

**DATA PROTOCOL**

[**http://www.education.vic.gov.au/about/contact/Pages/data.aspx**](http://www.education.vic.gov.au/about/contact/Pages/data.aspx)

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# INTRODUCTION

## Overview

* + 1. This Protocol assists key client groups seeking datasets from the Victorian Department of Education and Training (DET). These client groups include internal DET users, other government users and the research community.
		2. DET is the principal agency responsible for providing a high standard of education and training for all Victorians.
		3. DET’s various specific central functions are performed by seven Groups:
* People and Executive Services
* Infrastructure and Finance Services
* Early Childhood and School Education
* Policy Reform
* Strategy and Performance
* Regional Services
* Higher Education and Skills.
	+ 1. Increasingly, DET is committed to empowering sector policy makers, service providers and stakeholders through the provision of better data, information, evidence and insights that are most relevant to local decisions. Information portals such as DataVic, DataZone, the School Information Portal (SIP) and the Victorian Children and Adolescent Monitoring System (VCAMS) offer corporate, sector and community stakeholders’ direct access to a wide range of data and outcomes information.

## Data collections

* + 1. DET collects data from a wide range of sources. These may vary from time to time, but in general terms may be summarised as follows:
* Australian Government data
* Data from other States and Territories
* Data from other Victorian departments and agencies
* Data from Victorian schools, parents and students or other educational entities in the early childhood or adult education sectors.
	+ 1. **Australian Government data**: The Australian Government provides Victoria with extensive data. Two key Australian Government datasets received and frequently used are:
* National Assessment Programs—Literacy and Numeracy (NAPLAN) results. These are the annual assessment for students in Years 3, 5, 7 and 9 that tests skills in literacy and numeracy
* the Australian Early Development Census (AEDC). This is a nationwide measure taken every three years that looks at whether children in their first year of full-time school are developmentally vulnerable, at risk or on track.
	+ 1. Data from other States and Territories: DET does not currently receive data directly from other Australian States and Territories, although this may change from time to time. However, DET does receive information about other States and Territories as a component of data received from the Australian Government.
		2. **Data from other Victorian departments and agencies**: A number of Victorian departments and agencies provide data to DET in the performance of their respective functions. This data includes:
* Victoria in Future (VIF) population projections—the official State Government projections of population and households from the Department of Environment, Land, Water and Planning (DELWP)
* ATAR scores for Year 12 students provided by the Victorian Tertiary Admissions Centre (VTAC)
* crime statistics involving children from Victoria’s Crime Statistics Agency (CSA), which are published on the VCAMS portal.
	+ 1. **Data from Victorian schools, parents and students**: The majority of the data collected by DET’s Performance and Education Division (PED) is from Victorian schools, parents and students. This includes:
* the Student Enrolment Census
* the School Staff Survey
* student surveys such as Attitudes to School, the Victorian Student Health and Wellbeing Survey (About You) and
* the Parent Opinion Survey.

PED also collects some data directly from specified cohorts in the Victorian population through surveys such as On Track (school leavers) and the Victorian Child Health and Wellbeing Survey (parents of children aged 0-12 years).

## Purpose of the Data Protocol

* + 1. The purpose of this Protocol is to clarify the rights and responsibilities of all users of data provided by DET, and to ensure the appropriate and effective use of that data while maximising the benefits that data access can bring, particularly for policy development and service planning and design. The Data Protocol sets out the principles, rules and procedures governing the access, use and dissemination of the data in datasets for which DET is either the owner or custodian.
		2. This Protocol explains arrangements to ensure that disclosure by DET and other data complies with all legal, contractual and policy requirements, with the principal aim of protecting the privacy of individuals and maintaining the confidentiality and integrity of the data to an appropriate standard.
		3. For the purpose of this Protocol, the following definitions apply:

		**Authorising officer:** (a) for thepurpose of making a data request to DET, the authorising officer is the manager of the applicant; (b) for the purpose of DET’s response to a data request, the authorising officer is the officer whose function is to communicate conditions to which supply of data by DET in given circumstances is subject, and usually to supply the data to the applicant. The Project Manager, Data Governance, generally performs this function, and can be contacted at reporting.and.data.services@education.vic.gov.au.

		**Custodian:** the recognised officer responsible for implementing and maintaining information assets according to the rules set by the owner. A custodian is responsible for specific classifications or categorisations of data and is accountable for the delegated assets in their care. This person is the knowledge holder, the gatekeeper, and the responsible officer.

