

# Privacy and Confidentiality Policy

Policy Name	Privacy and Confidentiality Policy
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References	<p><i>Housing Services Act, 2011</i></p> <p><i>Personal Information Protection and Electronic Documents Act, 2000</i></p> <p><i>Occupational Health and Safety Act, 1990</i></p> <p><i>Checklist for PIPEDA and HSA</i></p> <p><i>Sample Confidentiality Agreement</i></p>
Also See	<p><i>Workplace Violence and Harassment Policy (Human Resources Handbook)</i></p> <p><i>Records Management Policy</i></p> <p><i>Dispute Resolution Policy</i></p>

## Policy Statement

In accordance with its obligations under the *Personal Information Protection and Electronic Documents Act* (PIPEDA), the *Housing Services Act* (HSA) Regulation 367/11, and the *Occupational Health and Safety Act* (OHSA), Housing Cambridge will protect the privacy and confidentiality of the applicants, tenants, employees, board members, volunteers, and other stakeholders by ensuring the appropriate treatment of their personal information. Inappropriate release of personal information is not only a breach of trust, but it could inadvertently place lives and livelihoods at risk. Women escaping violent relationships could be in danger if information about where they live is inadvertently provided to the assailant. Persons with AIDS, mental illness, and others who are subjected to discrimination, could face harassment and job loss (even though such discrimination is illegal) if their disability were disclosed inappropriately.

**Failure to comply with this Confidentiality Policy will be deemed a serious breach of responsibility and will be dealt with accordingly.**

## Purpose and Scope

### Purpose

The purpose of this policy is to ensure that Housing Cambridge is compliant with the PIPEDA, the HSA and O. Reg. 367/11. Together, these pieces of legislation set out standards for the collection, use, disclosure, and protection of personal information gathered through the administration and operation of non-profit housing.

This policy also sets out the conditions under which personal information may be shared with staff or volunteers in order to protect them from experiencing workplace violence, harassment, or domestic violence in the workplace in accordance with the OHSA.

The primary objective is to protect the privacy of individuals with respect to personal information held by Housing Cambridge. To ensure Housing Cambridge operational requirements are met, while keeping in mind the obligation to respect and protect the rights to personal privacy and to ensure that personal information remains confidential.

### Scope

This policy applies to the personal information collected and shared by Housing Cambridge from applicants, rent-geared-to-income and market rent tenants, staff, board members, volunteers, and others.

## Definitions

### **Breach of Security Safeguards**

The loss of, unauthorized access to or unauthorized disclosure of personal information resulting from a breach of security safeguards, or failure to establish adequate security safeguards.

### **Housing Cambridge**

Refers to the organization whose board of directors has approved this policy.

### **Personal Information**

Refers to the following types of information:

- an individual's personal address, telephone number, or email address;
- any identifying number assigned to an individual which can lead to their identification (e.g. Social Insurance Number);
- information regarding an individual's income and assets;
- bank account and credit card information;
- information about rent payment history;
- information relating to the race, national or ethnic origin, citizenship status, colour, religion, age, sex, sexual orientation, marital or family status of an individual;
- information relating to the education, medical, psychiatric, psychological, criminal or employment history of the individual;
- credit and rental history reports;
- financial information for the purposes of establishing rent-geared-to-income assistance;
- an individual's blood type or fingerprints;
- information about an individual's personal or political opinions;
- correspondence sent to Housing Cambridge that is of a private or confidential nature, and any replies from Housing Cambridge that would reveal contents of the original correspondence;
- the individual's name if it appears with other confidential information (e.g.

rental arrears reports);

- employee information including résumés, salary and benefits, disciplinary action, bank account information, tenant complaints about the individual, and problems between staff;

### **Privacy Officer**

Refers to the individual responsible for the organization's compliance with all privacy legislation.

### **Real Risk of Significant Harm**

"Significant harm" includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on one's credit record and damage to or loss of property.

To assess whether a "real risk" of significant harm to an individual exists, one should consider: (1) the sensitivity of the personal information involved in the breach, and (2) the probability that the personal information has been, is being, or will be misused.

### **Security Safeguards**

Methods implemented by Housing Cambridge to protect personal information against loss or theft, as well as unauthorized access, disclosure, copying, use or modification. Security safeguards include, but are not limited to:

- Physical measures – i.e. locking filing cabinets and restricting access to spaces where personal information is stored.
- Organizational measures – i.e. implementing security clearances and limiting authorized persons' access to personal information on a "need-to-know" basis.
- Technological measures – i.e. using passwords, encryption and firewalls to protect personal information.

### **Unauthorized Individual**

Refers to an individual who is not authorized to view the personal information in question.

