

# HIH Privacy Policy and Procedures

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## Privacy Act 2000

### 1.1 Privacy Act 2000

The Privacy Act was first introduced in Australia in 1988 and applied to:

- Federal Government sector organisations;
- Tax file number recipients; and
- Credit reporting agencies and credit providers.

In December 2000, an amendment to the original Act was passed to introduce 10 NPPs into the private sector. In particular, the Privacy Legislation is now applicable to HIH Insurance Ltd (in Liquidation) (“HIH”) and those of its subsidiaries, some of which are also in liquidation (jointly and severally referred to as we, us and our). It is also applicable where personal information is collected, processed, used, disclosed, stored, destroyed, or otherwise disposed of.

The new legislation commenced from 21 December 2001.

### **The Ten National Privacy Principles (NPP's)**

The NPPs are the fundamental requirements for HIH to comply with the new Privacy Legislation. Accordingly, HIH will have to take account of the 10 NPPs in its systems, policies and practices to meet its privacy obligations. A schematic representation of the NPP's is shown within the attachment below. A detailed summary of the NPP's is provided as an appendix to these Policy and Procedures.

# HIH Privacy Policy and Procedures

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## Privacy Policy

### 2.0 Policy

#### **HIH INSURANCE LTD (IN LIQUIDATION) PRIVACY POLICY**

HIH Insurance Ltd (in Liquidation) (“HIH”) is committed to maintaining the privacy and confidentiality of your personal information. From 21 December 2001, the new privacy laws apply to HIH as a result of amendments to the Commonwealth *Privacy Act 1988*. As such, HIH will adhere to the National Privacy Principles (NPPs) when collecting, using, disclosing, securing and providing access to your personal information.

## **Privacy and you**

HIH collects personal information about you, our clients or business contacts, to effectively manage the run-off of the insurance business of HIH.

The types of personal information we collect will vary depending on the services provided. This may range from personal contact details to a more in-depth understanding of your personal details, particularly to manage the run-off of claims.

HIH generally uses personal information to manage and identify claim files. We may also share your information internally within HIH and its associate entities in Australia or overseas. We may also provide your personal information to other organisations such as law firms, external advisers, insurance brokers, co-insurers, reinsurers or insurance investigators to assist us providing our services.

## **Protecting and maintaining quality of your personal information**

Protecting your personal information is a priority at HIH. We have taken into account security and confidentiality when handling your personal information in both the physical and electronic environment.

It is also important to us that the information we maintain and use about you is accurate, complete and up-to-date. To assist us, please contact our Privacy Officer if at any time you believe your personal information needs to be changed or updated.

## **Your access rights**

You have a right to request access to personal information that HIH holds about you. You may also request us to correct any details that you find to be inaccurate. If you wish to make a request for access to your personal information, please contact our Privacy Officer.

## **Please contact us if:**

- you wish to find out more about how HIH manages your personal information; or
- you have any concerns, or wish to make a formal complaint, about how we are handling your personal information; or
- you wish to make a request for access to your personal information held by us.

**You can contact us by:**

Writing to: The Privacy Officer

HIH Insurance Limited and 40 related entities (In Liquidation)

Level 22  
50 Bridge Street  
Sydney NSW 2000

Email: amackint@hih.com.au

Phone: (02) 9650 2000

## **Collection**

### **3.1 Collection**

HIH collects personal information in a number of ways, including:

- directly from individuals, when individuals provide information by phone or in documents such as a claim form;
- from third parties such as insurance brokers, legal representatives, professional services firms or your representatives;
- from publicly available sources of information;
- from our own records; or
- when legally required to do so.

## **Identifiers**

### **3.2 Identifiers**

HIH will not adopt as its own identifier an identifier that has been assigned by a government agency (or by an agent of, or contractor to, a government agency acting in its capacity as agent or contractor). HIH will not use or disclose an identifier assigned to an individual by a government agency except where required to do so by law.

