

# Protecting Privacy for Volunteers

## Guide

### Protecting the privacy of volunteers

While Australian privacy laws can be quite complex, it is important that you follow any applicable legislation in relation to how you treat personal information. This Guide summarises common privacy principles and compliance requirements organisations may need to follow when managing personal information about their volunteers.

N.B. Where a volunteer's duties involve having access to other people's personal information (such as other volunteers, employees, clients etc.) they may be legally required to adhere to your organisation's Privacy Policy under the law. You should seek legal advice and/or undertake a risk assessment before allowing volunteers access to personal information.

This Guide provides a summary of privacy laws that may apply to your organisation and key compliance actions to adopt. It is not intended to be a substitute for seeking legal advice about your particular compliance obligations.

### What's it all about: privacy

In Australia, privacy laws focus primarily on the collection and handling of personal information.

Personal information means information or an opinion about a volunteer, whether true or not, and whether recorded in a material form or not, about an identified volunteer or a volunteer who is reasonably identifiable (depending on the applicable law). In other words, if your organisation could use any of the information it collects to identify a volunteer, it's personal information.

Examples of personal information include:

- name
- contact details, such as address or phone number
- date of birth
- living arrangements
- bank account details

- employment history
- hobbies, clubs or activities
- photos or videos
- opinions expressed about a volunteer by another person.

Sensitive information is a subset of personal information and includes:

- health information
- genetic information
- biometric information
- criminal history
- religious beliefs or affiliations
- racial or ethnic origin
- sexual orientation or practices
- political opinions
- membership of a political association
- philosophical beliefs
- membership of a professional or trade association
- membership of a trade union.

### Everybody's business

Even if your organisation is not mandated by law to comply with privacy laws, Volunteering Victoria recommends that you seek to comply with the laws as a matter of best practice.

There are three main sets of legislation relating to the collection and handling of personal information that may apply to Victorian volunteer-involving organisations:

#### 1. Privacy and Data Protection Act 2014 (Victoria)

This Act contains 10 Information Privacy Principles which govern how Victorian public sector organisations (e.g. local councils, Victorian Government departments and government schools) handle personal information. This Act generally does not apply to private or not-for-profit organisations unless they handle personal information on behalf of a Victorian public sector organisation. This Act also does not apply to health

information, which is covered by the *Health Records Act 2001* (Vic) as discussed below.

## 2. Privacy Act 1988 (Commonwealth)

This Act most commonly applies to Commonwealth government agencies and private sector organisations with an annual turnover of more than \$3 million. This Act contains 13 Australian Privacy Principles which govern, among other things: what content is required in privacy policies; how personal information may be collected, used and disclosed; and rules for disclosing personal information to overseas recipients.

## 3. Health Records Act 2001 (Victoria)

The Act contains 11 Health Privacy Principles which govern, among other things: how health information may be collected, used and disclosed; what security measures organisations must implement to protect health information; and how health information may be accessed and corrected. Where your organisation provides a health, disability or aged care service, the Health Privacy Principles will apply to all personal information collected by you. Otherwise, the Health Privacy Principles will only apply to personal information which is "health information" for the purposes of the Act.

## Privacy principles

These privacy principles are a roadmap for good practice in managing personal information about volunteers. Please note that other principles or different formulations of the below principles may apply depending on the applicable legislation, the type of organisation and type of information being handled.

### Collection

Only collect personal information from a volunteer that is necessary for, or directly related to, one or more of your organisation's functions or activities. An example of an activity is the recruitment of volunteers.

At the time you collect personal information from a volunteer, provide a collection notice to the volunteer that sets out:

- your organisation's name and contact details
- the purpose(s) of the collection of the personal information
- the main consequences (if any) for the volunteer if all or some of the personal information your organisation requests is not provided by the volunteer
- whether your organisation will disclose the personal information to a third party and the names and types of such third parties (including whether the personal

information will be disclosed to an organisation located outside of Victoria or Australia, listing the state or country of that organisation if practicable)

- a link to your organisation's publicly accessible privacy policy (if you have one)
- how a volunteer may gain access to or correct their personal information
- how a volunteer may file a complaint regarding a breach of any applicable legislation
- any law or court/tribunal order requiring the collection

### Use and disclosure

Use and disclose a volunteer's information only for the purposes for which it was collected (for example, for checking their references).

Your organisation may have multiple primary purposes, or related secondary purposes, for collecting a volunteer's personal information. Your organisation may use or disclose a volunteer's personal information for these multiple purposes, provided your organisation notified the volunteer of these multiple purposes in a collection notice. It is best practice to obtain express consent from a volunteer before using or disclosing their personal information for any other purpose.

There may be circumstances where disclosure of a volunteer's personal information without consent is appropriate and legal; for example, if a volunteer poses a danger to themselves or others and sharing their information may prevent harm. If you are unsure about whether you can legitimately use or disclose personal information of a volunteer for a particular purpose or related secondary purpose, seek advice from your organisation's privacy officer, a privacy authority or legal advice service.