### **Workplace Harassment**

Means the same as the definition in the Housing Cambridge Workplace Violence and Harassment Policy.

## **Workplace Violence**

Means the same as the definition in the Housing Cambridge Workplace Violence and Harassment Policy.

## Procedure

### **The Privacy Officer**

Housing Cambridge will appoint a member of staff to act as the privacy officer for the organization.

The responsibilities of the privacy officer are:

- to review Housing Cambridge`s policies and practices with regard to personal information
- to implement the necessary changes to guarantee that the collection and retrieval of personal information follow Housing Cambridge`s policy
- to inform the tenants and public on how Housing Cambridge treats personal information
- to respond to complaints, questions, and requests for personal information made under this policy

Housing Cambridge will, on all forms which pertain to the collection of personal information, identify the name and title of the privacy officer, along with contact information.

### **Collection of Information**

Personal information will be collected only for the following purposes:

- to approve tenancy and determine appropriate unit type and size
- to determine income and assets for rent calculation
- to demonstrate compliance with funding requirements
- to protect the health and safety of the tenant
- to ascertain service levels required in special needs housing
- to conduct reference and employment checks
- to retain relevant information on employees for government reporting purposes

Staff will not seek out personal information about tenants or applicants unless it is relevant to their work.

Prior to the collection of information, applicants must be informed of the purposes for which their personal information is being collected and consent to such purposes.

**All documents used for collection of personal information will include:**

- the purpose(s) of the collection;
- the reasons for collection, including the fact that the information may be shared as necessary for the purpose of making decisions or verifying eligibility for assistance under the *Housing Services Act, 2011*, the *Ontario Disability Support Program Act, 1997*, the *Ontario Works Act, 1997* or the *Day Nurseries Act*; or as authorized by an agreement under section 171 or 172 of the *Housing Services Act, 2011*;
- the name, title and contact information of the privacy officer who can answer questions and respond to complaints about the collection, use or disclosure of the information; and
- a consent form to be signed by the applicant or tenant authorizing the collection, use, verification and disclosure of the information being collected.

At any time upon request, tenants and applicants will be advised as to who may be given the collected information and in what context.

Housing Cambridge will limit the amount of personal information it collects about applicants and tenants and will safeguard personal information once it is collected.

**Permitted Uses of Collected Information**

Collected information will only be used for purposes for which consent has been granted. If Housing Cambridge intends to use collected information for a new purpose for which consent has not yet been granted, then consent must be obtained before the collected information may be used for such new purpose.

Unless the disclosure of personal information is required by law, the applicant or tenant must give written permission (in either a general way or specific disclosure) before personal information can be released. General consent in relation to operational requirements of Housing Cambridge will be obtained from tenants and applicants

when they sign the consent form included with documents used for collection of personal information.

### **The Protection of Information**

All staff, board members, volunteers, and any other individuals who may have access to applicant, tenant or employee files will be required to sign a confidentiality agreement.

Housing Cambridge will implement the following security safeguards to protect applicant, tenant and employee files against unauthorized access:

- Paper copies of applicant/tenant information and employee information must be stored in a locked filing cabinet;
- Secure storage facilities must be provided for archived applicant/tenant/employee and accounting information;
- All staff will be held responsible to ensure that unauthorized individuals do not have unsupervised access to areas where files are kept and used;
- Access to records containing personal information will be granted only if access is required in order to fulfil the designated individual's duties;
- Databases containing files with personal information, and other confidential electronic files must be password protected against unauthorized access; Screen-savers and/or other security measures will be used to protect confidentiality of personal information on computer monitors;
- When communicating tenant issues to the board, staff will use non-identifying information as much as possible. For example, arrears reports will use codes in place of the actual names of tenants, or summary information will be provided;
- Personal information will be disposed of at the end of the required storage period for tenant records; five years after the tenant has moved out, and seven years after the end of the fiscal year for financial records, with the exception of tenants who continue to owe Housing Cambridge money for arrears or damages;
- Paper-based personal information must be shredded prior to disposal; and
- Electronic devices must be purged of all media prior to disposal. If an electronic device may contain personal or sensitive information and cannot be reused in a manner that safely removes such information, such device will be irreparably destroyed.

## **Breach of Confidentiality**

The following constitute breaches of confidentiality:

- Discussion of any confidential information within or outside the organization where it may be heard by individuals who are not authorized to have access to that information;
- The provision of confidential information or records to unauthorized individuals;
- Failing to secure written or electronic personal information which results in the information being visible, or potentially visible, or distributed to unauthorized individuals; and
- Deliberately accessing confidential material that is not required by that individual in the performance of their duties.

