

# MSBC Privacy Policy

Current as of 1 August 2016

## Overview

This document sets out MSBC's Privacy Policy.

MSBC has adopted all of the Australian Privacy Principles ('APP') in its Privacy Policy, including any APPs that are not directly referred to below. The policies and procedures referred to in this document are generally those MSBC considers most relevant to your dealings with us. All of the APPs nevertheless apply and MSBC's Privacy Policy must be read in conjunction with APPs. In the event of any discrepancy between this document and APP's, the APPs will prevail to the extent of any difference.

Please refer any questions that you may have in relation to MSBC's Privacy Policy to MSBC's Privacy Officer, contact details provided below.

## Introduction

MSBC (we or us) is committed to best practice in relation to the management of information we collect. We have developed the policy set out in this document to comply with specific privacy obligations in accordance with *the Privacy Act 1988* (Cth) ('the Privacy Act') and *the Health Records and Information Privacy Act 2002* (NSW) ('the HRIP Act').

Our policy and procedures address our obligation under the following laws and guidelines:

- the Privacy Act;
- the requirements under the Australian Privacy Principle (APP) in the Privacy Act;
- the HRIP Act;
- the requirements under the Heath Privacy Principle (HPP) in the HRIP Act;
- Privacy and Health Record Resource Handbook for Medical Practitioners in the Private Sector developed by Australian Medical Association;
- Handbook for health and privacy developed by Office of the NSW Privacy Commissioner;
- Statutory Guidelines under the HRIP Act published by Office of the NSW Privacy Commissioner.

Copy of the Privacy Act can be obtained from the Office of the Australian Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au). Copy of the HRIP Act can be obtained from the Information and Privacy Commission of New South Wales at [www.ipc.nsw.gov.au](http://www.ipc.nsw.gov.au). Our policy was developed to comply with both Acts concurrently, however the Privacy Act prevails over the HRIP Act, to the extent that these laws are inconsistent.

Our policy is to inform you of:

- the kinds of information that we collect and hold, which, as a medical practice, is likely to be 'health information' for the purposes of the Privacy Act;
- how to deal with us anonymously;
- how we collect and hold personal information;

- the purposes for which we collect, hold, use and disclose personal information;
- how you may access your personal information and seek the correction of that information;
- how do we store and protect your personal information;
- how you may complain about a breach of the Australian Privacy Principles (APP) and the Health Privacy Principles (HPP) and how we will deal with such a complaint;
- whether we are likely to disclose personal information to overseas recipients;

The Privacy and HRIP Acts apply to the types of information as follows:

**Personal Information:** means information or an opinion about an identified individual, or an individual who is reasonably identifiable; whether the information or opinion is true or not; and whether the information or opinion is recorded in a material form or not.

**Sensitive Information:** means information or an opinion about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association or membership of a trade union, sexual orientation or practices, or criminal record that is also personal information or health information about an individual, or genetic information about an individual that is not otherwise health information, or biometric information that is to be used for the purpose of automated biometric verification or biometric identification, or biometric templates.

**Health Information:** means information or an opinion about the health or a disability (at any time) of an individual or an individual's expressed wishes about the future provision of health services to him or her or a health service provided, or to be provided to an individual; that is also personal information, or other personal information collected to provide, or in providing, a health service; or other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

Health information is sensitive information. Health information could include information held in any form, including paper, electronic and visual information. Examples include: information about an individual's physical or mental health; notes of an individual's symptoms or diagnosis and the treatment given; specialist reports and test results; appointment and billing details; prescriptions and other pharmaceutical purchases; dental records; records held by a fitness club about an individual; an individual's healthcare identifier when it is collected to provide a health service; any other personal information (such as information about an individual's date of birth, gender, race, sexuality, religion), collected for the purpose of providing a health service.

In this privacy policy, unless otherwise stated, a reference to personal information includes sensitive information and health information.

### **What kinds of personal information do we collect?**

MSBC may collect personal information that is necessary for us to provide our services. The type of information we may collect and hold includes: your name, address, date of birth, email and other contact details; details of your employment and your insurance details (only to the extent necessary to perform our function);

When MSBC is engaged in providing a health treatment or an opinion about your health, we may collect personal information including sensitive and health information. The information we may collect about you includes:

- medical information including medical history, medications, allergies, adverse events, immunisations, social history, hospital and clinical history, family history and risk factors;
- Medicare number, DVA number and other government identifiers, although we will not use these for the purposes of identifying you in our practice;
- Other health information about you, including:
  - notes of your symptoms or diagnosis and the treatment given to you;
  - your specialist reports and test results;
  - your appointment and billing details;
  - your prescriptions and other pharmaceutical purchases;
  - your dental records;
  - your work history and lifestyle activities;
  - accident and injury/disease details;
  - any other information about your race, sexuality, religion or philosophical beliefs, when collected by a health service provider.

