide for the educational, social and emotional wellbeing, and health of the student;
* to assist the receiving school to:
	+ meet its duty of care obligations
	+ make reasonable adjustments for the student if he/she has a disability; and
	+ comply with occupational health and safety obligations.
1. **Ownership and custody of Information**

The Department owns all records created by the Chaplaincy Provider and the Chaplain that relate to the provision of Chaplaincy Services.

During the term of the General Service Agreement, the Chaplain and the Chaplaincy Provider will have custody of the information and records but will immediately provide the Department and/or the Principal access to the information and records upon request, and in any of the circumstances outlined in this Policy.

When the General Service Agreement has expired or has been terminated, the Chaplain and the Chaplaincy Provider will transfer all relevant files, records and information that relate to the provision of Chaplaincy Services in the school to the Principal of that school.

The records and information must be provided in a format and manner that can be quickly and easily retrieved, reviewed and utilised and which is acceptable to the Principal.

The Chaplaincy Provider may retain copies of part or all of the records produced by the Chaplain about the Chaplaincy Services if this is required by law or professional practice or to meet its obligations.

If the Chaplaincy Provider chooses to retain copies of part or all of the records, it must comply with all of the following:

* Privacy law and any applicable principles and code of practice
* Health Records law and any applicable principles and code of practice
* the Public Records Act and any standards, policies or guidelines issued from time to time, including any retention and disposal authorities that may be relevant to the records.
1. **Use of Information**

The Chaplain must use the information collected for the primary purpose(s) for which it was collected. These purposes are set out above at ‘Purpose of Collection’.

The Chaplain may also use the information for a secondary purpose which is related to the primary purpose(s), and which the student and their parent/guardian/carer would reasonably expect. An example of a secondary purpose is when the Chaplain provides information to the Chaplaincy Provider to enable it to comply with its reporting obligations under the General Service Agreement.

1. **Disclosure of Information**
	1. **Wellbeing of students and the school community**

The Chaplain must disclose information to the Principal for the primary purpose(s) for which the information was collected as set out above at ‘Purpose of Collection.’

* 1. **Compliance with legal obligations**

The Chaplain must disclose information to the Principal if it will assist the school to meet its legal obligations. These obligations include, but are not limited to:

* duty of care obligations
* obligations under anti-discrimination legislation, including the *Equal Opportunity Act 2010* (Vic)
* obligations under the *Occupational Health and Safety Act 2004* (Vic)
* reporting and information-sharing obligations under the *Children Youth and Families Act 2005* (Vic).
	1. **Serious and imminent threat to individual**

The Chaplain must disclose information about the student to the Principal if he or she believes that it is necessary to lessen or prevent a serious and imminent threat to an individual’s life, health, safety or welfare. Examples are:

* where the student has disclosed ongoing sexual abuse and the sexual abuse is likely to continue unless further action is taken to protect the student
* where the student has self-harmed, expressed an intention to self-harm, has expressed suicidal ideation, has expressed an intention to commit suicide, or is otherwise displaying symptoms of an acute mental illness that requires immediate treatment
* where the student provides information about a serious and imminent threat to another individual’s life, health, safety or welfare.

The Chaplain and Principal should then work collaboratively to take reasonable steps to lessen or prevent the serious and imminent threat. This will usually involve complying with other relevant Departmental policies and guidelines such as:

* Student Sexual Assault
* Responding to Allegations of Student Sexual Assault – Procedures for Victorian Government Schools: <http://www.education.vic.gov.au/Documents/school/principals/spag/safety/respallegsexuala.pdf>
* Responding to Student Sexual Assault: <http://www.education.vic.gov.au/school/principals/spag/safety/pages/sexualassault.aspx>
* Responding to Allegations of Student Sexual Assault: <http://www.education.vic.gov.au/school/principals/health/Pages/criticalrespond.aspx>
* Self-harm, suicidal ideation, or suicide attempts
	+ Guidelines to assist in responding to attempted suicide or suicide by a student:

 <http://www.education.vic.gov.au/Documents/school/principals/health/suicideguidelines.pdf>

* + Student Mental Health and Suicide Response/Planning: <http://www.education.vic.gov.au/school/principals/health/Pages/studenthealth.aspx>
	+ Suicide Awareness Strategy: <http://www.education.vic.gov.au/school/principals/spag/safety/pages/suicideawareness.aspx>
	1. **Serious threat to public health, safety or welfare**

The Chaplain must disclose information about the student to the Principal if he/she believes that it is necessary to lessen or prevent a serious threat to public health, public safety or public welfare.

