

# LGA Procurement Privacy Policy

July 2019

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## 1. Purpose

This document describes LGA Procurement's policy regarding the collection, use, storage, disclosure of and access to personal information, including health information, in relation to the personal privacy of past and present staff, and other members and associates of the LGA Procurement.

## 2. Overview

LGA Procurement recognises its responsibility to collect, manage, use and disclose personal information in accordance with the Commonwealth Privacy Act 1988 and prevailing community standards of best practice.

LGA Procurement's collection and use of personal information is regulated by the National Privacy Principles under the Privacy Act 1988. These principles relate to:

1. Collection
2. Use and disclosure
3. Data quality
4. Data security
5. Openness
6. Access and correction
7. Identifiers
8. Anonymity
9. Transborder data flows
10. Sensitive information

See [Annexure A](#) for a more detailed explanation of these Principles.

## 3. Scope

The LGA Procurement Privacy Policy applies to personal information collected and held by LGA Procurement and the people employed or engaged by the LGA Procurement. This Policy covers personal information pertaining to prospective, current and former staff and associates of the LGA Procurement or personal information that LGA Procurement may have access to through its involvement in any contracts or projects conducted as part of its business operations.

This policy applies to personal and health information collected by LGA Procurement concerning staff, prospective students, individual clients and other individuals. It does not apply to information about corporations.

This policy does not apply to personal information that is:

- (a) in a publication that is available to the public;
- (b) kept in a library, art gallery or museum for reference, study or exhibition purposes;
- (c) a public record under the control of the Keeper of Public Records that is available for public inspection; or

- (d) an archive within the meaning of the *Commonwealth Copyright Act 1968*; or
- (e) information about a person who has been deceased for more than 30 years.

Any hardcopy or electronic record created by a LGA Procurement staff member in the course of their duties is an official LGA Procurement record and is, therefore, covered by this Policy.

This policy must be observed by all staff, consultants, external contractors and others who have access to personal and health information held by LGA Procurement.

## 4. Definitions

In this Policy, the expression “personal information” is used to describe any information or opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion, and may include name, address, date of birth and staff identification number. This includes personal information pertaining to current and former staff, and other members and associates of the LGA Procurement.

In this Policy, the expression “sensitive information” is used to describe personal information relating to racial or ethnic origin, religious and philosophical beliefs, sexual activities, political affiliations, disabilities, medical conditions and other habits or preferences that may be considered personal in nature.

## 5. Policy

### 5.1 Manner and purpose of personal information collection

Personal information will only be collected if it is required for a lawful purpose directly related to a function or an activity of the LGA Procurement, or if the collection of the information is required by law.

- i. LGA Procurement will take all reasonable steps to ensure that personal information collected and held by the LGA Procurement is accurate, authentic and reliable.
- ii. LGA Procurement will take reasonable steps to inform individuals of how it will use the information it has collected.
- iii. LGA Procurement will take reasonable steps to inform individuals of the implications of providing and of not providing the information.
- iv. When having regard to the purpose of the collection, LGA Procurement will take reasonable steps to ensure that the collection of personal information does not unreasonably intrude upon a person’s personal affairs.

## 5.2 Manner and purpose of sensitive information collection

LGA Procurement will take steps to not collect sensitive information about a person unless:

- i. the collection of the information is required by law;
- ii. the individual has consented; or
- iii. the collection of sensitive information is necessary to prevent or lessen a serious and imminent threat to the life or health of any person; or
- iv. the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

## 5.3 Alteration of personal information

- a) It is the responsibility of individuals to provide the LGA Procurement with details of any changes to their personal information as soon as is reasonably practicable following such a change.
- b) LGA Procurement, having regard to the purpose for which the personal information was collected, will take reasonable steps to ensure that personal information in its possession is accurate, up to date, complete and not misleading by making the appropriate corrections, deletions and additions.

## 5.4 Solicitation of personal information

- a) LGA Procurement will solicit personal information directly from the individual concerned except where the individual authorises otherwise, or in cases where the individual would be disadvantaged if the information were not gained from another source.
- b) LGA Procurement may solicit personal information from a source other than the individual concerned if the individual is reasonably suspected of being or having been engaged in unlawful activity.

## 5.5 Storage and security of personal information

- a) LGA Procurement will take reasonable steps to ensure that personal information is protected by all reasonable safeguards against loss, unauthorised access, use, modification, disclosure or any other misuse.
- b) LGA Procurement will ensure that personal information is kept for no longer than is necessary for the purposes for which it may lawfully be used. Records will be disposed of securely and in accordance with any requirements for the retention and disposal of personal information.
- c) LGA Procurement will take reasonable steps to ensure that any person who, on behalf of the LGA Procurement, uses or discloses personal information held by LGA Procurement has appropriate authorisation to do so.

