

OMVIC Policy No.: L2 - 2011

ACCESS AND PRIVACY CODE

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1. INTRODUCTION

OMVIC recognizes the importance of privacy and the sensitivity of personal information. We are committed to collecting, using and disclosing personal information responsibly and only to the extent necessary to carry out our regulatory activities and to meet our consumer protection mandate. OMVIC has a strong duty of confidentiality. Section 36 of the Motor Vehicle Dealers Act, 2002, requires that those involved in the administration of the Act keep confidential the information obtained in the course of their duties. This Privacy Policy outlines how we manage personal information and safeguard privacy.

2. DEFINITIONS

In this Code:

<i>Agreement</i>	Means the administrative agreement entered into between Her Majesty the Queen in Right of Ontario, as represented by The Minister of Government and Consumer Services and Ontario Motor Vehicle Industry Council.
<i>Bulk data</i>	Means records requested in bulk or selective form (not an individual record) that may have commercial value.
<i>Act</i>	Means the <i>Motor Vehicle Dealers Act, 2002</i> , as amended from time to time.
<i>Personal Information</i>	Means any recorded information about an identifiable individual, but does not include information about a corporation.
<i>Records</i>	Means any record of information, however recorded, whether in printed form, film, by electronic means or otherwise in the custody and control of OMVIC for administration of the Act.
<i>Ontario Motor Vehicle Industry Council (OMVIC)</i>	Means the not-for-profit corporation without share capital incorporated under the <i>Corporations Act, R.S.O. 1990, c.C.38</i> by Letters patent dated October 8, 1996.

3. ACCOUNTABILITY

OMVIC is responsible for all records and personal information under its custody and control and shall designate an individual or individuals who are accountable for the corporation's compliance with this Code.

4. ACCESS TO RECORDS

Every person has a right of access to a record or a part of a record in the custody and under the control of OMVIC unless the record or part of the record falls within a section 3 exemption. OMVIC shall routinely disclose and actively disseminate records with recognition of its role in maintaining a fair and informed marketplace in Ontario by protecting the rights of consumers, enhancing industry professionalism and ensuring fair, honest and open competition for registered motor vehicle dealers.

5. EXEMPTION TO ACCESS

- (a) OMVIC shall refuse to disclose records where records constitute:
 - (i) personal information, disclosure of which violates an individual's right to privacy, unless that individual consents to the disclosure; or
 - (ii) records containing commercial, proprietary, technical or financial information of OMVIC or of any person who has supplied the records to OMVIC in confidence, if disclosure would result in undue loss or gain, prejudice a competitive position or interfere with contractual or other negotiations.
- (b) OMVIC may refuse to disclose records and personal information where the disclosure:
 - (i) violates a legally recognized privilege;
 - (ii) compromises ongoing inspection and enforcement activities of OMVIC;
 - (iii) impairs the ability of OMVIC to provide a fair, safe and informed marketplace that supports a competitive economy;
 - (iv) could reasonably be expected to threaten the life, health or security of an individual;
 - (v) involves bulk data and other sensitive aggregate data that may identify a specific person;
 - (vi) involves information that is the substance of deliberation by OMVIC's Board of Directors and its committees, or committee established by OMVIC, including but not limited to agendas, minutes, policy options and analysis, internal advice, proprietary information, and advice to government; or
 - (vii) violates a provision of the Act.

- (c) OMVIC shall disclose as much of the record as can be reasonably served without disclosing exempted information.

6. ACCESS PROCEDURE

OMVIC shall develop and implement effective procedures and practices that establish time frames for responding to inquiries regarding records and personal information. OMVIC shall provide an estimate of the cost, if any, of providing the information.

OMVIC shall provide reasons to a requester for denying access to records or personal information.

Upon request, OMVIC shall advise an individual regarding the existence, use and disclosure of his or her personal information and, subject to the exemptions noted in section 5 of this Code, provide the individual with access to their personal information in a comprehensible form.

7. COLLECTION AND RETENTION OF PERSONAL INFORMATION

The collection of personal information shall be from the individual to whom the information relates unless the individual authorizes another manner of collection or if an indirect collection is necessary for OMVIC's administration of the Act. The primary purposes of collecting the information are to determine if one is qualified for registration under the statute and to ensure that the legislation is being complied with.

The purposes for which personal information is collected shall be communicated to the individual to whom the information relates, by OMVIC at or before the time the information is collected, unless the information is collected as part of an inspection, investigation or a complaint.

