

CONSUMER ACTION LAW CENTRE

PRIVACY POLICY

Consumer Action Law Centre is committed to complying with its legal, professional and ethical obligations regarding the protection of privacy and confidential information it collects. Consumer Action Law Centre is bound by the *Information Privacy Act 2000* (Vic) and must comply with the Information Privacy Principles which govern the collection, use, handling and disclosure of personal and sensitive information.

This policy communicates how Consumer Action manages the personal information, including sensitive and health information.

1 Collection

In most circumstances we collect information through correspondence, email, internet enquiries, in person and by telephone. For example, information we may collect includes name, gender, date of birth, contact details, country of birth, year of arrival (if applicable), language, income source and scale, type of accommodation, whether an interpreter is required, details of any dispute about which you are seeking information and any fact or opinion provided that is related to the matter clients are seeking advice or representation on.

In relation to individuals acting as service providers, contractors or agents of Consumer Action Law Centre, we collect the client's name, contact details and relevant information concerning y their dealings with us.

When collecting information, at or before the time (or, if not practicable, as soon as practicable after) Consumer Action collects personal information about a client, it must take reasonable steps to ensure that the client is aware of;

The identity of the organisation and how to contact it, and

- the fact that he or she is able to gain access to the information; and
- the purpose for which the information is collected; and
- to whom (or the types of individuals or organisations to which) the organisation usually discloses information of that kind; and
- any law that requires the particular information to be collected; and
- the main consequences (if any) of the individual if all or part of the information is not provided.

(As per Schedule 1 of the Information Privacy Act 2000 – Principle 1, section 1.3)

29.1.2 Collection of Information from a third party

Consumer Action will endeavour to only collect personal information about a client directly from a client. If it is not reasonable or practical to do so, Consumer Action will take all reasonable steps to ensure that the client has been informed of the matters listed in section 1.3 of the Information Privacy Principles. An exception to this rule will be made if making the client aware of the matters would pose a serious threat to the life or health of any individual.

29.1.3 Purpose of collection

Consumer Action Law Centre is a campaign-focused consumer advocacy, litigation and policy organisation.

As a community legal centre, Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria. As well as working with consumers directly, Consumer Action provides legal assistance and professional training to community workers who advocate on behalf of consumers.

Consumer Action pursues a law, policy and industry reform agenda across a range of important consumer issues at a governmental level, in the media, and throughout the community directly.

In relation to clients, information is collected for three primary purposes:

To provide legal advice and representation

In the provision of such services, Consumer Action may provide information to agents to take actions or make enquiries in relation to the conduct of a matter. For example, at a client's instruction, a barrister may be briefed, expert advice sought, or a search firm may be engaged to conduct a title search in relation to the matter; and to send information to clients about the Centre's activities or developments in law that we believe will be of interest.

Inform Consumer Action's Funders

Information collected is also used to inform our funders, but such information is provided without the name and address of clients. Our funders are currently Consumer Affairs Victoria and Victoria Legal Aid.

In relation to individuals acting as service providers, contractors or agents, we may use information to access or use services provided that provider, contractor or agent or an organisation that they work for.

For use in law, policy and industry reform, research and education activities

Consumer Action seeks to advance the interests of consumers through advocacy on law reform, policy and industry reform, research and education activities. Personal information relating to a consumer dispute or consumer experience may be used for these purposes. Unless consent is provided by the person who has provided personal information, we will not use personal and confidential information in a way which will make the provider of the information identifiable to another person. Examples of how we might use information in this way include publishing a de-identified case study of a consumer dispute as part of a submission to a government law reform enquiry or providing a government regulator with de-identified statistical information about complaints we have received against a trader.

29.1.4 Collection of Sensitive Information

Consumer Action is permitted to collect sensitive information about a client as per section 10.2 (a), (ii) of the Information Privacy Principles, as the information is collected for the purpose of providing government funded targeted welfare and educational services.

29.1.5 Use of client information

We use and disclose client information for the primary purpose for which it has been collected (see 29.1.3 *Purpose of collection*). We also use and disclose information for purposes ancillary and consequential to the primary purpose of collection such as invoicing, related correspondence and accurate file management.

To this end Consumer Action Law Centre may use the services of agents, service providers, contractors or volunteers. All such third parties must comply with fiduciary and confidentiality duties and the *Information Privacy Act 2000* (Vic) in their handling and management of information.