## 5.6 Access to records

- a) The LGA Procurement will take reasonable steps to allow an individual to access the personal information it holds about them and to correct inaccurate information as appropriate.
- b) A person applying for information may have to confirm their identity with LGA Procurement by providing identification.

## 5.7 Use and disclosure of personal information

Personal information collected and held by the LGA Procurement will only be accessed and used by people employed or engaged by the LGA Procurement as required in the fulfilment of their duties and in a manner consistent with the original purpose stated at the time of collection.

LGA Procurement will not disclose personal information for a purpose that is not relevant or incidental to or connected with that purpose.

Information may be disclosed in the following instances:

- i. with the individual's written consent; or
- ii. to reduce or avoid a threat to an individual's life, health or safety or a serious threat to public health and safety; or
- iii. when the use or disclosure is required or is specifically authorised by law; or
- iv. if the individual is reasonably suspected of being engaged in current or past unlawful activity, and the personal information is disclosed as a necessary part of the investigation or reporting the matter; or
- v. as required by law to certain government departments and statutory bodies including Centrelink, the Department of Immigration and Multicultural Affairs, the Department of Education, Training and Youth Affairs, the Australian Taxation Office, Medical Board of South Australia and their successor bodies.

Third parties to whom the LGA Procurement releases personal information are required to abide by the principles contained in the LGA Procurement's Privacy Policy.

## 6. Responsibilities

All individuals employed and engaged by the LGA Procurement are responsible for adhering to the provisions of the Policy.

## 7. Procedures

- a) The Policy will be included in the information package provided to all new members of staff.
- b) The Operations Manager will be responsible for the implementation of the Policy in their area.
- c) Policy will be promoted and available on the LGA Procurement's website at [www.lgaprourement.sa.gov.au](http://www.lgaprourement.sa.gov.au)
- d) The Policy will be included and reflected in the documentation of business processes.
- e) Any person including staff members whose personal information has been collected, used or disclosed in a manner not consistent with the Policy may register a complaint with:  
CEO, LGA Procurement - 148 Frome Street, Adelaide, SA 5000

## Annexure A

*The following is an excerpt from the Privacy Act 1988 (Cth) Schedule 1 Part 2 “Collection of personal information” as amended and taking into account amendments up to Acts & Instruments (Framework Reform) (Consequential Provisions Act 2015). For the full latest version visit the ComLaw website: <http://www.comlaw.gov.au>*

## **Part 3—Dealing with personal information**

### **6 Australian Privacy Principle 6—use or disclosure of personal information**

#### *Use or disclosure*

- 6.1 If an APP entity holds personal information about an individual that was collected for a particular purpose (the ***primary purpose***), the entity must not use or disclose the information for another purpose (the ***secondary purpose***) unless:
- (a) the individual has consented to the use or disclosure of the information; or
  - (b) subclause 6.2 or 6.3 applies in relation to the use or disclosure of the information.

Note: Australian Privacy Principle 8 sets out requirements for the disclosure of personal information to a person who is not in Australia or an external Territory.

- 6.2 This subclause applies in relation to the use or disclosure of personal information about an individual if:
- (a) the individual would reasonably expect the APP entity to use or disclose the information for the secondary purpose and the secondary purpose is:
    - (i) if the information is sensitive information—directly related to the primary purpose; or
    - (ii) if the information is not sensitive information—related to the primary purpose; or
  - (b) the use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
  - (c) a permitted general situation exists in relation to the use or disclosure of the information by the APP entity; or

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- (d) the APP entity is an organisation and a permitted health situation exists in relation to the use or disclosure of the information by the entity; or
- (e) the APP entity reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

Note: For *permitted general situation*, see section 16A. For *permitted health situation*, see section 16B.

6.3 This subclause applies in relation to the disclosure of personal information about an individual by an APP entity that is an agency if:

- (a) the agency is not an enforcement body; and
- (b) the information is biometric information or biometric templates; and
- (c) the recipient of the information is an enforcement body; and
- (d) the disclosure is conducted in accordance with the guidelines made by the Commissioner for the purposes of this paragraph.

6.4 If:

- (a) the APP entity is an organisation; and
- (b) subsection 16B(2) applied in relation to the collection of the personal information by the entity;

the entity must take such steps as are reasonable in the circumstances to ensure that the information is de-identified before the entity discloses it in accordance with subclause 6.1 or 6.2.

