

**NGA**  
**Privacy Policy**

**Date Issued: December 2006**

**Review Date: December 2008**

## Table of contents

Policy Statement.....	3
Privacy Background and legal basis for the NGA's privacy policy .....	3
Copyright .....	4
Freedom of Information .....	4
Responsibilities.....	5
Forms design .....	5
Summary of staff privacy obligations .....	5
Managing breaches of privacy and complaints .....	6
ATTACHMENT A – Information Privacy Principles under the <i>Privacy Act 1988</i> .....	7
ATTACHMENT B - Plain English summary of the Information Privacy Principles.....	12

## **POLICY STATEMENT**

It is National Gallery of Australia (NGA) policy that corporate information, obtained as a result of our business and customer relationship requirements, will be maintained in strict accordance with the following principles:

- comply with the requirements of the *Privacy Act*;
- make sure all staff understand and comply with their privacy obligations;
- ensure that the privacy policy is up to date and complete;
- respond promptly and honestly to complaints;
- maintain an effective working relationship with the Privacy Commissioner.

## **PRIVACY BACKGROUND AND LEGAL BASIS FOR THE NGA'S PRIVACY POLICY**

The *Privacy Act* 1988 sets the minimum standards that the NGA has to meet when dealing with personal information. It aims to give people reasonable control over information about them, taking into account the government's right to perform its functions. The Federal Privacy Commissioner administers the *Privacy Act*.

The *Privacy Act* covers:

- The manner and purpose in which personal information is collected about employees and customers
- Solicitation of personal information from employees and customers
- Storage and security of records of personal information about employees and customers.
- Access to records of personal information about employees and customers
- Amendment of personal information and limits on the use of and disclosure of the information about employees and customers.

Other legislation, including the *Safety, Rehabilitation and Compensation Act 1988*, and the *Freedom of Information Act 1982* affect the NGA's privacy policy.

## **Non-Disclosure of Confidential NGA Corporate Information (Commercial-in-Confidence)**

The NGA requires employees to maintain confidentiality about NGA corporate information to which they may become party as part of their employment. All employees are to be made aware of their obligations regarding the non-disclosure of confidential information. The NGA enters into contracts with suppliers and requires its staff to maintain confidentiality about company information and also requires companies to reciprocate this confidentiality.

## **Non-Disclosure of Confidential Employee Information (Employee-in-Confidence)**

In accordance with the Certified Agreement and its code of conduct, the NGA's employee records are confidential to the NGA. Any approaches from external bodies, including law enforcement agencies for information about individuals will be referred to the NGA's Manager HRM. Information will not be provided without the permission of the person in question unless it is legally permissible to do so.

Where there is a need for an employee to access and use information, which is regarded as private, they must have or obtain authorisation through the relevant Manager from the appropriate record custodian. The record custodian will provide access after consultation with the appropriate systems administrator.

## **Consultation with Employees**

Employees are able to:

- know about the existence of data which relates to them and how it is to be used;
- comment about any feature of that data or its uses; and
- where appropriate have changes made.

## **Personal information**

Means information that is defined in the *Privacy Act 1988* as:

*"information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion..."*

In plain language, this means just about every piece of information about every person the NGA deals with. A record need not say a person's name in order to be personal information. It will be personal information if the person could be identified from the information.

Personal information is information about flesh and blood individuals and does not include information about organisations. However, certain information about organisations will also be personal information. For example, information that an individual holds a particular position in an organisation is personal information about that individual as well as information about the organisation.

Information about a deceased person is not technically personal information under the *Privacy Act*. Nonetheless, the NGA should be respectful when dealing with information about deceased people. This may be particularly the case when dealing with people from certain groups in society, for example Aboriginal or Torres Strait Islander peoples.

## **COPYRIGHT**

The NGA is committed to the protection of the Intellectual Property created by it as well as the Copyright and Moral Rights of the material within its care. This protection also extends to the literary, artistic, corporate information and other works in the NGA's Research Library and works of art on loan from other institutions.

This is ensured through procedures and policies for the distribution of Copyright and Intellectual Property material and the NGA will do all it can to comply with its obligations under Australia's *Copyright Act*.

