

# **PRIVACY COMPLIANCE ADVICE**



Catholic Diocese of Ballarat

1. The purpose of this advice is to provide Parishes with basic information about their obligations under the *Privacy Act 1988 (Cth)* (**Privacy Act**) and to outline practices that Parishes should put in place regarding the collection and use of affected information. Privacy practices in the Diocese will be subject to continuous review and further advice may be forwarded from time to time.
2. Peak bodies in the Catholic education, welfare and health sectors provide separate and more detailed advice to their constituents on the implication of the Privacy Act as they relate to those sectors. This advice is targeted at those aspects of Church life that fall outside the education, welfare and health sectors. While this advice is directed at Parishes, it is equally applicable to religious orders and any other church body not covered by these sectors. Parish priests and other key personnel are urged to study the more detailed practices provided by these sectors (where relevant) so that Parish organisations adopt a common approach to privacy matters.
3. A key component of the legislation is the requirement for organisations to comply with the Australian Privacy Principles (**APPs**).
4. Organisations are required to demonstrate compliance with the APPs. The APPs are high level principles that are spelt out in the Privacy Act. They do not spell out in detail exactly what an organisation must do to comply with them, however the general thrust of the legislation is that practicable solutions rule the day. In Parish life, information is generally volunteered by the parishioners and examples of how these principles relate to Parish life are discussed below.

#### **4.1 Australian Privacy Principle 1 - open and transparent management of personal information**

##### **Explanation**

APP 1 requires organisations to manage personal information in an open and transparent way, to take reasonable steps to ensure they have practices, procedures and systems relating to their functions or activities that ensure they comply with the APPs and can deal with privacy complaints information and have an up to date privacy policy available.

## **Relevance**

Parishes need to:

1. Take review and implement appropriate practices, procedures and systems to ensure they comply with the APPs and deal with privacy inquiries or complaints.
2. Have a clearly expressed and up to date privacy policy about how they manage personal information which must contain at least the following information:
  - a. the kinds of personal information that you collect and hold;
  - b. how you collect and hold it;
  - c. the purposes for which you collect, hold, use and disclose it;
  - d. how an individual may access personal information about the individual that is held by you and seek the correction of such information;
  - e. how an individual may complain about a breach of the Australian Privacy Principles and how you will deal with such a complaint;
  - f. whether you are likely to disclose personal information to overseas recipients;
  - g. if you are likely to disclose personal information to overseas recipients—the countries in which such recipients are likely to be located if it is practicable to specify those countries in the policy.

A sample privacy policy is set out in the attachment.

3. Take such steps as are reasonable in the circumstances to make your privacy policy available free of charge and in an appropriate form. Having copies available in the Church or posting it on your website will satisfy this requirement.

## **4.2 Australian Privacy Principle 2 - anonymity and pseudonymity**

### **Explanation**

APP2 provides that individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with an organisation

wherever this is lawful and practicable.

## **Relevance**

Parishes receive most of their information in a bipartisan way; hence this may not occur in Parishes. Where it does occur, for example a prospective convert seeking information about the work of the Parish or the organisation of the Catholic Church, they should be made aware of the option to remain anonymous or deal with the Parish under a pseudonym.

### **4.3 Australian Privacy Principle 3 - collection of solicited personal information**

#### **Explanation**

APP3 requires that:

- organisations only collect personal information collected that is reasonably necessary for a function or activity;
- collection must be fair, lawful and not unreasonably intrusive;
- and
- if the information is sensitive personal information (for example, information about an individual's race, politics, religious beliefs or affiliations, sexual orientation, criminal record or health), the individual must provide consent to its collection, unless the collection of the information is required by law. (see also APP5)

#### **Relevance**

Parish records include Baptism, First Communion, Confirmation and Marriage records. Parishes may also have a Parish Census Card. These are all documents a Parish must keep as they necessary for the function and activity of a Parish. Collection notices outlining the intended use of the information should be issued when gathering all records (samples are attached).

Ensure that sensitive information is also only collected to the extent that it is reasonably necessary for the Parish's functions or activities, and ensure that the individual's consent is sought before collecting this type of information. Restrict the collection of sensitive information to circumstances where there is a specific need (for example, eg health information for a sporting activity, after school care, and parental details for sacramental provision).

Given that individuals are interacting and associating with the Catholic Church through the Parish, this necessarily means sensitive information about their religious beliefs or affiliations will be collected. However given it is clear to individuals that they are dealing with the Catholic Church it would be reasonable to infer their consent to the collection of this kind of information. However there may be instances where individuals are not Catholics and are disclosing their beliefs in and affiliations with other religions.