*Written note of use or disclosure*

6.5 If an APP entity uses or discloses personal information in accordance with paragraph 6.2(e), the entity must make a written note of the use or disclosure.

*Related bodies corporate*

6.6 If:

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- (a) an APP entity is a body corporate; and
- (b) the entity collects personal information from a related body corporate;

this principle applies as if the entity's primary purpose for the collection of the information were the primary purpose for which the related body corporate collected the information.

*Exceptions*

- 6.7 This principle does not apply to the use or disclosure by an organisation of:
- (a) personal information for the purpose of direct marketing; or
  - (b) government related identifiers.

## **7 Australian Privacy Principle 7—direct marketing**

*Direct marketing*

- 7.1 If an organisation holds personal information about an individual, the organisation must not use or disclose the information for the purpose of direct marketing.

Note: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A.

*Exceptions—personal information other than sensitive information*

- 7.2 Despite subclause 7.1, an organisation may use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:
- (a) the organisation collected the information from the individual; and
  - (b) the individual would reasonably expect the organisation to use or disclose the information for that purpose; and
  - (c) the organisation provides a simple means by which the individual may easily request not to receive direct marketing communications from the organisation; and

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(d) the individual has not made such a request to the organisation.

7.3 Despite subclause 7.1, an organisation may use or disclose personal information (other than sensitive information) about an individual for the purpose of direct marketing if:

- (a) the organisation collected the information from:
  - (i) the individual and the individual would not reasonably expect the organisation to use or disclose the information for that purpose; or
  - (ii) someone other than the individual; and
- (b) either:
  - (i) the individual has consented to the use or disclosure of the information for that purpose; or
  - (ii) it is impracticable to obtain that consent; and
- (c) the organisation provides a simple means by which the individual may easily request not to receive direct marketing communications from the organisation; and
- (d) in each direct marketing communication with the individual:
  - (i) the organisation includes a prominent statement that the individual may make such a request; or
  - (ii) the organisation otherwise draws the individual's attention to the fact that the individual may make such a request; and
- (e) the individual has not made such a request to the organisation.

*Exception—sensitive information*

7.4 Despite subclause 7.1, an organisation may use or disclose sensitive information about an individual for the purpose of direct marketing if the individual has consented to the use or disclosure of the information for that purpose.

*Exception—contracted service providers*

- 7.5 Despite subclause 7.1, an organisation may use or disclose personal information for the purpose of direct marketing if:
- (a) the organisation is a contracted service provider for a Commonwealth contract; and
  - (b) the organisation collected the information for the purpose of meeting (directly or indirectly) an obligation under the contract; and
  - (c) the use or disclosure is necessary to meet (directly or indirectly) such an obligation.

*Individual may request not to receive direct marketing communications etc.*

- 7.6 If an organisation (the **first organisation**) uses or discloses personal information about an individual:
- (a) for the purpose of direct marketing by the first organisation; or
  - (b) for the purpose of facilitating direct marketing by other organisations;
- the individual may:
- (c) if paragraph (a) applies—request not to receive direct marketing communications from the first organisation; and
  - (d) if paragraph (b) applies—request the organisation not to use or disclose the information for the purpose referred to in that paragraph; and
  - (e) request the first organisation to provide its source of the information.
- 7.7 If an individual makes a request under subclause 7.6, the first organisation must not charge the individual for the making of, or to give effect to, the request and:
- (a) if the request is of a kind referred to in paragraph 7.6(c) or (d)—the first organisation must give effect to the request within a reasonable period after the request is made; and

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- (b) if the request is of a kind referred to in paragraph 7.6(e)—the organisation must, within a reasonable period after the request is made, notify the individual of its source unless it is impracticable or unreasonable to do so.

*Interaction with other legislation*

- 7.8 This principle does not apply to the extent that any of the following apply:
- (a) the *Do Not Call Register Act 2006*;
  - (b) the *Spam Act 2003*;
  - (c) any other Act of the Commonwealth, or a Norfolk Island enactment, prescribed by the regulations.

**8 Australian Privacy Principle 8—cross-border disclosure of personal information**

- 8.1 Before an APP entity discloses personal information about an individual to a person (the *overseas recipient*):

- (a) who is not in Australia or an external Territory; and
- (b) who is not the entity or the individual;

the entity must take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles (other than Australian Privacy Principle 1) in relation to the information.

Note: In certain circumstances, an act done, or a practice engaged in, by the overseas recipient is taken, under section 16C, to have been done, or engaged in, by the APP entity and to be a breach of the Australian Privacy Principles.

