

FOODBANK NSW & ACT LIMITED

Privacy Policy

This policy sets out how Foodbank NSW & ACT Limited (**FBNA**) manages privacy obligations and reflects the 13 Australian Privacy Principles (APPs) from Schedule 1 of the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth), which amends the Privacy Act 1988 (Cth).

1. Background Information

FBNA is subject to the *Privacy Act 1988 (Cth)* (the Act). The *Privacy Amendment (Enhancing Privacy Protection) Act 2012* which commenced in March 2014 made significant changes to the Act. This Policy complies with the new requirements imposed by the Act.

2. Policy Statement

FBNA is committed to managing personal information in an open and transparent way. FBNA is a registered company and is subject to the requirements of the Act. It adheres to the Australian Privacy Principles (APPs) set out in Schedule 1 to the Act.

3. Policy Purpose

This Policy sets out how FBNA collects, holds, uses and discloses personal information including sensitive information.

4. Application of Policy

- 4.1 Subject to clause 4.2, this Policy applies to all personal information and sensitive information collected and held by FBNA.
- 4.2 Despite clause 4.1, any act done or practice engaged in by FBNA directly related to:
- (a) a current or former employment relationship between FBNA and an individual, and
 - (b) a current or historical employee record held by FBNA relating to an individual
- are exempt from this Policy in accordance with the Act and the APPs.
- 4.3 Employee records are governed by the provisions of FBNA's *Disclosure of Personal Information Policy*.

5. Privacy Principles

5.1 Personal information collected and held by FBNA

FBNA collects personal information for the purposes of FBNA's functions and activities. It collects personal information about staff, donors, volunteers and other individuals who have dealings with FBNA for administrative need, to conduct its business, for legislative compliance or for marketing, fundraising and research purposes.

The information may include residence and contact details, date of birth, details of next of kin, identifying information including photographs, records of injuries, criminal checks, qualifications and financial information.

Some of the personal information that FBNA collects and holds is sensitive information. FBNA only collects sensitive information where it is necessary for the purpose for which it is being collected and with the individual's consent unless the collection is required or authorised by law.

5.2 How FBNA collects and holds personal information

FBNA collects and holds information from a number of sources. Where reasonably possible, FBNA will only collect information from the individual to whom it relates. Frequently this will be collected through official FBNA administrative processes but it may also be collected from email, letters or other forms of communication.

Personal information is held in both paper and electronic form, including databases.

When an individual accesses the FBNA website, log files (“cookies”) are created by the web server that contain certain information including the Internet Protocol (IP) address of the visitor, the previous site visited (that is, how they have arrived at the website), the time and date of access and pages visited and downloaded. Cookies allow a website, such as the FBNA website, to temporarily store information on an individual’s machine for later use. FBNA’s website uses cookies to identify unique visitors to the site.

In order to improve FBNA’s services and assist the user, FBNA may store information about users of its website to create a digital profile and provide them with information specific to them.

FBNA also uses web analytics to obtain statistics about how its website is accessed. Web analytics rely upon cookies to gather information for the purpose of providing statistical reports to FBNA. The information generated by the cookie about an individual’s use of the FBNA website is transmitted to and stored by web analytic service providers on servers located within and outside Australia, but it does not include any personally identifying information.

Individual users generally have the option of accepting or rejecting cookies by adjusting the settings in their web browsers. However, rejecting cookies may impact upon the functionality of the FBNA website.

The FBNA website may contain links to other websites. FBNA cannot control the privacy controls of third party websites. Third party sites are not subject to FBNA’s Privacy Policy or Procedures.

5.3 Notification of collection of personal information

When FBNA collects personal information it will advise the individual why it is collecting that information and how it uses it, whether the collection of the information is required or authorised by law and the consequences for the individual if the personal information is not collected. It will also provide information about FBNA’s Privacy Policy and about the right of individuals to access and correct personal information. If FBNA collects personal information in circumstances where the individual may not be aware of the collection it will seek to advise the individual of the collection.

5.4 The purposes for which FBNA collects, holds, uses and discloses personal information

FBNA collects and uses personal information for a variety of different purposes relating to its functions and activities including:

- fundraising and marketing
- maintaining contact with stakeholders in the community
- community engagement
- Government and other reporting
- commercial application of its intellectual property and professional expertise
- undertaking staff and volunteer recruitment activities
- undertaking research
- handling complaints
- conducting its business and improving the way in which it conducts its business
- purposes directly related to the above.

