

Victorian Electoral Commission 

Privacy Policy and Framework

May 2003

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1. Introduction

1.1 Background and legal requirements

The Victorian Electoral Commission (VEC) is subject to the *Information Privacy Act 2000* (referred to below as the IPA).

The VEC's functions are detailed in the *Electoral Act 2002* (referred to below as the EA).

In order to understand the way in which the VEC is required to handle personal information, these two Acts both need to be considered, along with other legislation that gives the VEC specific functions¹.

The personal information handled by VEC falls into 6 main categories:

- **Enrolment information** - personal information associated with the maintenance of the register of electors.
- **Political party registration information** – personal information associated with the registration of political parties by VEC.
- **Candidate information** - personal information associated with nomination of candidates for election and subsequent administration of elections.
- **Voting information** – personal information associated with the voting in particular elections administered by VEC.
- **Human resources information** - personal information associated with the employment of full time and temporary staff by VEC.
- **Miscellaneous contact information** – personal information about business contacts in other organizations, the media, complainants etc.

In practice, the VEC handles all of the personal information it holds in accordance with the Information Privacy Principles in the IPA.

1.2 Sensitive information

The IPA defines certain classes of personal information as sensitive and requires additional protection, such as a greater onus to seek consent when collecting. Two of the classes of sensitive information that are particularly relevant to the VEC's functions are *political opinions* and *membership of a political association*. Sensitive information also includes the following:

- Racial or ethnic origin.
- Religious beliefs or affiliations.

¹ Such as the *Local Government Act 1989* and the *Juries Act 2000*.

- Philosophical beliefs.
- Membership of professional or trade associations.
- Membership of a trade union.
- Sexual preferences or practices.
- Criminal record.

The way in which the VEC handles this type of information is explained in this policy.

2. Compliance with the Information Privacy Principles

2.1 Structure of this chapter

It is convenient to explain the VEC's policy on the privacy of each of the six categories of personal information by following the structure of the Information Privacy Principles (IPPs). The requirements of the EA are explained under the relevant privacy principle.

The discussion of *Collection* in each case covers not only IPP 1 (*Collection*), but also IPP 8 (*Anonymity*), IPP 7 (*Unique Identifiers*) and IPP 10 (*Sensitive Information*).

Where applicable, compliance with IPP 9 (*Transborder Data Flows*) is dealt with under *Disclosure* (IPP 2)

Compliance with some of the Principles is largely common across all categories of information. These are IPP 4 (*Data Security*), IPP5 (*Openness*) and IPP 6 (*Access and Correction*). These are explained separately at the end of this chapter.

2.2 Enrolment information

Under Part 3 of the EA, the VEC must establish, maintain and regularly update a 'register of electors'. The register of electors contains the names, addresses and other specified personal particulars of electors.

In the past, there has been a tendency for many in the community to regard lists of electors, commonly known as the electoral roll, as a general public resource, freely available for a variety of uses by both the public and private sectors. In fact, it has never been the case that information about electors was freely available, either in law or in practice, but the previous law was ambiguous enough to give that impression.

The EA makes the position very clear. The register of electors is expressly not available for public inspection (s.28).

In clearly defined circumstances, certain enrolment information is made available to the public or to other persons and organisations, but only in specified forms and for specified purposes. Legislation expressly governs the circumstances in which electoral information is provided: ss.32-36 EA, s.21 *Local Government Act 1989*, and s.19 *Juries Act 2000*. This is consistent with the IPA, which requires clear specification of an agency's purposes whenever it holds, uses and discloses personal information.

The way that the IPA deals with public information is quite complex, but simple in effect. The types of information that are made available for public inspection under s.32 of the EA (a list of all elector's names and addresses and the latest electoral rolls) are 'generally available publications' as defined in s.3 of the IPA and are therefore not directly subject to that Act and its IPPs (s.11 (1)(a)). Instead, their use and disclosure is governed solely by the EA. However, as they are also 'public registers' (s.3), the VEC is required to handle the personal information involved as far as reasonably practicable in accordance with the IPPs (s.16 (4)).

2.2.1 Collection

It is compulsory for eligible individuals to enrol on the register of electors (s.23(1) EA). The following personal information is collected from eligible individuals:

1. Name (including former name(s)).
2. Title.
3. Gender.
4. Date of birth.
5. Place of birth.
6. Citizenship details.
7. Address details (including former enrolled address).

The VEC assigns an elector identification number (elector id) to each person whose details are maintained on the register of electors. The elector id is a 'unique identifier' as defined in the IPA. An elector id is assigned to each person in order for the VEC to efficiently and accurately manage its function of establishing, maintaining and updating a register of all persons eligible to vote within the State of Victoria, and is therefore authorised under IP 7.1 as it is necessary for the VEC to carry out this function.

The above personal information is collected directly either when an individual who is eligible to enrol provides a completed "Enrol to vote" form to the VEC (s. 23 EA); or through joint enrolment and exchange of information arrangements with the Commonwealth (s.20 EA).

In accordance with the EA, the VEC also collects personal information about individuals from other persons or organizations. This information is typically only used to identify individuals who may be eligible to enrol, or who may need to update their details on the register of electors. Accordingly (with only the two exceptions noted below), the VEC does not automatically amend the information about an individual that is held on the register of

electors. Instead, the VEC contacts the individual and invites them to register or update their details (as required by law) on the register of electors.

The VEC's collection of personal information about individuals from other persons or organizations falls within three categories.

Obligation to provide personal information under the EA

The EA places obligations upon the Registrar of Births, Deaths and Marriages and the Secretary to the Department of Justice to provide specified information to the VEC.

1. **Deaths:** the Registrar of Births, Deaths and Marriages must within three days after the end of each month provide the VEC a list setting out the name, date of birth, sex and the last-known place of residence at the date of the death, of each person of the age of 17 years or more whose death was registered by the Registrar of Births, Deaths and Marriages during the month (s. 26 (1)). All persons on this list are removed from the register of electors.
2. **Change of name:** the Registrar of Births, Deaths and Marriages must within three days after the end of each month provide the VEC a list of changes of names of persons during the month showing the previous recorded or registered name of each person, the name under which that person is registered in the register of changes of names, and the address of that person (s. 26 (2)).
3. **Imprisonment:** the Secretary to the Department of Justice must as soon as practicable after the beginning of each month provide the VEC a list specifying the name, date of birth, sex and last known place of residence, of each person who during the preceding month was convicted in Victoria and is serving a sentence of 5 years imprisonment or more (s. 26 (3) EA). All persons on this list are flagged on the register of electors so that they will not be included on any electoral roll produced for any election during their term of imprisonment.

