



11.4	PRIVACY
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Applies to: All Staff, Volunteers and Management Committee Members
Specific Responsibility: Principal Solicitor, Executive Manager and Management Committee

Version: 1
Date Approved: July 2019
Next Review Date: July 2021

Policy context: This policy relates to	
Standards or other external requirements	NACLC's NAS A2.1, Risk Management Guide: 12,14,6.6, 6.7.11,6.7.23, 6.7.81, 8.10, 8.16 – 8.20, 8.5.9, 8.9, 8.13 9.3.
Legislation or other requirements	<i>Privacy Act 1988 (Cth)</i> , including 13 Australian Privacy Principles - Schedule 1, <i>Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)</i> . <i>Legal Profession Act 2008 (WA)</i> , <i>Legal Profession Regulations 2009 (WA)</i> , <i>Legal Profession Rules 2009 (WA)</i> ,
Contractual obligations	As may exist under funding agreements from time to time

Policy & Procedure Implementation Checklist

A policy implementation checklist is included at the end of this document to assist review and implementation. It may be copied from the document and used by staff responsible for implementing the procedure – but it is not a replacement for reading the policy and procedure document in its entirety.

The Implementation Checklist will also require review by the person responsible for review and update of this policy and procedure in accordance with TWA's policy review schedule.

POLICY STATEMENT

Tenancy WA Inc. (TWA) is committed to protecting and upholding the right to privacy of clients, staff, volunteers, Management Committee members and representatives of agencies we deal with. In particular TWA is committed to protecting and upholding the rights of our clients to privacy in the way we collect, store and use information about them, their needs and the services we provide to them.

In compliance with the Australian Privacy Principles, this policy in particular addresses:

- the kinds of personal information TWA collects and holds;
- how TWA collects and holds personal information;
- the purposes for which TWA collects, holds, uses and discloses personal information;
- how someone may access personal information about them that is held by TWA and seek the correction of such information;
- how someone may complain about a breach of the Australian Privacy Principles by TWA and how we will deal with such a complaint;
- whether TWA is likely to disclose personal information to overseas recipients;
- if TWA is likely to disclose personal information to overseas recipients—the countries in which such recipients are likely to be located.

TWA requires staff, volunteers and Management Committee members to be consistent and careful in the way they manage what is written and said about individuals and how they decide who can see or hear this information.

TWA is subject to the legislation, standards and obligations listed in the header to this policy and will follow the guidelines of the *Australian Privacy Principles* in its information management practices. Those guidelines are taken into account in the drafting of this policy.

TWA will ensure that:

- it meets its legal and ethical obligations as an employer and service provider in relation to protecting the privacy of clients and organisational personnel.
- clients are provided with information about their rights regarding privacy.
- clients and organisational personnel are provided with privacy when they are being interviewed or discussing matters of a personal or sensitive nature.
- all staff, Management Committee members and volunteers understand what is required in meeting these obligations.

This policy is intended to comply with the *Privacy Act 1988 (Cth)* and the *Australian Privacy Principles* which govern the collection, use and storage of personal information. TWA understand it is required to do so under the terms of its funding contracts. However, even if that were not the case, it acknowledges that compliance with the Australian Privacy Principles is generally considered to be prudent practice.

This policy will apply to all records, whether hard copy or electronic, containing personal information about individuals, and to interviews or discussions of a sensitive personal nature.

Definition

For the purpose of this policy the following definitions are used.

Personal Information means “information about an individual whose identity is apparent or can reasonably be ascertained, from the information or opinion” which is maintained electronically, on video or in written/printed form; and/or verbal information given to an employee about an individual. Personal information may include sensitive information.

Sensitive Information means personal, health or legal information or an opinion about an Individual's:

- Racial or ethnic origin
- Political opinions
- Membership of a political association
- Religious beliefs or affiliations
- Philosophical beliefs
- Membership of a professional or trade association;
- Membership of a trade union
- Sexual preferences or practices
- Criminal record

Employee Record means a record of personal information relating to a paid employee or an unpaid volunteer. Examples of personal information may include:

- Engagement, training, discipline or resignation of the employee;
- Termination of the employment of the employee;
- Terms and conditions of employment of the employee;
- Employee's personal and emergency contact details;
- Employee's performance and conduct;
- Employee's hours of employment;
- Employees salary or wages;
- Employees membership of a professional or trade association
- Employees trade union membership
- Employees recreation, long service, sick, personal, maternity or other leave;
- Employee's taxation, banking or superannuation affairs.