5.5 Use or disclosure for secondary purposes

FBNA does not use or disclose personal information for purposes other than the purpose for which it was collected (the primary purpose) unless:

5.5.1 the individual has consented to a secondary use or disclosure, or

5.5.2 the secondary use or disclosure is related to the primary purpose (in the case of personal information that is not sensitive information) or is *directly* related to the primary purpose (in the case of sensitive information), or

5.5.3 it is otherwise required or authorised by or under an Australian law or a court/tribunal order, or

5.5.4 a permitted general situation exists (as described in clause 9 of this policy), or

5.5.5 FBNA reasonably believes that it is necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

In ordinary circumstances, any disclosure of personal information for a secondary purpose under scenarios 5.5.3, 5.5.4 and 5.5.5 must be approved by the Privacy Officer.

5.6 Security

FBNA applies both physical and information and communications technology (ICT) security systems to protect personal information.

In relation to electronic records, personal information is collected via FBNA's systems including web-based systems. FBNA has put in place measures to protect against loss, misuse and alteration of electronic information. Where necessary, FBNA also uses encryption technology to protect certain information and transactions.

5.7 Remaining anonymous or using a pseudonym

FBNA understands that anonymity is an important aspect of privacy and that in some circumstances some people may prefer to use a pseudonym when dealing with FBNA. People have the right to remain anonymous or to use a pseudonym when dealing with FBNA. However, for a significant proportion of its activities it is impracticable for FBNA to deal with individuals who have not identified themselves or who have used a pseudonym.

5.8 Unsolicited personal information

When FBNA receives unsolicited personal information it will assess whether it is personal information that it could legally collect. If it is, it will treat it according to the APPs. If it is not, it will, if lawful to do so, destroy or de-identify it as soon as practicable.

5.9 Direct marketing

FBNA will only use personal information for direct marketing with the individual's consent or when authorised by law.

5.10 Destruction of information that does not need to be retained

When FBNA no longer needs to retain personal information, and is lawfully able to do so, it will destroy or de-identify that information.

5.11 How an individual may access personal information about the individual that is held by FBNA

Subject to clause 4.2, anyone has a right under the Act to access personal information that FBNA holds about them. Access to personal information is governed by the *Access to and Correction of Personal Information Procedure*.

5.12 How an individual may seek the correction of personal information about the individual that is held by FBNA

Subject to clause 4.2, anyone has a right under the Act to request corrections to any personal information that FBNA holds about them if they think that the information is inaccurate, out of date, incomplete, irrelevant or misleading. Correction of personal information is governed by the Access Procedure.

5.13 How an individual may complain about a breach of the Australian Privacy Principles by FBNA

Subject to clause 4.2, anyone may complain about a breach of an APP by FBNA. Complaints should be made in accordance with the *Privacy Inquiries and Complaints Procedure*.

5.14 How FBNA will deal with complaints about breaches of the Australian Privacy Principles

FBNA will deal with complaints about breaches of the APPs in accordance with the *Privacy Inquiries and Complaints Procedure*.

5.15 How FBNA will manage an actual or suspected data breach under this policy

FBNA will manage the process of dealing with an actual or suspected breach in accordance with the *Data Breach Procedure and Response Plan*.

5.16 Disclosure of personal information to overseas recipients by FBNA

FBNA may disclose personal information to overseas recipients. For instance, FBNA may disclose personal information to an overseas party in respect to a donation received by it in connection with that overseas party. FBNA will only do this at the request of, or with the specific approval of, the individual whose personal information it is.

FBNA will disclose personal information in these circumstances to an overseas recipient in any country.

FBNA may also disclose personal information to overseas recipients who are service providers for research or other purposes, including data storage. Australian law may not apply to those recipients.

FBNA will ensure that appropriate data handling and security arrangements are in place. Disclosure of personal information to overseas recipients may also be required or authorised by law.

5.17 Disclosure of personal information to third parties

FBNA may disclose information to third parties

- to provide services
- for purposes of research to improve its operations and services
- to promote its activities
- if permitted or required by law, or
- otherwise with the consent of the individual.

Where FBNA discloses personal information to third parties it will require restrictions on the collection and use of personal information equivalent to those required of FBNA by the *Privacy Act 1988*.

6. Roles and Responsibilities

6.1 Approval Authority

The Board is the Approval Authority for this Policy.

6.2 Governing Authority

The Chief Executive Officer is the Governing Authority for this Policy.

6.3 Responsible Officer

The Privacy Officer is the Responsible Officer for this Policy.

6.4 Other Roles

7. Policy Review

7.1 Review

FBNA will review this Policy and the Procedure regularly. It may amend the Policy and Procedure from time to time to ensure its currency with respect to relevant legislation and FBNA Policy and Procedures and to improve the general effectiveness and operation of the Policy and Procedures.

This Policy is scheduled for review every three (3) years, or sooner in the event that the Approval Authority or Governing Authority determine that a review is warranted. The Policy and Procedures will initially be reviewed one (1) year following the Effective Date.