		**Data**: any information (including personal information) obtained, received or held by DET, whether or not DET obtained, received or holds that information in connection with DET’s functions.
		**Dataset**: data held and stored in a variety of machine-readable, reusable formats including hardcopy, electronic (digital), graphical, cartographic, textual, geospatial or numerical form.

		**Information governance**: the system by which the current and future use of information and its management is directed and controlled through a system of policies, procedures, standards and guidelines. The business processes that ensure the effective and efficient use of information may include committees for decision-making, documented processes for information flow, roles and responsibilities for information workers and managers and gateways for approvals or access to information.

		**Owner**: The recognised officer who is identified as having the authority and accountability under legislation, regulation or policy for the collection and management of information assets for the business area. The owner is the officer with overall accountability (usually an Executive Director at DET).

		**Publish:** make publicly availableinformation contained in documents including files, reports, articles, presentations and fact sheets.
		4. The Guiding Principles below govern the disclosure and dissemination of DET data. They are intended to ensure that entities to which DET data is disclosed (including DET Groups and Divisions) use that data in an appropriate and effective manner.
		5. Failure to comply with this Protocol may result in the rejection of subsequent data requests made to DET.

# GUIDING PRINCIPLES

## Purpose

* + 1. DET regularly publishes or otherwise makes publicly available the datasets it owns, as well as (by agreement) those datasets for which it is the custodian. DET has committed to making data directly available not only to DET staff but also to the public and private sectors, where it is lawful and practicable to do so, and is in the public interest. Examples of disclosure and use of DET data in the public interest include:
* to support schools and other service providers, and researchers, with high-quality and timely information for analysis and to design evidence-based decisions and strategies for improvements in student learning and wellbeing
* to support employers and industry with improved information flows that enable competitive recruitment, training and services, and reduce the administrative burden associated with collection and reporting
* to strengthen DET’s capacity to analyse and report on system and provider performance to improve system management and policy design.

## Personal information, privacy and privacy complaints

* + 1. In performing its data functions DET is committed to protecting the personal information of all identifiable individuals, in accordance with the legislation by which the Department is governed, and the terms of agreements reached with third party providers.
		2. DET complies with the Victorian *Privacy and Data Protection Act 2014* and the *Health Records Act 2001.* It should also be noted that some recent Victorian legislation modifies the operation of Victorian privacy law, for example the *Family Violence Protection Act 2008* when its sharing provisions commence*.* For more information concerning legislated provision to facilitate information sharing in specified circumstances, see 2.3 below.
		3. Where, by reason of agreements reached, DET is also bound by provisions of the legislation of other jurisdictions, such as the Commonwealth *Privacy Act 1988* or the European Union’s General Data Protection Regulation (GDPR), to the extent of any inconsistency, the higher requirement will prevail wherever practicable.For example, organisations covered by the Commonwealth’s Notifiable Data breaches scheme (which takes effect from February 2018), are required to notify any individuals likely to be at risk of serious harm by a data breach. The Australian Information Commissioner must also be notified. However, under the Victorian privacy regime law data breach notification is recommended but not mandatory. Any breach detected in relation to data supplied by DET should be referred to the Data Governance and Policy team in the first instance.
		4. Persons to whom DET discloses personal information are also bound by and must comply with the Information Privacy Principles (IPPs), Health Privacy Principles (HPPs) or Australian Privacy Principles (APPs) as applicable when collecting, using, managing, storing and disclosing personal information contained in data provided by DET.
		5. The *Privacy and Data Protection Act 2014* defines personal information as follows:

**Personal information** means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the ***Health Records Act 2001*** applies.

* + 1. The *Health Records Act 2001* defines personal information that is health information similarly but note that the privacy of persons who have been deceased for less than 30 years is also protected under this legislation.
		2. The definition of personal information in the *Privacy Act 1988* is as follows:

Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

(a) whether the information or opinion is true or not; and

(b) whether the information or opinion is recorded in a material form or not.

Note that the Commonwealth definition of personal information is broader than the Victorian one since it includes unrecorded information or opinions.