PROCEDURES

Making this policy available

A current pdf copy of this policy will be made available as a link on TWA's website. A current copy of this policy will also be made available to all TWA staff, volunteers and Management Committee members.

In addition, a copy of TWA's Privacy Statement will be kept on TWA's website in the following form – updated from time to time upon review and update of this policy. The date of the Privacy Statement's review/currency will be inserted on the webpage.

Privacy Statement

Tenancy WA Inc. (TWA) takes your privacy seriously and complies with the Australian Privacy Principles in the collection, storage and destruction of personal information about any person or organisation that interacts with our community legal centre. If you are a client, your privacy is also important to us as it helps us protect the legal professional privilege that may apply to your personal information.

This Privacy Statement tells you:

- how to get a copy of our full Privacy Policy
- what personal information we collect and what we do with it
- about our website and information it collects from you
- how we respect your privacy
- how we keep your information secure
- how to ask us to access or correct your personal information or make a complaint.

Get a full copy of our Privacy Policy

If you need it in another format to meet your needs, please let us know by email at admin@tenancywa.org.au or by phoning TWA's Administration Officer on (08) 62638560 We'll get a copy of our Privacy Policy to you in a format that meets your needs as soon as possible.

Your personal information & what we do with it

When you contact TWA by email, letter, telephone or by completing the message link on our website, you will be giving us your personal information, which may include:

- your name and other names you have been known by in the past
- your address and contact details
- your date of birth and
- the name of the other party (if any) in your legal dispute, including their date of birth if you know it
- information about your legal problem.

Other organisations who may contact us on your behalf with your permission, may also give us personal information about you so we can decide whether we can help you with a tenancy problem.

We use your personal information to:

- Decide if we can help you with a tenancy related legal problem or
- Refer you for help elsewhere or
- Give you general legal information and potentially specialist legal advice and representation about your individual situation.

To prove to our funders that we do our job and to analyse how we are helping people so we can improve our services, TWA will sometimes use **de-identified** data generated from your personal information to create reports for our funders, ourselves and our Annual Report. We may also use the de-identified data for research informing our law reform and advocacy work. The data in our reports and research may include:

- The number of people getting in touch with our centre
- The number and types of legal problems they have and how we help them
- The number of people we couldn't help and whether we could send them for help elsewhere
- Whether the legal help people received solved their tenancy problem.

The data in the reports and research TWA creates never identifies any individual person's personal information.

We never give your personal information to any other person or organisation without your written permission, unless we are required to do so by law.

Your personal information and our website

TWA also collects information about you when you visit this website. Our computer system logs the following information for statistical purposes:

- user's server or proxy address
- type of browser you are using
- date/time of the visit
- pages accessed and documents downloaded

We use this information to analyse our server traffic. We do not attempt to identify users or their browsing activities except where authorised or required by law. For example if there is an investigation, a law enforcement agency may exercise their legal authority to inspect the internet service provider's logs.

TWA's website has links to content and websites of other organisations. TWA **does not know** whether those organisations take your privacy as seriously as we do nor whether they comply with the Australian Privacy Principles. TWA is not responsible for the privacy practices or the content of any of those linked websites. To protect your privacy on any linked websites, you will need to read their Privacy Statements and make a decision for yourself.

TWA respects your privacy

We respect your privacy. In dealing with your personal information TWA:

- Never gives anyone outside TWA your personal information without your written permission, unless we are required to do so by law.
- Never sells your personal information to any person or organisation under any circumstances
- Never gives your personal information to any person or organisation overseas under any circumstances without your written permission.

We only use your personal information for the reasons you have given it to us for and to create the types of reports described above.

If we hope to use your personal information for any other reason, for example – for research or to create TWA case studies for professional purposes, we will contact you and ask for your permission in writing if we have not already done so.

Keeping your personal information secure

Your personal information is kept securely by TWA in either digital or hardcopy format while we are helping you with your legal problem and then it is securely stored for seven years (or for longer as may be needed by legislation applying to your situation).

After that time TWA securely destroys and disposes of your personal information.

TWA never keeps any original documents you may give to us. They are always returned to you by the time your TWA legal file is closed. TWA double checks to make sure it has returned any original documents you may have given us before final records destruction and disposal takes place.

All TWA staff, volunteers and Management Committee members sign confidentiality agreements in which they agree to comply with TWA's privacy obligations to you. They also receive regular training in privacy and confidentiality protection and secure records management.

