



**Auctioneers and Valuers Association of
Australia Inc.**

Training & Development

ABN 21 000 109 544

Privacy Policy

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WHAT IS PRIVACY?

Privacy has sometimes been described as:

- the right to be left alone, or
- the right to exercise control over one's personal information, or
- a set of conditions necessary to protect our individual dignity and autonomy.

WHAT IS PERSONAL INFORMATION?

Personal information is any information or opinion about an identifiable person. This includes records containing an individual's name, address, gender, etc., or physical information like fingerprints, or DNA.

INTENT

The AVAA T&D Privacy Policy is intended to:

- Establish guidelines on responsible collection and handling of personal information
- Ensure compliance with relevant privacy legislation and to establish principles of transparency and fairness for the management of personal information
- Establish a complaints procedure for investigation and rectification of breaches of the Privacy Policy
- Allow the Learner the right to access their personal information
- Allow the Learner the right to correct any errors in their personal information.

SCOPE

This policy covers the management of all personal information held by AVAA T&D.

For the purposes of this policy “personal information” means:

INFORMATION OR AN OPINION (INCLUDING INFORMATION OR AN OPINION FORMING PART OF A DATABASE), THAT IS RECORDED IN ANY FORM AND WHETHER TRUE OR NOT, ABOUT AN INDIVIDUAL WHOSE IDENTITY IS APPARENT, OR CAN REASONABLY BE ASCERTAINED, FROM THE INFORMATION OR OPINION.

This Policy is to be observed by all staff, consultants, external contractors and Learners who have access to personal information held by AVAA T&D.

EXCLUSIONS

Nil

PRINCIPLES OF PRIVACY PROTECTION

PRINCIPLE 1 – COLLECTION

1.1 AVAA T&D:

- will collect personal information only if the information is necessary for one or more of its functions or activities
- must collect personal information only by lawful and fair means and not in an unreasonably intrusive way

1.2 When AVAA T&D collects personal information about an individual from the individual, it must take reasonable steps to ensure that the individual is aware of:

- (a) the identity of AVAA T&D and how to contact it; and
- (b) the fact that he or she is able to gain access to the information; and
- (c) the purposes for which the information is collected (“the primary purposes”); and
- (d) to whom (or the types of individuals or organisations to which) AVAA T&D usually discloses information of that kind; and
- (e) any law that requires the particular information to be collected; and
- (f) the main consequences (if any) for the individual if all or part of the information is not provided.

1.3 If it is reasonable and practicable to do so, AVAA T&D will collect personal information about an individual only from that individual.

However, there will be instances where AVAA T&D will obtain such information from other sources, e.g. references for RPL / RCC purposes; results data for prospective Learners, verification of formal qualifications of staff and learners etc.

In such instances AVAA T&D will take reasonable steps to ensure that the individual is or has been made aware of the matters listed in Principle 1.2, except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.

PRINCIPLE 2 – USE AND DISCLOSURE

2.1 AVAA T&D will not, without the prior consent of an individual, use or disclose personal information about that individual for a purpose (the secondary purpose) other than the primary purposes of collection except in any of the following situations:

(a) both of the following apply:

- the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection; and
- the individual would reasonably expect AVAA T&D to use or disclose the information for the secondary purpose; or

(b) if the use or disclosure is necessary for research, or the compilation or analysis of statistics, in the public interest, other than for publication in a form that identifies any particular individual and:

- the research has approval from the AVAA T&D
- it is impracticable for AVAA T&D to seek the individual's consent before the use or disclosure; and
- in the case of disclosure – AVAA T&D reasonably believes that the recipient of the information will not disclose the information; or

(c) AVAA T&D reasonably believes that the use or disclosure is necessary to lessen or prevent either:

- a serious and imminent threat to an individual's life, health, safety or welfare; or

- a serious threat to public health, public safety or public welfare; or
- (d) AVAA T&D has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or
- (e) the use or disclosure is required or authorised by or under law; or
- (f) AVAA T&D reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of a law enforcement agency:
- the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction;
 - the enforcement of laws relating to the confiscation of the proceeds of crime;
 - the protection of the public revenue;
 - the prevention, detection, investigation or remedying of seriously improper conduct;
 - the preparation for, or conduct of, proceedings before any court or tribunal, or
- (g) the Australian Security Intelligence Organisation (ASIO) or the Australian Secret Intelligence Service (ASIS), in connection with its function, has requested AVAA T&D to disclose the personal information and:
- the disclosure is made to an officer or employee of ASIO or ASIS (as the case requires) authorised in writing by the Director-General of ASIO or ASIS (as the case requires) to receive the disclosure; and
 - an officer or employee of ASIO or ASIS (as the case requires) authorised in writing by the Director-General of ASIO or ASIS (as the case requires) for the purposes of this paragraph has certified that the disclosure would be connected with the performance by ASIO or ASIS (as the case requires) of its functions.