* + 1. To ensure compliance with the above legislative and contractual requirements, DET will:
* require clients to:
1. submit applications for data via the Data Request process
2. provide all information sought by the Data Governance and Policy team in respect of the request
3. modify any requests that are considered by DET to be inconsistent with legislative and/or contractual requirements
* not release unit record files or data that identifies individuals unless specifically authorised or required by law to do so
* use appropriate secure file transfer methods to provide data files to clients
* require both external and internal requestors to comply with all specific privacy and data security measures set out in Appendix 1
* for DET staff, restrict access to ERBI data cubes. Access to ERBI data cubes requires the staff member to submit a Request for Access to ERBI Data Cubes form, which outlines staff responsibilities in relation to the privacy and confidentiality of information they have access to in the course of their business. This form must be signed by their manager to verify that the staff member requires access to the data in the course of their work. Enquiries regarding access to the data cubes can be sent to datazone@education.vic.gov.au
* disclose data only where the identity of individuals is not apparent and cannot reasonably be ascertained (by providing de-identified or aggregated data; generally, where the cell value is less than five no data is provided).

Aggregated data is generally available in DataZone, which is available to all corporate and regional DET staff but not external clients. DataZone can be accessed as follows: go through the My Workspace tab on EduGate, then go to Applications, View all and click on DataZone.

* + 1. If authorised, data, including unit level data where necessary, may be disclosed to DET’s contracted service providers for the purpose of conducting educational research commissioned by DET or other functions on behalf of DET. The *Privacy and Data Protection Act 2014* defines a contracted service provider as a ‘person or body who provides services under a State contract’ to an outsourcing party. In this case the contracted service providers are bound by their agreements with DET to comply with the legislative and contractual obligations concerning the data by which DET itself is bound, for example to comply with the Information Privacy Principles.
		2. Any individual or group wishing to make a complaint about the handling of data supplied to a third party by DET should, in the first instance, lodge that complaint with the third-party data user concerned.
		3. Individuals or groups not satisfied with the outcome of a complaint lodged with a user of data supplied by DET may raise the issue with DET via reporting.and.data.services@education.vic.gov.au.
		4. DET will be efficient and fair when investigating and responding to complaints concerning information privacy. DET will investigate and respond to complaints in accordance with the Department's *Information Privacy Complaints Handling Policy*. For more information about DET’s Information Privacy Policy and how to make a privacy complaint, please go to <http://www.education.vic.gov.au/pages/privacypolicy.aspx> or contact the Department’s privacy officer on privacy@education.vic.gov.au.

## Information sharing provisions

* + 1. The Victorian government is introducing a range of legislation intended to modernise Victoria’s data and information sharing regime.
		2. In 2017*,* *the Family Violence Protection Amendment (Information Sharing) Act 2017* was passed, amending the *Family Violence Protection Act 2008* for the purpose of providing for the sharing of information that is relevant to assessing and managing a risk of family violence. As at December 2017 not all relevant sections have commenced operation.
		3. Also in 2017, the *Victorian Data Sharing Act 2017* commenced operation on 6 December 2017. This Act gives express authority for government to share identifiable data for the purpose of data linkage and provides a general override of secrecy and confidentiality provisions in other legislation. Data must be handled under this Act only for the purpose of informing government policy making, service planning and design.
		4. Further, the Children Legislation Amendment (Information Sharing) Bill 2017 was introduced into the Legislative Assembly in December 2017. The Bill is for an Act to amend the *Child Wellbeing and Safety Act 2005,* primarily to provide for specific entities to share information to promote the wellbeing and safety of children, to create a register of children born or resident in Victoria to improve child wellbeing and safety outcomes for those children and to monitor and support their participation in government-funded programs and services. This Protocol will be updated subsequent to further legislative change that addresses information sharing.

## Data security

* + 1. DET has established policies including the followingrequiring compliance by DET’s executive and officers (including by internal DET applicants for data):
* DET Information Security Classification Policy (February 2015)
* ICT Security Policy (June 2017)
* ICT Security Incident Policy (January 2015)
* ICT Disaster Recovery Policy (April 2016)
* Password Policy (June 2017)
* Information Privacy Policy (February 2016)
* Portable Storage Device Security Policy (For SENSITIVE and PROTECTED Departmental information) (November 2015)
* Records Management Policy (February 2011)

A DET Data Release Policy is currently under development.

* + 1. DET also complies with any security policies or procedures issued from time to time by the Information Commissioner and the Commissioner for Privacy and Data Protection Deputy Commissioner, pursuant to the *Privacy and Data Protection Act 2014* (Vic).
		2. IPP 4 of Schedule 1 to that act requires DET to take reasonable steps to protect the personal information it holds from misuse or loss and from unauthorised access, modification and disclosure. In addition, the Victorian Protective Data Security Framework (VPDSF) and Victorian Protective Data Security Standards (VPDSS) provide implementation guidance on data security for the Victorian public sector. Both internal and external applicants are expected to inform themselves about and comply with the privacy and data protection regime that is applicable to their own organisation, but, in any case, must agree to comply with the specific privacy and data protection measures set out in Appendix 1 before any data will be supplied by DET.