## **Anonymity**

### **3.3 Anonymity**

**Whenever it is lawful and practicable, individuals will have the option of not identifying themselves when dealing with HIH**

## **Sensitive Information**

### **3.4 Sensitive Information**

HIH will not collect personal information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or details of health, disability or sexual activity or orientation unless:

the subject of the information has consented; or  
the collection is required or specifically authorised by law; or  
the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the subject of the information is physically or legally incapable of giving consent;  
or the collection is necessary for the establishment, exercise or defence of a legal claim.

## **Use and Disclosure of Personal Information**

### **4.1 Use and Disclosure of Personal Information**

HIH must not use or disclose Personal Information other than for the primary purpose (namely a secondary purpose) of collection, that is to effectively manage the run-off of HIH, unless:

the individual consents; or  
the secondary purpose is related to primary purpose (directly related in the case of sensitive information) and reasonably expected by an individual; or  
personal information which is not “sensitive”, it is impracticable to obtain consent and an individual can opt out; or  
personal information which is “sensitive”, as defined in Procedure 3.4, consent is obtained from the individual.

## **Disclosure of Personal Information**

### **4.2 Disclosure of Personal Information**

Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that personal information is relevant and to the extent necessary, accurate, complete and up to date for the purpose for which it is to be used.

## **Data Security**

### **5.1 Data Security**

HIH will protect personal information against unauthorised access, alteration, destruction, use or disclosure and against accidental loss.

Staff, contractors, professional advisers and consultants will only access personal information to undertake activities related to their specific functions in order to meet the requirements of their role;

Staff, contractors, professional advisers and consultants will continue to follow administrative procedures relating to information storage and handling as established in HIH Corporate Policies or established work practices in each workgroup;

Personal information will not be stored in publicly accessible work areas.

## **Data Quality**

### **5.2 Data Quality**

Prior to the use and disclosure of personal information, reasonable steps will be taken to ensure that personal information is relevant and to the extent necessary, accurate, complete and up to date for the purpose for which it is to be used.

## **Openness and Access**

### **6.1.1 Openness**

HIH maintains a clearly expressed policy (Section 2.0 Policy of HIH Privacy Policy and Procedures) on its management of personal information and this will be readily available to individuals external to HIH. HIH will take reasonable steps to let individuals know, generally, what sort of personal information it holds, for what purposes, and how it collects, uses, and discloses that information and /or who the individual can contact within the HIH if they have a privacy concern.

## **Initial Contact Procedure**

### **6.1.2 Initial Contact Procedure**

If any employee in particular claims officers in order to satisfy the requirements of their role, open a file or correspondence with an individual in which new personal information will be held by HIH, all initial correspondence should indicate the following to such an individual:

- *“HIH Insurance Ltd (in Liquidation) (“HIH”) is committed to maintaining the privacy and confidentiality of your personal information. From 21 December 2001, the new privacy laws apply to HIH as a result of amendments to the Commonwealth Privacy Act 1988.*

*If you wish to find out more about how HIH manages your personal information or obtain a copy of the HIH Privacy Policy please contact:*

*The Privacy Officer  
HIH Insurance Limited and 40 related entities (In liquidation)  
Level 22, 50 Bridge Street  
Sydney NSW 2000  
(02) 9650 2000*

## **General Privacy Inquiry**

### **6.1.3 General Privacy Inquiry**

If an individual requests details of the HIIH Privacy Policy or what personal information HIIH holds, for what purposes, how it collects, holds, uses, and discloses personal information the following procedure shall be followed to satisfy such a request:

- any HIIH employee may send the individual requesting such details a copy of Section 2.0 Policy by email, faxing, posting or giving the individual an accurate summary of the policy, or;
- such requests may be referred to the Privacy Officer (details may be found in the HIIH internal telephone directory).

## **Access and Correction**

### **6.2 ACCESS AND CORRECTION**

If an individual requests details of the HIIH Privacy Policy or what personal information HIIH holds, for what purposes, how it collects, holds, uses, and discloses personal information the following procedure shall be followed to satisfy such a request:

- any HIIH employee may send the individual requesting such details a copy of Section 2.0 Policy by email, faxing, posting or giving the individual an accurate summary of the policy, or;
- such requests may be referred to the Privacy Officer (details may be found in the HIIH internal telephone directory).

