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PRIVACY POLICY

Purpose

SHYAC has an obligation to protect the interests and welfare of members. Part of that obligation is a duty to preserve the privacy of members and ensure the security of personal information. This policy outlines the responsibilities of SHYAC representatives in regard to handling, accessing and using personal information.

Definitions

1. Representative: staff, contractors, program managers, committee members and volunteers that have access to the personal information of SHYAC members.
2. Personal information: includes contact details such as email addresses, postal addresses and phone numbers plus personal information such as date of birth, and medical conditions and family information.

Introduction

SHYAC has adopted the ten National Privacy Principles set out in the *Privacy Act 1988* (Cth). Those principles form the basis of our privacy policy, as set out below:

1 Collection

- 1.1 SHYAC will not collect personal information unless the information is necessary for one or more of its functions or activities.
- 1.2 SHYAC will collect personal information only by lawful and fair means and not in an unreasonably intrusive way.
- 1.3 At or before the time (or, if that is not practicable, as soon as practicable after) SHYAC collects personal information about an individual from the individual, SHYAC will take reasonable steps to ensure that the individual is aware of:
 - (a) the identity of SHYAC and how to contact it; and
 - (b) the fact that he or she is able to gain access to the information; and
 - (c) the purposes for which the information is collected; and
 - (d) the organisations (or the types of organisations) to which SHYAC usually discloses information of that kind; and
 - (e) any law that requires the particular information to be collected; and
 - (f) the main consequences (if any) for the individual if all or part of the information is not provided.
- 1.4 If it is reasonable and practicable to do so, SHYAC will collect personal information about an individual only from that individual.

1.5 If SHYAC collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is or has been made aware of the matters listed in sub-clause 1.3 except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.

2 Use and disclosure

2.1 SHYAC will not use or disclose personal information about an individual for a purpose (the *secondary purpose*) other than the primary purpose of collection unless:

(a) both of the following apply:

(i) the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection;

(ii) the individual would reasonably expect SHYAC to use or disclose the information for the secondary purpose; or

(b) the individual has consented to the use or disclosure; or

(c) if the information is not sensitive information and the use of the information is for the secondary purpose of direct marketing:

(i) it is impracticable for SHYAC to seek the individual's consent before that particular use; and

(ii) SHYAC will not charge the individual for giving effect to a request by the individual to SHYAC not to receive direct marketing communications; and

(iii) the individual has not made a request to SHYAC not to receive direct marketing communications; and

(iv) in each direct marketing communication with the individual, SHYAC 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; and

(v) each written direct marketing communication by SHYAC with the individual (up to and including the communication that involves the use) sets out SHYAC's business address and telephone number and, if the communication with the individual is made by fax, telex or other electronic means, a number or address at which SHYAC can be directly contacted electronically; or

(d) if the information is health information and the use or disclosure is necessary for research, or the compilation or analysis of statistics, relevant to public health or public safety:

(i) it is impracticable for SHYAC to seek the individual's consent before the use or disclosure; and

(ii) the use or disclosure is conducted in accordance with guidelines approved by the Commissioner under section 95A for the purposes of this subparagraph; and

(iii) in the case of disclosure—SHYAC reasonably believes that the recipient of the health information will not disclose the health information, or personal information derived from the health information; or

(e) SHYAC reasonably believes that the use or disclosure is necessary to lessen or prevent:

(i) a serious and imminent threat to an individual's life, health or safety; or

(ii) a serious threat to public health or public safety; or

(f) SHYAC has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation

- of the matter or in reporting its concerns to relevant persons or authorities; or
- (g) the use or disclosure is required or authorised by or under law; or
 - (h) SHYAC reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:
 - (i) 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;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct;
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.

2.2 If SHYAC uses or discloses personal information under paragraph 2.1(h), it will make a written note of the use or disclosure.

2.3 Subclause 2.1 operates in relation to personal information that SHYAC that is a body corporate has collected from a related body corporate as if SHYAC's primary purpose of collection of the information were the primary purpose for which the related body corporate collected the information.

3 Data quality

SHYAC will take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.

4 Data security

4.1 SHYAC will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.

4.2 SHYAC will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under National Privacy Principle 2.

5 Openness

5.1 SHYAC will set out in a document clearly expressed policies on its management of personal information. SHYAC will make the document available to anyone who asks for it.