## Data quality

* + 1. DET has introduced several measures to ensure that:
* the data it holds, including personal information contained in the data, is as accurate, complete, and up to date as possible as required by the *Privacy and Data Protection Act 2014* (Vic)
* requests for data are assessed in a consistent manner (see 3.2 below)
* where applicable, data requested is provided within the time frames set out in the DET Data Request form.

## Accountability

* + 1. Applicants are responsible for the completeness and accuracy of all information included in a data request to DET. An authorising officer must endorse each application made on behalf of organisations. Where a priority request is made, it must be endorsed by an executive.
		2. Data provided by DET should only be used in accordance with terms specified on the DET Data Request form, this protocol and any formal agreement governing the provision by DET of a specific dataset or sets. In particular, the data must not be disclosed or published in any medium without the prior written consent of DET’s respective authorising officer.
		3. DET reserves the right to conduct or commission compliance audits or reviews of data recipients’ compliance with the terms on which DET has supplied data to them. A breach by the applicant of these terms, and of an undertaking given not to link, disclose or publish the data, may result in the rejection of future requests for data by the applicant or his or her organisation, or, where applicable, in legal action.

## Ongoing review

* + 1. To ensure that its Data Protocol remains current and relevant to the evolving needs of its client community, DET will review and may amend this protocol from time to time as necessary.

## Transparency

* + 1. DET’s Data Request form sets out how to make a data request, and the information DET seeks in order to understand specific client objectives and the details of the data requested.
		2. DET uses the ‘Five Safes’ framework for assessing and mitigating risk in relation to the specific project, data, people, output and setting for data handling. Each request is assessed against these risk criteria as well as suitability criteria (such as data quality) before a decision about release is made, so it is important that the request form is completed as fully as possible. For example, a client’s answer to the question ‘Who will have access to the data (don’t forget any relevant contractors)?’ helps to assess the level of people risk attached to the request as it stands, and to take steps to mitigate that risk in order to supply the data requested. Such steps might include, for example, sighting relevant confidentiality agreements between requestors and their contractors.
		3. Where appropriate, data that has been customised to meet an individual data request will also be made publicly available via the DataVic portal or elsewhere at DET’s discretion.

# ACCESS TO DET DATA

## Overview

* + 1. DET has a number of standing arrangements for supply of specific data on a regular basis, for example, annually. All other (ad hoc) requests for access to data will initially be received, reviewed and given a preliminary assessment by the relevant business areas, who may then contact requestors by telephone or email to obtain further information. This team will assess whether the request is simple or complex.
		2. Simple requests are generally those that:
* do not include the provision of unit record data or information derived from the Victorian Student Register;
* do not include the provision of sensitive or confidential information;
* do not require data linkage by DET;
* do not have other significant resource implications, e.g. where the data is readily available from a report that is regularly run.
	+ 1. In the case of all other requests, considered complex requests, generally within five working days, the Data Governance and Policy team convenes a meeting of the DET managers responsible for the data requested and a full risk and suitability assessment is conducted. Where a valid need for priority consideration has been established (see the form at 4.2 below), requests will be addressed sooner.
		2. The majority of data requested from DET is provided in whole or in part, subject to both general conditions and any specific conditions considered necessary in the case of individual requests.

## Consideration of data requests

* + 1. Decisions about simple requests will be made by the respective business areas, guided by universally applied criteria to:
	+ ensure a fair and orderly approach to addressing all requests
	+ facilitate data sharing with government and non-government agencies and optimise data usage
	+ minimise risk.
		1. If the circumstances of a particular request warrant it, a request may be escalated by managers to executives for further consideration and decision. These circumstances include but are not limited to:
* where executives have indicated that they wish to make contact with a requestor or negotiate a request themselves
* where the managers seek additional guidance as to DET policy on particular points, having already researched them
* where the managers, not having reached agreement on a particular request outcome, seek a decision from a responsible Executive; and
* where the managers have identified a high-risk request and seek executive approval for release.