## **Access Rights**

### **6.2.1 ACCESS RIGHTS**

Individuals do not have to give a reason when asking HIIH for access to the personal information HIIH holds about them. They can simply ask for access to the information. HIIH may ask an individual whether they want access to all the information that HIIH holds about them or just some of it. If they only want some of it, HIIH may ask which information the individual wants access to.

**All requests for access to personal information held about an individual must be referred to the Privacy Officer.**

## **Establishing the individual's identity**

### **6.2.2 Establishing the individual's identity**

A risk in the access process is that a person may try to use NPP 6 to get access to another individual's information. To minimise this risk HIH has procedures to establish that the individual asking for the information is who they say they are.

Procedures for establishing the identity of an individual face-to-face may be different to the procedure HIH validate an identity over the phone or by fax or e-mail. The Privacy Officer must be satisfied identification procedures are robust enough to satisfy HIH of the individual's identity and note identification validation on each request for access to personal information.

## **Personal Information Access Procedures**

### **6.2.3 Personal Information Access Procedures**

Where HIH holds personal information about an individual, it will provide the individual with access to the information on request, in a form or manner suitable to the individual's reasonable needs, except to the extent that:

- providing access would pose a serious and imminent threat to the life or health of any individual; or
- providing access would have an unreasonable impact upon the privacy of other individuals; or
- the request for access is frivolous or vexatious; or
- the information relates to existing legal dispute resolution proceedings between HIH and the individual, and the information would not be accessible by the process of discovery in those proceedings; or
- providing access would reveal the intentions of HIH in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- providing access would be unlawful; or
- denying access is specifically authorised by law; or
- providing access would be likely to prejudice an investigation of possible unlawful activity; or
- providing access would be likely to prejudice:
  - the prevention, detection, investigation, prosecution or punishment of criminal offences;
  - breaches of a law imposing a penalty or sanction the enforcement of laws relating to the confiscation of the proceeds of crime;
  - the protection of the public revenue;
  - the prevention, detection, investigation or remedying of Seriously Improper Conduct; or

- preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders; by or on behalf of an enforcement agency.

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

If HIH has given an individual such an explanation and the individual believes that direct access to the evaluative information is necessary to provide a reasonable explanation of the reasons for the decision, HIH will, at the request of the individual, undertake a review of the decision. Personnel other than the original decision-maker will undertake the review.

Wherever direct access by the individual is impractical or inappropriate, HIH and the individual should consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.

If HIH levies charges for providing access to personal information, those charges:

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

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

If the individual and HIH disagree about whether the information is accurate, complete and up-to-date, and the individual asks HIH to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, HIH will take reasonable steps to do so. HIH will provide reasons for denial of access or correction.

## **Transborder Data Flows**

### **7.0 Transborder Data Flows**

HIH will not transfer personal data outside Australia unless:

- HIH reasonably believes that the recipient of the information is subject to a statute, binding scheme or contract which effectively upholds principles for fair information handling that are substantially similar to this Policy and Procedures; or
- the individual concerned consents to the transfer; or
- the transfer is necessary for the performance of a contract between the individual concerned and HIH, or for the implementation of pre-contractual measures taken in respect to the individual's request; or



- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual concerned between HIIH and a third party; or
- the transfer is for the benefit of the individual concerned; and
  - it is not practicable to obtain the consent of the subject of the information to that transfer; and
  - if it were practicable to obtain such consent, the subject of the information would give it; or
- HIIH has taken reasonable steps to ensure that the information which it has transferred will not be collected, held, used or disclosed by the recipient of the information inconsistently with these procedures.

## **Complaints Handling Procedures**

### **8.1 Complaints Handling Procedures**

An individual who believes his or her privacy may have been interfered with by HIIH has the right to make a complaint about the matter to HIIH.

All privacy complaints are to be referred to the Privacy Officer, and copied to the Liquidator of HIIH, who will consider the complaint and attempt to resolve it.

If the individual is dissatisfied with HIIH's handling of the complaint, or the outcome, he or she may ask the Privacy Commissioner to investigate the complaint.

Complaints to HIIH may be made orally in the first instance, or in writing. Where a complaint is made orally the complainant must confirm the complaint in writing as soon as possible. The Privacy Officer will help the complainant to put the complaint in writing where the complainant requires assistance to do so.

