



**INSTITUTE OF LEGAL EXECUTIVES®**  
**The Institute of Legal Executives (Victoria)**  
ACN 004 670 928  
*[and The Institute of Legal Executives (Australia) Limited ACN 065 191 755]*

***PRIVACY STATEMENT AND PRINCIPLES***

- Part 1: General Information and Principles***  
***Part 2: Australian Privacy Principles and application.***

The following Australian Privacy Principles, as they apply to the Institute, have been developed with the assistance of the extensive information contained on the Office of the Australian Information Commissioner's website. Further information about Australian Privacy Principles can be obtained from the Office of the Australian Information Commissioner: [www.oaic.gov.au](http://www.oaic.gov.au).

## ***Part 1: General Information and Principles***

As a part of the process of submitting your application for membership or enrolment to the Institute you will be asked to sign a 'Consent and Declaration' in which you consent to the collection and use of personal information (including sensitive information) by the Institute for the purposes outlined in the statement entitled 'Collection of Personal Information' included in that form, and in which you authorise the Institute to disclose such information to the types of persons or organisations listed in the statement for any of those purposes.

The 'Consent and Declaration' also includes a declaration that where you provide personal information about others in the application, you are authorised to do so, and the person concerned is aware of the Institute's identity and of the other matters about which a person is required to be made aware when personal information about them is collected. This also authorises the Institute to contact those you have named in your application and verify your information. In some cases this may involve referees or organisations located overseas and/or one of our sister Institutes of Legal Executives of which you are or have been a member.

The membership and enrolment records of the Institute are generally confidential to the Directors of the Institute (and employees); however, the Institute may disclose personal information to legal practitioners, contractors and other service providers engaged by it; Courts and Tribunals, Regulatory Bodies, and other persons or organisations authorised by an Australian law to obtain the information. Upon being enrolled with the Institute, successfully enrolling in another category, and/or upon becoming a Fellow of the Institute, a person's name and enrolment or membership category will be included in a subsequent edition of *The Legal Executive* or *austilex*.

Any person may enquire if a person is or has been a member (Fellow) of the Institute, or enrolled in another category with the Institute, if that membership or enrolment is current, and the category of membership or enrolment held (including any subsequent cancellation of membership or enrolment). The date upon which the person became a member or first enrolled with the Institute, and any cessation date, may also be provided. This type of enquiry will be common where a Fellow of The Institute of Legal Executives (Victoria) (Legal Executive™) has witnessed a Statutory Declaration or received an Affidavit in terms of the *Oaths and Affirmations Act 2018* (Vic) or prior legislation.

Where general contact is sought with a person, such as for the purposes of verifying witnesses to a Will, and that person is a member of or enrolled with the Institute, the Institute will contact the member or enrollee concerned on behalf of the enquirer.

- Placement on the Employment Register of The Institute of Legal Executives (Victoria) will entail a person's requested contact and other details being given to any potential employer accessing the Register where the listed (experience/academic) criteria are similar to those required by the potential employer.<sup>1</sup>
- Members of, or persons enrolled with, the Institute may agree to their details being provided to local Institute networks for the purpose of participating in networking and educational events, by way of consent in their annual subscription notice or otherwise.

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<sup>1</sup> The Institute is not an employment agency – the Register is maintained solely to facilitate contact between a member or enrollee seeking employment and a potential employer.

