



Privacy, Confidentiality and Duty of Care Policy

Purpose

This policy outlines how the Housing Authority maintains the privacy and confidentiality of clients and the circumstances in which Housing will share a client's personal and tenancy management information.

Scope

This policy applies to information collected and used by the Housing Authority, operating within the Department of Housing and Works.

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 client. The Housing Authority will, as best as reasonably possible, protect the privacy and confidentiality of clients, unless the sharing of information is required by law or supported by this policy.

Policy Statements

Privacy

1. The Housing Authority will maintain a client's privacy and will not share a client's personal or tenancy management information unless:
 - a. The client consents.
 - b. The sharing of information is required by law.
 - c. The sharing of information is supported by this policy.
 - d. The sharing of information with another government agency and that government agency's interest and/or the public interest is paramount.
2. A client's privacy is breached where:
 - a. The information shared has the necessary quality of confidence.
 - b. The information is disclosed under circumstances indicating an obligation of confidence.
 - c. There is unauthorised use of the information.

Sharing information with consent

3. The Housing Authority will share a client's personal or tenancy management information with another government agency, non-government agency, service provider nominated agency or person where the client has provided consent.

Sharing information with Law Enforcement Agencies

4. The Housing Authority will share information with Law Enforcement Agencies for the purposes of law enforcement, community safety and crime and justice services:
 - a. Where it is permitted by law.
 - b. Where the Law Enforcement Agency has a legally enforceable right to the information.
 - c. Where it is reasonably necessary to prevent or lessen a serious threat to a person's life, health, or safety.
 - d. Where it is supported by a Memorandum of Understanding or similar agreement.
 - e. Under a valid search warrant, subpoena or court order.
5. For the purposes of sharing information with Law Enforcement Agencies, information shared includes:
 - a. A client's personal information.
 - b. The personal information of any person residing at a Housing Authority property.
 - c. The client's tenancy management information.
 - d. Any other relevant information essential for law enforcement, community safety, crime, and justice services.

Sharing information with the Department of Communities

6. The Housing Authority will share a client's personal or tenancy management information with the Department of Communities:
 - a. For the purposes of enforcing the Children and Community Services Act 2004.
 - b. To Communities staff performing functions under the *Children and Community Services Act 2004*.
 - c. Where it reasonably necessary to meet legal responsibilities, service delivery within the functions of Communities.
 - d. Where there is a legally enforceable right to the information.
 - e. To support children, individuals, and families at risk in crisis.
 - f. To protect children who have been or are at risk of harm, abuse, neglect.
 - g. To promote and safeguard the wellbeing of children.
 - h. To plan, coordinate and improve the way services are provided.
7. Where appropriate, the Housing Authority will obtain the client's consent and de-identity information before sharing information.
 - a. Where possible, the Housing Authority will obtain the client's consent before sharing information with Communities unless:
 - a. It is not in the best interest of the child.
 - b. It may place a child at further risk of harm.
 - c. A timely referral is required as there is a significant concern for a child's wellbeing.
 - d. Reasonable efforts to obtain consent have failed.
 - e. The child poses a risk to themselves or is a risk to others, or

- f. It is reasonably necessary to prevent or lessen a serious threat to a person's life, health, or safety.

Sharing information with other State or Federal government agencies

- 8. The Housing Authority will share a client's personal or tenancy information with other government agencies:
 - a. Where is it permitted by law.
 - b. Where the other government agency has a legally enforceable right to the information.
 - c. Where it is supported by a Memorandum of Understanding or similar agreement.
 - d. Where it is reasonably necessary to prevent or lessen a serious threat to a person's life, health (including mental health) or safety, or under a valid search warrant, subpoena, or court order.

Sharing information with non-government agencies

- 9. The Housing Authority will share a client's personal or tenancy management information with non-government agencies where:
 - a. The client has provided consent.
 - b. It is supported by a Service Agreement or similar document, or
 - c. Where it is reasonably necessary to prevent or lessen a serious threat to a person's life, health (including mental health) or safety.

