

Policy GOV.004

Privacy

Carry On (Victoria) Ltd and its subsidiaries. Operating as Veteran Housing Australia (VHA).

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1 Purpose

The purpose of this policy is to ensure Veteran Housing Australia (VHA) complies with the Privacy Act 1988 and the Australian Privacy Principles (APP).

The Australian Privacy Principles are legally binding principles which are the cornerstone of the privacy protection framework. They set out standards, rights and obligations in relation to handling, holding, accessing and correcting personal information.

2 Policy Responsibility

All Managers and Staff: Ensure compliance with the policy

CEO: Receives complaints from an individual regarding an alleged breach of privacy by VHA

Privacy Officer: Investigates and resolves the complaint as per the VHA Complaints Policy or Internal Complaints Resolution Procedure (this is the CEO in the absence of any other appointment).

General Manager: Receives requests for information

3 Definitions

Company Secretary – Maintenance of this policy and ensuring it is presented for review by the Board on a regular basis.

Board – Review and approval of this policy.

Directors – Actively invest their time and effort in accountability to the requirements of the policy.

4 Australian Privacy Principles

1.1 Principle 1: open and transparent management of personal information

VHA is committed to managing personal information in an open and transparent way. VHA will provide this policy free of charge and in an appropriate format.

1.2 Principle 2: Anonymity and pseudonymity

Whenever it is lawful and practicable, individuals will have the option of not identifying themselves by dealing with us anonymously or by using a pseudonym. This principle does not apply in relation to a particular matter if:

- The Australian Privacy Principle (APP) entity is required or authorised by or under an Australian law, or a court/tribunal order, to deal with individuals who have identified themselves
- It is impracticable for the APP entity to deal with individuals who have not identified themselves or used a pseudonym

1.3 Principle 3: Collection of personal solicited information

Personal information will only be collected when it is reasonably necessary for one or more of VHA's functions or activities. Personal information will be collected using lawful and fair means and not in an unreasonably intrusive way.

What personal information we collect

'Personal information' is defined as any 'information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- Whether the information or opinion is true or not; and
- Whether the information or opinion is recorded in a material form or not

The types of personal information we may collect could include, but is not limited to:

- Name
- Signature
- Address
- Date of birth
- Phone number
- Fax number
- Household makeup
- Financial situation
- Bank account details
- Employment details
- Rental history
- Employment history (job applicants)
- Information from enquiries you have made
- Communications between us

Sensitive information may also be collected about an individual:

- If required or authorised by or under an Australian law or a court/tribunal order
- When a permitted general situation or permitted health situation applies

Permitted general situations include the collection of sensitive information where VHA:

- Reasonably believes that the collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual or to public health or safety, and it is unreasonable or impracticable to obtain the individual's consent to the collection
- Has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to VHA's functions or activities has been, is being or may be engaged in, and VHA reasonably believes that the collection is necessary for VHA to take appropriate action in relation to the matter
- Reasonably believes that the collection is reasonably necessary to assist any APP entity, body or person to locate a person who has been reported as missing

- May collect sensitive information if the collection 'is required or authorised by or under an Australian law or a court/tribunal order'

A not for profit organisation may collect sensitive information if:

- The information relates to the activities of the organisation, and
- The information relates solely to the members of the organisation, or to individuals who have regular contact with the organisation in connection with its activities

1.4 Principle 4: Dealing with unsolicited information

Unsolicited personal information will be afforded the same privacy protection as solicited personal information.

Where VHA receives unsolicited personal information, it must determine whether it would have been permitted to collect the information under APP 3. If so, APPs 5 to 13 will apply to that information.

If the information could not have been collected under APP 3, and the information is not contained in a Commonwealth record, VHA will destroy or de-identify that information as soon as practicable, but only if it is lawful and reasonable to do so.

1.5 Principle 5: Notification of collection of personal information

At the time of collection (or as soon as practicable afterwards) VHA will take reasonable steps to ensure that the individual is told:

- How he or she may contact VHA
- That they can access the information
- Why the information is collected
- The disclosure practices of VHA
- Any law that requires the particular information to be collected and the main consequences (if any) for the individual if all or part of the information is not provided

If VHA collects the personal information from someone other than the individual, or the individual may not be aware that VHA has collected the personal information, VHA will also take reasonable steps to notify the individual, or otherwise ensure that the individual is aware that VHA collects or has collected the information, and of the circumstances of that collection.

VHA does not disclose information to overseas recipients unless required by law.

VHA will take reasonable steps to notify an individual, or otherwise ensure that the individual is aware that the APP policy contains information about how to access and seek correction of personal information, and information about VHA's complaints process.

1.6 Principle 6: Use and disclosure of personal information

VHA will use or disclose personal information for the primary purpose for which it was collected.