- Surveys conducted by the Institute regularly require inclusion of a respondent's contact details, particularly for the purpose of gauging interest in forthcoming events or for event registration purposes. Generally [www.surveymonkey.com](http://www.surveymonkey.com) is used for online survey purposes, and respondents should read the privacy information on that website.
- It is likely that in the future the Institute may utilise an event management and registration system, and thus contact details of members and enrolees will need to be exported to that system for event management and registration purposes. The Institute will of course make reasonably prudent enquiries as to the protection of member and enrolee information before implementing such a system; and notes that if such a system is implemented in the future then the host website will also include its own Privacy Statement and Terms of Use. The Institute will also endeavour to provide a facility whereby members and enrolees can register without using an online system, although basic registration information would then need to be manually entered into the event management system.
- The Institute presently uses a mailing house (Toll) for the dispatch of hard-copy publications. Toll is well known, and a standing 'confidentiality request' is in place.
- Photographs of attendees at Institute events are often published in *The Legal Executive* or *austilex*, and attendees must inform the Institute beforehand if they do not wish their photograph to be published. Attendees attend functions of the Institute at the risk of the attendee, and persons under 18 years must be accompanied by a responsible adult. Attendees are expected to behave responsibly, particularly where alcohol may be served.

Records of access to this website will not be maintained by the Institute except for statistical purposes (e.g. to gauge interest in different website areas). It is noted that this website is most kindly hosted by the Law Institute of Victoria and the Privacy Policy and Terms of Use of that organisation also apply to this website.

## ***Part 2: Australian Privacy Principles and application.***

### ***Australian Privacy Principle exceptions 'Permitted general situations' and 'permitted health situations'<sup>2</sup>***

There are a number of specified general exceptions which apply to specific situations, with respective requirements, including serious threats to health, life or safety; suspected unlawful activity or serious misconduct which relates to the Institute and its functions; to establish, exercise or defend legal proceedings; to assist in locating a missing person.

As stated in the Institute's 'Collection of Personal Information' Statement, the Institute *will* release information in the circumstances listed, and particularly where required by an Australian law, such as where a Regulatory Body having legal authority requests it or by Court Order. Other situations would be carefully considered by the Council (Directors of the Institute), and legal advice obtained if necessary, before a decision was reached as to any release of information; however, where the health or safety of a member or enrolee was of immediate and genuine concern this would be a paramount consideration.

Basic information may also be released where reasonably required in pursuance of the Institute's activities, such as to the Institute's Auditors/Accountants for the purposes of the Institute's audit and accounting procedures, and dispatch of the Institute's publications; and information may be released to the Institute's Legal Advisers if required.

It is unlikely that the Institute would request or seek to collect specific health information about a member or enrolee. The Institute works on an 'honour' basis: if an application is made under the Institute's Parental or Extended Illness Leave Policy, only such general information is required by the Institute as is sufficient to enable it to assess the application; and if a member or enrolee notifies the Institute that he or she is (temporarily) unfit to work in his or her usual role, and therefore, particularly in relation to Fellows, exercise certain rights and responsibilities, that person need only provide such information which is essential to ascertain whether that person should have their privileges suspended for the protection of themselves or others during the period he or she is unfit.

It is also extremely unlikely that the Institute would request or seek to collect information about the racial or ethnic origins of a member or enrolee. An exception would be a request for general information for submission and/or statistical purposes, such as occurred in respect to a submission the Institute made in relation to the Victorian Parliament Law Reform Committee Inquiry into Oaths and Affirmations with reference to the Multicultural Community.

The information below should be read in conjunction with these exceptions.

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<sup>2</sup> in sections 16A and 16B

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

The information required in the application for membership or enrolment relates only to:

- (a) assessing if the applicant is eligible to join the Institute, and
- (b) if so, the category of enrolment which is most suitable given the applicant's academic completion and employment experience, and
- (c) what steps more senior applicants need take in order to achieve Fellowship.

The primary information required is sought, and obtained, from the applicant him or herself. The most frequent types of 'external' information obtained will consist of verification of references provided by the applicant, and current or past membership of our sister Institutes of Legal Executives and completion of internal requirements relevant to those Institutes. This information will be sought where it is reasonably necessary and directly related to the Institute's activities. An applicant is required to consent to these external enquiries as part of the application process, and it is generally *the applicant* who provides the particulars to the Institute in the first instance.

