

## PRIVACY POLICY & PROCEDURE

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Drafted by	Kim Roberts	Approved by Executive Committee on	29/3/2023
Responsible person	General Manager	Scheduled review date	29/3/2025

### Introduction

The Executive Committee of Arts Industry Council South Australia (AICSA) is committed to protecting the privacy of personal information which the organisation collects, holds and administers. Personal information is information which directly or indirectly identifies a person.

### Purpose

The purpose of this document is to provide a framework for AICSA in dealing with privacy considerations.

### Policy

AICSA collects and administers a range of personal information for the purposes of providing services to members and advocating on behalf of the South Australian arts community. The organisation is committed to protecting the privacy of personal information it collects, holds and administers.

AICSA recognises the essential right of individuals to have their information administered in ways which they would reasonably expect – protected on one hand, and made accessible to them on the other. These privacy values are reflected in and supported by our core values and philosophies and also reflected in our Privacy Policy, which is compliant with the Privacy Act 1988 (Cth).

AICSA is bound by laws which impose specific obligations when it comes to handling information. The organisation has adopted the following principles contained as minimum standards in relation to handling personal information.

AICSA will

- Collect only information which the organisation requires for its primary function;
- Ensure that stakeholders are informed as to why we collect the information and how we administer the information gathered;
- Use and disclose personal information only for our primary functions or a directly related purpose, or for another purpose with the person's consent;
- Store personal information securely, protecting it from unauthorised access; and
- Provide stakeholders with access to their own information, and the right to seek its correction.

Authorisation:



Chair, Jessica Alice Smith

Approved on 29/03/2023

# PRIVACY PROCEDURE

## Responsibilities

AICSA's Executive Committee is responsible for developing, adopting and reviewing this policy.

AICSA's General Manager is responsible for the implementation of this policy, for monitoring changes in Privacy legislation, and for advising on the need to review or revise this policy as and when the need arises.

## Collection

AICSA will:

- Only collect information that is necessary for the performance and primary function of AICSA.
- Collect personal information only by lawful and fair means and not in an unreasonably intrusive way.
- Notify stakeholders about why we collect the information and how it is administered.
- Notify stakeholders that this information is accessible to them.
- Collect personal information from the person themselves wherever possible.
- If collecting personal information from a third party, be able to advise the person whom the information concerns, from whom their personal information has been collected.
- Collect sensitive information only with the person's consent or if required by law.
- AICSA will also collect sensitive information about an individual if such 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
- If AICSA collects information during the course of the activities of a non-profit organisation—the following conditions must be satisfied:
  - the information relates solely to the members of the organisation or to individuals who have regular contact with it in connection with its activities;
  - at or before the time of collecting the information, AICSA inform the individual whom the information concerns that it will not disclose the information without the individual's consent; and
  - the collection must be necessary for the establishment, exercise or defence of a legal or equitable claim.

## Use and Disclosure

AICSA will:

- Only use or disclose information for the primary purpose for which it was collected or a directly related secondary purpose.
- For other uses, AICSA will obtain consent from the affected person.
- In relation to a secondary purpose, use or disclose the personal information only where:
  - a secondary purpose is related to the primary purpose and the individual would reasonably have expected us to use it for purposes; or
  - the person has consented; or
  - certain other legal reasons exist, or disclosure is required to prevent serious and imminent threat to life, health or safety.
- In relation to personal information which has been collected from a person, use the personal information for direct marketing, where that person would reasonably expect it to be used for this purpose, and AICSA has provided an opt out and the opt out has not been taken up.
- In relation to personal information which has been collected other than from the person themselves, only use the personal information for direct marketing if the person whose personal information has been collected has consented (and they have not taken up the opt-out).
- In each direct marketing communication with the individual, AICSA draws to the individual's attention, or prominently displays a notice, that he or she may express a wish not to receive any further direct marketing communications.
- State in AICSA's privacy policy whether the information is sent overseas and further will ensure that any overseas providers of services are as compliant with privacy as AICSA is required to be. Such disclosures will only be made if:
  - the oversea 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 National Privacy Principles; or
  - the individual consents to the transfer; or
  - the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre contractual measures taken in response to the individual's request; or
  - the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party; or
  - the organisation 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 National Privacy Principles.
- In relation to the overseas transfer of personal information, if it is impractical for AICSA to receive the person's consent to that transfer, AICSA must have sufficient reasons to believe that the person would likely give consent could they be contacted.