VHA may use personal information for another purpose (secondary purpose) if:

- The individual has consented to a secondary use or disclosure
- The individual would reasonably expect VHA to use or disclose their personal information for the secondary purpose, and that purpose is related to the primary

purpose of collection, or, in the case of sensitive information, directly related to the primary purpose

- The secondary use or disclosure is required or authorised by or under an Australian law or a court/tribunal order
- A permitted general situation exists in relation to the secondary use or disclosure of the information
- A permitted health situation exists in relation to the secondary use or disclosure
- VHA reasonably believes that the secondary use or disclosure is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body

Any personal information used or disclosed for any of the reasons in this paragraph, must be recorded in writing.

Section 13B(1)(b) provides that where a body corporate discloses personal information (other than sensitive information) to a related body corporate, this is generally not considered 'an interference with the privacy of an individual' under the Privacy Act. This provision applies to related body corporates and not to other corporate relationships, for example the transfer of information between Veteran Housing Australia Pty Ltd and Carry On (Victoria) Ltd.

1.7 Principle 7: Direct marketing

VHA will not use or disclose the personal information that it holds about an individual for the purpose of direct marketing unless exceptions apply.

VHA will obtain the consent of the individual before using or disclosing sensitive information for the purpose of direct marketing.

VHA will only use or disclose personal information for direct marketing purposes if an exception, listed in APPs 7.2 to 7.5 applies.

Under APP 7.2, VHA may use or disclose personal information (other than sensitive information) about an individual if:

- It collected the information from the individual
- The individual would reasonably expect that their personal information would be used or disclosed for direct marketing. VHA has provided a simple means by which the individual can request not to receive direct marketing, and the individual has not made such a request
- Where an individual would not reasonably expect his or her personal information to be used for direct marketing, or the information has been collected from a third party, VHA may only use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:
 - The individual has consented to the use or disclosure for this purpose, or it is impracticable to seek this consent
 - VHA has provided a simple means by which the individual can opt out of direct marketing and the individual has not opted out, and
 - In each direct marketing communication, the organisation must include a prominent statement telling the individual that he or she may request to no longer receive direct marketing, and no request is made



If VHA is a contracted service provider for a Commonwealth contract, it may use or disclose personal information for the purpose of direct marketing if doing so meets an obligation under the contract.

Individuals have the right to contact VHA to:

- Request not to receive direct marketing communications from VHA
- Request VHA not to disclose their personal information to other organisations for the purposes of direct marketing or
- Request VHA to provide its source of the individual's personal information VHA will comply with these requests within a reasonable period and free of charge.

VHA does not need to comply with requests to disclose the source of information if it is impracticable or unreasonable to do so.

APP 7 is also subject to the operation of other direct marketing legislation, for example the Do Not Call Register Act 2006 and the Spam Act 2003 (APP 7.8).

1.8 Principle 8: Cross border disclosure of personal information

Before VHA discloses personal information to an overseas recipient, we will take reasonable steps to ensure that the overseas recipient does not breach the APPs in relation to the information.

If VHA discloses personal information to an overseas recipient, it is accountable for any acts or practices of the overseas recipient in relation to the information that would breach the APPs.

There are exceptions to the requirement in APP 8.1 to take reasonable steps and to the accountability provision in s 16C. The above does not apply where:

- VHA reasonably believes that the recipient is subject to a law or binding scheme that has the effect of protecting the information in a way that is, overall, substantially similar to the APPs; and there are mechanisms available to the individual to enforce that protection or scheme
- An individual consents to the cross-border disclosure, after VHA informs them that APP 8.1 will no longer apply if they give their consent
- Where the cross-border disclosure is required or authorised by or under an Australian law, or a court/tribunal order
- VHA reasonably believes that the disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety
- VHA reasonably believes that the disclosure is necessary to take action in relation to the suspicion of unlawful activity or misconduct of a serious nature that relates to VHA's functions or activities where VHA reasonably believes that the disclosure is necessary to assist any APP entity, body or person to locate a person who has been reported as missing

Section 6A (4) provides that an act or practice required by an applicable law of a foreign country will not breach the APPs if it is done, or engaged in, outside Australia and the external Territories.

1.9 Principle 9: Adoption, use or disclosure of government related identifiers

VHA will not adopt, use or disclose a government related identifier of an individual as its own identifier of the individual unless one of the following exceptions applies, where:

- The adoption of the identifier is authorised by or under an Australian law or a court/tribunal order
- The use or disclosure of the identifier is reasonably necessary for VHA to verify the identity of the individual for the purposes of VHA's activities or functions
- The use or disclosure is required or authorised by a court/tribunal order
- The use or disclosure is reasonably necessary for an enforcement related activity being conducted by, or on behalf of, an enforcement body

1.10 Principle 10: Quality of personal information

VHA will take reasonable steps to ensure that the personal information that it collects is accurate, up-to-date and complete.

For uses and disclosures, VHA will take reasonable steps to ensure that the personal information is accurate, up-to-date, and complete as well as relevant, having regard to the purpose of that use or disclosure.

1.11 Principle 11: Security of personal information

VHA will take reasonable steps to protect personal information it holds from misuse and loss and from unauthorised access, modification, interference or disclosure.

VHA will also take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed in accordance with the APPs as long as:

- It is not contained in a Commonwealth record, and
- VHA is not required by or under an Australian law, or a court/tribunal order, to retain the information

Personal information is destroyed when it can no longer be retrieved. The steps that are reasonable to take to destroy personal information will depend on whether the personal information is held in hard copy or electronic form.