- 8.2 Subclause 8.1 does not apply to the disclosure of personal information about an individual by an APP entity to the overseas recipient if:

- (a) the entity reasonably believes that:
  - (i) the recipient of the information is subject to a law, or binding scheme, that has the effect of protecting the information in a way that, overall, is at least

- substantially similar to the way in which the Australian Privacy Principles protect the information; and
- (ii) there are mechanisms that the individual can access to take action to enforce that protection of the law or binding scheme; or
- (b) both of the following apply:
- (i) the entity expressly informs the individual that if he or she consents to the disclosure of the information, subclause 8.1 will not apply to the disclosure;
  - (ii) after being so informed, the individual consents to the disclosure; or
- (c) the disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (d) a permitted general situation (other than the situation referred to in item 4 or 5 of the table in subsection 16A(1)) exists in relation to the disclosure of the information by the APP entity; or
- (e) the entity is an agency and the disclosure of the information is required or authorised by or under an international agreement relating to information sharing to which Australia is a party; or
- (f) the entity is an agency and both of the following apply:
- (i) the entity reasonably believes that the disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body;
  - (ii) the recipient is a body that performs functions, or exercises powers, that are similar to those performed or exercised by an enforcement body.

Note: For *permitted general situation*, see section 16A.

Clause 9

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**9 Australian Privacy Principle 9—adoption, use or disclosure of government related identifiers**

*Adoption of government related identifiers*

- 9.1 An organisation must not adopt a government related identifier of an individual as its own identifier of the individual unless:
- (a) the adoption of the government related identifier is required or authorised by or under an Australian law or a court/tribunal order; or
  - (b) subclause 9.3 applies in relation to the adoption.

Note: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A.

*Use or disclosure of government related identifiers*

- 9.2 An organisation must not use or disclose a government related identifier of an individual unless:
- (a) the use or disclosure of the identifier is reasonably necessary for the organisation to verify the identity of the individual for the purposes of the organisation's activities or functions; or
  - (b) the use or disclosure of the identifier is reasonably necessary for the organisation to fulfil its obligations to an agency or a State or Territory authority; or
  - (c) the use or disclosure of the identifier is required or authorised by or under an Australian law or a court/tribunal order; or
  - (d) a permitted general situation (other than the situation referred to in item 4 or 5 of the table in subsection 16A(1)) exists in relation to the use or disclosure of the identifier; or
  - (e) the organisation reasonably believes that the use or disclosure of the identifier is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
  - (f) subclause 9.3 applies in relation to the use or disclosure.

Note 1: An act or practice of an agency may be treated as an act or practice of an organisation, see section 7A.

Note 2: For *permitted general situation*, see section 16A.

*Regulations about adoption, use or disclosure*

9.3 This subclause applies in relation to the adoption, use or disclosure by an organisation of a government related identifier of an individual if:

- (a) the identifier is prescribed by the regulations; and
- (b) the organisation is prescribed by the regulations, or is included in a class of organisations prescribed by the regulations; and
- (c) the adoption, use or disclosure occurs in the circumstances prescribed by the regulations.

Note: There are prerequisites that must be satisfied before the matters mentioned in this subclause are prescribed, see subsections 100(2) and (3).

## Part 4—Integrity of personal information

### 10 Australian Privacy Principle 10—quality of personal information

- 10.1 An APP entity must take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that the entity collects is accurate, up-to-date and complete.
- 10.2 An APP entity must take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that the entity uses or discloses is, having regard to the purpose of the use or disclosure, accurate, up-to-date, complete and relevant.

### 11 Australian Privacy Principle 11—security of personal information

- 11.1 If an APP entity holds personal information, the entity must take such steps as are reasonable in the circumstances to protect the information:
- (a) from misuse, interference and loss; and
  - (b) from unauthorised access, modification or disclosure.
- 11.2 If:
- (a) an APP entity holds personal information about an individual; and
  - (b) the entity no longer needs the information for any purpose for which the information may be used or disclosed by the entity under this Schedule; and
  - (c) the information is not contained in a Commonwealth record; and
  - (d) the entity is not required by or under an Australian law, or a court/tribunal order, to retain the information;
- the entity must take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.

## **Part 5—Access to, and correction of, personal information**

### **12 Australian Privacy Principle 12—access to personal information**

#### *Access*

- 12.1 If an APP entity holds personal information about an individual, the entity must, on request by the individual, give the individual access to the information.