## Disclosure requirements

* + 1. Before making a data request to DET, clients should always check whether the data they seek has been published. The following sites are a good starting point:
* the [Victorian Child and Adolescent Monitoring System (VCAMS) portal](https://www.education.vic.gov.au/about/research/Pages/vcamstableau.aspx)
* Discover and access Victorian Government open data at [DataVic](https://www.data.vic.gov.au/)
* the [Victorian Curriculum and Assessment Authority (VCAA)](https://www.vcaa.vic.edu.au/Pages/HomePage.aspx)
* the [Victorian Public Sector Commission (VPSC)](http://vpsc.vic.gov.au/)
* [ACARA’s My School](http://www.myschool.edu.au/)
* the [Report on Government Services (refer Part B - Child care, Education and Training)](https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/child-care-education-and-training)
* the [Australian Bureau of Statistics (ABS)](http://www.abs.gov.au/)
* the [DET Annual Report](https://www.education.vic.gov.au/about/department/Pages/annualreports.aspx)
* the [DET Strategic Plan](https://www.education.vic.gov.au/about/department/Pages/stratplan.aspx)
* the [Victorian Government Budget Paper Three](https://s3-ap-southeast-2.amazonaws.com/budgetfiles202122.budget.vic.gov.au/2021-22%2BState%2BBudget%2B-%2BService%2BDelivery.pdf), which includes DET performance data.

DET staff can also consult Datazone, the HES Data Portal and the Information Asset Register via the DET intranet (no public access).

The Data Governance and Policy team may be able to suggest publicly available additional sources of data.

* + 1. Data that is not publicly available must be sought via the data request process. DET does not (re)supply data that is already publicly available.
		2. Publicly available data may not be presented in the style and format that suits each client’s individual needs. However, please note that DET is unable to supply formatting or graphic design services in respect of either published data or the unpublished data that it may provide in response to data requests.

## Breach of this Protocol

* + 1. Potential breach of this Protocol takes two main forms:
* failure of an applicant to provide complete or accurate details as requested on the Data Request form and/or by telephone or email that would be material to DET’s decision to provide data and the terms of any data supply by DED, for example failure to advise that third party subcontractors will handle the data, and the terms of any agreement with them;
* failure of the recipient of data from DET to comply with the requirements of the data request form or of specific conditions imposed, such as breach of an undertaking not to disclose or publish the data received without prior written consent from DET.
	+ 1. Breach may result in the rejection by DET of future requests for data by the applicant or his or her organisation. Any breach involving personal information may also give rise to a privacy complaint by affected individuals.

## Process for requesting DET data

* + 1. Completed and signed Data Request Forms should be directed to reporting.and.data.services@education.vic.gov.au

## Fees and charges

* + 1. Currently, DET does not charge for the provision of existing datasets or discrete information.

# Appendix 1: Minimum required privacy and data security measures

The Performance & Evaluation Division (PED) must comply with the Privacy and Data Protection Act 2014 (PDP Act) and must take reasonable steps to protect the personal information it holds from misuse or loss and from unauthorised access, modification and disclosure.

On the above basis, PED may supply the data requested (Requested Data) to prospective requestors (You), in consideration of You agreeing to the following terms and conditions:

1. You agree to be bound by (and will make sure your personnel are bound by) the PDP Act with respect to the access, use and disclosure of the Requested Data.
2. On request, You agree to provide PED with links to Your privacy policy or policies, and details of Your security training and awareness regime.
3. On request, You will facilitate penetration testing by DET to identify any system vulnerabilities prior to supply of the data.
4. You will use the Requested Data only for the stated purposes for which it was requested and for which supply was agreed to by PED.
5. When storing the Requested Data, You agree to:
	1. store the electronic data on a secure server that can be accessed only by agreed specified persons or classes of persons and on a ‘needs to know’-basis;
	2. store in locked cabinets, any devices containing, or printouts of, the data that could enable identification of individuals or organisations;
	3. not attempt to identify particular persons or organisations represented in the data nor attempt to match the information supplied;
	4. not disclose the data, either directly or indirectly, to any person not specified in the data request or otherwise indicated to PED before this letter of offer was issued by PED;
	5. not transfer the data outside Victoria without the express written permission of PED;
	6. obtain the express written permission of DET before publishing any data, analysis or commentary based on the data;
	7. advise PED if any issue of data quality, such as accuracy or completeness, is identified in data supplied;
	8. not copy or retain the data other than for the purpose specified in the data request and at the end of the purpose:
		1. delete the data from any servers or devices containing it,
		2. delete any output from analysis of the data, whether electronic or printed, that could result in a person or organisation (other than as necessary in order to achieve the purpose specified in the data request) being identified, and
		3. return to PED all copies of data or other information supplied or made accessible
6. You further acknowledge and agree that DET has the right to conduct or commission compliance audits or reviews of Your compliance with these terms and conditions, by means of processes and procedures including monitoring and reporting by DET personnel, and audit or review by DET’s internal audit unit.