VHA will:

- Inform staff about destruction/de-identification processes
- Ensure hardware containing personal information is appropriately 'sanitised' to remove any personal information before decommissioning
- Put electronic and backup personal information beyond use

Information provided by unsuccessful job applicants will be destroyed after three months after the closing date of applications.

1.12 Principle 12: Access to personal information

VHA will give an individual access to their personal information, at the request of that individual unless:

- Giving access would pose a serious threat to the life or health of any individual
- Access should be withheld based on a serious threat to public health or safety
- Denying access is required or authorised by or under Australian law or a court/tribunal order
- Providing access would be likely to prejudice an investigation of possible unlawful activity
- Providing access would be likely to prejudice actions by or on behalf of an enforcement body in relation to unlawful activity or seriously improper conduct

VHA is not required to give an individual access to their personal information if:

- VHA has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in, and
- Giving access would be likely to prejudice the taking of appropriate action in relation to the matter
- VHA will not give an individual access to their personal information if giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

Where VHA refuses access on one of the specified grounds of refusal, VHA may take reasonable steps to give access in a way that meets the needs of VHA and the individual. This could include giving access through the use of a mutually agreed intermediary.

If VHA refuses to give access a written notice will be provided that outlines:

- The reasons for the refusal, unless, having regards to the grounds for the refusal, it would be unreasonable to do so
- The complaint mechanisms available to the individual, and
- Any other matters prescribed by the regulations
- If VHA levies charges for providing access to personal information, those charges:
 - Will not be excessive; and
 - Will not apply to lodging a request for access

1.13 Principle 13: Correction of personal information

If VHA is satisfied that, having regard to a purpose for which the information is held, the information is inaccurate, out-of-date, incomplete, irrelevant or misleading, or the individual to whom the personal information relates requests VHA to correct the information, then VHA must take reasonable steps to correct the personal information to ensure that, having regard to the purpose for which it is held, it is accurate, up-to-date, complete, relevant and not misleading.

If VHA corrects personal information about an individual that it has previously disclosed to another APP entity, VHA must take reasonable steps to notify the other APP entity of the correction, where that notification is requested by the individual.

If VHA refuses to correct the personal information as requested by the individual VHA must provide written notice. The written notice must set out:

- The reason for refusal (unless this would be unreasonable)
- The mechanisms available to complain about the refusal, and
- Any other matter prescribed by regulation

If VHA refuses to make a correction, and an individual requests that a statement be attached to the record stating that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading, VHA will attach this statement in a way that will make the statement apparent to users of the information.

VHA will respond to a correction request within a reasonable period. VHA will not charge the individual for making the request, for correcting the information or for associating the statement with the personal information.

5 Data breaches and rectification

In the course of conducting its normal business activities, VHA collects, records, maintains and uses personal information from tenants, clients, employees, contractors and others which each of them rightly expect to be protected from misuse, interference, loss, and from unauthorised access, modification or disclosure.

VHA makes every effort to protect personal information from misuse, loss, unauthorised use, access, modification or disclosure (i.e. an Eligible Data Breach).

VHA will investigate and provide notice of information security breaches to affected individuals and the Office of the Australian Information Commissioner (Commissioner).

6 Exception

There is an exemption in the Privacy Act regarding information relating to a current or former employee. The Privacy Act does not apply to an act done or practice engaged in by VHA in relation to:

- A current or former employment relationship between VHA and the individual; and
- An employee record held by VHA relating to the individual (includes personal information relating to the employment relationship and may include information, such as recruitment/termination information, terms and conditions of employment, health and banking details)

This exemption does not apply to applicants who are unsuccessful in securing a role and in those cases VHA will take all the necessary steps to ensure proper collection, use, storage, disclosure of and access to information in accordance with the Privacy Act and other applicable laws.

7 Procedure for making a complaint

A person may make a complaint if they feel their personal information has been handled inappropriately.

See the VHA Policy **OPS.005 Complaints and Management** for external complaints.

If any internal or external complainant is not satisfied with VHA's response or the manner in which VHA has dealt with the complaint, the individual may make a formal complaint to the Office of the Australian Information Commissioner (OAIC). The OAIC will provide VHA with the opportunity to respond to the complaint. Following its enquiries, if the OAIC decides that there is insufficient evidence to support the complaint, the OAIC may dismiss the complaint. Alternatively, if the OAIC believes there is enough evidence to support the complaint, it will try to conciliate the matter.

If conciliation does not resolve the complaint, depending on the circumstances, the OAIC may either close the file or make a determination. A determination could include a requirement that VHA issue an apology, improve practices to reduce likelihood of a breach of the Privacy Act, or compensation to be paid to the complainant.

If the OAIC closes the file, the complainant may apply to the Federal Court or the Federal Magistrates Court by way of appeal. Either party may also appeal to the Administrative Appeal Tribunal for a review of any compensation amount ordered by the OAIC.

8 Review & Approval

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1 st Issue	2023
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