The Chaplain and the Principal should work collaboratively to take reasonable steps to lessen or prevent the serious threat. This will usually involve complying with other relevant Departmental policies and guidelines. See: Prevention and Health Promotion

(<http://www.education.vic.gov.au/school/principals/health/Pages/healthpromo.aspx>).

* 1. **Mandatory reporting and child protection**

The Chaplain must comply with mandatory reporting obligations under the *Children Youth and Families Act 2005* (Vic) as if the Chaplain were a ‘mandatory reporter’. This means that the Chaplain must make a report to the DHHS Child Protection:

(<http://www.education.vic.gov.au/Documents/school/principals/spag/safety/makingareportchild.pdf>) if they form a reasonable belief that a student is in need of protection as a result of physical injury or sexual abuse, and the student’s parents/guardians/carers are unable or unwilling to protect the student from that abuse.

The Chaplain must also make a report to the DHHS Child Protection when they form a reasonable belief that:

* the child is in need of protection
* the child is in need of therapeutic treatment
* there are significant concerns about the wellbeing of a child.

In all these cases, the Chaplain must also:

* report their concerns to the Principal, and
* make comprehensive notes about the concerns and the actions taken.

For further information, see the Department’s *Child Protection – Reporting Obligations* at: <http://www.education.vic.gov.au/school/principals/spag/safety/pages/childprotection.aspx>.

* 1. **Obligation to report child sexual abuse**

Any adult (including a Chaplain in the performance of his/her duties at the school), who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age must provide that information to Victoria Police. It is a criminal offence to fail to report this information to the police. There are limited circumstances in which the Chaplain will be excused from complying with this obligation.

For further information about the ‘Failure to disclose’ offence, see:

[http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/failure+to+disclose+offence](http://www.justice.vic.gov.au/home/safer%2Bcommunities/protecting%2Bchildren%2Band%2Bfamilies/failure%2Bto%2Bdisclose%2Boffence).

If a Chaplain receives such information, he/she must also notify the Principal of all the information so that school staff can discharge their duty of care obligations to the child who may have been the victim of the alleged sexual offence. Reporting the information to the Principal must occur regardless of the age of the child, the age of the accused person, and the date, time and place in which the offence is alleged to have occurred.

* 1. **Law enforcement**

If the Chaplain believes that unlawful activity has been, is being, or may be engaged in, he/she must disclose the information to the Principal, work collaboratively with the Principal to manage the incident and determine the appropriate actions that should be taken. This will usually involve complying with other relevant Departmental policies and guidelines.

It may also require the Chaplain to report the concerns and disclose the information to law enforcement agencies such as the Victoria Police.

* 1. **Subpoenas and witness summonses**

If the Principal or the Department is served with a subpoena or witness summons that requires production of information that was collected by the Chaplain, the Chaplain and the Chaplaincy Provider must:

* provide copies of that relevant Information, and
* otherwise work collaboratively with the Principal and the Department to comply with the subpoena or witness summons.

For further information, see ‘Subpoenas and Witness Summonses’ in the School Policy and Advisory Guide: <http://www.education.vic.gov.au/school/principals/spag/governance/Pages/subpoenas.aspx>.

* 1. **Prepare, manage or defend legal proceedings**

If the Department is required to otherwise prepare, manage or defend legal proceedings, the Chaplain and the Chaplaincy Provider must:

* provide copies of all relevant information that was collected by the Chaplain during the course of providing Chaplaincy Services in the Victorian government school, and
* otherwise work collaboratively with the Principal and the Department to assist and cooperate in the preparation, management or defence of legal proceedings.

For further information, see ‘Responding to Legal Claims and Writs’ in the School Policy and Advisory Guide:
<http://www.education.vic.gov.au/school/principals/spag/governance/Pages/legalclaims.aspx>.

* 1. **In all other cases – with consent**

The Chaplain may disclose information about the student to any person, organisation or entity if the student or his/her Authorised Representative has consented in writing to that disclosure.

In all these cases, the Chaplain must consult with the School Principal before disclosing the information. The Principal may seek further advice from the Department’s Legal Division or Information Management Unit as required.

