

MEMORANDUM OF ADVICE
AUSTRALIAN PRIVACY PRINCIPLES – COVID-19 VACCINATIONS

Royal Automobile Club Limited (**RACA**) is an *organisation* and an *AAP entity* as that term is defined in section 6 of the *Privacy Act, 1988* (Cth) (**Act**) and is a private sector organisation.

RACA is a private sector employer being an organisation which is non-government and pays its employees from revenue of the organisation.

RACA has a current Privacy Policy which is published on its website being <https://www.raca.com.au/privacy> policy.

RACA collects personal information from its employees, including COVID-19 vaccination status (**Employee records**), for the following reasons:

- a. Health information;
 - b. Engagement, training, disciplining, resignation or termination of employment of an employee;
 - c. Personal and emergency contact details, performance or conduct, hours of employment;
 - d. Salary and wages;
 - e. Leave records; and
 - f. Taxation and superannuation.
2. In relation to COVID-19 vaccination RACA:
- a. may consider offering each employee 1 day paid leave to be vaccinated and to recover from any after effects;
 - b. with specific focus on Work Health and Safety obligations of RACA in relation to:
 - i. the safety and protection of all employees who work in a very small area of the workplace of RACA; and
 - ii. employees moving in and about the building at large providing services to its members.

RACA wishes to adhere to its privacy law obligations when collecting, using, storing and disclosing employee health information related to the COVID-19 vaccine.

The Office of the Australian Information Commissioner assists employers to understand their obligations and directs employers that:

1. Employee records relating to current and former employees are exempt from the Australian Privacy Principles provided that they are lawfully collected.

2. It follows that if their collection is legally flawed then the exemption does not apply.
3. The exemption does not apply to future employees or unsuccessful applicants, contractors, sub-contractors or volunteers, or member/shareholder information.

COVID-19 vaccination status information can only be collected, used and disclosed in the following circumstances, which is a requirement before the collected information becomes an exempt employee record:

1. An employee's vaccination status is considered sensitive health information under the Act and higher privacy protections apply.
2. The minimum amount of personal information necessary to maintain a safe workplace and prevent and manage COVID-19 should be collected.
3. Public health advice should be understood in directing any consideration of what constitutes necessary information and any protection and management required.
4. RACA must only collect vaccination status information if the employee consents and the collection is reasonably necessary for the functions and activities of RACA, unless an exemption applies.
5. RACA must advise employees how the information collected will be handled.
6. Consent must be freely given and constitute valid consent, after the employee acknowledges and agrees that the employee:
 - a. understands the need for the information as referred to in paragraph 2 (b) above;
 - b. understands what RACA will use the information for; and
 - c. that the employee has been provided with a genuine opportunity to provide or withhold consent without feeling any pressure or coercion resulting from any perceived imbalance of power between an employer and an employee.
7. One exemption to the obtaining of consent is where the information required or authorised by law, such as a specific requirement of a health notice or order or direction.
8. Vaccination status should be used or disclosed on a "need to know" basis only.
9. RACA must take reasonable steps to keep such information up to date and secure.
10. RACA should only use the information to manage work, health and safety with focus on COVID-19 restrictions.

2.4 SENSITIVE INFORMATION relating to COVID-19

- a) An employee's vaccination status is considered sensitive health information under the *Privacy Act 1988* (Cth) and higher privacy protections apply.
- b) RACA only intends to collect the minimum amount of personal information as to an employee's vaccination status necessary to maintain a safe workplace and prevent and manage COVID-19.
- c) Current knowledge of all available and current public health advice will be applied in directing any consideration of what constitutes necessary information and any protection and management required.
- d) RACA will only collect vaccination status information if an employee consents, unless an exemption applies, and the collection is reasonably necessary for the work, health and safety functions and activities of RACA.
- e) Consent of each employee must be freely given and constitute valid consent, after each employee acknowledges and agrees that the employee:
 - a. understands the need for and use of the information, namely the safety and protection of all employees who work in a very small area of the workplace, and occupants and visitors in and about the buildings; and
 - b. has been provided with a genuine opportunity to provide or withhold consent without feeling any pressure resulting from any perceived imbalance of power between RACA and the employee.
- f) RACA must advise employees how the information collected will be handled. One exemption to RACA obtaining consent is where the information required or authorised by law, such as a specific requirement of a health notice or order or direction.
- g) RACA will only disclose the vaccination status of an employee on a "need to know" basis only.
- h) RACA will take reasonable steps to keep such information up to date and secure.

15 July 2021