Sharing information in relation to animal welfare and management

- 10. The Housing Authority will share information and assist the Royal Society for the Prevention of Cruelty to Animal (RSPCA) for the purposes of enforcing the *Animal Welfare Act 2002*.
- 11. The Housing Authority will share information and assist local government or councils for the purposes of enforcing local government by-laws in relation to animal management.
- 12. For the purposes of sharing information or assist in relation to animal welfare or management, the Housing Authority may:
 - a. Share the client's personal information.
 - b. Share the personal information of any person currently or previously residing at a Housing Authority property.
 - c. Share the client's tenancy management information, or
 - d. Provide assistance to gain access to a Housing Authority property where the agency has a legally enforceable right of entry.

Sharing information with Ministers of Parliament or Members of Parliament

- 13. The Housing Authority will share a client's personal and tenancy management information with Ministers of Parliament when required.

14. The Housing Authority will share information with Members of Parliament or electoral staff when acting on behalf of a client.
- a. The client's written consent is not required when responding to the Member of Parliament on behalf of a client.

Sharing information under Freedom of Information

15. The Housing Authority will share information under the *Freedom of Information Act 1992*.

Sharing information with regulatory bodies, Local Councils, Strata Companies or utility providers

16. The Housing Authority will share a client's personal or tenancy management information with the Water Corporation when it is reasonably necessary for the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of law imposing a penalty or sanction.
- a. The information shared must be relevant and related to the purpose of Water Corporation's enforcement of water management.
17. The Housing Authority may share a client's personal and tenancy management information to regulatory bodies, Local Councils or Strata Companies or utility providers for the purposes of:
- a. Forwarding an account
 - b. Assessing a client's financial obligations to that agency, or
 - c. Identifying a client, where reasonably necessary.

Sharing information with media

18. The Housing Authority will share a client's personal or tenancy management information with media where the client has made a public comment or approached the media.
19. The personal or tenancy management information shared must be reasonably necessary in the circumstances to address enquiry within the following conditions:
- a. Responses will be limited to information or allegations that have already been publicly expressed by the client, or their representative.
 - b. Information that is extraneous and beyond what is necessary to explain the situation from a factual basis will not be shared.
 - c. Explicit personal information must be avoided where possible, and
 - d. Information that may be harmful, irrelevant to the situation or gathered without the client's knowledge or consent will not be shared.

Duty of Care

20. The *Housing Act 1980* does not create a duty of care; however, the Housing Authority will take precautions to guard against risk of injury to any person.

Confidentiality

21. The Housing Authority and Housing staff will treat client personal and tenancy management information confidentially and respectfully.
22. Client personal and tenancy management information will not be discussed with other Housing Authority staff unless it is related and necessary within the functions of that officer and for the provision of service to the client.
23. Client personal and tenancy management information, including information available digitally or hardcopy, will be restricted and kept away from public view.
24. All documentation on file must be clear, factual, and objective.
25. Client personal and tenancy management information will only be shared to the client or an authorised person in accordance with the Identity Policy.

Definitions

Term	Definition
Department of Communities	Includes Child Protection and Family Support, and Disability Services.
Personal information	Information or an opinion about an identified individual, or an individual who is reasonably identifiable: <ol style="list-style-type: none"> (a) Whether the information or opinion is true or not; and (b) Whether the information or opinion is recorded in a material form or not.
Tenancy management information	Information that is arising from or obtained as a result of a residential tenancy agreement between the Housing Authority and a client. This includes information relating to tenancy accounts, breaches, disruptive behaviour, identified risks and support needs.
Law Enforcement Agencies	Western Australia Police, Australian Federal Police or any other entity responsible for preventing, detecting, investigating, prosecuting or punishing of criminal offences or breaches of law imposing a penalty or sanction.
Memorandum of Understanding	An agreement between the Housing Authority and another agency which sets out common strategic goals and how these goals are achieved.
Service Agreement	An agreement between the Housing Authority and another organisation where that organisation agrees to provide a specified service to the Housing Authority.

Related Legislation

- *Housing Act 1980*
- *Children and Community Services Act 2004*
- *Freedom of Information Act 1992*
- *Animal Welfare Act 2002*

Related Department Policies

- Identity Policy

Document Control

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