Any disclosure under paragraphs c to g can only be made by authority of the AVAA T&D AVAA National Secretary or by the AVAA T&D Solicitor, and a written record shall be made of the reasons for that decision.

PRINCIPLE 3 – DATA QUALITY

AVAA T&D will take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up to date.

If AVAA T&D is to ensure the quality and accuracy of personal information, this places an obligation upon an individual to provide relevant and accurate information to AVAA T&D.

PRINCIPLE 4 – DATA SECURITY

- 4.1 AVAA T&D will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.
- 4.2 AVAA T&D will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose.

Under the Public Record Act 1973 AVAA T&D is required to keep full and accurate records and implement a record disposal program.

Destruction of personal information will be carried out by shredding.

PRINCIPLE 5 – OPENNESS

- 5.1 AVAA T&D will make this Policy & Procedure available to anyone who asks for it.
- 5.2 On request by a person to the AVAA T&D AVAA National Secretary reasonable steps will be taken to let the person know, generally, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

PRINCIPLE 6 – ACCESS AND CORRECTION

- 6.1 If AVAA T&D holds personal information about an individual, it will provide the individual with access to the information on request by the individual, except to the extent that:
 - a) providing access would pose a serious and imminent threat to the life or health of any individual; or
 - b) providing 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 legal proceedings between AVAA T&D and the individual, and the information would not be accessible by the process of discovery or subpoena in those proceedings; or

- e) providing access would reveal the intentions of AVAA T&D in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- f) providing access would be unlawful; or
- g) denying access is required or authorised by or under law; or
- h) providing access would be likely to prejudice an investigation of possible unlawful activity; or
- i) providing access would be likely to prejudice:
 - the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction; or
 - the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - the protection of public revenue; or
 - the prevention, detection, investigation or remedying of seriously improper conduct; or
 - the preparation for or conduct of, proceedings before any court or tribunal, or implementation of its orders by or on behalf of a law enforcement agency; or
- j) ASIO, ASIS or a law enforcement agency performing a lawful security function asks AVAA T&D not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

6.2 Where providing access would reveal evaluative information generated within AVAA T&D in connection with a commercially sensitive decision-making process, AVAA T&D may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.

6.3 If AVAA T&D is not required to provide the individual with access to the information because of one or more of paragraphs 6.1(a) to (j) (inclusive), AVAA T&D will, if reasonable, upon request by the individual to AVAA T&D's AVAA National Secretary consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.

6.4 AVAA T&D reserves the right to charge for providing access to personal information, and if it does so it will:

- (a) advise an individual who requests access to personal information that AVAA T&D will provide access on the payment of the prescribed fee; and
 - (b) may refuse access to the personal information until the fee is paid.
- 6.5 If AVAA T&D holds personal information about an individual and the individual is able to establish to the satisfaction of AVAA T&D that the information is not accurate, complete and up to date, AVAA T&D will take reasonable steps to correct the information so that it is accurate, complete and up to date.
- 6.6 If AVAA T&D and the individual disagree about whether the information is accurate, complete and up to date, and the individual asks AVAA T&D to associate with the information a statement from the individual claiming that the information is not accurate, complete or up to date, AVAA T&D will take reasonable steps to do so.
- 6.7 AVAA T&D will provide reasons for denial of access or a refusal to correct personal information.
- 6.8 If an individual requests access to, or the correction of, personal information AVAA T&D will:
- (a) provide access, or reasons for the denial of access; or
 - (b) correct the personal information, or provide reasons for the refusal to correct the personal information; or
 - (c) provide reasons for the delay in responding to the request for access to or for the correction of personal information as soon as practicable, but no later than forty five (45) days after receiving the request.
- 6.9 Nothing in the AVAA T&D's Privacy Principles applies to a document containing personal information, or the personal information contained in a document which would be subject to the provisions of the Freedom of Information Act 1992 ("FOI Act").
- If a person requires access to such a document then he or she must make an application under the FOI Act and access and correction of any errors will then be determined by the FOI Act.
- 6.10 AVAA T&D is not required to provide an individual with access to information about that individual if that information is generally available to the public.