Also requested on an 'honour' basis, in the application for membership or enrolment, and also in the annual subscription notice in respect to the period since the last renewal, are details of any conviction for a criminal offence (*other than* a motor vehicle offence which did not result in disqualification of the applicant's motor vehicle licence). These details are requested as members and enrolees of the Institute are required to be of good character, and permitting Institute membership or enrolment of a person with a serious and relevant conviction could bring the Institute and its members and enrolees into disrepute. Each case is considered by the Council on an individual basis.

However, where there is a cogent reason for not providing information which would ordinarily be required by the Institute, the applicant should:

- (a) *not* include the information in his or her application, and
- (b) provide a letter to the Institute noting there are information gaps, and giving sufficient reasons to enable the Institute to assess the application notwithstanding those information gaps.

The Institute is moving to computer based storage, as opposed to hard copy storage. Those providing application materials via email should ensure their email protections are up-to-date. The Institute will acknowledge receipt of all applications received.

Full application information is circulated to Council members who serve on the 'Membership sub-committee', with a report and recommendation provided to the full Council. On occasion other Council members may request further information, and the Institute's employees also have access to this information.

Existing hard copy files are in the process of being scanned before being securely shredded through a commercial facility. It is for this reason that an enrolee applying for upgrading to another category of enrolment, or to Fellowship, need not again provide information which the Institute already holds. In most cases, records relating to a change of name, or any criminal convictions etc., will not be retained and a notation on the record made in lieu. Currently, scanned records are retained when a person ceases to be a member of or enrolled with the Institute, and the paper file securely destroyed.

Those applying to join the Institute should retain documents such as original reference letters, and provide certified copies with their application.

Communications which may contain personal information are made directly between Council members and the Institute's employees, generally by email. In matters such as Agenda Reports which may contain membership application details for that particular period of time, passworded attachment documents are used where possible between Council members and the Institute's employees.

Subscription notices are retained whilst data is entered on the Institute's MYOB/Accounting system, and will be retained for a period following that subscription period. If a member or enrolee sends a subscription notice to the Institute via email which contains credit card payment information then the subscription notice is printed, and the email subsequently deleted.

'Bulk' membership data files held on the computers of the Institute's employees (or any backup storage held by Council members or Institute employees) will continue to be passworded (other than letters to enrolees or members confirming enrolment or membership, as it is not practicable to maintain separate passwords for these documents).

Most surveys conducted by the Institute provide the option of completing the survey without providing the participant's name if that is what the participant requires.

Personal information will be publicly available where this purpose has been made clear. For example:

- Where the Institute called upon members and enrolees (and their firms) for letters of support in relation to the Institute's submissions to Government concerning the retention of the authorisation of Fellows of the Institute of Legal Executives (Victoria) to witness Statutory Declarations and take Affidavits in Victoria as provided in sections 107A(1)(z) and 123C(1)(ge) of the *Evidence Act 1958* (Victoria)<sup>3</sup> vis-à-vis Uniform Evidence Laws.
- The publicised request of the Institute to all Fellows to provide consent for the use of the Institute file copy of a particular letter forwarded to the respective Fellow, and for consent to use certain letters of support provided for the above Uniform Evidence Laws submission.
- The continuing request of the Institute to all Fellows to provide consent for the use of a copy of their Fellowship Certificate for another Institute project seeking to further the interests of the Institute and its members.

Publication of personal information is also a clear purpose stated in subscription notices where members and enrolees are invited, only if they wish, to provide contact and discipline details for provision to Institute network representatives in their geographical/disciplinary area. These details are treated as 'public' for this purpose, as is the case where members or enrolees register for Institute events.

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<sup>3</sup> as it was at that time

Any current member or enrollee may:

- (a) request information from his or her file<sup>4</sup>,
- (b) provide updated information<sup>5</sup>, and
- (c) check with the Institute that information held is correct.

Past members or enrollees may also request information from their file in the event this is held, and those records have not been securely destroyed in the meantime<sup>6</sup>. Those requesting information will of course need to satisfy the Institute as to their identity.

