



Confidentiality is protected by laws including the Mental Health Act that exist to make sure people **respect and protect** your mental health information.

If people want to give out your mental health information, they need to ask **your permission** first. If they do not have permission, they cannot disclose your details unless the **law** says it is ok and there is a **good reason** for doing so.

Tip: Request clear and straightforward information from your health services provider about their **policies** on confidentiality and **what to do** if your rights are **breached**

## Health Care Professionals

All health care professionals, including doctors, psychiatrists and nurses, **must** understand and follow these laws. Generally they should only use your mental health information for what it was collected for (e.g. your treatment and care). Sometimes the law says it is ok to disclose information. This includes when:

- It is done with **your consent**
- Your **treating team** discusses your treatment with each other
- It is to **prevent harm** to you or another person
- Health services need to share information as part of your **ongoing treatment**.

For example, when your GP has to contact a mental health service

Even if health services are allowed to give out your information, this does not mean your life is an open book. Staff should only disclose information on a strictly '**need to know**' basis. This means they are not allowed to discuss you with people who are not involved in your treatment, such as their friends or family. It could be a breach of confidentiality if your personal information is disclosed to someone else during a conversation that is overheard.

Tip: Ask the staff what information they have to share with other people and why. Think about whether it is **reasonable** for them to share this information

## People You Know

Your friends, family and carers have to respect your confidentiality. Generally your friends cannot access specific details about your mental health unless you say it is ok. Family, guardians or carers should only get access to these details if:

- You **agree**
- They **need** the information to **provide care** to you. Remember, there is a difference between 'caring about' someone and providing care to them
- They need to know you have been made an **involuntary patient**
- It is to **prevent harm** to you or another person

Tip: If you **do not want** your health service to give information to certain people, you should **make them aware** of this. Write a letter to your health service saying who they can and cannot speak to and make sure it goes in your **medical records**

## Ambulance and Police

Health care professionals can contact the ambulance service and the police if it is essential for reasons including:

- **Transporting** you to a mental health service
- Preventing a **serious threat** to your health or safety

Tip: Discuss with your treating doctor what you want to keep **private**. Ask them what they are going to keep confidential

## Child Protection

Medical staff, including GPs, nurses and psychiatrists, can give information to Child Protection if they have **reason to believe** that a **child** is in **danger**. But their belief must be based on evidence – rumour or gossip is not enough.

## Taking Action

If you believe your confidentiality has been breached, **take action** as soon as possible. First **complain directly** to the organisation involved. The Mental Health Legal Centre, your case manager, VMIAC or a consumer consultant could help you do this. You can also complain to the **Health Services Commissioner** (HSC). The HSC has the power to investigate your complaint and go through mediation. If the HSC process does not resolve your concerns, you can ask for your complaint to be referred to the **Victorian Civil and Administrative Tribunal** (VCAT).

**Breaches** of confidentiality are **serious**. People who use your information the wrong way may be **fined**. It is always a good idea to speak to a lawyer about this, because the laws are complex and time limits apply. Call the **Mental Health Legal Centre** for free legal advice.

Tip: If you think someone has done the wrong thing, try to find out the facts about **what happened** and **why**. Speak to the person involved or get access to your file

## Useful Contacts

Mental Health Legal Centre  
Ph: (03) 9629 4422 or 1800 555 887

Health Services Commissioner  
Ph: (03) 8601 5200 or 1800 136 066

Victoria Legal Aid  
Ph:(03) 9269 0120 or 1800 677 402

Victorian Mental Illness Awareness Council (VMIAC)  
Ph: (03) 9380 3900