MSBC may also collect information about: persons providing support to you (for example your carer); persons who make referrals to our services; other healthcare providers who are engaged by MSBC to assist in the provision of our services (for example about your treating doctor).

### **Anonymity and pseudonyms**

You have the right to deal with us anonymously or under a pseudonym unless it is impracticable for us to do so or unless we are required or authorised by law to only deal with identified individuals. If MSBC service requested relates to a claim for a compensable injury/disease, it is likely to be impracticable for us to deal with you anonymously and we may be unable to provide you or the party that engaged us with the requested services.

### **How do we collect your personal information?**

We will generally collect personal information:

- directly from you where it is reasonable and practicable to do so. This might be via a face to face discussion, telephone conversation, registration form or online form;
- from a person responsible for you (for example your carer);
- from third parties where the Privacy Act or other law allows it - this may include, but is not limited to: your treating healthcare providers, other members of your treating team,

diagnostic centres, specialists, hospitals, electronic prescription services, Medicare, your health insurer, the Pharmaceutical Benefits Scheme;

- from the person or organisation who referred you to our services, such as your employer or insurer (as part of the referral process);
- medical consultants or allied health professionals engaged by MSBC to assess your medical condition;

We will only collect sensitive information about you where:

- the information is reasonably necessary for one or more of our functions or activities; or
- the collection of the information is required or authorised by law or court order (such as Safety and Rehabilitation Compensation Act 1988 (Cth) and Public Service Act 1999 (Cth)); or
- permitted general or health situation exists under the Privacy Act;

As far as is reasonable and practicable, as soon as we collect personal information about you we will use our best endeavours to make you aware of:

- our identity and how to contact us;
- the fact that we have collected your personal information and if the collection is authorised or required by law;
- the purpose for which we collect personal information and the main consequences if the personal information is not collected by us;
- who we would normally disclose your personal information to;
- how to access this privacy policy which contains information about how you may complain about a breach of the Australian Privacy Principles and the Health Privacy Principles.

We may choose not to make you aware of the collection of your personal information if it is authorised or required by law or the information is received as part of the referral process (for example from your legal representative, your employer, insurer, or a legal representative of your employer or insurer) and we have reasonable grounds to believe that you are already notified about the collection and disclosure by the referral party.

If we receive your personal information which we did not solicit we will use our best endeavours, as far as is reasonable and practicable and within a reasonable period, to determine if we would normally have been permitted to collect the information under the Privacy Act or any other law. If the information could not have been collected, we will destroy or de-identify that information as soon as practicable, but only if it is lawful and reasonable to do so.

### **Why do we collect, hold, use and disclose personal information?**

In general, we collect, hold, use and disclose your personal information for the following purposes:

- to provide our services to you and to the person or organisation that referred you to us (such as your employer or insurer);

- to communicate with you in relation to the service being provided to you;
- to comply with our legal obligations, including, but not limited to, mandatory notification of communicable diseases or mandatory reporting under applicable child protection legislation;
- to help us manage our accounts and administrative services, including billing, arrangements with insurance funds, pursuing unpaid accounts;
- for consultations with other doctors and allied health professional involved in your healthcare;
- to obtain, analyse and discuss test results from diagnostic and pathology laboratories;
- for identification and insurance claiming;
- To liaise with your health fund, government and regulatory bodies such as Medicare, the Department of Veteran's Affairs, the Office of the Australian Information Commissioner (OAIC) and NSW Information and Privacy Commission (IPC), as necessary.

MSBC may disclose your personal information:

- to the person or organisation who referred you to our services (such as your employer or insurer);
- to other healthcare providers such as medical practitioners and allied health professionals engaged by us to provide services;
- when it is required or authorised by law (such as court subpoenas);
- when it is necessary to lessen or prevent a serious threat to a patient's life, health or safety or public health or safety, or it is impractical to obtain the patient's consent;
- to establish, exercise or defend an equitable claim;
- for the purpose of confidential dispute resolution process;
- when there is a statutory requirement to share certain personal information (some diseases may require mandatory notification);
- to our employees and contractors to assist us in carrying out our functions. All employees and contractors are required to sign a confidentiality agreement and comply with the Privacy and HRIP Acts.

Only people that need to access your information will be able to do so. Other than in the course of providing our services or as otherwise described in this policy, our organisation will not share personal information with any third party without your consent

#### **Adoption, use or disclosure of government related identifiers**

We do not use your government-related identifiers (such as your Medicare Number) as our own identifier. We will not use or disclose your government-related identifiers unless it is reasonably necessary to verify your identity for the purpose of our activities or functions; or

- the use or disclosure of the identifier is reasonably necessary to fulfil our obligations to an agency or a State or Territory authority; or
- the use or disclosure of the identifier is required or authorised by an Australian law or a court/tribunal order,

### **Direct Marketing**

We will not collect, use or disclose your personal information for direct marketing purposes of any goods or services.

