

MVA BENNETT
PRIVACY POLICY
(UPDATED MAY 2019)

INTRODUCTION

The MVA Bennett Privacy Policy sets out how we protect privacy rights. Privacy is important to us and we recognise concerns about security of personal privacy.

Our Privacy Policy is based on the 13 Australian Privacy Principles (“APPs”) introduced into the then Privacy Act 1988 by Schedule 1 of the Privacy Amendment (Enhancing Privacy Protection) Act 2012. The Privacy Act sets standards for the way we must deal with personal information by regulating:

- The way we collect your personal information;
- The way we use and disclose it;
- Our data quality and security for storage of your personal information;
- Our openness about our Privacy Policy;
- Any direct marketing we conduct;
- Your right of access and correction of your personal information;
- How we handle any privacy complaints; and
- Any international transfer of information.

MVA Bennett require all their staff to understand and adhere to the APP’s so we can manage your personal information in a professional and responsible manner.

OPEN AND TRANSPARENT MANAGEMENT OF PERSONAL INFORMATION

Personal information is information that identifies an individual or from which a person’s identity could be ascertained.

We only collect the type of personal information necessary to perform the professional services we are contracted to perform.

Generally, and where possible, we will collect your personal information directly from you. Sometimes, however, personal information will be collected about you from other sources.

We ensure that all personal information is held in a secure manner. Where applicable all computers or servers have the required security protections in place to safeguard and protect any personal information that is held by us.

We also regularly conduct internal risk management reviews to ensure that our infrastructure (to the best of our knowledge) is secure and any identifiable risks have been mitigated as much as they can be in the normal course of business.

You have the right to request from us a copy of all the information about you that we retain. You also have the right to request (by telephone and/or by email – See last page for contact details) that we correct any information that is incorrect, outdated or inaccurate.

We will destroy personal information upon your request by telephone or email or when the personal information is no longer required. The exception to this is if the personal information is required in order to fulfil our purpose or is required to be maintained and/or stored in accordance with the law.

You may make a complaint to us regarding an interference with and/or misuse of your personal information by contacting us by telephone or email. (See last page for contact details.) In your communication you should detail the nature of your complaint and how you would like us to rectify the complaint.

We will respond to that complaint within seven days of receipt and will take all reasonable steps to make a decision as to the complaint within 30 days of receipt.

In the event that you are not satisfied with the resolution provided, then you can make a complaint to the Information Commissioner on the OAIC website at www.oaic.gov.au.

We will not disclose your information to third party overseas recipients unless specifically agreed to by both parties in writing. We will notify you if circumstances change regarding overseas disclosure and will comply with the Act in all respects.

Unless otherwise agreed, we agree not to disclose any personal information for the purpose of direct marketing.

This Privacy Policy is available to all of our clients. It is available on our website. It can also be reviewed in our offices during business hours. If you require a copy of this Privacy Policy, please download from our website or make a request direct to our office. (See last page for contact details.)

ANONYMITY AND PSEUDONYMITY

You do not have the option of not identifying yourself, or of using a pseudonym, when dealing with us as it is impracticable for us to deal with individuals who have not identified themselves or who have used a pseudonym.

Once identity has been established we are happy to use a “Preferred Name” if requested.

COLLECTION OF SOLICITED PERSONAL INFORMATION

Personal Information Other than Sensitive Information:

- (a) We will not collect personal information (other than sensitive information) unless the information is reasonably necessary for, or directly related to, one or more of our functions or activities.
- (b) We will not collect personal information (other than sensitive information) unless the information is reasonably necessary for one or more of our functions or activities.

Sensitive Information:

We will not collect sensitive information (as defined in Section 6 of The Privacy Act 1988) unless you consent to the collection of the information and the information is reasonably necessary for us to perform our function.

Means of Collection

We will collect personal information only by lawful and fair means.

We will collect personal information only from you unless:

- (a) You consent to the collection of the information from someone other than yourself; or
- (b) We are required or authorised by or under an Australian law, or a court/tribunal order, to collect the information from someone other than yourself; or
- (c) It is unreasonable or impracticable to do so.

