



Government of **Western Australia**  
**Housing Authority**

**HOUSING AUTHORITY**

**PRIVACY, CONFIDENTIALITY**

**AND DUTY OF CARE**

**POLICY**

June 2018

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## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

### PREAMBLE

There is no legislative right to privacy in Western Australia and the *Housing Act 1980* does not create a duty of confidentiality between the Housing Authority and a customer. However, the Housing Authority believes that it has a corporate responsibility to maintain the privacy and confidentiality of applicants and tenants as much as possible and not to divulge any information that may be detrimental to them.

However, the Housing Authority also recognises that it has a responsibility to be a good corporate citizen and provide other government departments with information as legally required and to co-operate with government agencies in the interests of the general community.

The Housing Authority also has powers that derive from the *Housing Act 1980*, giving wide discretion and the ability to co-operate with and assist other agencies in its primary function of the delivery of housing services.

There may be times when the Housing Authority is to make a considered decision in the supplying of information to other government agencies, as to whether the customer's rights or those of a government agency or the general community are paramount.

Information may also be obtained from the Housing Authority through the provisions of the *Freedom of Information Act 1992* (FOI), subpoena and search warrants.

### GENERAL

In determining whether a breach of confidentiality may occur, the following criteria should be used:

- The information is to have the necessary quality of confidence.
- The information is to have been disclosed under circumstances indicating an obligation of confidence.
- There be an unauthorised use of the information.

## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

### POLICY

#### Information Sharing And Assistance Provided to Government And Non-Government Agencies And Organisations

1. The Housing Authority will share information with Law Enforcement Agencies for the purposes of law enforcement, community safety and crime and justice services.

### GUIDELINES

- 1.1 The Housing Authority will provide Western Australia Police and Australian Federal Police with information when requested in accordance with information sharing arrangements. Information that may be shared includes;
  - Addresses of Housing Authority owned and managed residential properties;
  - Name and date of birth of persons either currently, or previously, residing in a Housing Authority property;
  - When person of interest, including cohabiters, are moving out of, or into a Housing Authority property;
  - Other relevant information essential for the purposes of law enforcement, community safety, crime and justice services.
- 1.2 Any requests for information or documents outside the scope of the information sharing arrangement must be made via a search warrant, subpoena, order to produce or Freedom of Information (FOI) application.
- 1.3 Where the Law Enforcement Agency has a legally enforceable right of information the Housing Authority must comply with the request.

## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

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2. The Housing Authority will share information and provide assistance to the Royal Society for the Prevention of Cruelty to Animals WA Inc. (RSPCA) for the purpose of enforcing the *Animal Welfare Act 2002 (WA)*.
  
  
  
  
  
  
  
  
  
  
3. The Housing Authority will share information with other State or Federal government departments in accordance with information sharing arrangements or as legally required.

### GUIDELINES

- 2.1 The Housing Authority will provide the RSPCA with information when requested by an Authorised RSPCA Inspector in accordance with information sharing arrangements. Information that may be shared is limited to:
  - name (s);
  - date (s) of birth;
  - contact phone numbers and;
  - forwarding or current address of the tenant and adult household members currently or previously residing at specifically requested Housing Authority properties.
  
- 2.2 The Housing Authority will assist the RSPCA in gaining entry to a locked Housing Authority property where and Authorised RSPCA Inspector has obtained a warrant of entry under the *Animal Welfare Act 2002 (WA)* in accordance with the agreement between both parties. Assistance provided includes arranging for a contractor and Housing Authority representative to attend the property to gain access and secure the property after the entry if necessary.
  
  
  
  
  
  
  
  
  
  
- 3.1 Any department requesting information will be asked to provide a copy of their Act containing the clause giving the right to obtain information and defining the purposes for which the information can be obtained. No information will be provided without that information and for other than the purpose defined by their Act.

## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

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#### **Cont...Information Sharing And Assistance Provided to Government And Non-Government Agencies And Organisations**

4. The Housing Authority will share relevant information with the Water Corporation when it is reasonably necessary for the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction.
5. The Housing Authority will share limited information with gas and electricity providers.
6. The Housing Authority may share client information with welfare agencies and advocates, provided the written consent of the client is obtained.