### Data quality

Make sure any personal information you hold, use or disclose is accurate, complete and up to date having regard to the purpose(s) for which that information will be used. For example, you may routinely ask volunteers to update their contact details recorded by your organisation.

### Data security and retention

Take reasonable steps to protect personal information from misuse, loss and from unauthorised access, modification or disclosure by storing all files securely, whether in hard copy or digital form.

Destroy or de-identify any personal information you have on file if it is no longer needed for any purpose and your organisation does not have a legal requirement

(e.g. in relation to ongoing or impending litigation) to keep a record of the information in an identifiable format.

### **Openness**

Have an accessible, written policy on how you manage personal information (ie a privacy policy). An organisation will usually make its privacy policy available on its website.

### **Unique identifiers**

Avoid using a 'Government related identifier' in volunteer files as your organisation's own volunteer identifier, such as Tax File Numbers and driver license numbers. Organisations can only use Government related identifiers in limited circumstances. Seek advice if you are unsure about whether your organisation can use a volunteer's Government related identifier for a particular purpose.

### **Crossing borders**

When transferring personal information to a recipient located outside of Victoria (including interstate or overseas), ensure that the recipient complies with privacy principles of a similar standard that apply to your organisation. This may involve requiring the recipient to agree to comply with privacy laws under a written agreement, such as a data transfer agreement. You will also need to let volunteers know if you intend on transferring their personal information outside of Victoria, and may need to disclose which state or country the recipient is located in if practicable.

### **Sensitive information**

Sensitive information should be collected and handled with a higher level of care than personal information. Generally sensitive information about a volunteer can only be collected and disclosed with the consent of that volunteer. Sensitive information should only be used and disclosed for purposes that are directly related to the primary purpose of collection. For example, if your organisation asks volunteers to, if they wish, provide information about any health conditions which may impact their ability to complete certain tasks for the primary purpose of making necessary accommodations in the workplace, you may be able to disclose the information to a professional assessor to assist with conducting an ergonomics assessment. This information could not be used or disclosed for other purposes, for example disclosing the volunteer's pre-existing medical condition to other volunteers who do not have a need to know this information.

### **Anonymity**

Where lawful and practicable, organisations must provide individuals with the option of not identifying themselves when entering into transactions with an organisation. This may not be a practical option when dealing with volunteer personal information as your organisation is likely to need to collect basic identifying information about a volunteer for operational and legal reasons.

### **Consent**

Where you will be obtaining consent for various purposes under applicable privacy legislation, it is best practice to ensure that:

- the individual is adequately informed prior to giving consent;
- the consent is voluntary;
- the consent is current and specific; and
- the individual has the capacity understand and communicate their consent.

### **Appointing a privacy officer**

It is good practice to appoint a dedicated person as a privacy officer within your organisation. The privacy officer will be the first point of contact for internal and external privacy queries and complaints and should assist your organisation with privacy compliance activities. The privacy officer should have an in-depth understanding and knowledge of the privacy laws that apply to your organisation to carry out the privacy officer role effectively.

### **Privacy impact assessments**

A privacy impact assessment is a detailed assessment of a project that identifies the impact a project might have on the privacy of individuals (including volunteers). Completing privacy impact assessments on projects your organisation undertakes that involve the collection and handling of personal information can be a useful way to successfully implement a project in a manner that complies with relevant privacy laws and to identify any privacy risks up front before the project begins or is implemented.

### **Handling privacy queries and complaints**

Your organisation should have a documented process that it follows to deal with privacy queries and complaints. Generally, volunteers will have a right to access and correct their personal information. Your organisation should have a process that allows volunteers to easily request access to or correct the personal information your organisation holds about them. Similarly, volunteers should also be able to lodge

a privacy complaint with your organisation easily and receive a response to their complaint within 30 days.

## Data breaches

Data breaches are increasingly becoming a common feature of modern day life, with the increasing use of technology and the electronic storage of data.

Your organisation should plan for the occurrence of a data breach and know what to do when a data breach occurs, particularly because speed is an important factor when responding to a data breach. This may include swiftly assessing the degree of any harm caused by the data breach, reporting the breach to the relevant Information Commissioner promptly, as well as notifying any affected individuals or organisations.

### More information

Please visit these sites for more information:

- Office of the Australian Information Commissioner (OAIC) - [www.oaic.gov.au](http://www.oaic.gov.au)
- Office of the Victorian Information Commissioner (OVIC) - [www.cdpd.vic.gov.au](http://www.cdpd.vic.gov.au)
- Not-for-profit Law - <http://www.nfplaw.org.au/privacy>
- Department of Health & Human Services (DHHS) - [Rights and privacy principles \(health.vic.gov.au\)](http://health.vic.gov.au)