Obligation to provide personal information pursuant to a notice from the VEC

The VEC may request specified persons or organizations to provide personal information about individuals, being information that is required in connection with the preparation, maintenance or review of the register of electors (s. 26 EA). The persons or organizations that the VEC may request to provide personal information are:

1. An Agency Head within the meaning of the *Public Sector Management and Employment Act 1988* (s. 26 (4)(a)).
2. A Chief Executive Officer appointed by a Council under section 94 of the *Local Government Act 1989* (s. 26 (4)(b)).
3. A chief executive officer of a public statutory body (s. 26 (4)(c)).
4. A member of the police force (s. 26 (4)(d)).
5. A distribution company or a retailer within the meaning of the *Electricity Industry Act 2000* (s. 26 (4)(e)).
6. An elector or a person qualified to be an elector (s. 26 (4)(f)).

Arrangements with other persons or bodies

The VEC also makes arrangements with other persons or organisations to provide personal information about an individual to the VEC to assist it to establish, maintain and update the register of electors. These organisations include power companies who seek the specific consent of their customers to provide their personal details to the VEC when these customers connect their power service or change their address.

In circumstances where personal information is collected other than directly from the individual, IPP 1.5 requires that the VEC take reasonable steps to ensure that the individual is or has been made aware that their personal information is being provided to the VEC. The only exception to this requirement is when making the individual aware of these matters would pose a serious threat to the life or health of the individual. The Manager, Electoral Enrolment Branch will have responsibility for ensuring that the VEC acts in accordance with IPP 1.5 in such circumstances.

In this regard, the responsibilities of the Manager, Electoral Enrolment Branch will include:

1. Taking reasonable steps, when collecting information other than directly from an individual, to ensure that the person or organisation collecting the individual's personal information will disclose or has disclosed that the organisation is required by law to provide the individual's personal information to the VEC in order to assist the VEC to maintain the register of electors.
2. Maintaining internal records to evidence that the VEC has complied with IPP 1.5.

2.2.2 Use & Disclosure

The VEC uses enrolment information to fulfil its statutory functions.

The VEC discloses enrolment information in a number of ways, each of which is governed by legislation.

Specific protection is provided for the disclosure of a person's information if the person considers that releasing that information would place the personal safety of the person or of members of the person's family at risk (s. 31 EA). In such circumstances, a person may apply to be a 'silent elector'. If the applicant establishes that disclosing their address places or would place the personal safety of the person or members of the person's family at risk, then the VEC must restrict the information released about the silent elector (as discussed below). An application to be a silent elector is stored under security. Moreover, all address and telephone details appearing on an application to be a silent elector are not reproduced or photocopied. Once a person becomes a silent elector, the VEC implements strict security precautions to ensure that silent elector details are not released to any other organisations, except as required by legislation (discussed below). In addition, access to the details of silent electors is restricted within the VEC, and may only be accessed by authorised VEC staff.

Public inspection of enrolment information

The VEC is required to make the list of electors (names of electors in alphabetical order and their addresses), updated every six months, available for public inspection free of charge at the office of the VEC during office hours. The VEC must also ensure that copies of the latest print of any electoral roll (the names and addresses of electors who are eligible to vote at a particular election) are available for public inspection free of charge at any place and during times determined by the VEC (s. 32 EA). The VEC has determined that the latest print of electoral rolls will be available for inspection at the State Library of Victoria. When producing an electoral roll, the VEC must ensure that the address of a silent elector is not entered on the electoral roll. The VEC must also ensure that the latest list of electors does not include silent electors.

Provision of enrolment information to political parties, members and candidates

The VEC is required to provide lists specifying electors and their particulars to registered political parties, members of the Assembly, and members of the Council in certain specified circumstances (ss. 32 (1)-32 (5) EA). The particulars of silent electors must not be provided in any circumstances. The VEC, when requested by any candidate for an election, is also required to provide to the candidate a copy of the electoral roll for the election (s. 32 (6) EA). Again, the particulars of silent electors must not be shown on the electoral roll.

The EA limits the use of enrolment information by a political party, member, or election candidate, and clearly describes the permitted purposes for which enrolment information may be used (s. 36). Penalties apply whenever enrolment information is used or disclosed other than for a permitted purpose (s. 37).

Provision of enrolment information required by other legislation

The VEC is required to provide specified enrolment information pursuant to provisions of the *Local Government Act 1989* and the *Juries Act 2000*. Section 21 of the *Local Government Act 1989* requires the VEC to prepare a voters' list at specified times, comprising of all persons entitled to vote at a specified local government election. Section 19 of the *Juries Act 2000* requires the VEC to prepare a roll of persons apparently qualified and liable for jury duty in the jury district required for the jury service period.

The above information is provided pursuant to legislative requirements, and not as a result of a request for a list of electors and their particulars under section 34 of the EA. The particulars of silent electors, even when they must be provided, are subject to additional protection at all times.

Provision of enrolment information to others

If the VEC receives a request for enrolment information for purposes other than those specified in the EA, the VEC must identify the public interest in providing the requested information and

consult with the Privacy Commissioner on the public interest in protecting the privacy of personal information (s. 34 EA). Having considered these issues, and taking into account the advice of the Privacy Commissioner, the VEC must make a finding whether or not the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances. There must be compelling public interest reasons for the release of electoral information, as this is expressly described in the EA as being not available for public inspection (s. 26 EA).

The particulars of silent electors must not be provided in any circumstances.

The Manager, Public Information and Corporate Communications will have responsibility for reviewing all requests for enrolment information when they are first received, and will assist the VEC to make a determination regarding the public interest in releasing information in each particular circumstance. The Manager, Electoral Enrolment Branch will review all requests for information prior to a decision being made whether to release the requested information in order to determine whether the VEC is able to provide the information in the format requested. The Manager, Electoral Enrolment Branch will also have responsibility for assisting the VEC to determine the format in which any information is provided.