A person has the right to complain about any suspected privacy breach. The person to whom complaints should be submitted in the first instance is the CEO (on 0415 98 7159 or at [austilex@tpg.com.au](mailto:austilex@tpg.com.au)).

If the Institute becomes aware of any privacy breach affecting a person, it will inform that person as soon as possible.

### ***Australian Privacy Principle 2 – anonymity and pseudonymity***

As noted above, the Institute does not maintain personal records of individuals accessing its website; and members and enrollees are free to use an email address which does not contain their own name, receive hard copy materials at Post Box addresses and so on. There are Institute members and enrollees engaged in very sensitive occupations, and they may request the use of a pseudonym in communications.

Additionally, where members and enrollees have elected to receive communications from the Institute via email then where these are sent from the Institute's employees as 'group' emails, the blind copy facility is utilised<sup>7</sup>.

Anonymity is possible when making general enquiries of the Institute, whether the enquirer is or is not a member or enrollee. Anonymity is also possible when participating in many Institute surveys, as noted above.

However, anonymity is not possible when applying to the Institute for membership or enrolment, as membership or enrolment is assessed on an individual basis and also on the basis of confirmed academic enrolment or achievement and/or employment history. The Institute only asks for information needed to perform its function in assessing membership and/or enrolment. Notwithstanding the provisions of the Institute's Constitution, dates of birth are no longer collected by the Institute.

Anonymity is also not always possible when a complaint about a member or enrollee is made, as the member or enrollee, in the interests of natural justice, has the right to be apprised of the full details of the complaint being made in order to defend him or herself against that complaint and any potential disciplinary repercussions<sup>8</sup>.

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<sup>4</sup> such as may occur where the member or enrollee has mislaid a reference letter

<sup>5</sup> as is required by the Institute's Code of Conduct

<sup>6</sup> as noted in Australian Privacy Principle 11

<sup>7</sup> although the Institute cannot be held responsible for any error in transmission caused by the server

<sup>8</sup> Please see the Code of Conduct for further information.

### ***Australian Privacy Principle 3 – collection of solicited personal information***

As noted above, the Institute only requests information which is reasonably necessary and directly related to its activities, and the primary information provider will be the person applying for membership or enrolment (and/or, for example, the person applying for registration at an Institute event).

Outside making an application for membership or enrolment, and providing updated information as applicable, such as a change in name or address or employment<sup>9</sup>, there is no obligation for a member or enrollee to provide personal information. A member or enrollee is free to choose whether or not to provide additional information such as for the purpose of participating in Institute networks, or receiving communications via email, or participating in Institute surveys, or registering for Institute events.

Basic information may be collected from those who are not Institute members or enrollees as is reasonably necessary and directly related to the Institute's activities, such as the names and contact details of registrants to Institute events. Those persons may also receive information regarding subsequent Institute events unless they 'opt out'.

### ***Australian Privacy Principle 4 – dealing with unsolicited personal information***

The Institute rarely receives unsolicited personal information. As noted above, whilst unsolicited complaints about members or enrollees are occasionally received, generally full details will be requested, in the interests of natural justice, so that the member or enrollee may fully respond to the complaint. It should be noted that often these can be instances of miscommunication, and the member or enrollee and the complainant are able to subsequently directly resolve their issues without any further action being required by the Institute.

Occasionally the Institute may receive emails from members or enrollees which are misdirected to the Institute, whereupon the Institute generally notifies the member or enrollee and deletes the email.

'Unsolicited personal information' may also be derived from reported cases where it comes to the attention of the Institute that a member or enrollee has been found guilty of an offence which would give rise to disciplinary proceedings by the Institute. However, as this information will be a matter of public record, although it would not be disseminated broadly, the Institute would not treat it as 'personal' information. Disciplinary procedures are set out in the Institute's Code of Conduct which is also available on this website.

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

As noted above, it is primarily the individual who provides personal information to the Institute in the first instance, and the purpose of collection is explained in the 'Collection of Personal Information' and 'Consent and Declaration' contained in the application itself.