DEALING WITH UNSOLICITED PERSONAL INFORMATION

If we receive personal information and did not solicit the information, we will determine whether or not we could have collected the information under Australian Privacy Principle 3 by soliciting the information.

We may use or disclose the personal information for the purposes of making the above determination.

If we determine that we could not have collected the personal information and the information is not contained in a Commonwealth record, we will, as soon as practicable but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.

NOTIFICATION OF THE COLLECTION OF PERSONAL INFORMATION

At or before the time or, if that is not practicable as soon as practicable after, we collect personal information, we will take such steps (if any) as are reasonable in the circumstances:

- (a) To notify you of the following matters as are reasonable in the circumstances:
 - (i) The identity and contact details of MVA Bennett;
 - (ii) If we collect personal information from someone other than you or you are unaware that we have collected the personal information, the fact that we have collected the information and the circumstances of that collection;

- (iii) If the collection of the personal information is required or authorised by or under an Australian law or a court/tribunal order, the fact that the collection is so required or authorised (including the name of the Australian law or details of the court/tribunal order), that requires or authorises the collection;
 - (iv) The purposes for which we collect the personal information;
 - (v) The main consequences (if any) for you if all or some of the personal information is not collected by us;
 - (vi) Any other identity, body or person or the types of any other entities, bodies or persons to which we usually disclose personal information of the kind collected;
 - (vii) That our Privacy Policy contains information about how you may access the personal information about you that is held by us and seek the correction of such information;
 - (viii) That our Privacy Policy contains information about how you may complain about a breach of the Australian Privacy Principles, or a registered APP code (if any) that binds us, and how we will deal with such a complaint;
 - (ix) Whether we are likely to disclose the personal information to overseas recipients;
 - (x) If we are likely to disclose the personal information to overseas recipients – the countries in which such recipients are likely to be located if it is practicable to specify those countries in the notification or to otherwise make you aware of them.
- (b) To otherwise ensure that you are aware of any such matters.

USE OR DISCLOSURE OF PERSONAL INFORMATION

If we hold personal information that was collected for a particular purpose (the primary purpose), we will not use or disclose the information for another purpose (the secondary purpose) unless:

- (a) You have consented to the use or disclosure of the information; or
- (b) You would reasonably expect us 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
- (c) The use or 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 exists in relation to the use or disclosure of the information by us; or

- (e) A permitted health situation exists in relation to the use or disclosure of the information by us; or
- (f) We reasonably believe 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.

If the above disclosure of personal information is required, we will take such steps as are reasonable in the circumstances to ensure that the information is de-identified before being disclosed.

Written Note of Use or Disclosure

If we use or disclose personal information in accordance with the above we will make a written note of the use or disclosure.

DIRECT MARKETING

We will not use or disclose personal information for the purposes of direct marketing, unless

- (a) We collected the information from you; and
- (b) You would reasonably expect us to use or disclose the information for that purpose; and
- (c) We provide a simple means by which you may easily request not to receive direct marketing communications from the organisation; and
- (d) You have not made such a request to us.

CROSS-BORDER DISCLOSURE OF PERSONAL INFORMATION

- (a) Before we disclose personal information to a person who is not in Australia or an external Territory (overseas recipient), we will take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles – other than Open and Transparent Management of Personal Information – in relation to the information.
- (b) (a) above does not apply to the disclosure of personal information about an individual by us to the overseas recipient if:
 - (i) We reasonably believe that:
 - 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

- There are mechanisms that you can access to take action to enforce that protection of the law or binding scheme; or

- (ii) Both of the following apply:
 - We expressly inform you that if he or she consents to the disclosure of the information, (a) above will not apply to the disclosure; or
 - After being so informed, you consent to the disclosure; or
- (iii) The disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (iv) A permitted general situation exists in relation to the disclosure of the information by us; or
- (v) The information is required or authorised by or under an international agreement relating to information sharing to which Australia is a party; or
- (vi) Both of the following apply:
 - We reasonably believe 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;
 - The recipient is a body that performs functions, or exercises powers, that are similar to those performed or exercised by an enforcement body.