In determining the public interest in providing requested information to specific types of organisations or for specific purposes, the VEC will have regard to the following:

Law enforcement agencies

For the purposes of considering the public interest in complying with a request for information from a person or organisation under section 34 of the EA, the VEC applies the definition of a 'law enforcement agency' set out in section 3 of the IPA.

When a request for enrolment information is made by a law enforcement agency, the VEC will have regard to the following factors in order to assist it to determine the public interest in providing the requested information:

1. Whether the VEC reasonably believes that the use or disclosure of electoral information is reasonably necessary for the law enforcement agency to perform one of the functions specified in IP 2.1(g), namely:
 - the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction;
 - a) the enforcement of laws relating to the confiscation of proceeds of a crime;
 - b) the protection of the public revenue;
 - c) the prevention, detection, investigation or remedying of seriously improper conduct; or
 - d) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.
2. Whether the organisation receiving the information has adequate security measures in place to prevent unauthorised access, use or disclosure of any enrolment information provided.

Health screening and medical research programs

When a request for information is made for a health screening or medical research program, the VEC intends to refer appropriate requests to a committee comprising of a number of members, including the Health Services Commissioner.¹ This committee will be responsible for advising the VEC about the following matters:

1. The public interest in the health screening or medical research program.
2. The public interest in providing the requested information.
3. Whether or not the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances.

When determining the public interest in providing the requested information, the VEC will have regard to any recommendations received from the committee, as well as to whether the organisation receiving the information has adequate security measures in place to prevent unauthorised access, use or disclosure of any enrolment information provided. The Privacy Commissioner will be consulted after the advice of the committee has been provided.

Other requests

If the VEC receives requests for information not falling within the above general categories, it will consider the request in accordance with the procedures prescribed in s. 34 EA.

In circumstances where the VEC receives a request to provide information in relation to one individual, or in relation to a limited number of individuals, it will consider whether it is appropriate to contact the person(s) itself to inform them that an organization is seeking their details instead of disclosing the person(s) details under section 34. An example of where the VEC may determine that it is appropriate to contact an individual itself may be in relation to a request from the State Trustee seeking to contact the beneficiary of a deceased's estate.

The EA limits the use of enrolment information provided by the VEC under section 34. Enrolment information must be used only for the purpose(s) for which the VEC agreed to provide the information (s. 36). All recipients of information under section 34 are required to sign an agreement specifying that they will not use the electoral enrolment information provided by the VEC other than for the purpose(s) that the VEC has permitted. Penalties apply whenever enrolment information is used or disclosed other than for a permitted purpose (s. 37).

The VEC must report annually to Parliament on any information provided to a person or organization under section 34 of the EA. The Manager, Public Information and Corporate Communications will have responsibility for maintaining internal records of all organisations or

¹ The Health Services Commissioner is established under section 5 of the *Health Services (Conciliation and Review) Act 1987*.

persons to whom information is released under this section, including the reasons for such release(s), as well as for preparing a report to parliament on these matters.

2.2.3 Data Quality

The VEC takes all reasonable steps to ensure that the personal information it collects, uses and discloses is accurate, complete and up to date. The VEC has numerous programs in place to update personal information, including encouraging eligible persons to register or update their electoral details in order to ensure that its records are as accurate as possible.

2.3 Political party registration information

One of the VEC's functions is the registration of political parties, under Part 4 of the EA. This necessarily involves the recording of personal information about the officers and some members of the registered political parties.

The personal information collected under Part 4 is "sensitive information" under the IPA as it is information about an individual that discloses a political opinion and/or membership of a political association. It is thus subject to additional protections. As discussed below, this personal information is collected by the VEC in accordance with IP 10.1 as it must be collected under law in order for a political party to be registered or to remain registered.

At times, the VEC is required under law to collect personal information about an individual regarding the registration of a political party other than directly from that individual. In accordance with IPP 1.5, when the VEC collects personal information in such circumstances, the VEC takes reasonable steps to ensure that the individual is or has been made aware that their personal information is being provided to the VEC, and the reason that it is being provided.

2.3.1 Collection

Part 4 of the EA sets out the procedures by which an application for the registration of an eligible political party must be made (s. 45). It also proscribes procedures for related functions, including the change of the registration of a political party (s. 51), the review of the registration of a political party (s. 52), and the de-registration of a political party (ss. 53-57). Each of these procedures either allows or requires the VEC to collect personal information.

Application to register a political party and reviewing that registration

The following personal information must be included with a registration application, and may also be required by the VEC when reviewing the registration of a political party:

1. The signature of the secretary of the political party (s. 45(2)(a)).
2. The name and address of the person who is to be the registered officer of the political party (s. 45(2)(c)).
3. The names and addresses of at least 500 members of the political party (s. 45(2)(f)).

Under Part 4 of the EA, a reference to the registered officer of a registered political party may also include a reference to a person nominated to be the deputy registered officer of the political party (s. 44(2) EA). Therefore, the name and address of the deputy registered officer of the political party may also be included in an application to register a political party.

In compliance with IPP 1.5, the VEC provides instructions to political parties seeking registration (in the VEC's publication, 'Registration of Political Parties – Electoral Act 2002 – Applicants' Handbook') that the proposed registered officer of the political party should be informed that his/her personal details will be provided to the VEC in connection with the application to register the political party and that his/her name and contact address will be made public. The application to register a political party, which is signed by the secretary of the political party, also expressly states that the name and contact address of the registered officer of the political party will be made public. Similarly, the VEC provides instructions to the effect that the at least 500 members of the political party whose names and addresses are provided under s. 45(2)(f) should be informed that: i) their personal information will be provided to, and held by, the VEC in connection with the application to register the political party; and ii) the VEC may contact each member to verify the details that the person has provided.

Application to change the register of political parties

A registered political party may apply to change the name of the political party, the name of the registered officer of the political party, or the address of the registered officer of the political party (s. 51 EA). The name and address of the deputy registered officer of the political party may also be changed.

All such applications must include the signature of the secretary of the political party. Depending on the nature of the application, the following personal information will also be included:

1. The new address of the registered officer or deputy registered officer of the political party, or both.
2. The name and address of the new registered officer or deputy registered officer of the political party, or both.

De-registration of registered political parties

There are three means by which a registered political party may be de-registered:

1. Voluntary de-registration on an application by the political party (s. 53 EA).

2. Automatic de-registration by the VEC through a failure by the political party to endorse candidates (s. 54 EA), or through a failure by the political party to provide information or documents requested by the VEC (s. 55 EA).
3. De-registration on other grounds (s. 56 EA).