#### *Exception to access—agency*

- 12.2 If:
- (a) the APP entity is an agency; and
  - (b) the entity is required or authorised to refuse to give the individual access to the personal information by or under:
    - (i) the Freedom of Information Act; or
    - (ii) any other Act of the Commonwealth, or a Norfolk Island enactment, that provides for access by persons to documents;

then, despite subclause 12.1, the entity is not required to give access to the extent that the entity is required or authorised to refuse to give access.

#### *Exception to access—organisation*

- 12.3 If the APP entity is an organisation then, despite subclause 12.1, the entity is not required to give the individual access to the personal information to the extent that:
- (a) the entity reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
  - (b) giving access would have an unreasonable impact on the privacy of other individuals; or

Clause 12

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- (c) the request for access is frivolous or vexatious; or
- (d) the information relates to existing or anticipated legal proceedings between the entity and the individual, and would not be accessible by the process of discovery in those proceedings; or
- (e) giving access would reveal the intentions of the entity in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- (f) giving access would be unlawful; or
- (g) denying access is required or authorised by or under an Australian law or a court/tribunal order; or
- (h) both of the following apply:
  - (i) the entity 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;
  - (ii) giving access would be likely to prejudice the taking of appropriate action in relation to the matter; or
- (i) giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
- (j) giving access would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process.

*Dealing with requests for access*

12.4 The APP entity must:

- (a) respond to the request for access to the personal information:
  - (i) if the entity is an agency—within 30 days after the request is made; or
  - (ii) if the entity is an organisation—within a reasonable period after the request is made; and
- (b) give access to the information in the manner requested by the individual, if it is reasonable and practicable to do so.

*Other means of access*

- 12.5 If the APP entity refuses:
- (a) to give access to the personal information because of subclause 12.2 or 12.3; or
  - (b) to give access in the manner requested by the individual;
- the entity must take such steps (if any) as are reasonable in the circumstances to give access in a way that meets the needs of the entity and the individual.
- 12.6 Without limiting subclause 12.5, access may be given through the use of a mutually agreed intermediary.

*Access charges*

- 12.7 If the APP entity is an agency, the entity must not charge the individual for the making of the request or for giving access to the personal information.
- 12.8 If:
- (a) the APP entity is an organisation; and
  - (b) the entity charges the individual for giving access to the personal information;
- the charge must not be excessive and must not apply to the making of the request.

*Refusal to give access*

- 12.9 If the APP entity refuses to give access to the personal information because of subclause 12.2 or 12.3, or to give access in the manner requested by the individual, the entity must give the individual a written notice that sets out:
- (a) the reasons for the refusal except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and
  - (b) the mechanisms available to complain about the refusal; and
  - (c) any other matter prescribed by the regulations.

Clause 13

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- 12.10 If the APP entity refuses to give access to the personal information because of paragraph 12.3(j), the reasons for the refusal may include an explanation for the commercially sensitive decision.

**13 Australian Privacy Principle 13—correction of personal information**

*Correction*

13.1 If:

- (a) an APP entity holds personal information about an individual; and
- (b) either:
  - (i) the entity 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
  - (ii) the individual requests the entity to correct the information;

the entity must take such steps (if any) as are reasonable in the circumstances to correct that information to ensure that, having regard to the purpose for which it is held, the information is accurate, up-to-date, complete, relevant and not misleading.

*Notification of correction to third parties*

13.2 If:

- (a) the APP entity corrects personal information about an individual that the entity previously disclosed to another APP entity; and
- (b) the individual requests the entity to notify the other APP entity of the correction;

the entity must take such steps (if any) as are reasonable in the circumstances to give that notification unless it is impracticable or unlawful to do so.

*Refusal to correct information*

- 13.3 If the APP entity refuses to correct the personal information as requested by the individual, the entity must give the individual a written notice that sets out:
- (a) the reasons for the refusal except to the extent that it would be unreasonable to do so; and
  - (b) the mechanisms available to complain about the refusal; and
  - (c) any other matter prescribed by the regulations.

*Request to associate a statement*

- 13.4 If:
- (a) the APP entity refuses to correct the personal information as requested by the individual; and
  - (b) the individual requests the entity to associate with the information a statement that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading;
- the entity must take such steps as are reasonable in the circumstances to associate the statement in such a way that will make the statement apparent to users of the information.

*Dealing with requests*

- 13.5 If a request is made under subclause 13.1 or 13.4, the APP entity:
- (a) must respond to the request:
    - (i) if the entity is an agency—within 30 days after the request is made; or
    - (ii) if the entity is an organisation—within a reasonable period after the request is made; and
  - (b) must not charge the individual for the making of the request, for correcting the personal information or for associating the statement with the personal information (as the case may be).

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