ADOPTION, USE OR DISCLOSURE OF GOVERNMENT RELATED IDENTIFIERS

Adoption of Government Related Identifiers

We will not adopt a government related identifier of an individual as its own identifier 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) Regulations about adoption, use or disclosure apply.

Use or Disclosure of Government Related Identifiers

We will not use or disclose a government related identifier unless:

- (a) The use or disclosure of the identifier is reasonably necessary for us to verify identity for the purposes of our activities or functions; or
- (b) The use or disclosure of the identifier is reasonably necessary for us to fulfil our 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 exists in relation to the use or disclosure of the identifier; or
- (e) We reasonably believe 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.

QUALITY OF PERSONAL INFORMATION

We will take such steps (if any) as are reasonable in the circumstances to ensure that the personal information we collect is accurate, up to date and complete.

We will take such steps (if any) as are reasonable in the circumstances to ensure that the personal information that we use or disclose is, having regard to the purpose of the use or disclosure, accurate, up to date, complete and relevant.

SECURITY OF PERSONAL INFORMATION

If we hold information, we will 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.

If we hold personal information and:

- (a) no longer need the information for any purpose for which the information may be used or disclosed; and
- (b) We are not required by or under an Australian law, or a court/tribunal order, to retain the information;

We will take such steps as are reasonable in the circumstances to destroy the information or to ensure that the information is de-identified.

ACCESS TO PERSONAL INFORMATION

If we hold personal information about you, we will, upon your request, give you access to the information.

Exception to Access:

We are not required to give you access to the personal information to the extent that:

- (a) We believe 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
- (c) The request for access is frivolous or vexatious; or
- (d) The information relates to existing or anticipated legal proceedings between us and you and would not be accessible by the process of discovery in those proceedings; or
- (e) Giving access would reveal our intentions in relation to negotiations with you 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) We have reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to our 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 our firm in connection with a commercially sensitive decision-making process.

Dealing With Requests for Access:

We will:

- (a) Respond to the request for access to the personal information within a reasonable period after the request is made; and
- (b) Give access to the information in the manner you request, if it is reasonable and practicable to do so.

Other Means of Access:

If we refuse to give access to the personal information because of preceding reasons or in the manner you request, we will take such steps (if any) as are reasonable in the circumstances to give access in a way that meets both of our needs.

Without limiting the above, access may be given through the use of a mutually agreed intermediary.

Access Charges

We may charge for the time taken to arrange access to personal information but the charge will not be excessive and will not apply to the making of the request.

Refusal to Give Access:

If we refuse to give access to the personal information because of preceding reasons or to give access in the manner you request, we will give you 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 (See last page for contact details); and
- (c) Any other matter prescribed by the regulations.

CORRECTION OF PERSONAL INFORMATION

Correction:

If we hold personal information and either:

- (a) We are 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
- (b) You request us to correct the information;

We will 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:

If:

- (a) we correct personal information that we have previously disclosed to another entity; and
- (b) You request us to notify the other entity of the correction;

we will 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

If we refuse to correct the personal information as requested, we will give you 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. (See last page for contact details.)

Request to Associate a Statement

If:

- (a) we refuse to correct the personal information as requested; and
- (b) You request us to associate with the information a statement that the information is inaccurate, out of date, incomplete, irrelevant or misleading;

we will take such steps as are reasonable in the circumstances to associate the statement in such a way that will make the statement apparent to the users of the information.

Dealing With Requests

If a request is made as above, we will respond to the request within a reasonable period after the request is made.

Any communication should be directed to:

Attention: Privacy Officer
MVA Bennett
Level 5 North Tower
485 LaTrobe Street
MELBOURNE VIC 3000
(03) 9642 8000
privacy@mva-bennett.com.au
www.mva-bennett.com.au