OMVIC shall take reasonable steps to ensure that the personal information in its custody and under its control is not used unless it is accurate, complete and up-to-date as is necessary for the purposes for which it is to be used. Amendments to personal information received from the individual to whom it relates shall be recorded by OMVIC as soon as practically possible.

Personal information shall be retained only as long as necessary to fulfill the purposes for which the information was collected. OMVIC shall develop procedures and practices to govern the period of time personal information is retained and the methods by which it should be destroyed, erased or made anonymous.

In order to prevent the unauthorized disclosure, use, copying or modification of personal information in the custody and under the control of OMVIC, access to such information shall be restricted by the use of appropriate security mechanisms.

8. USE AND DISCLOSURE OF PERSONAL INFORMATION

Personal information shall not be used or disclosed to a third party for purposes other than those for which it was collected, except;

- (a) with the consent of the individual to whom the information relates;
- (b) where the information is disclosed for purposes related to ongoing inspection and enforcement activities of OMVIC pursuant to the Act;
- (c) where OMVIC has entered into an agreement with a third party to manage or use OMVIC records on its behalf and where such agreements requires the third party to comply with this Code and have in place security safeguard comparable to those used by OMVIC; or
- (d) for the purpose of complying with an Act of the Legislature or an Act of Parliament or a treaty, agreement or arrangement thereunder

Where personal information is made available to third parties on an ongoing basis pursuant to section (6) of this Code, amendments to such information shall be regularly provided to third parties.

Before disclosing information to third parties, OMVIC will take steps to ensure that the third party has measures in place to protect the personal information.

Where a third party request is approved and before disclosure of any information, OMVIC shall notify the individual in writing that his/her personal information is disclosable, and will be given a reasonable period of time to contest to disclosure. In doing so, the individual must provide sufficient written reasons for his/her disclosure refusal.

9. COMPLAINTS AND REMEDIES

When the individual who requested the information is not satisfied with the response to the formal request, the requester may ask OMVIC to review the decision. The request for review must be in writing, addressed to OMVIC and must describe what the requester wants reviewed. A final decision on the formal request will be provided within 30 days of receipt of the review request if at all possible.

If for some reason OMVIC is not able to respond within 30 days, OMVIC shall advise the person making the request and advise the individual the anticipated date a response can be expected.

10. CORRECTING ERRORS

Where an individual disagrees with the accuracy of their personal information received from a formal request, the individual is entitled to request a correction. The request for correction must be in writing and addressed to OMVIC.

If an individual can establish that the information in OMVIC's records is not accurate and complete, OMVIC will take reasonable steps to correct the information, subject to the limitations that may be necessary or appropriate to enable it to carry out its regulatory activities. The following list contains examples of the types of situations where OMVIC may decline to correct personal information because correcting the personal information could reasonably be expected to interfere with its regulatory activities:

- where the person requesting the correction does not provide sufficient information to enable OMVIC to assess the request to make the correction;
- where the fact that the statement was made, whether it is correct or not, is relevant to the regulatory activities of the organization;
- where correction may reasonably interfere with a regulatory process including an inquiry, investigation or hearing;
- where the correction may reasonably interfere with the regulatory or enforcement activities of another statutory regulatory body or a law enforcement agency;
- where the correction may alter an original document that belongs to someone else and will eventually be returned to that person; or
- where correction is prohibited by another Act.

Where OMVIC agrees to correct a record of personal information, the correction may be made so as not to obliterate the original entry. Where OMVIC agrees to correct a record of personal information, OMVIC shall provide written notice to every person to whom the original record was provided within the previous twelve months unless to do so is impractical or would reasonably interfere with its regulatory activities.

If the correction is refused by OMVIC, the individual may require OMVIC to attach a Statement of Disagreement to the file. The Statement of Disagreement shall not exceed 500 words.

11. FEES

Personal information shall be made available to the person to whom the information relates at reasonable cost.

Records, other than bulk data, shall be made available to a requester at a cost which reflects the total cost of providing the information. The cost of providing bulk data will be determined on a case-by-case basis. In determining fees, OMVIC will make efforts to be consistent and base costs on publicly available criteria.

12. ADMINISTRATION

OMVIC shall make available information regarding this Code and relating procedures and practices.

Whereas this Code conflicts with the Act or any other relevant legislation, the Act and relevant legislation shall prevail.

13. CONTACT INFORMATION

All inquiries relating to this Code should be addressed to Shelly Feld, OMVIC's General Counsel, at:

Ontario Motor Vehicle Industry Council

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