### GUIDELINES

- 3.2 Departments with this power include the Australian Taxation Office (ATO) and Centrelink. The ATO has the power to acquire information relating to the taxation assessment of an individual. Centrelink has the power to acquire information relating to an applicant's claim to a benefit, eligibility or rate of payment (See Practice Guide on iNhouse –internal document: *All Policies and Manual/Information Management Policies/Information Request-Practice Guides 11.PG17 Australian Taxation Office, 11PG18 Centrelink*).
- 5.1 The Housing Authority will supply the forwarding address of a tenant/s and the period of tenancy to a gas or electricity provider for the purpose of forwarding an account, providing that the request is made in writing on the company's letterhead.
- 6.1. Members of Parliament and their electoral staff are exempt from this requirement when acting on behalf of a constituent who has approached the Member of Parliaments electoral office for assistance in relation to public housing. Enquiries should be directed to the Parliamentary Liaison Officer, Regional Manager, Assistant Regional Manager or Area Manager (See Practice Guide on iNhouse - internal document: *All Policies & Manuals/Information Management Policies/Information Request-Practice Guides 11.PG07 Member of Parliament (Client Information)*).

# PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

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### Disclosure Of Customer Information To The Media

7. Where the customer has made public comment or approached the media, the Housing Authority (by authorisation of the Chief Executive Officer or his nominee) may use whatever information is reasonably required in the circumstances to explain our position.

### Duty Of Care

8. Although the *Housing Act 1980* does not include a clause relating to duty of care, the Housing Authority will always be mindful of a duty of care to customers and others who may be affected by acts of omission or negligence by the Housing Authority.

## GUIDELINES

7.1 Information provided to the media is to be released in accordance with the Housing Authority's *Media Policy*.

7.2 In determining what information shall be released, the Housing Authority will ensure that:

- Responses will be limited to information or allegations that have already been publicly expressed by the customer, or their representative;
- No extraneous information beyond what is necessary to explain the situation from a factual basis will be provided;
- Explicit personal details will be avoided wherever possible; and it will abide by the principles of the Privacy, Confidentiality and Duty of Care Policy, in respecting customer privacy, and not releasing information that may be harmful, irrelevant to the situation or gathered without the client's knowledge or consent. (See Practice Guide on iNhouse - internal document: *All Policies & Manuals/Information Management Policies/Information Request-Practice Guides 11.PG02 Media*).

8.1 The Housing Authority's Duty of Care is the requirement to take prudent care and precautions to guard against reasonably foreseeable and not insignificant risk of injury to anyone. Acts of omission or negligence are included in the definition and it covers the legal proximity and relationship between the two parties.

## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

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#### Legislative Powers Of The Housing Authority

9. The Housing Authority has powers that derive from the *Housing Act 1980* which it reserves the right to use if considered necessary.

#### Disciplinary Action

10. Any Housing Authority employee found to have breached confidentiality will be disciplined under the *Public Sector Management Act 1994*.

### GUIDELINES

9.1 Section 12(b) of the *Housing Act 1980* gives the Housing Authority wide discretionary powers:

“...the Authority... has and may exercise all such powers, authorities and discretion’s, and may do all such acts and things as a private person in the State has or may exercise or do, and the Authority generally may do whatever it deems necessary in connection with or incidental to the functions conferred upon it;”

9.2 These discretionary powers will not be used lightly and is only be exercised by senior officers; (*See Discretionary Decision Making Policy*).

9.3 Section 16 of the *Housing Act 1980* states:

(1) “...the Authority may give such assistance as it thinks fit to enable or assist;-

(a) any public authority; or

(b) any person approved by the Minister, to engage in any activity related to the objects of (the *Housing Act 1980*)...”

(23b) “...consult or collaborate with other bodies or persons having interests or functions similar or related to those of the Authority”.