## **FREEDOM OF INFORMATION**

The NGA is committed to enabling access to information through the *Freedom of Information Act*.

## **Personnel records**

It is the NGA's policy that employees have access to their personal information held in their personnel file. Employees wishing to see material which relates to them should contact the Head of Human Resource Management to arrange a mutually convenient meeting time. Material may be examined only in the presence of an HRM staff member, who should be able to discuss the purpose of the various records and the context in which they are used. Copies of any documents allowed to be perused may be obtained following the examination of the material.

Employees should be aware that there may be material on their files to which they may not be given access. This would be an unusual circumstance but would include any material which

concerns another individual or where there is a medical report on file and it is considered that disclosing the information directly to the officer might be prejudicial to the officer's health or well-being. In the case of a medical report, that report may be provided to a medical practitioner or other qualified health worker who has been nominated by the officer. Employees should be advised of the material on their files to which they have not been given access and the reasons why access has been denied. Employees may then wish to consider gaining access to that material under the FOI legislation. Employees may also make an application under the FOI Act if the NGA does not respond to requests for access in accordance with this policy.

### **Non- Disclosure of information**

The NGA is committed to following the guidelines which direct and assist with the processing of FOI requests and access being given to information and will abide by the Act in its determining access to information.

All FOI requests are to be referred to the Freedom of Information Coordinator. Access will be provided following consideration and application of the *Freedom of Information Act*, the *Copyright Act* and the *Privacy Act*. Consideration will be given to the circumstances in which the NGA obtained the information sought and its obligations in relation to that information (eg, whether it is commercial-in-confidence).

### **RESPONSIBILITIES**

The Privacy Contact Officer is responsible for the maintenance and dissemination of the NGA's Privacy policy, and is the primary contact with the Office of the Federal Privacy Commissioner.

The Administration Program is responsible for ensuring adequate measures are in place for the physical security of personal information held by the NGA and for the protection of personal information recorded on its computer systems.

The Director or delegate is required to:

- deliver a program of education and training to all employees which allows better understanding of and compliance with the *Privacy Act*, *Copyright Act*, and *Freedom of Information Act*;
- ensure that Assistant Directors, Heads of Department, Section Managers and Supervisors implement objectives consistent with this policy;
- assist managers to carry out this policy by provision of appropriate advice, systems, training and facilitation;
- provide adequate procedures, guidelines and standards.

### **FORMS DESIGN**

All forms and other documents used by the NGA should contain clear and simple statements that explain what personal information the NGA collects and why it does so. These are known as 'IPP 2 notices'. Staff involved in forms design are to ensure that IPP 2 notices are reviewed, to confirm they are adequate, accurate and up to date (for more information see *Guide to the Information Privacy Principles* )

### **SUMMARY OF STAFF PRIVACY OBLIGATIONS**

All staff must take *all* reasonable steps to:

- ensure that only information directly related to the NGA's functions is collected;
- tell people what information the NGA collects about them and why it collects it;
- ensure that recorded information is relevant, complete and up-to-date;
- use information only for the purpose for which it was collected;
- use or disclose personal or sensitive information only for valid reasons;
- ensure records are well maintained and only contain relevant information;
- store information securely;

- make sure that information is only provided to the intended recipients;
- subject to the *Safety, Rehabilitation and Compensation Act 1988* and the *Freedom of Information Act 1982* , allow people to access their information;
- report any breaches or suspected breaches of privacy to their manager and the Privacy Contact Officer.

#### **MANAGING BREACHES OF PRIVACY AND COMPLAINTS**

All staff have a responsibility to report any breach or suspected breach of privacy to their manager, who must advise the Privacy Contact Officer. The Privacy Contact Officer will provide advice about managing breaches, conduct investigations and make recommendations to management as required.

The NGA has an obligation to publish information about its privacy policy and any breaches in its annual reports. The Privacy Contact Officer is responsible for coordination of this reporting.

The Privacy Contact Officer will maintain effective relationships with the Federal Privacy Commissioner by participating in the Privacy Contact Officer Network and representing NGA at privacy forums.