In circumstances where the VEC is satisfied that a registered political party is liable to be de-registered on other grounds (3 above), the VEC must notify the registered officer of the political party of the reasons of the VEC for considering doing so. The registered officer of the political party or 10 members of the political party may lodge a statement setting out why the political party should not be de-registered. If 10 members of the political party lodge the statement with the VEC, the statement must include the names and addresses of the 10 members, as well as a statement that they are members of that political party.

2.3.2 Use & Disclosure

The VEC uses political party information to fulfil its statutory functions. All internal uses of the information are either expressly specified by, or necessarily incidental to those requirements. These uses include determining that a political party may or may not be registered, reviewing the registration of political parties, and de-registering political parties by request or otherwise.

The VEC discloses political party information in a number of ways, each of which is governed by legislation. The VEC discloses personal information relating to political parties in only two instances, which are again governed by legislation.

Publication of notice of application

The VEC must publicly advertise and publish in the Government Gazette a notice of the application for registration of a political party (s. 49(1) EA). The notice is required to set out the particulars specified in the application in accordance with section 45(2) of the EA. The notice must include the personal information (name and contact address) of the registered officer of the political party, but it does not include the names and addresses of the 500 members of the political party that must be included when making an application to register a political party.

If a registered political party applies to change its name under section 51 of the EA, then the VEC must publicly advertise and publish in the Government Gazette a notice in the same format as above.

Public inspection of Register of Political Parties

The VEC must make the Register of Political Parties available for public inspection free of charge at the office of the VEC (s. 59 EA). The Register of Political Parties must include the

name of the political party, as well as the name and address of the registered officer of the political party (s. 50 EA).

2.3.3 Data Quality

The VEC takes all reasonable steps to ensure that the personal information it collects, uses and discloses is accurate, complete and up to date. Specific procedures are provided by legislation for an individual to correct any errors in the personal information held by the VEC. In addition, when the VEC reviews an application to register a political party, the VEC contacts all or some of the (at least) 500 members of the political party that must be named in an application to register a political party. This serves two purposes: the VEC first confirms that the person is a member of the political party applying for registration, and secondly, the VEC confirms that the statements made by the secretary of the political party about these members' personal information are accurate.

2.4 Candidate information

In order to conduct elections, the VEC accepts nominations of candidates. This is done in accordance with Part 5 Division 3 of the EA. A candidate may or may not be endorsed by a registered political party¹. Once nominated, candidates have responsibilities in relation to election expenses and funding, and ultimately the number of votes cast for them are recorded and communicated as required by the EA. The EA also makes provision under Part 5 Division 5 for the registration of how-to-vote cards, and under Part 12 for a candidate to make a claim for election expenses in specified circumstances.

The personal information collected about candidates is "sensitive information" under the IPA as it is information about an individual that discloses a political opinion and/or membership of a political association. It is thus subject to additional protections. As discussed below, this personal information is collected by the VEC in accordance with IP 10.1 as it must be collected under law in order for a candidate to be nominated for an election, for a how-to-vote card to be registered, or for an election entitlement to be paid.

2.4.1 Collection

As described above, the VEC collects personal information about candidates in three circumstances.

¹ Candidates that are not endorsed by a registered political party will be referred to as independent candidates.

Nomination of candidates

The EA sets out the procedure by which a person may nominate to become a candidate for an election (s. 69). The required information differs depending on whether or not the candidate is endorsed by a registered political party.

The candidate's name and address information must be provided in the case of all nomination applications. The VEC also requires that the candidate provide contact information that will be provided to the general public. The contact information may either be the contact information of the candidate personally, or of another person. The nomination application submitted by an independent candidate must also be signed by 6 persons entitled to vote at the election for which the candidate is nominated. These 6 persons must also provide personal address information to allow the VEC to verify their identity.

How-to-vote cards

The EA sets out the procedure for registering how-to-vote cards (ss. 77 & 79). How-to-vote cards must be registered with the VEC or an election manager in order to be able to be distributed in or near a voting centre on an election day (s. 156 EA). How-to-vote cards may list the names of any or all of the candidates for an election and may also disclose whether a candidate is a member of a political party.

In order to register a how-to-vote card, the person applying to register the card must submit a copy of the card, together with a declaration. In addition to stating the applicant's name and contact address and telephone details, the declaration must state that the applicant is authorised to submit the how-to-vote card for registration. If the how-to-vote card is submitted by or on behalf of a candidate, the declaration must also include the candidate's name and signature.

Election expenditure

A statement of election expenditure may be provided to the VEC by a registered political party or by an independent candidate in order to claim for election expenses following an election (s. 208 EA). The statement must declare that the registered political party or the independent candidate has incurred election expenses in relation to an election that were either:

1. not less than the amount that the registered political party or the independent candidate is authorised to receive under the EA; or
2. less than the amount that the registered political party or the independent candidate is authorised to receive under the EA, being the amount specified in the statement.

A certificate of an independent auditor advising that the statement has been audited must be provided with the statement of election expenditure.

Thus, in circumstances where an independent candidate in an election provides a statement of election expenditure, the VEC is collecting personal information about that candidate.

Moreover, if the VEC is satisfied that the information provided in the statement or the auditor's certificate is materially incorrect, it may request the auditor or, failing the auditor's response, the candidate, to provide further information.

2.4.2 Use & Disclosure

The VEC uses candidate information to fulfil its statutory functions. All internal uses of the information are either expressly specified by, or necessarily incidental to those requirements. These include processing nomination applications, how-to-vote card registration applications, and the payment of election expenses in authorised circumstances. The VEC is also required to enforce the distribution of electoral material at or near voting centres on election day and ensure that only registered how-to-vote cards are distributed (s. 156 EA).

The VEC discloses candidate information in a number of ways, each of which is governed by legislation.

Public inspection of candidate information

After the issue of the writ for an election, the VEC must make the names and contact details of the candidates for an election available for public inspection, as well as the name of any person who has ceased to be a candidate (s. 68 EA). The names of candidates for an election must also be displayed in the election manager's office (s. 73 EA).