29.1.6 Data Security

Consumer Action takes reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure including procedural, physical, software and hardware safeguards.

(As per Schedule 1 of the *Information Privacy Act 2000* – Principle 4)

29.1.7 Transfer of Client information outside of Victoria

If information is to be transferred out of Victoria, to someone other than Consumer Action or the client, the subsequent guidelines must be followed as per *(As per Schedule 1 of the Information Privacy Act 2000 – Principle 9)*

Consumer Action 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 information privacy principles; or

- the client consents to the transfer; or
- the transfer is necessary for the performance of a contract between the client and Consumer Action, or for the implementation of pre-contractual measures taken in response to the clients request; or
- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the client between Consumer Action and the third party; or
- all the following apply –
 - ⊗ the transfer is for the benefit of the client; and
 - ⊗ it is impractical to obtain the consent of the client to that transfer; and
 - ⊗ if it were practicable to obtain consent, the client would be likely to give it; and
 - ⊗ Consumer Action 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 information privacy principles.

29.1.8 Disclosure to third parties

At client instruction or according to the requirements of law, we may disclose client information to organisations such as regulatory authorities, government departments, courts, or other parties or advisers. Clients consent is sought, whenever possible and appropriate, prior to the release of information pertaining to them.

If an authority is not obtained Consumer Action may disclose personal information if it reasonably believes that the use or disclosure is necessary to lessen or prevent –

- ⊗ a serious and imminent threat to an individuals life, health, safety or welfare; or
- ⊗ a serious threat to public health, public safety, or public welfare.

(As per Schedule 1 of the Information Privacy Act 2000 – Principle 2, section 2.1, d)

If Consumer Action use or disclose personal information to a law enforcement agency it must make a written note of the use or disclosure.

29.1.9 Client access to personal file

A client may request access to personal information that we hold about them. However, Consumer Action's duties and obligations under law may restrict a client's access. If reasonable we will consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the need of both parties.

Given this, all reasonable actions will be taken to assist access or to address any reasons a client has to seek access. If access is denied, Consumer Action will provide the client with reasons in accordance with law. *(As per Schedule 1 of the Information Privacy Act 2000 – Principle 6, section 6.7)*

If access is provided, a reasonable fee may be charged for time and other costs incurred in providing access. If a fee is to be charged, access may not be granted, as per the information privacy principles, if the fee has not been paid.

Section 7.2.16 of the *Legal Profession Act 2004 (Vic)* allows Consumer Action to destroy a client's files after a period of 7 years from the date of closing. Therefore, unless a client advises Consumer Action that they want their file returned to them at the end of 7 years, and ensure Consumer Action has current address details, it is Consumer Action policy to destroy client files in accordance with the legislation.

(For further information on the guidelines to client access please refer to the Schedule 1 of the Information Privacy Act 2000 – Principle 6)

In all cases Consumer Action MUST either provide access, or alternatively a reason for the denial, or provide a reason in delay to providing access, as soon as practicable or no later than 45 days from receiving the request.

29.1.10 Accuracy of personal information

Consumer Action takes all reasonable steps to ensure that the information collected is accurate, complete and up to date at the time of collection. Consumer Action invites clients to make contact if their circumstances change or they have reason to believe our records are not accurate, complete or up to date. .

In all cases Consumer Action MUST either make the corrections, or alternatively advise the reason for the denial to correct the information, or provide reasons for the delay to the corrections being made, as soon as practicable or no later than 45 days from receiving the request.

(For further information on guidelines to accuracy of information view Schedule 1 of the Information Privacy Act 2000 – Principle 6, section 6.5-6.8)

Upon request by a person, Consumer Action 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, used and discloses that information.

(As per Schedule 1 of the Information Privacy Act 2000 – Principle 5, section 5.2)

29.1.11 Unique Identifiers

Unique identifiers are required to conduct Consumer Action's functions efficiently and effectively. It is also a requirement in our state contract with our funders, Consumer Affairs Victoria & Victorian Legal Aid.

(As per Schedule 1 of the Information Privacy Act 2000 – Principle 7)

29.1.12 Anonymity

Wherever it is lawful and/or practicable, clients or possible future clients must be offered the option of not identifying themselves when entering dealings with Consumer Action.

Any queries or concerns about our privacy policy should be directed to:

CEO - Consumer Action Law Centre
Tel: (03) 9670 5088
Level 7, 459 Little Collins Street, Melbourne 3000

Dated: 14 September 2011