- Provide all individuals access to personal information except where it is a threat to life or health or it is authorised by law to refuse and, if a person is able to establish that the personal information is not accurate, then AICSA must take steps to correct it. AICSA may allow a person to attach a statement to their information if AICSA disagrees it is inaccurate.
- Where for a legal or other reason we are not required to provide a person with access to the information, consider whether a mutually agreed intermediary would allow sufficient access to meet the needs of both parties.
- Make no charge for making a request for personal information, correcting the information or associating a statement regarding accuracy with the personal information.
- Each written direct marketing communication with the individual must set out AICSA's business address and, if the communication with the individual is made by electronic means, an address at which the organisation can be directly contacted electronically.
- If AICSA has sufficient reasons to believe that an unlawful activity has been, is being or may be engaged in, and the disclosure of personal information becomes a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, the organisation may make such disclosures.
- AICSA may further disclose personal information if its disclosure is mandated by an enforcement body or is required for the following:
  - the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
  - 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 or prescribed conduct;
  - the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.

For the purpose of this Clause, AICSA must make a written note of the use or disclosure.

## Storage

AICSA will:

- Implement and maintain steps to ensure that personal information is protected from misuse and loss, unauthorised access, interference, unauthorised modification or disclosure.
- Before AICSA discloses any personal information to an overseas recipient including a provider of IT services such as servers or cloud services, establish that they are privacy compliant. AICSA will have systems which provide sufficient security.
- Ensure that AICSA's data is up to date, accurate and complete.

## Destruction and de-identification

AICSA will:

- Destroy personal information once is not required to be kept for the purpose for which it was collected, including from decommissioned laptops and mobile phones.
- Change information to a pseudonym or treat it anonymously if required by the person whose information AICSA holds and will not use any government related identifiers unless they are reasonably necessary for our functions.

## Data Quality

AICSA will:

- Take reasonable steps to ensure the information AICSA collects is accurate, complete, up to date, and relevant to the functions we perform.

## Data Security and Retention

AICSA will:

- Only destroy records in accordance with the organisation's Records Management Policy.

## Openness

AICSA will:

- Ensure stakeholders are aware of AICSA's Privacy Policy and its purposes.
- Make this information freely available in relevant publications and on the organisation's website.
- On request by a person, AICSA must take reasonable steps 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.

## Access and Correction

AICSA will:

- Ensure individuals have a right to seek access to information held about them and to correct it if it is inaccurate, incomplete, misleading or not up to date.
- If the individual and AICSA disagree about whether the information is accurate, complete and up to date, and the individual asks AICSA to associate with the information a statement claiming that the information is not accurate, complete or up to date, the AICSA will take reasonable steps to do so.
- AICSA will provide to the individual its reasons for denial of access or a refusal to correct personal information.
- AICSA can withhold the access of an individual to their information if:
  - providing access would pose a serious and imminent threat to the life or health of any individual; or
  - providing access would have an unreasonable impact upon the privacy of other individuals; or
  - the request for access is frivolous or vexatious; or
  - the information relates to existing or anticipated legal proceedings between the organisation and the individual, and the information would not be accessible by the process of discovery in those proceedings; or
  - providing access would reveal the intentions of the organisation in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
  - providing access would be unlawful; or
  - providing access would be likely to prejudice an investigation of possible unlawful activity; or
  - an enforcement body performing a lawful security function asks AICSA not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.
- Where providing access would reveal evaluative information generated within the organisation in connection with a commercially sensitive decision-making process, AICSA may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.
- If AICSA decides not to provide the individual with access to the information on the basis of the above-mentioned reasons, AICSA will consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.
- AICSA may charge for providing access to personal information. However, the charges will be nominal and will not apply to lodging a request for access.

### Identifiers

- AICSA will not adopt as its own identifier of an individual an identifier that has been assigned by any third party. It may however adopt a prescribed identifier by a prescribed organisation in prescribed circumstances.
- AICSA will not use or disclose the identifier assigned to an individual by a third party unless:
  - the use or disclosure is necessary for the organisation to fulfil its obligations to the agency; or
  - the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

### Anonymity

- Allow people from whom the personal information is being collected to not identify themselves or use a pseudonym unless it is impracticable to deal with them on this basis.

### Making information available to other organisations

AICSA can:

- Release information to third parties where it is requested by the person concerned.

### Related Documents

- Records Management Policy
- Confidentiality Policy
- Employment References Policy

Authorisation:



General Manager, Kim Roberts

Approved by Executive Committee on 29/03/2023