Ballot-papers

The responsibilities of the VEC also include printing ballot-papers for an election. The ballot-papers must include the names of all candidates for the election and, where appropriate, the name of the registered political party that has endorsed a candidate (s. 74 EA).

How-to-vote cards

If the VEC registers a how-to-vote card, it must make a copy of the card available for public inspection at the office of the VEC, and at all relevant election manager offices and election day voting centres.

2.4.3 Data Quality

The information about candidates that is released by the VEC is fundamental to the running of an election. The VEC thus accords the highest priority to ensuring that this information is accurate, complete and up to date.

2.5 Voting information

The principle of the secret ballot is fundamental (s.154 EA). For the vast majority of voters, the VEC does not collect or hold any information about voting preferences that can be linked to an individual. Certain votes such as postal and absent votes are received and briefly held by the VEC inside envelopes that have the name and address of the voter attached or written on the outside of the envelope so that these persons can be recorded as having voted. However, the VEC implements strict security precautions to ensure that voting secrecy is maintained, and never stores voting preferences in a form that can identify the voter. Once the details of a voter have been recorded from the outside of the envelope, the votes are removed from the envelope in a separate location. The envelopes are opened upside down in the presence of election scrutineers, and the vote removed without the details recorded on the envelope being seen. Thus, the possibility of any linkage is broken as soon as the outer envelopes have been recorded and opened.

Because VEC never holds information about actual voting preferences in identifiable form, it is not 'personal information' under the IPA, so the issue of compliance with the IPPs does not arise.

The VEC does, however, record the fact of voting and the means by which a person voted. The VEC also records personal information about general postal voters. This is partly to ensure that only those entitled to vote receive a ballot-paper and that no one votes twice. But the record is also kept because voting is compulsory. Part 9 Division 2 of the EA provides for enforcement action against registered electors who do not vote. As this is personal information under the IPA, it must be handled according to the IPPs.

2.5.1 Collection

The personal information that the VEC collects about the fact that a person has voted or about the means by which a person voted varies depending on the means of voting. In addition, if a person wishes to vote by post, they must make an appropriate application to the VEC. The EA also specifies procedures for a person to become a general postal voter.

Voting on election day at a voting centre in the electoral district for which the person is enrolled

When voting at a voting centre in the electoral district for which they are enrolled, individual voters are asked for their name and address in order for the person to be marked as having voted on the electoral roll. Voters are also asked whether they have voted before in the particular election (s. 90 EA). Silent or itinerant electors are not asked to provide their address.

Records are kept only of the fact that a person has voted and of the location that they voted.

If a person claiming to vote states that their current address is not the address shown on the electoral roll, then the person must be asked whether the address shown on the electoral roll has been the person's principal place of residence within the 3 months before the election day (s. 90(3) EA). If the person claiming to vote answers no, then they are not entitled to vote. The person will be invited to update their enrolment details, and a record will be kept that the person attempted to vote, but was ineligible to do so, in order to exempt them from the enforcement procedures prescribed under the EA for failing to vote at an election. If the person answers yes, then they are entitled to vote for the electoral district relating to the address shown on the electoral roll.

Early voting, absent voting, voting when marked as voted on the electoral roll, and voting when the elector's name cannot be located on the electoral roll

In order to enable as many people as possible to vote at an election, procedures are in place for persons to vote by different methods. These different methods may require that the VEC collects additional personal information about a voter in order to ensure that only those entitled to vote receive a ballot-paper and that no one votes twice.

If a person chooses to vote at an early voting centre (and the VEC is able to verify that the person's details appear on the electoral roll produced for an election), then the procedure for voting is exactly the same as when a person votes on election day at a voting centre in their electoral district. Individual voters are asked for their name, address, and whether they have voted before in the particular election (s. 90 EA). Silent or itinerant electors are not asked to provide their address.

Records are kept of the fact that a person has voted and that the person voted by early voting.

If a person claiming to vote states or declares that their current address is not the address shown on the electoral roll, and the person replies that the address shown on the electoral roll has not been the person's principal place of residence within the 3 months before the election day, then a record will be kept that the person attempted to vote, but was ineligible to do so, in order to exempt them from the enforcement procedures prescribed under the EA for failing to vote at an election.

If an elector claims that their name has been left off the electoral roll in error, then the elector may complete a declaration and vote as an unenrolled voter. The declaration is in the same format for early voters, absent voters, and voters who have already been marked on the electoral roll as having voted. In addition to providing their name, address, and a declaration that the person has not voted before in the particular election, the voter must also provide the following information:

1. Date of birth.
2. Former surname if changed since last enrolled.
3. A declaration that the address provided by the elector is their enrolled address, and that it has been the elector's principal place of residence within the period of three months immediately before election day.

If a person's name cannot be located on the electoral roll, then the voter must complete a declaration in a similar format to the declaration that must be completed by early voters, absent voters, and voters who have already been marked on the electoral roll as having voted. The only differences in the information collected by the VEC are:

1. The voter must also declare that they are the elector whose name cannot be found on the electoral roll.
2. The voter does not declare that the address provided by the elector is their enrolled address, although the voter must still declare that the address has been the elector's principal place of residence within the period of three months immediately before election day.

Silent or itinerant electors are not required to make any declarations regarding their address in any of the circumstances described above.

In circumstances where a person is required to make a declaration, their vote is securely enclosed within an envelope that has the appropriate declaration on the outside of the envelope. Once the appropriate election manager or other VEC official has verified the identity of these persons, has recorded that the person has voted and the means by which the person voted, the declaration and the vote are separated. As stated above, the VEC implements strict security precautions to ensure that voting secrecy is maintained, and never stores voting preferences in a form that can identify the voter. The possibility of any linkage is broken as soon as the outer envelopes have been recorded and opened.

If a person claiming to vote is unable to make a declaration that the address shown on the electoral roll has been the person's principal place of residence within the 3 months before the election day, then the person is ineligible to vote. A record will be kept that the person attempted to vote, but was ineligible to do so, in order to exempt them from the enforcement procedures prescribed under the EA for failing to vote at an election.

When a person votes by any one of the means described in the above part, the location of the voting centre where the person actually voted is not recorded.

Postal voting

A person may also apply to the VEC to be a general postal voter (s. 24 EA), or may apply to the VEC after the issue of a writ for an election to vote by post for a specific election (s. 101 EA). The information collected by the VEC regarding an actual postal vote (as opposed to the information collected when a person makes an application to become a postal voter) is the same regardless of whether the person is a general postal voter or not.