PRINCIPLE 7 – UNIQUE IDENTIFIERS

7.1 AVAA T&D will assign unique identifiers to staff and learners because this is considered necessary for AVAA T&D to carry out its functions efficiently. AVAA T&D may also assign a numerical code to a participant in AVAA T&D research in order to protect the privacy of that person.

PRINCIPLE 8 – ANONYMITY

When it is lawful and practicable to do so AVAA T&D will provide an individual with the option of not identifying who they are.

However, the nature of the business carried on by AVAA T&D means that, generally, it is not possible for AVAA T&D to provide services to, or interact with, learner or staff members in an anonymous way.

PRINCIPLE 9 – DATA FLOWS

9.1 AVAA T&D will only transfer personal information about an individual to a third party if:

- (a) AVAA T&D reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to the Privacy Principles set out in this Procedure; or
- (b) the individual consents to the transfer; or
- (c) the transfer is necessary for the performance of a contract between the individual and AVAA T&D, or for the implementation of pre-contractual measures taken in response to the individual's request; or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between AVAA T&D and a third party; or
- (e) all of the following apply:
 - the transfer is for the benefit of the individual;
 - it is impracticable to obtain the consent of the individual to that transfer;
 - if it were practicable to obtain that consent, the individual would be likely to give it; or
- (f) AVAA T&D has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the

recipient of the information inconsistently with the Privacy Principles set out in this Procedure.

PRINCIPLE 10 – SENSITIVE INFORMATION

10.1 AVAA T&D will not collect sensitive information about an individual unless:

- (a) the individual has consented; or
- (b) the collection is required under law; or
- (c) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:
 - is physically or legally incapable of giving consent to the collection; or
 - physically cannot communicate consent to the collection; or
- (d) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

10.2 Despite paragraph 10.1, AVAA T&D may collect sensitive information about an individual if:

- (a) the collection:
 - is necessary for research, or the compilation or analysis of statistics, relevant to government funded targeted welfare or educational services; or
 - is of information relating to an individual's racial or ethnic origin and is collected for the purpose of providing government funded targeted welfare or educational services; and
- (b) there is no reasonably practicable alternative to collecting the information for that purpose; and
- (c) it is impracticable for AVAA T&D to seek the individual's consent to the collection.

The provisions of this attachment to policy are subject to any other legislation that may over-ride the NSW Privacy Act 1998.

BREACH OF PRIVACY COMPLAINTS PROCEDURE

INTENT

To provide a consistent and fair procedure for handling complaints with respect to privacy of personal information.

This procedure will apply if an individual considers that AVAA T&D has acted in a manner that breached a Privacy Principle in respect of that individual.

SCOPE

AVAA T&D.

EXCLUSIONS

Nil.

PROCEDURE STEPS AND ACTIONS

Procedure	Timeline
1. Ask the AVAA National Secretary for a Breach of Privacy Complaint Form. The form must be forwarded to AVAA T&D within six (6) months of the time the complainant first became aware of the alleged breach.	6 months
2. If more than 6 months has passed of the person being aware of a Breach of Privacy a letter of explanation for the delay will need to accompany the form.	More than 6 months
3. The complaint must specify details of the alleged	

breach. The items are:

- collection of personal information
- security or storage of personal information
- refusal of access or find out about personal information
- accuracy of personal information
- use of personal information
- disclosure of personal information
- other – specify

4. Suggest what remedial action should be implemented by AVAA T&D.

Example: a change in policy or practice.

5. The AVAA Board of Directors will conduct a Review and will make a determination on the complaint within forty-five (45) days of receipt of the complaint, and advise the complainant in writing.

Within 45 days of receipt

6. If the AVAA Board of Directors determines that there has been a breach of the Privacy Principles, they will, upon notification of the determination to the complainant, advise relevant AVAA T&D personnel in writing of any action required in order to remedy the breach.

30 days from receipt of requested remedial action

This change must be implemented within thirty (30) days.

7. The AVAA National Secretary will keep a record of all complaints. This will comprise a register and file records that will be securely stored in accordance regulations.

8. Possible outcomes:

- formal apology
- remedial action
- undertakings that the conduct will not occur again
- implement administrative measures to ensure that the conduct does not occur again

- disciplinary action may be taken against any person who breaches this policy, including summary dismissal in the event of what AVAA T&D considers to be a serious breach by a staff member
- no breach of Privacy Policy was found.

9. The complainant will be notified in writing of the outcome of the Review within 3 months of the receipt of the complaint.

Notification of outcome within 3 months of receipt of complaint

10. If the complainant is not satisfied with the outcome of the Internal Review then the complaint can be lodged with the Privacy Commissioner of NSW.