#### **4.4 Australian Privacy Principle 4 - collection of unsolicited personal information**

##### **Explanation**

APP 4 deals with the collection of personal information that has not been actively solicited or sought.

##### **Relevance**

In circumstances where you did not solicit personal information that is provided to you, you need to:

1. Determine, within a reasonable period of time, whether or not you could have collected the information under APP3 had you had solicited it (ie, is it necessary for or related to the Parish's functions or activities?).
2. If yes, you may hold, use and disclose the information for purposes of the Parish's functions or activities in compliance with the APPs.
3. If no, you must, as soon as practicable but only if it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified.
4. You may use and disclose the unsolicited personal information for the purposes of determining whether it could have been collected.

#### **4.5 Australian Privacy Principle 5 – notification of the collection of personal information**

##### **Explanation**

Before, at the time or if that is not possible, as soon as possible after you collect personal information about an individual, APP 5 requires that organisations take steps which are reasonable in the circumstances to notify or ensure the individual

is aware of the information listed in APP5 which includes: the organisation's identity and contact details, the purposes for which the information is being collected, to whom it may be disclosed outside the organisation, whether the information is likely to be disclosed overseas.

### **Relevance**

Either the privacy policy can contain this information and be used as a collection statement or a separate collection statement must be prepared and made available either in hard copy (at the Parish church) or on the Parish's website (see example attached).

It may be reasonable depending on the circumstances to take only some or no steps at all as the individual may be aware of some or all of the matter.

## **4.6 Australian Privacy Principle 6 – use or disclosure of personal information**

### **Explanation**

APP 6 provides that information can only be used or disclosed by the organisation that holds it for the purpose for which it is collected (primary purpose) and not disclosed for another purpose (secondary purpose) unless the person has consented to its use and disclosure or would reasonably expect the organisation to disclose it and it is related to the primary purpose for which it was collected (or directly related if sensitive information). How broad the 'primary purpose' is depends on the circumstances in which the information is collected.

### **Relevance**

The primary purpose of a Parish is to provide religious services to its community. This definition is broad and may extend to using personal information that has been collected in a broader religious context.

If the information is of a sensitive nature (eg relating to an individual's religious affiliation), its use and disclosure must be related to the primary purpose for which the information was collected or, if used or disclosed for a secondary purpose, that purpose must be directly related to the primary purpose (ie, directly related to providing religious services to the community).

The primary purpose may be construed narrowly and Parishes should therefore make clear what purposes they collect personal information for.

## **4.7 Australian Privacy Principle 7 — direct marketing**

### **Explanation**

APP7 provides that if an organisation collects and holds the personal information of an individual, the organisation must not use or disclose the information for the purpose of direct marketing generally unless they have consent or if the information was collected from the person, they would reasonably expect you to use or disclose the personal information for direct marketing.

### **Relevance**

If a Parish intends to use or disclose personal information to directly market a service, this needs to be made clear when it collects the information and it should give individuals a simple means by which they can request not to receive direct marketing communications from the Parish in the future. Requests to opt out must be complied with promptly.

## **4.8 Australian Privacy Principle 8 – cross-border disclosure of personal information**

### **Explanation**

An organisation may disclose personal information overseas but before it does so it must take reasonable steps to ensure that the overseas recipient complies with the APPs, or otherwise it must be able to rely on an exemptions such as that the information will be subject to a comparable information privacy binding scheme or legislation which has a mechanism for enforcing privacy complaints that individuals can access, or the organisation has the individuals informed consent having been told about the disclosure and that the organisation will not be taking any reasonable steps.

### **Relevance**

If Parishes receive requests for personal information from former parishioners who are domiciled overseas, or from related overseas organisations, it is recommended that the consent of the individual to which the request for personal information relates is obtained before the personal information is disclosed after having informing the individual that the Parish may not be taking any reasonable steps to ensure that the overseas recipient will comply with the APPs.

The Privacy Policy and Collect Statement of each Parish should include a notification regarding the possibility that the information may be disclosed to an overseas recipient and the likely locations of the overseas recipients, if practicable.

#### **4.9 Australian Privacy Principle 9 — adoption, use or disclosure of government related identifiers**

##### **Explanation**

APP 9 provides that an organisation cannot adopt an identifier that has been assigned by a government agency or service provider (either State, Territory or Commonwealth) as its own identifier for an individual. This includes a number, letter or symbol (or a combination of these) that is used to identify or verify the identity of an individual. This includes identifiers such as Medicare numbers, Tax File Numbers, Pension numbers, passport numbers and drivers licence numbers. This does not include an individual's name or an Australian Business Number (ABN).