A breach of confidentiality may be grounds for staff to be disciplined or terminated. A breach of his or her confidentiality agreement may be grounds for a board member to be removed as a director of the corporation. A board member who breaches confidentiality may not be covered by Housing Cambridge's insurance if he or she is sued for libel.

All others associated with Housing Cambridge who sign a confidentiality agreement (volunteers, contractors, etc.) will be held to the same standard as staff and board members.

## **Breach of Security Safeguards**

### **Record of Breach of Security Safeguards**

If *any* breach of security safeguards occurs (including a breach that does not pose a "real risk of significant harm"), a record of all information relating to such breach must be created and kept for twenty-four (24) months after the day on which it is determined that the breach has occurred. In particular, the record must include any information that might assist the Privacy Commissioner in verifying the following:

- Whether it was reasonable in the circumstances to believe that the breach of security safeguards created a real risk of significant harm to an individual;
- Whether the breach of security safeguards was reported to the Privacy

Commissioner; and

- Whether notice was provided to the individual whose personal information was involved in the breach of security safeguards and, if applicable, the contents of such notice.

### **Notice of Breach of Security Safeguards**

If it is reasonable to believe that a breach of security safeguards has created a real risk of significant harm to an individual, the following parties must be notified of the breach as soon as possible:

1. The Privacy Commissioner of Canada;
2. The individual whose information is involved (unless prohibited by law);  
and
3. Any other organization, government institution or part of a government institution that may be able to reduce the risk of harm or mitigate the harm that could result from the breach of security safeguards.

If a breach of security safeguards has occurred, but it is not reasonable to believe that such breach has created a real risk of significant harm, then it is not necessary to notify the above-listed parties.

### **Form and Contents of Notice Provided to the Privacy Commissioner:**

If it is necessary to notify the Privacy Commissioner of a breach of security safeguards, such notice shall be sent to the Privacy Commissioner by a secure means of communication and contain the following information:

1. a description of the circumstances of the breach and, if known, the cause;
2. the day on which, or the period during which, the breach occurred or, if neither is known, the approximate period;
3. a description of the personal information that is the subject of the breach to the extent that the information is known;
4. the number of individuals affected by the breach or, if unknown, the approximate number;
5. a description of the steps that the organization has taken to reduce the risk of harm to affected individuals that could result from the breach or to mitigate that harm;

6. a description of the steps that the organization has taken or intends to take to notify affected individuals of the breach in accordance with subsection 10.1(3) of the Act; and
7. the name and contact information of a person who can answer, on behalf of the organization, the Commissioner's questions about the breach.

**Form and Contents of Notice Provided to Individual:**

If it is necessary to notify an individual that their personal information has been involved in a breach of security safeguards, such notice shall be given directly to the individual either in person or by way of telephone, mail, or email. Specifically, the individual receiving notice must be provided with the following information:

1. a description of the circumstances of the breach;
2. the day on which, or period during which, the breach occurred or, if neither is known, the approximate period;
3. a description of the personal information that is the subject of the breach to the extent that the information is known;
4. a description of the steps that the organization has taken to reduce the risk of harm that could result from the breach;
5. a description of the steps that the affected individual could take to reduce the risk of harm that could result from the breach or to mitigate that harm; and
6. contact information that the affected individual can use to obtain further information about the breach.

**Release of Information**

No personal information (i.e. credit references, tenant or personal references) will be released to third parties without the written consent of the individual. Housing Cambridge is not responsible to decide whether someone requesting personal information about a tenant or applicant is allowed access to it. Rather, it is the responsibility of the party requesting information to prove that they are entitled to access such information.

When responding to inquiries for references, staff must limit information provided to the questioner and confirm only the information already provided by the individual making the inquiry.

The Board and staff should be aware that information provided to Provincial Ministries, CMHC or the Regional Service Manager for funding purposes could be obtained by the public through the *Freedom of Information and Protection of Privacy Act*. This Act gives the public a right of access to certain information held by the government. The Act applies to the federal, provincial and municipal governments and to municipal non-profit's, but does not apply directly to private non-profits. However, it may affect a non-profit indirectly because of information it sends to the government, such as operating records and audit reports. Some limitations on access include information involving solicitor-client privilege and financial or labour relations information supplied in confidence. Regional government offices can advise further if there are concerns.

It is not necessary to have a signed consent to release information to collect a debt, for example to a collection agency, or for a Landlord Tenant Board or Small Claims Court action.

Staff will confirm the identity of the people to whom information is released.