Where HIIH receives from an individual a request for the resolution of a privacy complaint or a request for a response from HIIH in relation to the complaint, the organisation will reply to the individual within 20 working days, and will advise of:

- the general reasons for that outcome, where appropriate; and
- information on the further action that the individual can take, including his or her right to take the complaint to the Privacy Commissioner, should he or she remain dissatisfied with the HIIH's handling of the complaint or the outcome of the complaint.

In making a privacy complaint to HIIH, the complainant is to supply full details of how the complaint arose, including:

- dates and times the alleged act or practice occurred,
- copies of any documentation which has relevance,
- identification of parties involved and,
- reasons why the complainant believes he or she may have been aggrieved.

The complainant should supply full details;

- By telephoning 1300 363 992: or
- By writing to Director of Complaints, Office of the Federal Privacy Commissioner, GPOBox 5218, Sydney, NSW 1042.

The Privacy Officer will maintain systematic records of all privacy complaints handled, and will include within the records those details required to be reported to the liquidator of HIH.

## **Circumstances for not investigating a complaint**

### **8.2 Circumstances for not investigating a complaint**

Within a reasonable period, the Privacy Officer, in conjunction with representatives of the liquidator decide not to investigate a complaint if:

- the complaint relates to an act or practice that is not an interference with the privacy of an individual;
- the complaint relates to an act or practice that is no longer reasonably able to be investigated because of the length of time since it occurred;
- the act or practice relates to an event which occurred prior to HIH being subject to the “Privacy Act 2000”;
- the complaint is trivial, frivolous or vexatious;
- the complaint relates to an act or practice that is the subject of court proceedings that have commenced or are intended to be commenced;

and must not investigate a complaint that has been, or is being, dealt with by the Privacy Commissioner or in another dispute resolution forum.

If it is decided not to investigate a privacy complaint the decision and reasons for the decision must be advised in writing to the complainant.

## **Outsource providers and third parties**

### **9.0 Outsource providers and third parties**

#### **9.1 Outsource providers and third parties**

HIH discloses or transfers personal information under contracts with third parties including outsourced providers (such as Recall, Ausdoc, contractors, brokers, mercantile agents, run-off insurers and HIH Claims Support Limited).

Outsourcing by HIH to third parties poses the risk of compromising the privacy of the personal information where the outsourced service provider is holding personal information on behalf of HIH.

HIH will have clauses in these contracts for the protection of personal information to ensure contractually the outsourced service provider will adhere to the NPPs.

HIH will include provisions in contracts or ensure there are appropriately documented arrangements with third parties about their compliance with the NPPs generally, and particularly in relation to:

- the authorised purpose for which the contractor or third party is to use or disclose the personal information to ensure that the contractor or third party neither make unauthorised disclosures nor use personal information for not-permitted purposes ;
- how the contractor or third party is to store and maintain personal information securely on their premises or systems and what it must do with the personal information after the outsourced or contracted out activity has been completed; and
- which organisation in the first instance would take responsibility for giving individual's access to their personal information to ensure that an individual's rights of access are not diminished under outsourcing arrangements.

**[www.hih.com.au](http://www.hih.com.au)**

## **10.0 HIH's Website**

Visiting [www.hih.com.au](http://www.hih.com.au) generates the following statistics:

- your server address;
- your top level domain name (for example .com, .gov, .au, .uk etc);
- the pages you accessed and documents downloaded;
- the previous site you have visited;
- the type of browser you are using.

These statistics are gathered so we can improve our website for future visitors. This information does not make it possible for you to be identified.

If you send us an e-mail, your e-mail address (along with other information you send us) will only be used for the purpose for which you have provided it, except where you give consent for another purpose. This site does not provide facilities for the secure transmission of information across the Internet. Users should be aware that there are inherent risks in transmitting information across the Internet.

No "cookies" are employed on our website except for generated when you use the search engine. These are destroyed at the end of your browser session. No more information about you is stored at the end of your browser session. (A "cookie" is information that a website puts on your hard disk so that it can remember something about you at a later time.)

We may create links to third party websites. We are not responsible for the content or privacy practices employed by websites that are linked from our website."