

Confidentiality

Introduction

The registration and regulation of the community housing sector in Victoria, under the *Housing Act 1983* (Vic) (Housing Act), requires registered agencies to provide information to the Housing Registrar. This information may include confidential and sensitive material such as:

- commercial in-confidence information (e.g. business plans, financial plans, reports of internal operational reviews, etc.); and/or
- personal information (e.g. relating to members of governing bodies of agencies or to tenants and prospective tenants of a registered agency).

This policy provides a general overview of the management and handling of information by the Housing Registrar under the Housing Act.

What information does the Housing Registrar collect?

The Housing Registrar comprises of the Registrar of Housing Agencies (Registrar), supported by the Office of the Housing Registrar and is located within the Department of Treasury and Finance (DTF). The Registrar's functions are outlined in Part VIII of the Housing Act. These functions involve the collection of information in order to:

- register rental housing agencies
- establish and maintain the Register of Housing Agencies
- monitor compliance by registered agencies with gazetted Performance Standards
- report to the portfolio Minister.

Accordingly, the Housing Registrar requires registered agencies to:

- provide relevant information as part of ongoing compliance and performance reporting requirements under the Housing Act.
- respond to requests for information related to Performance Standards.
- supply information during an investigation of a registered agency in accordance with the Housing Act.

The Housing Registrar may also receive or seek personal or sensitive information from tenants or prospective tenants of registered agencies through the course of performing our functions.

What protection do registered agencies have in regard to commercial in- confidence information disclosed to the Housing Registrar?

Any commercial in-confidence information disclosed or provided to the Housing Registrar, whether written or oral, is kept in strict confidence and only used for purposes outlined in the Housing Act, subject to the *Freedom of Information Act 1982* (Vic) (addressed below).

What protection under privacy legislation do tenants, prospective tenants and governing bodies of agencies have?

Information collected by Victorian government bodies is covered by the *Privacy and Data Protection Act 2014* (Vic). This legislation relates primarily to personal information, which is defined as information about an individual whose identity is apparent, or can reasonably be ascertained from the information, such as a tenant or prospective tenant. Any information provided by registered agencies to the Housing Registrar about the registered agency or its governing body is therefore not covered by privacy legislation, as they are not natural persons

Sensitive Information

Sensitive information is defined as 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 or criminal record.

Generally, the Housing Registrar will collect sensitive information or health information with a person's consent or where required or authorised under law.

Can third parties apply under the Freedom of Information Act to access information disclosed to the Housing Registrar?

The *Freedom of Information Act 1982* (Vic) (FOI Act), creates 'a general right' to access documents held by Ministers and government agencies, including the Housing Registrar. This right is limited only by the exceptions and exemptions necessary to protect essential public interests and the private or business affairs of persons about whom information is collected and held by government agencies, as set out in the FOI Act.

Therefore, the right to apply for access to information held by the Housing Registrar is limited by legislative exemptions and exceptions, which may include the following, subject to conditions set out in the FOI Act:

- documents containing trade secrets and commercially valuable information
- documents containing information communicated in confidence.

Access to and correction of personal information

If the Housing Registrar holds personal information about an individual, the Housing Registrar will make the information it holds reasonably accessible to the individual to which it relates upon request.

If an error is established, the Housing Registrar will take reasonable steps to correct such information to ensure that its records are accurate.

Requests for access to and/or correction of documents containing personal information held by the Housing Registrar should be addressed in writing to:

Housing Registrar
Department of Treasury and Finance
Level 5, 1 Treasury Place
EAST MELBOURNE VIC 3002
housingregistrar@dtf.vic.gov.au

Will the Housing Registrar share information received from registered agencies with other parts of government or the general public?

Part II of Schedule 8 of the Housing Act outlines information that the Housing Registrar is to make available to the public. Such information includes the address of the registered office of the registered agency, the names of the members of the governing body of the registered agency, and the names of any public officer of the registered agency.

Otherwise, information will be provided to non-government parties in accordance with the Housing Act and the FOI Act.

The Housing Registrar has Memoranda of Understanding with the Department of Families, Fairness and Housing regarding information-sharing protocols. In order to fully monitor and evaluate registered agency compliance, the Housing Registrar will seek feedback from relevant business units of DFFH and Homes Victoria. This may include information available to those business units relevant to demonstrating a registered agency's compliance with Performance Standards and/or information collected from external third parties.

Transfer and sharing of data

The Housing Registrar ensures that any transfer of personal information outside Victoria is in accordance with privacy legislation.

What responsibilities do registered agencies have in regard to confidential information provided to them by the Housing Registrar?

Information provided to registered agencies is strictly confidential and is not to be publicly disclosed by the registered agency except for the purposes of obtaining legal or financial advice or with the written consent of the Housing Registrar.

How confidential is information disclosed to a third party in the course of obtaining external legal or financial advice?

The Housing Registrar will formally seek advice relating to specific information provided by an individual agency from external experts as required. External experts will be informed of the confidential nature of any information provided to them.

Is information collected by the DFFH regarding complaints about a registered agency kept confidential?

Section 99 of the Housing Act provides that the Housing Registrar may appoint an employee of the DFFH to investigate a complaint against a registered agency by a tenant or prospective tenant of the registered agency. Inevitably, investigation of complaints will involve the collection of personal information. This information will be handled in accordance with the law and DFFH's privacy policy.

This guide does not constitute legal advice. It is intended to offer general guidance only to assist registered agencies to understand particular aspects of confidentiality and privacy in the context of registration and regulation.