An application to be a *general postal voter* must include the following information:

1. Full name.
2. Residential address.
3. Contact telephone number.
4. Postal address (if different to residential address).

5. Date of birth.
6. Sex
7. A declaration that the person is eligible to be a general postal voter for one of the reasons specified in section 24 of the EA. (In the case of a person who is a patient at a hospital or nursing home, the VEC also collects information about the name and address of the hospital or nursing home.)

A general postal voter does not need to make repeated applications to vote by post at specific elections. Instead, the VEC records the fact that the person is a general postal voter and will automatically deliver or post to the applicant the specified postal vote declaration and a ballot-paper.

An application to *vote by post for a specific election* must include the following information:

1. Full name.
2. Residential address at which the person claims to be enrolled, including a declaration that the enrolled address has been the person's principal place of residence within the three months before the election day.
3. Date of birth.
4. Postal address (if different to residential address).
5. Contact telephone number.
6. Name, title, address and signature of an authorised witness to the application (except if the person is overseas and cannot find an authorised witness; in such circumstances, the applicant must instead include a certified copy of the biographic page of the applicant's passport).

If an application to vote by post for a specific election is accepted by the VEC, the VEC must deliver or post to the applicant the specified postal vote declaration and a ballot-paper. The VEC must also record the name of the person to whom the declaration and ballot-paper has been issued and the date of issuing. If the VEC receives an application to vote by post that is defective or that is received after the time specified for receiving such applications, the VEC must take reasonable steps to inform the applicant that the application is defective or was received too late.

Once a postal vote is received by the VEC, records are kept of the fact that the person has voted in the election and that the person voted by post. As stated above, the VEC implements strict security precautions to ensure that voting secrecy is maintained, and never stores voting preferences in a form that can identify the voter. Once the appropriate election manager or other VEC official has verified the identity of these persons, and recorded that they have voted and the means by which they voted, the envelope and the vote are separated. The possibility of any linkage is broken as soon as the outer envelopes have been recorded and opened.

2.5.2 Use & Disclosure

The VEC uses voting information to fulfil its statutory functions. All internal uses of the information are either expressly specified by, or necessarily incidental to those requirements. Clearly, one of the primary uses of this information is to verify a person's identity, especially when the person elects to vote otherwise than on election day at a voting centre in which the voter is enrolled. Directly related to this purpose is ensuring that a person does not vote twice, and bringing enforcement action against registered electors who do not vote.

The VEC discloses limited voting information as required by legislation (s.123 (2) EA). This information must only be provided to either a registered political party, or to a Member of Parliament who is not a member of a registered political party and who makes a request in respect of the member's electorate. When so requested, the VEC must provide the following electoral information:

1. The names and addresses of electors who voted at an election (other than silent electors and itinerant electors).
2. Whether the person voted personally or by post (if applicable).
3. The location of the voting centre at which a person voted (if they voted at a voting centre for the electoral district for which they were enrolled).

The information provided must only be used in connection with an election. Penalties apply whenever this information is used or disclosed other than for this specific purpose (s. 123(4)).

2.5.3 Data Quality

The VEC checks all voting information that it receives against the electoral roll to ensure that it is accurate. When releasing voting information in the limited circumstances described above, the VEC takes all reasonable steps to ensure that it is accurate, complete and up-to-date.

2.6 Human resources information

Understandably, the EA does not apply to human resources information, except to the extent that the VEC is authorised to employ staff to perform its functions. The treatment of personal human resources information is thus governed solely by the IPA.

2.6.1 Collection

Personal information relating to employees is only collected when it is necessary for the VEC to perform one or more of its functions or activities. Personal information includes an opinion held about an employee regarding, for example, work performance. The Human Resources

Officer will have responsibility for ensuring that all human resources documents created within the VEC will be forwarded to the Human Resources Officer.

In most circumstances, the VEC does not collect sensitive information about an employee. (See 1.2 above for a definition of sensitive information.) The limited circumstances in which the VEC can collect sensitive information include when the individual has provided their specific consent to the collection or when the collection is authorised under law.

When collecting personal information, the Human Resources Officer or the appropriate manager will inform employees why the information is being collected and advise them that they can access the information on request. This includes informing employees that they will be subject to performance evaluations, and that those evaluations will be used to assist in determining future employment.

The VEC assigns each employee and employee id. The employee id is a 'unique identifier' as defined in the IPA. In general, the IPA requires that unique identifiers be only assigned when this is necessary to carry out one or more of the VEC's functions.

2.6.2 Use & Disclosure

The VEC uses and discloses personal human resources information only in accordance with its functions. However, that use and disclosure must also be in accordance with the IPPs.

General use and disclosure

Access to human resources information is restricted primarily to the Human Resources Officer, although appropriate managers and other employees (including contracted staff) may access this information on a job-specific basis. All employees who have access to any form of personal human resources information, including the Human Resources Officer, must not:

1. use, release, disclose or study the information for any reasons other than in the performance of their duties;
2. take improper advantage of any information gained in the course of their employment (eg. commercial purposes); or
3. use the information for any purpose other than the primary purpose of its collection, or unless it is reasonable to use that information for a related (secondary) purpose.

If there is any doubt about whether the information should be released or used in any way, the Human Resources Officer or the relevant manager will obtain the consent of the individual by informing him or her exactly how the information will be used. When data is collected that can identify the employee who provided it (e.g. qualitative answers to a questionnaire) the employee should be fully aware of how the information will be used, including whether it will be disclosed outside of the VEC.

The VEC employee id is not transferred to other organisations unless it is reasonably necessary for the performance of one or more of the VEC's human resources functions.

Requests for information from third parties

Personal details must not be released to a third party (eg. banks) without the written consent of the person concerned (or where required or authorised by law). Where personal information is released to a third party, a file notation is made detailing consent and the nature of the information provided to the third party.

The Manager, Public Information and Corporate Communications will have responsibility for dealing with all requests for personal human resources information by external organisations, including State and Federal Police, other government departments and Insurance Companies and Assessors.

Collecting and Maintaining Health Information

Employees have the right to access health information collected about them from health service providers and other private sector organisations (under the Health Records Act) or government agencies (under the Freedom of Information Act).