For example, a student or his/her Authorised Representative may want the Chaplain to provide information to the student’s external health provider. The Chaplain may do so if he/she has obtained the written consent of the student or the Authorised Representative to disclose the information in that circumstance.

1. **Retention of Information**

The Chaplain and the Chaplaincy Provider must not destroy or dispose of any records relating to the Chaplaincy Services because this may be contrary to obligations and the retention and disposal authorities made under the Public Records Act. In addition, the *Crimes (Document Destruction) Act 2006* (Vic) makes it an offence to destroy records which may be reasonably likely to be required as evidence in a legal proceeding.

1. **Access to and correction of Information**

Parents/guardians/carers and students have the right to:

* request access to information about the student that is collected by the Chaplain.
* correct any information that may be inaccurate, incomplete or out-of-date.

If a student is unable to exercise these rights, an Authorised Representative may exercise these rights on their behalf if acting on the instructions of, and in the best interests of, the student.

Students or their Authorised Representative may apply for access or to correct information by providing a written request to the Principal of the school or the Information Management Unit of the Department.

The Principal will work with the Chaplain and the Chaplaincy Provider to identify and obtain relevant records.

The Principal will then work with the Information Management Unit of the Department to process the request and will advise the student or their Authorised Representative of the decision made in relation to their application.

The Chaplain, the Chaplaincy Provider and the Principal must work collaboratively during this process.

For further information, please contact the Information Management Unit.

**Information Management Unit**
Department of Education and Training
2 Treasury Place, East Melbourne VIC 3002
(03) 9637 3961 foi@edumail.vic.gov.au.

Please also see the Department’s policy on ‘Freedom of Information’ in the School Policy and Advisory Guide at: <http://www.education.vic.gov.au/school/principals/spag/governance/Pages/foi.aspx>.

1. **Other requests for Information**

The Chaplain or Chaplaincy Provider may receive requests for information.

For example, Victoria Police may request information to assist them to detect, investigate or prosecute an alleged criminal offence, or DHHS or Victoria Police may request information in relation to a child in need of protection.

In all these cases, the Chaplain and Chaplaincy Provider must:

* obtain the request in writing, including
	+ the name, position, and contact details of the person making the request
	+ detailed description of the information and documentation sought
	+ reasons why the information and documentation is sought
	+ reasons why the person believes that the Chaplain should disclose the information and documentation
* consult with the Principal to determine whether providing the information and documents is permitted under the Privacy law. The Principal may seek further advice from the Department’s Legal Division or Information Management Unit as required.
1. **Management of complaints about the handling of Information**

The Department and/or Principal will inform the Chaplaincy Provider within two (2) business days if they become aware that there has been a privacy complaint about a Chaplain or the Chaplaincy Provider.

The Chaplaincy Provider must inform the Department and the Principal within two (2) business days of becoming aware of a privacy complaint about a Chaplain or the Chaplaincy Provider that is related to the provision of Chaplaincy Services in a government school.

The Principal will initially manage the complaint.

If necessary, issues may also be addressed to the Department at: privacy@edumail.vic.gov.au.

During this process, the Chaplain and the Chaplaincy Provider must provide all relevant records and information to enable the Principal and the Department to manage the complaint.

1. **Management of other complaints**

The Department and/or Principal will inform the Chaplaincy Provider within two (2) business days if they become aware that there has been any other complaint about a Chaplain or the Chaplaincy Provider.

The Chaplaincy Provider must inform the Department and the Principal within two (2) business days of becoming aware of any other complaint about a Chaplain or the Chaplaincy Provider.

The Principal will manage the complaint. During this process, the Chaplain and the Chaplaincy Provider must provide all relevant records and information to enable the Principal to manage the complaint.

1. **Reporting obligations**

The Chaplaincy Provider must provide the Principal with information and reports related to the Chaplaincy Services provided in that school. This information and reporting must include the following:

* how many hours of Chaplaincy Services were provided
* how many students have accessed the Chaplaincy Services
* any complaints made or concerns raised about the Chaplain or the Chaplaincy Services
* aggregated data about the nature of Chaplaincy Services provided
* any other information that may be necessary for the Principal to account for the expenditure of funds.
1. **Training**

It is the responsibility of the Chaplaincy Provider to provide training and education to the Chaplain and other relevant staff in relation to:

* this Policy;
* the related legal obligations under Privacy law, Health Records law and the Public Records Act; and
* the related obligations under the General Service Agreement.