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<sup>9</sup> as required by the Code of Conduct

The purpose of personal information collected in the application is to enable the Institute to assess the applicant's suitability for membership or enrolment. The purpose of personal information<sup>10</sup> collected in subscription notices is to verify current information held and update this where necessary. Non-personalised information may also be used for statistical purposes such as verifying current numbers of members or enrolees or gauging the number of members or enrolees in given geographical areas or gauging the number of members or enrolees working in various disciplines or workplaces.

The consequences of not providing full information in the application for membership or enrolment are that the Institute may be unable to assess the applicant's suitability for membership or enrolment. It is a breach of the Institute's Code of Conduct not to provide updated details to the Institute as changes occur, as can also easily be notified in subscription notices or by email or telephone.

'Unsolicited' information/complaints are dealt with as set out above.

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

The uses for which the Institute collects personal information are set out above, as are the instances of disclosure which are made clear in the 'Collection of Personal Information' and 'Consent and Declaration' contained in the application itself.

Additionally, as set out in Part 1 above, there are other instances where personal information may be disclosed, such as where the member or enrolee requests their information to be placed on the Institute's Employment Register, or in the Institute's publications, or where an enquiry is made as to whether or not a person is a member or enrolee of the Institute<sup>11</sup>.

Personal information may also be used in respect to complaints or dispute resolution procedures as referred to in the Institute's Code of Conduct.

### ***Australian Privacy Principle 7 – direct marketing***

The Institute itself does not engage in any activity which could be described as 'direct marketing'. However, the Institute does:

- (a) maintain a website, kindly hosted by the Law Institute of Victoria, which persons are free to view or not as they choose;
- (b) bring educational opportunities to the attention of members and enrolees via the Institute's publications, which those members and enrolees have requested/consented to receive as a result of joining and maintaining their membership and/or enrolment with the Institute, via email communication unless the member or enrolee genuinely has no or very limited email access or a disability which restricts their use of this medium;
- (c) make submissions to Government and others in pursuance of the Institute's objects and goals as set out in its Constitution;

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<sup>10</sup> other than 'elective' information, such as in relation to Institute networks

<sup>11</sup> particularly for the purposes of verifying that a person who witnessed a Statutory Declaration or received an Affidavit is in fact a Fellow of the Institute/authorised witness, or was a Fellow/authorised witness at the relevant time

- (d) further the aims of the Institute by providing the Institute's publications and other materials on a complimentary basis to persons such as students when the Institute gives presentations, entities such as Law Societies and Law Libraries and our sister Institutes of Legal Executives, persons in the legal (or related) profession who have expressed an interest in the Institute and who may have delivered seminars or provided articles for publication, or attended events, and so on.

NB:

- (a) The Institute does not provide its member/enrolee mailing lists to any other entity except where reasonably necessary and directly related to the Institute's activities, such as may be required in the bi-monthly dispatch of *The Legal Executive* where the member or enrolee cannot receive this by email;
- (b) Members and enrolees receive the Institute's publications as part of their membership or enrolment;
- (c) Members and enrolees receiving publication and other notifications from the Institute via email may unsubscribe at any time;
- (d) Others receiving publications or notices from the Institute may unsubscribe at any time, whether by email or otherwise;
- (e) Where a member or enrolee participates in a marketing opportunity, such as in relation to any affiliation the Institute may have, it is entirely the decision of the member or enrolee whether or not to participate and provide their personal information;
- (f) If the Institute implements an events management and registration system in the future, then members/enrolees who have elected to receive email communications will receive such communications from the Institute via that system unless they elect to unsubscribe. Those who are not members/enrolees but who participate in Institute events may also receive email communications about Institute events, via an events management and registration system or otherwise, but will also be able to unsubscribe.