Health information relating to any employee is not collected unless it is necessary for the VEC's human resources functions. Whenever possible, consent from the person concerned is obtained prior to the collection of such information.

All health-related documentation, including medical certificates or documents relating to WorkCover claims, are forwarded to the Human Resources Officer as soon as possible after receipt.

2.6.3 Data Quality

The Human Resources Officer will have responsibility for ensuring that all personal human resources information collected is accurate, up to date and complete. If an employee requests the correction of information relating to him or her, this must be done within 14 days.

2.6.4 Access and correction

In addition to the general principles regarding access and correction of personal information set out in Part 2.8 below, employees are entitled to access their personal human resources records under supervision of the Human Resources Officer, and may obtain a copy of any relevant document. Employees may also request the removal or correction of incorrect data.

In accordance with Part 2.8 below, any employee who is denied access to personal information held about them by the VEC can lodge a request to access that information under the *Freedom of Information Act 1982*.

2.7 Miscellaneous Contact Information

In the course of the performance of its functions, the VEC collects miscellaneous contact information about persons that is in addition to that described in the preceding parts of this policy. This information is personal information that is subject to the IPPs and, with limited exceptions, should not be disclosed.

2.7.1 Collection

The VEC will only collect miscellaneous personal contact information that a person chooses to provide. Examples of personal contact information that is collected by the VEC include:

- Contact information of persons who contact the VEC with general enquiries and complaints, including representatives of media organisations.
- Business contact information of persons who are employees or agents of businesses that the VEC engages to provide goods or services.

2.7.2 Use & Disclosure

Information collected about private individuals making general enquiries and complaints is only used in order for the VEC to respond to those enquiries and complaints. This information is not disclosed or added to any mailing list without the individual's consent.

The VEC does not generally disclose business contact information. However, it is reasonably expected that individuals who provide personal business contact information consent to the VEC providing this information to other persons or agencies that wish to engage the services, or purchase the goods, of the business. It is only in this limited circumstance that the VEC will disclose contact information.

2.7.3 Data Quality

The VEC will take all reasonable steps to ensure that the personal contact information that it collects is accurate, complete and up to date.

2.8 Principles with which compliance is common across classes of information

2.8.1 Data Security (IPP4)

VEC's security measures include physical (building) security; appropriate controls over access to electronic data (IT Security), and staff training and awareness; and apply both to the Commission's permanent premises and infrastructure and to the temporary accommodation and equipment in use during elections.

Building security is designed as much for the safety of staff and protection of property, but also serves to limit unauthorized access to personal information. Access to VEC premises is controlled and visitors recorded and supervised.

Staff training and awareness measures are covered in more detail in Part 3, but include making all employees and contractors aware of the importance of safeguarding personal information against unauthorized access and use. All staff are required to read and sign a confidentiality agreement.

IT Security

The VEC's IT infrastructure is administered by an IT service provider under contract with the VEC. It comprises a permanent network linking workstations and file servers at two separate sites. The network is expanded during elections to provide on-line workstations in election managers' offices. Applications include the electoral information databases; the Commission's Internet web-site; normal word processing and e-mail facilities and direct connections to the AEC's RMANS system; to the contracted mailing house used to distribute registration and election material; and to the call centre contracted to provide a telephone enquiry service.

IT Security precautions are designed to safeguard information (including human resources and other personal information) against a number of risks, including:

1. Loss of data.
2. Corruption of data.
3. Unauthorised modification.
4. Unauthorised (internal) access by VEC staff.
5. Unauthorised (external) access by third parties – including by 'hacking'.

Precautions include regular back-up with off-site storage; firewalls, and access control and management software employing userIDs and passwords allocated to individual staff, allowing access according to their 'need to know'.

Unauthorised attempts to log on to the VEC systems would be detected and reported.

All transactions involving the electoral information databases are logged so that an audit trail exists as a tool to be utilized in the event of an investigation into any suspected security breach. Moreover, users of the electoral information databases are generally only assigned 'read only' access. Only users who must access and update information in these databases are given 'read/write' access.

Disposal

Personal information on paper is disposed of securely when it is no longer required. Various arrangements apply to the return or disposal of electronic information received from other agencies, and these are periodically reviewed to ensure secure means.

In common with most organizations, there is a tendency for electronic information to build up unnoticed after it has ceased to be of current use. The VEC will put in place review processes to ensure that personal information held in electronic form is deleted once it is no longer required.

2.8.2 Openness (IPP 5)

The VEC's public information about privacy includes privacy notices in its forms and correspondence; a concise statement prominently featured on the web-site with a link to this detailed privacy policy; and a brochure summarising the policy, available on request and at the Commission's premises (including voting centres during elections). This privacy policy is also available on request in paper form.

On receipt of a request from a specific individual the VEC will assist them to understand if the Commission is likely to hold any personal information about them, and make clear to them their rights under IPP 6 to obtain access to that information and to make any necessary corrections.

2.8.3 Access and Correction (IPP 6)

Individuals have rights of access and correction in relation to any personal information about them held by the VEC, subject to a range of exemptions (or grounds for withholding information and declining to correct). These rights apply equally to personal human resources information.

The *Freedom of Information Act 1982* (FOIA) already provides for access to information held by government agencies, including the VEC, and includes specific rules relating to "information relating to the personal affairs of any person". The Victorian Privacy Commissioner has advised that agencies can comply with IPP 6 by following the processes laid down in the FOIA.

3. Compliance with other aspects of the Information Privacy Act

3.1 Complaints

Complaints about breaches of the Information Privacy Principles or of this policy by the VEC or its agents should be directed to:

Mr Doug Beecroft
Manager, Public Information and Corporate Communications
Victorian Electoral Commission
Level 8, 505 Little Collins Street
Melbourne Victoria 3000

Telephone (03) 9299 0730
Facsimile (03) 9629 9330
Email doug.beecroft@vec.vic.gov.au

Individuals may also contact the Victorian Privacy Commissioner, but should be aware that the Privacy Commissioner will generally expect them to have taken any concerns up with the VEC in the first instance. The contact details for the Privacy Commissioner are:

Privacy Victoria
Level 11
10-16 Queen Street
Melbourne Victoria 3000

Telephone 1300 666 444
Facsimile 1300 666 445
Email enquiries@privacy.vic.gov.au

If individuals are dissatisfied with the response of the VEC they can take their complaint up with the Privacy Commissioner who may either seek to conciliate the matter or suggest that it be referred to the Victorian Civil and Administrative Tribunal for a hearing.