5.2 On request by a person, SHYAC will 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.

6 Access and correction

6.1 If SHYAC holds personal information about an individual, it will provide the individual with access to the information on request by the individual, except to the extent that:

- (a) in the case of personal information other than health information—providing access would pose a serious and imminent threat to the life or health of any individual; or
- (b) in the case of health information—providing access would pose a serious threat to the life or health of any individual; or
- (c) providing access would have an unreasonable impact upon the privacy of other individuals; or
- (d) the request for access is frivolous or vexatious; or
- (e) the information relates to existing or anticipated legal proceedings between SHYAC and the individual, and the information would not be accessible by the process of discovery in

- those proceedings; or
- (f) providing access would reveal the intentions of SHYAC in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- (g) providing access would be unlawful; or
- (h) denying access is required or authorised by or under law; or
- (i) providing access would be likely to prejudice an investigation of possible unlawful activity; or
- (j) providing access would be likely to prejudice:
 - (i) 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; or
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime; or
 - (iii) the protection of the public revenue; or
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders;
- by or on behalf of an enforcement body; or
- (k) an enforcement body performing a lawful security function asks SHYAC not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

6.2 However, where providing access would reveal evaluative information generated within SHYAC in connection with a commercially sensitive decision-making process, SHYAC may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.

6.3 If SHYAC is not required to provide the individual with access to the information because of one or more of paragraphs 6.1(a) to (k) (inclusive), SHYAC will, if reasonable, consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.

6.4 If SHYAC charges for providing access to personal information, those charges:

- (a) will not be excessive; and
- (b) will not apply to lodging a request for access.

6.5 If SHYAC holds personal information about an individual and the individual is able to establish that the information is not accurate, complete and up-to-date, SHYAC will take reasonable steps to correct the information so that it is accurate, complete and up-to-date.

6.6 If the individual and SHYAC disagree about whether the information is accurate, complete and up-to-date, and the individual asks SHYAC to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, SHYAC will take reasonable steps to do so.

6.7 SHYAC will provide reasons for denial of access or a refusal to correct personal information.

7 Identifiers

7.1 SHYAC will not adopt as its own identifier of an individual an identifier of the individual that has been assigned by:

- (a) an agency; or

- (b) an agent of an agency acting in its capacity as agent; or
- (c) a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract.

7.2 SHYAC will not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider mentioned in subclause 7.1, unless:

- (a) the use or disclosure is necessary for SHYAC to fulfil its obligations to the agency; or
- (b) one or more of paragraphs 2.1(e) to 2.1(h) (inclusive) apply to the use or disclosure; or
- (c) the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

Note: There are prerequisites that will be satisfied before the matters mentioned in paragraph (c) are prescribed: see subsections 100(2) and (3).

7.3 In this clause:

identifier includes a number assigned by SHYAC to an individual to identify uniquely the individual for the purposes of SHYAC's operations. However, an individual's name or ABN (as defined in the *A New Tax System (Australian Business Number) Act 1999*) is not an **identifier**.

8 Anonymity

Wherever it is lawful and practicable, individuals will have the option of not identifying themselves when entering transactions with SHYAC.

9 Transborder data flows

SHYAC may transfer personal information about an individual to someone (other than SHYAC or the individual) who is in a foreign country only if:

- (a) SHYAC 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 National Privacy Principles; or
- (b) the individual consents to the transfer; or
- (c) the transfer is necessary for the performance of a contract between the individual and SHYAC, or for the implementation of pre-contractual measures taken in response to the individual's request; or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between SHYAC and a third party; or
- (e) all of the following apply:
 - (i) the transfer is for the benefit of the individual;
 - (ii) it is impracticable to obtain the consent of the individual to that transfer;
 - (iii) if it were practicable to obtain such consent, the individual would be likely to give it; or
- (f) SHYAC 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.

10 Sensitive information

10.1 SHYAC will not collect sensitive information about an individual unless:

- (a) the individual has consented; or
- (b) the collection is required by law; or

Private Sector Information Sheet 1A - *National Privacy Principles* February 2008 5 (c) the 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:

- (i) is physically or legally incapable of giving consent to the collection; or
- (ii) physically cannot communicate consent to the collection; or
- (d) if the information is collected in the course of the activities of a non-profit organisation –the following conditions are satisfied:
 - (i) the information relates solely to the members of SHYAC or to individuals who have regular contact with it in connection with its activities;
 - (ii) at or before the time of collecting the information, SHYAC undertakes to the individual whom the information concerns that SHYAC will not disclose the information without the individual's consent; or
- (e) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.