TWA has secure, locked facilities in its offices for storing all hardcopy documents and onsite computer records containing your personal information. TWA contracts IT specialists to maintain our computer server in secured premises within the Perth metropolitan area. The server is protected by up to data protection software, daily data backup and it is subject to the protection of Australian privacy and information technology data laws. TWA does not send any digital or hardcopy data for storage at overseas facilities.

TWA regularly assesses ongoing risks related to maintaining the security of personal information held by it and takes all reasonable precautions to ensure security is maintained overtime for all hardcopy and digital records.

Accessing or correcting your personal information or making a Privacy Complaint -

Please contact our Privacy Contact Officer, TWA's Principal Solicitor at admin admin@tenancywa.org.au or by phoning (08) 62638560 or by writing to them at: 2/18 Plain St East Perth WA 6004 if you wish to:

- have access to your personal information
- check your personal information held with us is correct,
- change incorrect personal information we hold about you, or
- make a complaint about a breach of your privacy or how we are handling your personal information.

TWA's Privacy Contact Officer will respond to your request or any complaint about privacy within 30 days.

There is generally no cost for making a request to access or correct personal information. If we cannot comply with your request, we will let you know why and what next steps you may take if you're not satisfied with our explanation. If you are enquiring from overseas, we will need extra information from you and dealing with your request may take longer and include a cost to cover our reasonable expenses.

If you're not satisfied with how we've handled a privacy complaint, you can find more information at www.oaic.gov.au or contact the Office of the Australian Information Commissioner by telephone: 1300 363 992 or email: enquiries@oaic.gov.au or by letter to: GPO Box 5218, Sydney NSW 2001 or GPO Box 2999, Canberra ACT 2601.

End of Privacy Statement

Dealing with personal information

In dealing with personal information, TWA staff and volunteers will:

- ensure privacy for clients, staff, volunteers or Management Committee members when they are being interviewed or discussing matters of a personal or sensitive nature
- only collect and store personal information that is necessary for the functioning of the Centre, the purpose for which the information is being provided and TWA's activities
- use fair and lawful ways to collect personal information
- collect personal information only by consent from an individual
- ensure that people know what sort of personal information is held, what purposes it is held for and how it is collected, used, disclosed and who will have access to it
- ensure that personal information collected or disclosed is accurate, complete and up-to-date, and provide access to any individual to review information or correct wrong information about themselves
- take reasonable steps to protect all personal information from misuse and loss and from unauthorised access, modification or disclosure

- destroy or permanently de-identify personal information no longer needed and/or after legal requirements for retaining documents have expired.

Responsibilities for managing privacy

- All staff are responsible for the management of personal information to which they have access, and in the conduct of research, consultation or advocacy work.
- The Principal Solicitor, with the assistance of the Community Legal Education Coordinator, is ultimately responsible for all legal content in TWA's publications, communications and website and must ensure the following:
 - appropriate consent is obtained for the inclusion of any personal information about any individual including TWA personnel
 - information being provided by other agencies or external individuals conforms to privacy principles
 - that the website **contains a Privacy Statement** that makes clear the conditions of any collection of personal information from the public through their visit to the website.
- The Executive Manager is responsible for safeguarding personal information relating to TWA staff, Management Committee members, volunteers, contractors and TWA members.
- **The Privacy Contact Officer:** The Privacy Contact Officer will be the Principal Solicitor, though they may delegate investigation and collation of information relevant to any request for access or correction of personal information or any Privacy Complaint to another senior staff member. Any decision regarding inquiries or complaints, however, remains the duty of the Principal Solicitor as Privacy Contact Officer.
- The Principal Solicitor will be responsible for:
 - ensuring that all staff are familiar with the Privacy Policy and administrative procedures for handling personal information
 - ensuring that clients and other relevant individuals are provided with information about their rights regarding privacy
 - deciding upon any queries or complaints about a privacy issue
 - obtaining appropriate training in the responsibilities attaching to the role of Privacy Contact Officer

Privacy - information for clients

At initial intake on the telephone advice line and on TWA's website clients will be told what information is being collected, how their privacy will be protected and their rights in relation to this information.

- See Intake & Referral Policy for information related to privacy explanation at Intake
- See Privacy Statement above for text to be inserted to website.
- See Advice & Casework Policy for pro forma Authority for Release of Information form for casework clients.
- Client files will be secured in compliance with client file management procedures when in use or stored/archived at TWA's office – See Client File Management Policy
- All Tenant Advocates and lawyers will use due diligence in keeping client files and Duty Advocate Record Sheets secure and their movement (if any) notated in the Client File Movement Register when/if client files are needed at Court.
- See Access to Confidential Information Policy for procedures in compliance with Risk Management Guide 8.16 – 8.17 in relation to maintenance of client confidentiality, third party

access to client information and use of coercive investigate powers and court orders.