**Further privacy information can be found at:**

**The NGA web site (privacy statement):** <http://www.nga.gov.au/Home/index.cfm>

**The Federal Privacy Commissioner's web site:** <http://www.privacy.gov.au/>

## ATTACHMENT A

### INFORMATION PRIVACY PRINCIPLES UNDER THE *PRIVACY ACT 1988*

#### **Principle 1 - Manner and purpose of collection of personal information**

1. Personal information shall not be collected by a collector for inclusion in a record or in a generally available publication unless:
  - (a) the information is collected for a purpose that is a lawful purpose directly related to a function or activity of the collector, and
  - (b) the collection of the information is necessary for or directly related to that purpose.
2. Personal information shall not be collected by a collector by unlawful or unfair means.

#### **Principle 2 - Solicitation of personal information from individual concerned**

Where:

- (a) a collector collects personal information for inclusion in a record or in a generally available publication, and
  - (b) the information is solicited by the collector from the individual concerned;
- the collector shall take such steps (if any) as are, in the circumstances, reasonable to ensure that, before the information is collected or, if that is not practicable, as soon as practicable after the information is collected, the individual concerned is generally aware of:
- (c) the purpose for which the information is being collected;
  - (d) if the collection of the information is authorised or required by or under law - the fact that the collection of the information is so authorised or required and
  - (e) any person to whom, or any body or agency to which, it is the collector's usual practice to disclose personal information of the kind so collected, and (if known by the collector) any person to whom, or any body or agency to which, it is the usual practice of that first mentioned person, body or agency to pass on that information.

#### **Principle 3 - Solicitation of personal information generally**

Where:

- (a) a collector collects personal information for inclusion in a record or in a generally available publication; and

- (b) the information is solicited by the collector;

the collector shall take such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is collected:

- (c) the information collected is relevant to that purpose and is up to date and complete; and
- (d) the collection of the information does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.

#### **Principle 4 - Storage and security of personal information**

A record-keeper who has possession or control of a record that contains personal information shall ensure:

- (a) that the record is protected, by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse; and
- (b) that if it is necessary for the record to be given to a person in connection with the provision of a service to the record-keeper, everything reasonably within the power of the record-keeper is done to prevent unauthorised use or disclosure of information contained in the record.

#### **Principle 5 - Information relating to records kept by record-keeper**

1. A record-keeper who has possession or control of records that contain personal information shall, subject to clause 2 of this Principle, take such steps as are, in the circumstances, reasonable to enable any person to ascertain:
  - (a) whether the record-keeper has possession or control of any records that contain personal information; and
  - (b) if the record-keeper has possession or control of a record that contains such information:
    - (i) the nature of that information;
    - (ii) the main purposes for which that information is used, and
    - (iii) the steps that the person should take if the person wishes to obtain access to the record.
2. A record-keeper is not required under clause 1 of this Principle to give a person information if the record-keeper is required or authorised to refuse to give that information to the person under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.
3. A record-keeper shall maintain a record setting out:
  - (a) the nature of the records of personal information kept by or on behalf of the record-keeper;
  - (b) the purpose for which each type of record is kept;
  - (c) the classes of individuals about whom records are kept



- (d) the period for which each type of record is kept
  - (e) the persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have that access; and
  - (f) the steps that should be taken by persons wishing to obtain access to that information.
4. A record-keeper shall:
- (a) make the record maintained under clause 3 of this Principle available for inspection by members of the public; and
  - (b) give the Commissioner, in the month of June in each year, a copy of the record so maintained.

#### **Principle 6 - Access to records containing personal information**

Where a record-keeper has possession or control of a record that contains personal information, the individual concerned shall be entitled to have access to that record, except to the extent that the record-keeper is required or authorised to refuse to provide the individual with access to that record under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.