Unless otherwise indicated, this policy will still apply beyond the review date.

8. Further Assistance

8.1 Alternative formats

Access to this Policy in alternative formats (e.g. hard copy) is available through the Privacy Officer whose contact details are listed under "Contact details" at the end of this Policy.

8.2 Contact details

Contact for all matters related to privacy, including:

- general inquiries
- accessing personal information held about you
- requests to correct personal information held about you, and
- complaints about breaches of privacy

should be directed as follows:

Privacy Officer

E: privacy@foodbanknsw.org.au

W: <https://www.foodbanknsw.org.au/privacy-policy/>

T: 02 9756 3099

P: PO Box 241 Plumpton NSW 2761

9. Glossary of Terms

Access Procedure means the *Access to and Correction of Personal Information Procedure* promulgated under this Policy.

Act means the *Privacy Act 1988 (Cth)*.

Australian Privacy Principles (APPs) means the 13 APPs set out in Schedule 1 of the Act.

Data breach means the loss, unauthorised access to, or disclosure of, personal information.

Employee record means a record of confidential personal information relating to the employment of a staff member. The employee record comprises information about employment, including health, recruitment and selection, terms and conditions of employment, performance, discipline, and resignation. Employee records are exempt from the provisions of the Act.

Loss means accidental or inadvertent loss of personal information likely to result in unauthorised access or disclosure. For example, an employee leaves a copy of a document or a device on public transport. If data can be deleted remotely or is encrypted it will not constitute an NDB.

Notifiable Data Breach (NDB) is a data breach that is likely to result in serious harm to any of the individuals to whom the personal information relates. A NDB occurs when personal information held by an organisation is lost or subjected to unauthorised access or disclosure. In such circumstances, FBNA must notify the Office of the Australian Information Commissioner (OAIC) and affected individuals as required under the Privacy Amendment (Notifiable Data Breaches) Act 2017.

Permitted general situation has the same meaning as provided for in section 16A of the Act and referred to in APP 6.2(c). The permitted general situations are: lessening or preventing a serious threat to the life, health or safety of any individual, or to public health or safety; taking appropriate action in relation to suspected unlawful activity or serious misconduct; locating a person reported as missing; asserting a legal or equitable claim; conducting an alternative dispute resolution process.

Personal information means information or an opinion in any form about an identifiable individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not.

Privacy Officer means the person appointed by FBNA from time-to-time to manage all inquiries and complaints arising under this Policy. The Privacy Officer may delegate the management of any or all of the inquiries and complaints arising under this Policy to the Privacy Coordinator.

Sensitive information means information about 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 orientation or practices, or criminal record, or health information, genetic information or biometric information.

Serious harm is determined with regard to the following list of relevant matters as provided for in section 26WG of the *Privacy Amendment (Notifiable Data Breaches) Act 2017*:

- the kind or kinds of information;
- the sensitivity of the information;
- whether the information is protected by one or more security measures;
- if the information is protected by one or more security measures—the likelihood that any of those security measures could be overcome;
- the persons, or the kinds of persons, who have obtained, or who could obtain, the information;
- if a security technology or methodology:
 - was used in relation to the information; and
 - was designed to make the information unintelligible or meaningless to persons who are not authorised to obtain the information;

the likelihood that the persons, or the kinds of persons, who:

- have obtained, or who could obtain, the information; and
- have, or are likely to have, the intention of causing harm to any of the individuals to whom the information relates;

have obtained, or could obtain, information or knowledge required to circumvent the security technology or methodology;

- the nature of the harm;
- any other relevant matters.

Unauthorised access means personal information accessed by someone who is not permitted to have access. This could include an employee of the entity, a contractor or external third party (such as hacking).

Unauthorised disclosure means where an entity releases/makes visible the information outside the entity in a way not permitted by the Privacy Act. For example, N employee accidentally publishes a confidential data file containing personal information on the internet.

Web Analytics means the measurement collection, analysis and reporting of web data for the purpose of understanding and optimising web usage.

10. Related Policies, Procedures, Guidelines and Local Protocols

Privacy Act 1988 (Cth)

Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)

Privacy Amendment (Notifiable Data Breaches) Act 2017

Health Records and Information Privacy Act 2002 (NSW)

Health Records (Privacy and Access) Act 1997 (ACT)

FBNA Disclosure of Personal Information Policy

FBNA Access to and Correction of Personal Information Procedure

FBNA Privacy Inquiries and Complaints Procedure

FBNA Data Breach Procedure and Response Plan

POLICY VERSION AND REVISION INFORMATION

Policy authorised by:
Foodbank NSW & ACT Board

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Policy maintained by: Gerry Andersen
Title: Chief Executive Officer

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