An organisation must not use or disclose a government related identifier unless reasonably necessary to identify the individual for the purposes of its functions and activities or if use or disclosure is required or authorised by an Australian law or court/tribunal order, or in certain other limited exceptions. An individual cannot consent to the adoption, use or disclosure of their government related identifiers.

##### **Relevance**

Parishes should consider whether it is necessary to collect any government related identifiers unless it falls within one of the exceptions.

A Parish cannot use a government related identifier as a way of linking to other personal information about an individual from another database and should not use a government related identifier as a means of identifying individuals for its own records. If a parish needs to identify an individual by way of a government related identifier it should consider if this can be done by only citing the identifier.

#### **4.10 Australian Privacy Principle 10 — quality of personal information**

##### **Explanation**

APP10 requires an organisation to take reasonable steps to ensure that the

personal information the organisation collects is accurate, complete and up-to-date. An organisation must also take reasonable steps to ensure that the information it uses or discloses is accurate, up-to-date, complete and relevant.

#### Relevance

Parishes should undertake regular reviews of the personal information they hold (for example, census data). Reasonable steps may involve the Parish contacting individuals directly and asking them to update their personal data held by the Parish, if practicable, particularly if the data might be old and if it has not been in contact with the individual for a long period.

### **4.11 Australian Privacy Principle 11 — security of personal information**

#### **Explanation**

APP 11 requires an organisation to take reasonable steps to protect the personal information it holds from misuse, interference and loss as well as from unauthorised access, modification and disclosure.

APP 11 also requires an organisation to take reasonable steps to destroy or permanently de-identify personal information that is no longer needed for any purpose for which it may be lawfully used or disclosed.

#### **Relevance**

A Parish must ensure that its systems and procedures for storing records are secure. For example, ensuring that hard copy personal information is kept in a lockable drawer when not in use, and that any softcopy personal information is password protected. When information is no longer needed by a Parish, it should be deposited into lockable shredding bins to ensure secure destruction. Staff should be made aware of these obligations and the Parish's systems and procedures.

### **4.12 Australian Privacy Principle 12 — access to personal information**

#### **Explanation**

APP12 provides that if an organisation holds personal information about an individual, it must, on request by the individual, give the individual access to the information within a reasonable time in the form requested unless it is lawful not to do so because one of the circumstances described in the APP exist such

as the disclosure would have an unreasonable impact on the privacy of other individuals. Written notice of refusals to access requests must be given.

### **Relevance**

If the Parish receives a request for information, it should attempt to respond by providing the individual with the specific personal information they have requested in the manner requested and within a period of no later than 30 days. Parishes should be aware that, in responding to requests, addenda are often attached to documents containing personal information, which may be outside of the scope of the request (for example, Baptism Certificates may contain a Pater Ignotus clause, and Pre-Nuptial Inquiry Forms often have items attached). It is recommended that the Parish remove these addenda if they are not specific to the request.

In practical terms the most appropriate means would be to identify what an individual requires and determine with them whether other forms of access, such as a summary of information held, would suffice. If a request is refused, written notice of the request must be given with reasons and explain how to complain.

## **4.13 Australian Privacy Principle 13 — correction of personal information**

### Explanation

APP 13 requires an organisation to take reasonable steps to correct the personal information of an individual if the organisation is satisfied that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading, or the individual requests that the information be corrected.

### Relevance

Parishes should ensure that reasonable steps are taken to address requests for the correction of personal information and it also takes appropriate steps to ensure that the personal information it holds or is going to use and disclose is accurate, up-to-date, complete, relevant and not misleading. For example, if the Parish is aware of the marriage of a female parishioner, it should seek to determine whether its records should be updated, or give effect to the request of the individual to do so.

Parish of .....

Catholic Diocese of Ballarat

Privacy Policy

## Your privacy is important to us

This Parish, as part of the Catholic Diocese of Ballarat, is bound by the *Privacy Act 1988 (Cth)* (**Privacy Act**), and the Australian Privacy Principles (**APPs**) in the Privacy Act. The Parish respects and values the personal information that the parishioners and other members of the community are willing to entrust to it, and this policy explains how the Parish collects, holds, uses, discloses and otherwise manages that personal information. [Remove the following if no school (or other body) attached to Parish] It does not relate to records collected and held by the Parish school. The school has a separate policy statement, which is available on request from [insert name and contact number].