3.2 Who to contact

Requests from individuals for access to personal information about themselves should be directed to:

Mr Doug Beecroft
Manager, Public Information and Corporate Communications
Victorian Electoral Commission
Level 8, 505 Little Collins Street
Melbourne Victoria 3000

Telephone (03) 9299 0730
Facsimile (03) 9629 9330
Email doug.beecroft@vec.vic.gov.au

In accordance with the IPA and the FOIA, a person may request to inspect a document, to obtain a copy, or both to see it and obtain a copy. Also, other forms of access can be granted depending on the nature of the person's request and the type of document, for example producing a printed document containing information held on computer equipment.

Requests for access to personal information will be handled in accordance with the VEC's FOI procedures. Accordingly, all requests should be made in writing. The VEC's FOI procedures are attached to this document as **Appendix 1**.

General enquiries about the VEC's privacy policy should be directed to Mr Doug Beecroft, Manager, Public Information and Corporate Communications/FOI Manager.

3.3 Staff training

The Manager, Public Information and Corporate Communications will have responsibility for implementing and maintaining training measures to inform new and existing staff about the application of the IPA and, where appropriate, the EA. These training measures will educate staff about the privacy protections afforded by the IPA, and will relate those protections to each individual staff member's responsibilities.

New staff members will receive training about the IPA as part of their induction to the VEC. Existing staff members will receive training on an annual basis in order to update staff regarding any changes to the IPA, to inform staff about any areas of non-compliance with the IPA during the preceding year, and to generally remind staff of their important obligations under the IPA.

All staff members who interact with the general public must have a sufficient understanding of the IPA to be able to answer enquiries regarding the VEC's compliance with the act.

All staff will be able to view or obtain a copy of this policy upon request to the Human Resources Officer.

3.4 Monitoring compliance

The Manager, Public Information and Corporate Communications will have responsibility for ensuring that the VEC complies with the IPA. Where appropriate, and in accordance with this policy, other members of staff will have specified responsibilities to ensure compliance with the IPA.

The Manager, Public Information and Corporate Communications will also ensure the maintenance of appropriate registers that document that the VEC is complying with the IPA, and will consult with appropriate staff members regarding the content of these registers, as well as the content of any procedures or policies developed to ensure the VEC's compliance with the IPA.

3.5 Reporting

The VEC will include a summary of privacy related issues and activities in its Annual Report. This summary will include statistics on the number and type of privacy complaints and requests for access to or correction of personal information. In accordance with section 35 of the EA, the summary will also include information in relation to all provisions of enrolment information under section 34 of the EA and on any finding made under that section during the 12 months preceding 30 June.

The responsibilities of the Manager, Public Information and Corporate Communications regarding the maintenance of registers that document that the VEC is complying with the IPA will extend to documenting the necessary information to prepare the above summary.

3.6 Review of Privacy Policy and Framework

The Manager, Public Information and Corporate Communications will have responsibility for reviewing this document and all related publications on an annual basis.

Appendix 1: FOI access arrangements

A1.1 Requests for access

Requests for access to all records of the VEC are dealt with by:

Mr Doug Beecroft
Authorised FOI Officer
Victorian Electoral Commission
Level 8, 505 Little Collins Street
Melbourne Victoria 3000

Telephone (03) 9299 0730
Facsimile (03) 9629 9330
Email doug.beecroft@vec.vic.gov.au

You can request to inspect a document, to obtain a copy, or both to see it and obtain a copy. Also, other forms of access can be granted depending on the nature of your request and the type of document, for example producing a printed document containing information held on computer equipment.

Requests should be made in writing.

A1.2 Identification of documents

FOI requests must contain sufficient detail concerning the document to enable the VEC to identify it.

The subject-matter and the approximate date of the document sought should be indicated as precisely as possible.

The VEC's *Statement on Categories of Documents* may be of assistance in identifying the type of document(s) to which access is sought. If so, reference to this additional information should be included in your request.

Where a request fails to provide the necessary information to sufficiently identify the document(s) requested, the VEC's Nominated Officer will attempt to assist you in making a request that will aid in identifying the documents sought.

Once the VEC has received sufficient information to identify the document requested and the application fee (see 3.3 below), you will be notified in writing within 45 days whether the document is available.

Sometimes the VEC cannot grant full access to documents. The classes of documents that are exempt from release are detailed in Part IV of the Act. It is the responsibility of the Office's FOI Manager to identify any such documents and to set out to you, in writing, the reasons for their exempt status. You will be advised, as required under the Act, how you can seek an internal review of any decision to claim an exemption for any document(s), or part of any document(s).

A1.3 Charges under the FOI Act

In summary, charges for access to documents as set out in the Freedom of Information (Access Charges) Regulations 1993 are:

- application fee: \$20.00;
- search fees: where the VEC has to identify and locate the documents—maximum of \$20.00 per hour;
- supervision fees: where a document is inspected at the VEC by the applicant under the supervision of an officer—\$5.00 per 15 minutes;
- photocopy fees: 20 cents per A4 page, non-coloured photocopy;
- other fees: the actual costs incurred by the VEC in producing a copy can be charged, for example a microfiche of a file, or the retrieval of information from a computer file; and
- deposits: where charges will be substantial, a deposit of \$25.00 may be requested before the VEC will grant access.

Some or all of these charges will be waived if the applicant cannot afford to pay, and in certain other circumstances.

The aim of the FOI Act is to enable information to be made available promptly and inexpensively. Your written FOI request should be as specific and precise as possible, so that the request can be processed efficiently.

A1.4 Amendment to personal information

An applicant can request the correction or amendment of any information held on his or her file, where he or she considers that the information is incorrect, incomplete, out of date, or where it would give a misleading impression. A person may seek to correct or amend his or her personal records, irrespective of when they were created. A request to correct or amend a person's information that is contained in a document held by the VEC may be made in writing, preferably on the form provided for this purpose, and should specify:

1. an address to which notices may be sent to the person making the request;
2. a telephone contact number; and
3. particulars of why the person making the request believes the information to be incomplete, inaccurate, incorrect, out of date or misleading, and specifying the amendments that he or she wishes to be made.