### ***Australian Privacy Principle 8 – cross-border disclosures***

The situations in which it is anticipated cross-border disclosures outside Australia would be made are limited, and are noted above. 'Disclosures' would generally consist of the fact that an application has been made to the Institute by the individual, and verification of certain information is requested for application purposes, i.e. past or existing membership of a sister Institute for the purposes of granting membership of or enrolment with the Institute with minimal requirements.

Sister Institutes of Legal Executives and related organisations, such as Law Societies, are anticipated to have similar privacy principles in place.

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

The Institute does not use government related identifiers, such as Centrelink, Medicare, Driver Licence identification numbers, or Tax File Numbers, to identify members or enrolees; other than where a member or enrolee requests a change of name be recorded, as noted in Privacy Principle 1. Members and enrolees are identified by name.

### ***Australian Privacy Principle 10 – quality of personal information***

The quality of the personal information held is primarily the responsibility of the member or enrollee, and it is the responsibility of the member or enrollee<sup>12</sup> to bring any changes to the attention of the Institute.

It is for the purposes of receiving and maintaining the quality of information that the Institute:

- (a) requires (certified copies of) Academic Transcripts, Qualifications, Letters of Reference and so on to be submitted with an application for membership or enrolment;
- (b) reserves the right, as noted in the ‘Collection of Personal Information’ and ‘Consent and Declaration’ to verify information with third parties;
- (c) will notify an applicant for membership or enrolment if the information provided is insufficient to enable the Institute to perform its function in assessing the applicant’s suitability for membership or enrolment;
- (d) reminds members and enrollees, by way of their annual subscription notice, that details must be kept up to date;
- (e) will endeavour to contact a member or enrollee by alternate means if an email notification cannot be delivered or if mail is returned.

### ***Australian Privacy Principle 11 – security of personal information***

The Institute is currently investigating what membership/enrolment data it must retain pursuant to *Corporations Law*, and what data can be securely destroyed. Whilst paper files pertaining to current members and enrollees will be retained for the time being, paper files relating to past applicants who did not join the Institute, and/or to past members or enrollees, have been securely destroyed<sup>13</sup>. Paper files pertaining to current members and enrollees will be securely destroyed in the future, after scanning has been completed.

The only persons who have direct access to personal data held by the Institute are the members of Council (Directors) of the Institute, and the Institute’s employees; other than where a member or enrollee requests information from their own personal records.

The Institute does not ‘outsource’ data other than in the limited situations noted above and/or as reasonably necessary and directly related to the Institute’s activities; for example, potential third party storage in a commercial facility, dispatch of *The Legal Executive* via a commercial entity, and to the Institute’s Auditors/Accountants or as required by an Australian law.

The Institute does not presently use a ‘cloud’ storage facility (although a future events management and registration system may be based on a ‘cloud’ facility).

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<sup>12</sup> pursuant to the Institute’s Code of Conduct

<sup>13</sup> as set out in the prior notice placed on the Institute’s website

***Australian Privacy Principle 12 – access to personal information***

Access to personal information will generally be provided to the person owning the information. However, there are exceptions, for example, where “denying access is required or authorised by or under an Australian law or a court/tribunal order” or there is “reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity’s functions or activities has been, is being or may be engaged in and giving access would be likely to prejudice the taking of appropriate action in relation to the matter”.

Members or enrolees may also consent in writing to their personal information being provided to a third party (for example, to enable the Institute to assist in resolving a registration issue where registrations are managed by a third party).

***Australian Privacy Principle 13 – correction of personal information***

As noted above, members and enrolees are encouraged, and required, to keep information up-to-date on an ongoing basis. Some changes may require additional verification, such as provision of a certified copy of a Marriage Certificate where a member or enrolee requests a formal change of name be recorded and/or a replacement Certificate or Card issued.

Third party correction/verification will rarely be given by the Institute unless, for example, there is an ongoing requirement to an entity which is entitled and authorised by an Australian law to receive that corrected information.

The Institute cannot, and will not, make any charge for correcting personal information held by it.

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