Personal information will be released to the following:

- **Funders and Auditors:** To comply with funding program requirements, Housing Cambridge must release information to funders and auditors. People doing these jobs have their own professional code of ethics and are required to maintain confidentiality. Staff will confirm that the person concerned is seeking access legitimately.
- **Community Housing Access Centre:** As part of its responsibilities to the coordinated access system, Housing Cambridge will provide the access system with information about tenants who have left in arrears. This information will be used by the co-ordinated access system as part of their screening process for applicants for non-profit housing.
- **Researchers:** Occasionally, Housing Cambridge may be asked to assist an approved accredited researcher. Authorization to have access to files will depend on their credentials and the nature of their research.
- **Credit Bureaus:** Information on orders or judgements for money owing will be provided to any credit bureau of which Housing Cambridge is a member.
- **Law Enforcement:** While Housing Cambridge has a responsibility to protect

the right to privacy of applicants and tenants, this responsibility must be balanced with an obligation to protect the broader community. Law enforcement agencies requesting personal information about applicants, tenants, employees, board members or volunteers – for example, confirmation that they live or work at Housing Cambridge – will be required to provide a written request or “warrant” before information will be released.

- **Health and Safety Officials:** Personal information will be provided to outside agencies, individuals and institutions when it can be clearly identified as contributing to the applicant or tenant’s benefit, for example, information about an individual’s medical condition to the paramedics or fire department.
- **Next of Kin or Emergency Contacts:** It may be appropriate to use personal information to contact a community service agency or a designated relative in exceptional circumstances, such as, when using an emergency contact provided by a tenant and held on file, or contacting medical support services when a tenant is unable to function and maintain his/her tenancy.

Personal information may be released to the police in some circumstances, including the following:

- In the context of reporting criminal activity, staff with personal knowledge will report the incident;
- With respect to crimes against persons, witnesses are obligated to report and provide appropriate information to the police so that charges can be laid;
- If there is a substantiated reason to suspect criminal activity, such as drugs or gangs, staff with knowledge of the activity will report it to the police;
- Victims of crimes are responsible for reporting the crime directly to the police. However, if the victim is a child or a person with a disability that renders them incapable of making the decision to report, and an individual has knowledge of this crime, the legal responsibility lies with all citizens including Housing Cambridge staff and volunteers to report the crime to the police; and
- In the case of suspected child abuse, information will be provided to the Children’s Aid Society (This duty to report is required under Section 72 of the *Child and Family Services Act*).

Safeguards ensuring confidentiality for personal information given to Housing Cambridge by applicants and tenants will be overridden only:

- Where there are compelling circumstances relating to the health and safety of an individual; or
- When there are operational requirements to release information and where the release of information would be consistent with the provisions of this policy which allow for release of information, or where the tenant could reasonably be expected to assume that the information would be released, given the principles and intent of this policy.

### **Access to and Correction of Personal Information**

The privacy officer will respond to all requests for access to or correction of personal information.

The privacy of others' personal information must be protected when giving an individual access to their own personal information. If the privacy officer believes that releasing personal information to an individual would prejudice the mental or physical health or security of any person, he or she will not release the information.

Information contained in the file will be reviewed prior to providing access to the file and may be redacted or edited as necessary to protect the privacy and personal information of others. In most cases, the identity of an individual who makes a complaint should not be released to the person against whom the complaint was lodged.

An individual will be able to challenge the accuracy and completeness of the information and have it amended as appropriate. If the privacy officer is not in agreement with the individual's request for correction, a written counter-statement explaining why the information should not be amended will be provided to the individual and filed with the original information.

### **Procedure for Handling Complaints**

The privacy officer will respond to all complaints about collection, use, disclosure, storage and disposal of personal information within thirty (30) days of the request being made, and advise the complainant as to the action that has been taken.

Each complaint will be assessed to determine whether:

- the collection of personal information is necessary;

- the information was collected, used, released or disposed of inappropriately;
- Housing Cambridge's policies and procedures need to be modified; and
- disciplinary or other action needs to be taken with respect to a breach of a confidentiality agreement.

Where necessary, the privacy officer will make the necessary recommendations to the board of directors in connection with resolution of the complaint.

### **Prevention of Workplace Violence**

Housing Cambridge, as part of its Workplace Violence and Workplace Harassment policies, must notify staff, contractors, casual workers, and volunteers if there is the risk of workplace violence from any person (including tenants and co-workers) with a history of violent behavior if:

- they can be expected to encounter that person in the course of their work; and
- the risk of workplace violence or harassment is likely to expose them to physical injury.

Tenant and employee personal information disclosed in accordance with Housing Cambridge's Workplace Violence and Workplace Harassment policies is permissible and will not be considered a breach of confidentiality.