- These legislative powers is to be balanced by considerations of the rights and responsibilities of all parties.



## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

### POLICY

#### Customer Confidentiality In Housing Authority Offices

11. The Housing Authority staff will treat customer information with respect and confidentiality.

12. Any customer making enquiries regarding their application or tenancy, whether by telephone or counter enquiry, is to give their application number or rental account number and date of birth. (See Practice Guide on iNhouse - internal document: *All Policies & Manuals/Information Management Policies/Information Request-11 2008/POLICY/1: Information Request Policy; Guide Sheet 11.GS02 What Information Can You Release outside the FOI Act*).

### GUIDELINES

11.1 Information concerning clients will not be discussed with other Housing Authority staff unless it has a direct bearing upon the provision of service to a customer.

Examples: A customer with a medical condition such as HIV/Aids whose condition requires a particular accommodation type or location or other specialised consideration. A customer with a record of violence of whom staff may need to be aware for personal safety.

11.2 Information recorded on file should have consideration for the long term privacy of the customer. All files should be restricted in circulation and away from public view.

11.3 All documentation on file should be clear, factual and objective.

12.1 During a counter enquiry, the terminal screen is to be turned from public view to ensure that details cannot be noted by others.

12.2 Any applicant unable to recall their application number will be asked to supply other personal application details in addition to date of birth, to ensure authenticity (e.g address, children's names and dates of birth etc).

## PRIVACY, CONFIDENTIALITY AND DUTY OF CARE POLICY

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13. Persons making complaint about the Housing Authority's tenants must be advised that the Housing Authority is subject to Freedom Of Information (FOI) requirements.

14. An interview room must be used to undertake any customer interview of a confidential nature.

### References for Private Rental Accommodation

15. A Tenant Reference Letter can be provided to a current or previous tenant who has/had a satisfactory tenancy history. A reference can be provided directly to a real estate agent or private owner if the tenant provides the Housing Authority with an Information Release Authority.

### GUIDELINES

13.1 If the complainant objects to the release of the document and/or wishes to remain anonymous, this is to be noted on file in case of future FOI request (See Practice Guide on iNhouse - internal document: *All Policies & Manuals/Information Management Policies/Information Request-Practice Guides 11.PG35*).

14.1 A customer may request to be interviewed in a private interview room at any time.

15.1 A reference is to be provided for the purpose of a current or previous tenant seeking private rental accommodation and not for other purposes.

15.2 A reference can only be provided where the tenant has not been subject to breaches of their tenancy agreement, disruptive behaviour, Illegal Use of Premises or property standards.

## DOCUMENT HISTORY

Owner: Operational Policy Unit  
 Division: Service Delivery Central  
 Phone: (08) 9222 4666  
 Email: [GeneralEnquiries@housing.wa.gov.au](mailto:GeneralEnquiries@housing.wa.gov.au)

Date	Reason	File Ref No	Author	Date loaded on Internet
June 2018	Section 4 inserted to specify that the Housing Authority has the right to provide the Water Corporation with relevant information.	LEG183775	Gillian Campbell A/Senior Policy and Practice Officer	6 June 2018
January 2016	Owner and contact details updated. Grammatical and formatting amendments for accuracy and clarity.	15/D1519883 15/D1519906	Nhi Nguyen A/Policy and Practice Support Officer	12 January 2016
August 2015	Department of Housing updated to Housing Authority due to name standardisation (legal name).	15/D972729	Nhi Nguyen A/Policy and Practice Support Officer	August 2015
June 2015	Section 14 amended to clarify when rental references can be provided to current or previous tenants.	15/D787235	Nhi Nguyen A/Policy and Practice Support Officer	July 2015
December 2013	Updated to ensure consistency with current information sharing Memorandums of Understanding (MOU) and agreements.	13/D1085702	Chanmali Alexander Nee A/ Policy and Practice Officer	December 2013
June 2010	Document removed from Rental Policy and Bond Assistance Loan Policy to sit alone to maintain version control and easier staff access.		Kylie George A/Business Solutions Manager	June 2010