The Parish may from time to time review and update this policy to comply with all relevant legislation and to take account of changes in technology, changes to the Parish's operations and practices and to make sure that it remains relevant to the Parish environment. **[Insert how changes to the policy will be effected by Parishes – eg, published on website, in newsletter, etc]**

## What kind of personal information does the Parish collect and how does it collect it?

Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable, regardless of whether the information or opinion is true or not, or whether it is recorded in a material form or not.

Sensitive information is a subset of personal information which is given a higher level of protection under the Privacy Act. It includes, amongst other things, health information about you, your criminal record and your religious beliefs or affiliations.

The Parish collects and holds personal information, which may include sensitive information about:

- children and their parents and/or guardians and may be related to children receiving sacraments or pastoral care. It may relate to the child's enrolment at the Parish school, after school care facility or sporting association;

- adults receiving sacraments or pastoral care and witnesses to sacraments;
- job applicants, volunteers and contractors; or
- fundraising, including banking or other payment details.

*Personal information you provide.*

The Parish will generally collect your personal information by way of forms filled out either by the individual or the parent/guardian, face to face meetings, interviews and telephone calls.

*Personal information provided by other people.*

In some circumstances the Parish may be provided with your personal information from a third party including other parishes, eg a reference about an applicant for a position, [insert other examples as appropriate].

In some cases where you do not provide personal information requested by the Parish, you or your child may not be able to receive the sacrament or be enrolled in the Parish program, or the Parish may not be able to assess your job or volunteer application.

You may also choose to deal with the Parish on an anonymous basis or using a pseudonym. However we will need to identify you in many circumstances for example to administer certain sacraments or to provide, care for your children or to process a job or volunteer application.

**How will the Parish use the personal information you provide?**

The Parish will use personal information it collects from you to:

- administer the sacraments and pastoral care;
- keep you informed about matters relating to spiritual life, through correspondence and newsletters;
- look after your spiritual and physical wellbeing;
- provide care for your child(ren) while under our supervision;
- fundraise, seek and administer donation;
- assess your job or volunteer application

- manage our volunteers;
- satisfy the Parish's legal obligations and allow the Parish to discharge its duty of care

### **Who might the Parish disclose personal information to?**

The Parish may, in particular circumstances, disclose personal information held about an individual to:

- another Parish or the Diocese of Ballarat;
- government departments;
- medical practitioners;
- people providing services to the Parish, including volunteers and any third party service providers;
- recipients of Parish publications;
- parents and/or guardians;
- if required or authorised by an Australian law or court/tribunal order
- anyone you authorise the Parish to disclose information to.

*Overseas disclosures:* The Parish will only disclose personal information about you or your child outside Australia where you have requested that it do so. Where you make such a request you agree and acknowledge that the Parish will have no control over the information disclosed, and that the Parish will not be able to ensure that the overseas recipient handles that information in accordance with the Privacy Act and APPs and any other applicable Australian laws.

### **Direct marketing**

**You may opt out of receiving communications from us about the Parish services and activities including fundraising by contacting us on the details below.**

### **Management and security of personal information**

The Parish's staff are required to respect the confidentiality of the information and privacy of individuals. The Parish has in place steps to protect the personal information the Parish holds from misuse, interference, loss, unauthorised access, modification or disclosure by use of various methods including locked storage of paper records and

password restricted access rights to computerised records.

Where the Parish no longer requires personal information for a purpose for which it can use or disclose it under the Privacy Act, it will take reasonable steps to destroy or de-identify that information, unless it would be unlawful for it to do so.

### **Correction and updating personal information**

The Parish endeavours to ensure that the personal information it holds is accurate, complete, and up to date, and where using or disclosing it, relevant for the purpose of the use or disclosure.

A person may seek to update their personal information held by the Parish by contacting the Parish at any time on the details below. If the Parish is unable to correct your information, it will give you notice of this in writing and explain why and how you can take the matter further. You can also request that the Parish associate a statement with the information that you believe it is inaccurate, out-of-date, incomplete, irrelevant or misleading.

### **Access to your personal information held by the Parish**

You may access any personal information which the Parish holds about you. Parents or guardians can generally make such a request on behalf of their children. To make a request for access please put your request in writing and send it to the Parish on the details below.

The Parish may require you to verify your identity and specify what information you require before it can provide access. In some circumstances as provided for by APP12, the Parish may be unable to provide access, in which case it will notify you of this in writing and explain why and how you can take the matter further.

The Parish will not charge you for making a request, however it may charge you its reasonable costs of providing access to any information requested.

### **Consent and right of access to the personal information of children**

Whether a child has the capacity to make their own privacy decisions is assessed by the Parish on a case by case basis having regard to matters such as their age and circumstances. Generally an individual over 15 years will have the capacity to make their own privacy decisions.