### **How can you access and correct your personal information?**

You have a right to seek access to, and correction of the personal information which we hold about you. For details on how to access and correct your health record, please contact MSBC as noted below under 'Contact Details'. You can assist us by making your request in writing detailing the information requested. We will use our best endeavours to respond to your request within 30 days.

There is no fee for making a request to access the information. We may charge you a reasonable administration fee for provision of the information. These may include costs of archive retrieval, photocopying and other costs of complying with the request.

We acknowledge your right to access personal information we hold about you and that we are required to provide access to the information on request, however there are several important exceptions that may prevent us from doing so. We are not required to give you access to your personal information to the extent permitted by the Privacy and the HRIP Acts. These exceptions include where:

- we reasonably believe that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
- giving access would have an unreasonable impact on the privacy of others; or
- the request for access is frivolous or vexatious; or
- the information relates to existing or anticipated legal proceedings, and would not be accessible by the process of discovery in those proceedings; or
- giving access would reveal the intentions of the entity in relation to negotiations in such a way as to prejudice those negotiations; or
- giving access would be unlawful; or
- denying access is required or authorised by or under an Australian law or a court/ tribunal order; or
- if both of the following apply:
  - we have reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to your functions or activities has been, is being or may be engaged in; and

- giving access would be likely to prejudice the taking of appropriate action in relation to the matter; or
- giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

If we do withhold access to your personal information, we will provide you with written reasons.

### **Quality of personal information and how can you correct your personal information?**

We will take reasonable steps to correct your personal information where the information is not accurate or up-to-date. During the course of our relationship, we will endeavour to ask you to tell us of any changes to your personal information.

You may also request that we correct or update your information, and you should make such requests in writing addressed to our Privacy Officer noted below under 'Contact Details'.

If we refuse to correct the personal information as requested by you, we will give you a written notice that sets out the reasons for the refusal except the to the extent that it would be unreasonable to do so; and the mechanisms available to complain about the refusal. We will use our best endeavours to respond to your request within 30 days.

### **How do we hold your personal information?**

Our staff are trained and required to respect and protect your privacy. We take reasonable steps to protect information held from misuse and loss and from unauthorised access, modification or disclosure. This includes:

- access to personal information restricted on a 'need to know' basis;
- paper files kept in locked cabinets;
- signed confidentiality agreements with all employees, contractors, consultants and third party organisations;
- computer access is granted only after authentication and authorisation;
- strong password-protection policies applied to electronic systems;
- safe disposal of data, including paper and electronic data storage;
- electronic data stored on dedicated servers in secured purposely-built data-centre;
- multi-tier and timed electronic access to physical premises;
- monitoring of access and alarms (external and internal);
- regular and secure data backups and disaster recovery procedures;
- regularly updated security systems preventing unauthorised access to the information, including network firewalls and reputable anti-virus software which is regularly updated;

We may store your personal information in various forms which include paper records, electronic files, visual information (such as X-rays, CT scans), video and audio recordings.

We will take reasonable steps to destroy, permanently delete or de-identify any personal information that is no longer required for any purpose described in this privacy policy.

### **Overseas disclosure.**

We do not disclose any of your personal information as part of our operational process to any party outside Australian borders, unless the disclosure is requested by you or your legal representative or your referral party.

### **Privacy related questions and complaints**

If you have any questions about privacy-related issues or wish to complain about a breach of the Australian Privacy Principles, Health Privacy Principles or the handling of your personal information by us, you may lodge your complaint in writing to (see below for details). We will normally respond to your request within 30 days.

Privacy Officer  
MSBC  
Level 18, 44 Market Street  
SYDNEY NSW 2000

Telephone: 1300 136 031  
Facsimile: 1300 137 031  
E-mail: [privacy@msbc.com.au](mailto:privacy@msbc.com.au)

If you are dissatisfied with our response, you may refer the matter to the OAIC:

Telephone: 1300 363 992  
Facsimile: +61 2 9284 9666  
E-mail: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Website: <https://www.oaic.gov.au/individuals/how-do-i-make-a-privacy-complaint>

You may also refer the matter to NSW Privacy Commissioner:  
Website: <http://www.ipc.nsw.gov.au/how-do-i-make-complaint>

### **Updates to this Policy**

This Policy will be reviewed from time to time to take account of new laws and technology, changes to our operations and other necessary developments. Updates will be publicised on our website.