Privacy for interviews and personal discussions

To ensure privacy for clients or staff when discussing sensitive or personal matters, TWA will:

- Make use of private interview rooms located off TWA's Reception area for in-person interviews
- Ensure telephone advice line work spaces and staff work stations and offices enable sufficient privacy to facilitate private client telephone conversations
- Prepare matters, as far as possible, ahead of time or in private work spaces available at court prior to appearing as Duty Advocate in the Residential Tenancy jurisdiction to afford clients opportunity to provide instructions in private
- Keep client files secure in compliance with client file management procedures when in use or stored/archived at TWA's office
- Keep client files and Duty Advocate Record Sheets secure and their movement (if any) notated in the Client File Movement Register when client files are needed at Court.

Participants in research projects

People being invited to participate in a research project must be:

- given a choice about participating or not
- given the right to withdraw at any time
- informed about the purpose of the research project, the information to be collected, and how information they provide will be used.
- given copies of any subsequent publications
- asked to sign a statement confirming their understanding of these things and willingness to participate in the research.

The collection of personal information will be limited to that which is required for the conduct of the project. Individual participants will not be identified.

Organisational participants in research projects will generally be identified in TWA's research, unless the nature of a particular project requires anonymity or an organisation specifically requests it.

DOCUMENTATION

Documents/Information related to this policy	
Related policies	Intake & Referral Policy Client File Management & Data & Information Management Policies Confidentiality Policy Access to Confidential Information Policy Advice & Casework Policy – Authority for Release of Information pro forma document
Forms, record keeping or other organisational documents	Privacy Statement (on website) Code of Ethics & Conduct, Conflict of Interest &

	<p>Confidentiality Agreements (as signed by Staff, Volunteers & Management Committee members)</p> <p>Privacy Contact Officer correspondence</p> <p>Privacy Information Sheet – advised to be developed</p> <p>Authority for Release of Information (for use with Advice & Casework Clients when necessary)</p> <p>Agreements to release information for use in research, reports & case studies (for use with clients and organisations)</p>
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INDEXING		
Search Topic(s):		
Function(s):		
Reviewing and approving this policy		
Frequency	Person responsible	Approval
Every two years from the date of review & update, or as required from time to time in the event of legislative or contractual requirement amendments.	Executive Manager	Executive Manager

Policy review and version tracking			
Review	Date Approved	Approved by	Next Review Due
	July 2019	Executive Manager	July 2021

Confidentiality – Implementation Checklist

Implementation Item	Done? (Y/N)	Date & Initialled
Check Privacy Policy still complies with APP checklist, available on the Office of the Australian Information Commissioner website in the “Guide to developing an APP Privacy Policy”		
Staff, volunteers and Management Committee members Code of Conduct & Confidentiality agreements all signed & current?		
Privacy Statement uploaded to TWA website?		
Privacy Statement review date inserted to website?		

Privacy script included in Intake & Referral Policy?		
Privacy re-iterated & included in Case File Opening process?		
Authority for Release of Client Information pro forma in use for client file management?		
Privacy maintenance included in Risk Management Review?		
Privacy training included in Management Committee, staff & volunteer inductions?		
Privacy training update provided to staff & volunteers bi-annually?		
All electronic and hardcopy file storage facilities, including off-site server, on-site computers and hardcopy file storage facilities are secure, password protected (if needed) and lockable.		
Return of original documents included in advice & casework plus client file management procedure – notated into file?		
Client file closure procedure – notates double check for return of original documents?		
Client written authority obtained for use of their de-identified personal information in case studies in any TWA research, reports, publications etc.		
Duty Advocate Service – privacy is available for receipt of client instructions at court?		
Client File Movement Register is in use for recording of location of client file and Duty Advocate Sheets used in court?		
Record is kept of Principal Solicitor signing off on case studies, reference to TWA staff/volunteers or other organisations to be used in research, reports, website etc. developed from otherwise identifiable personal information.		
Signed agreement to release information for use in research, case studies, reports etc from clients and organisations have been obtained?		
Principal Solicitor and any other staff member to whom such duty may be partially delegated, is trained in requirements of a Privacy Contact Officer?		
Privacy Contact Officer contact details and those of the Office of the Information Commissioner are up to date on Privacy Statement, in this policy and in any other TWA publications and forms related to Privacy.		