For children under 15 years or who otherwise do not have capacity to make these decisions for themselves, the Parish will refer any requests for consent and notices in relation to personal information to the parent and/or guardian. The Parish will treat consent given by a parent and/or guardian as consent given on behalf of the child and notices to parent and/or guardians will act as notice given to the child.

### **Enquiries and complaints**

If you would like further information about the way the Parish manages personal information please contact the Parish on the details below.

### **Parish contact details**

***[Insert Parish's contact details including address, telephone and email (where possible)]***

If you believe that the Parish has acted contrary to this Policy or the Privacy Act please put your complaint in writing and send it to the Parish on the details above. The Parish will investigate your complaint and try to resolve it. However if you are not satisfied with the response, you can contact the Office of the Australian Information Commissioner (OAIC) on 1300 363 992 to make a query about your privacy rights, or visit [www.oaic.gov.au](http://www.oaic.gov.au) for more information about how to lodge a complaint. The OAIC has the power to investigate the matter and make a determination.

**This Privacy Policy was last updated [insert date]**

Attachment 1

## Sample Standard Collection Notice

1. The Parish collects personal information, including sensitive information, to ***[insert relevant purposes, eg enable the Parish to provide religious services to its community including administering the sacraments, and pastoral care to the faithful, including to children of the faithful]***. Information may need to be collected to allow the Parish to meet its legal obligations, to provide care for children while under the Parish's supervision and to discharge its duty of care. If you reside in the Parish or otherwise use its services, the information may also be used to solicit donations and/or request and engage your services as a volunteer from time to time. As a member of the faithful or someone who wishes to become a member or participate in the Parish, you agree that the Parish will be collecting information about your religious affiliation or beliefs.
2. The Parish may need to disclose your personal information to third parties for administrative and fundraising ***[insert any other]*** purposes such as to other Parishes, the Diocese, medical practitioners and people providing services to schools, including volunteers. If you ask us to send you personal information overseas you agree that the Parish will have no control over the information disclosed and cannot ensure that the overseas recipient handles that information in accordance with the Privacy Act. If we do not receive the information requested, we may not be able to provide our services, such as administering the sacraments or supervising and providing care to children.
3. Any consents that are required for the use and disclosure of the personal information collected about children will be sought from their parents or guardians unless the child is 15 years or more, in which case the Parish may seek the child's consent if it considers this appropriate in all the particular circumstances.
4. For more information about how the Parish handles your personal information, how to access and correct it, how to make a complaint and how we handle complaints, see our privacy policy available at ***[insert where/how applicant can access the Parish's privacy policy eg via the website, by calling or emailing]***.

## Sample Job Application Collection Notice

1. In applying for this position you will be providing [name of Parish] with personal including sensitive information. We can be contacted ***[insert contact details]***.
2. We will collect this information in order to assess your application and you agree that we may collect, use and disclose it for this purpose. If you do not provide or assist us in obtaining, the information requested, we may not be able to consider your application.
3. We may disclose your information to any referees whose information you have provided ***[and insert types of organisations or particular organisation that Parish is likely to provide this information to – eg, the Diocese of Ballarat, any third party service providers, etc]***.
4. ***[If applicable insert the following]*** We are required to conduct a criminal record check AND/OR collect information regarding whether you are or have been the subject of a Family Violence Order and certain criminal offences under Child Protection law before employment can be offered.
5. For more information about how the Parish handles your personal information, how to access and correct it, how to make a complaint and how we handle complaints, see our privacy policy available at ***[insert where/how applicant can access the Parish's privacy policy, consistent with other collection statements and privacy policy]***.

Attachment 3

### Contractor/Volunteer Collection Notice

1. In applying to provide your services you will be providing [name of Parish] with personal including sensitive information. We can be contacted [insert contact details].
2. We will collect this information in order to assess your application. If you do not provide the information requested, or assist us in obtaining the information, we may not be able to consider your application.
3. We may disclose your information to a third party, including any referees whose information you have provided ***[and insert types of organisations you are likely to provide the information to, eg Diocese of Ballarat etc]***.
4. ***[If applicable, insert following] We are required to conduct a criminal record check [AND/OR] collect information regarding whether you are or have been the subject of a Family Violence Order and certain criminal offences before a contract can be awarded [OR] before a position as a volunteer can be offered.***
5. For more information about how the Parish handles your personal information, how to access and correct it, how to make a complaint and how we handle complaints, see our privacy policy available at ***[insert where/how applicant can access the Parish's privacy policy, consistent with other collection statements and privacy policy]***.