#### **Principle 7 - Alteration of records containing personal information**

1. A record-keeper who has possession or control of a record that contains personal information shall take such steps (if any), by way of making appropriate corrections, deletions and additions as are, in the circumstances, reasonable to ensure that the record:
- (a) is accurate, and
  - (b) is, having regard to the purpose for which the information was collated or is to be used and to any purpose that is directly related to that purpose, relevant, up to date, complete and not misleading.
2. The obligation imposed on a record-keeper by clause 1 is subject to any applicable limitation in a law of the Commonwealth that provides a right to require the correction or amendment of documents.
3. Where:
- (a) the record-keeper of a record containing personal information is not willing to amend that record, by making a correction, deletion or addition, in accordance with a request by the individual concerned, and
  - (b) no decision or recommendation to the effect that the record should be amended wholly or partly in accordance with that request has been made under the applicable provisions of a law of the Commonwealth;
- the record-keeper shall, if so requested by the individual concerned, take such steps (if any) as are reasonable in the circumstances to attach to the record any statement provided by that individual of the correction, deletion or addition sought.

**Principle 8 - Record-keeper to check accuracy etc. of personal information before use**

A record-keeper who has possession or control of a record that contains personal information shall not use that information without taking such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, up to date and complete.

**Principle 9 - Personal information to be used only for relevant purposes**

A record-keeper who has possession or control of a record that contains personal information shall not use the information except for a purpose to which the information is relevant.

**Principle 10 - Limits on use of personal information**

1. A record-keeper who has possession or control of a record that contains personal information that was obtained for a particular purpose shall not use the information for any other purpose unless:
  - (a) the individual concerned has consented to use of the information for that other purpose;
  - (b) the record-keeper believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;
  - (c) use of the information for that other purpose is required or authorised by or under law;
  - (d) use of the information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue, or
  - (e) the purpose for which the information is used is directly related to the purpose for which the information was obtained.
2. Where personal information is used for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue, the record-keeper shall include in the record containing that information a note of that use.

**Principle 11- Limits on disclosure of personal information**

1. A record-keeper who has possession or control of a record that contains personal information shall not disclose the information to a person, body or agency (other than the individual concerned) unless:
  - (a) the individual concerned is reasonably likely to have been aware, or

made aware under Principle 2, that information of that kind is usually passed to that person, body or agency

- (b) the individual concerned has consented to the disclosure
  - (c) the record-keeper believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or of another person;
  - (d) the disclosure is required or authorised by or under law, or
  - (e) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.
2. Where personal information is disclosed for the purposes of enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the purpose of the protection of the public revenue, the record-keeper shall include in the record containing that information a note of the disclosure.
3. A person, body or agency to whom personal information is disclosed under clause 1 of this Principle shall not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency.

## ATTACHMENT B

### PLAIN ENGLISH SUMMARY OF THE INFORMATION PRIVACY PRINCIPLES

- 1 The NGA can only *collect* information that is relevant to its legislated functions and the means of collection must be *lawful* and *fair*.
- 2 The NGA must tell people *why* information about them is collected, the *legal authority* for doing so and *to whom* the information is usually disclosed.
- 3 The NGA has to take reasonable steps to ensure that personal information is *relevant* to the purpose of collection, *up to date* and *complete*, and collection is not unreasonably intrusive.
- 4 The NGA must use all reasonable safeguards to *protect* personal and sensitive information, and do everything in its power to make sure information is not misused.
- 5 The NGA must advise the Privacy Commissioner, and anyone else who asks, that it keeps personal information, how it is kept, what it is used for and how it can be accessed.
- 6 The NGA has to give people access to personal information it holds about them, subject to exceptions provided in the *Freedom of Information Act 1982* (or any other law).
- 7 The NGA must make, and respond to requests to make, appropriate corrections, alterations or deletions to its records so they are accurate, relevant, up to date, complete and not misleading.
- 8 Before use, The NGA must take all reasonable steps to ensure that personal information is accurate, relevant, up to date and complete (in the context of the stated purpose of collection).
- 9 The NGA can only use personal information for purposes to which the information is relevant.
- 10 The NGA can only use information for the purpose it was collected except: with consent; to prevent a threat; if required by law; to enforce a law; or for a directly related purpose.
- 11 The NGA may not disclose information except: with consent; to prevent a threat; if required by law; to enforce a law; for a directly related purpose; or where the subject is reasonably aware that that kind of disclosure is commonly made.