

**AUSTRALIAN COMMISSION
ON SAFETY AND QUALITY IN HEALTH CARE**

Privacy Policy

May 2014

Version 0.2

Document Information

Version History

Version	Issue Date	Author	Reviewers	Outcome of Review
v 0.1	May 2014	Jason Whatley	Mike Wallace, Chief Operating Officer	
V 0.1.1	May 2014	Jason Whatley	Neville Board, Director, Information Strategy	Alignment with national health data policies and arrangements
V 0.2	June 2014	Jason Whatley	Audit And Risk Committee	Approved by the Board (7 th August 2014)

Ownership

Enquiries regarding this document can be made to:

Name:	Mike Wallace
Position:	Chief Operating Officer
Email:	mike.wallace@safetyandquality.gov.au
Phone:	02 9126 3600

Document Location

An electronic copy of this document is stored in the Commission's electronic document management system at TRIM #D14-15168

Date for Next Review

This policy will be reviewed annually or as required.

Introduction

The Australian Commission on Safety and Quality in Health Care (The Commission) is committed to the protection of personal information in accordance with the *Privacy Act 1988* (*Privacy Act*). The Commission aims to ensure that personal information is managed in accordance with the Australian Privacy Principles (APPs) contained in the *Privacy Act 1988*.

The Commission is also committed to ensuring that the statistical healthcare datasets accessed pursuant to our functions under the *National Health Reform Act 2011* ('the Act') and the National Health Reform Agreement is managed in a manner which is generally consistent with the APPs, as well as State and Territory privacy laws and healthcare regulation.

The most up to date versions of both the *Privacy Act 1988* and *National Health Reform Act* (2011) are available on the Comlaw website (www.comlaw.gov.au).

The National Health Reform Agreement is available at <https://www.coag.gov.au/node/96>.

The Commission is also a signatory to the National Health Information Agreement. It is available at http://www.ahmac.gov.au/cms_documents/130920_NHIA_revised_SCoH_FINAL.pdf

Scope

The Commission's Privacy Policy (The Policy) applies to personal information collected by the Commission.

The Policy provides an overview of how personal information is handled and how the Commission will act in accordance with this Policy and the APPs.

The Policy incorporates information to help people understand what information we collect, how we collect and hold personal information, the purposes for which we hold, collect, use and disclose personal information and whether we are likely to disclose information to overseas recipients. The Policy also informs individuals how they may access and request corrections to their personal information and how they may complain about a breach of privacy.

The Commission will take all reasonable steps to ensure that it establishes and maintains internal practices, procedures and systems to ensure compliance with the APPs. This obligation is an ongoing one and the Commission will continue to review its procedures to ensure that personal information is managed in an open and transparent way.

What is 'personal information'?

Personal information is defined in the *Privacy Act* as 'information or an opinion about an identified individual, or an individual who is reasonably identifiable'.

What constitutes personal information will vary, depending on whether an individual can be identified or is reasonably identifiable in the particular circumstance. Whether an individual is 'reasonably identifiable' from particular information about that individual will depend on considerations including: the nature and extent of the information and whether it is possible for the recipient of the information to identify the individual using available resources (including other information available to that recipient). Where it may be possible to identify an individual using available resources, the cost, difficulty, practicality and likelihood of a person or entity doing so will be relevant to deciding whether an individual is 'reasonably identifiable'. Where it is technically possible to identify an individual from information, but doing so is not practically possible, that individual will not generally be regarded as 'reasonably identifiable'. For example, the individual may not be reasonably identifiable where steps required to do so are overly expensive or resource intensive.

The definition of personal information only relates to natural persons and in most circumstances it will not apply to deceased persons. It does not extend to other legal persons such as companies.

What kind of information do we collect?

Personal information

The Commission only collects personal information where the information is reasonably necessary for, or directly related to, one or more of the Commission's functions or activities.

The Commission collects a range of personal information to facilitate its business functions (such as employment functions) including names, addresses, phone numbers, email addresses, other contact details, employment history, educational qualifications, procurement records, consultancy records, committee membership lists (which includes members' names, contact details, resumes, tax file numbers, drivers licence numbers, vehicle insurance details, employment details), creditor and debtor information (which includes names, contact details, bank account details, credit card details), stakeholder lists (which includes names, addresses, employment details, and other contact details), recruitment records and personnel records. This information is subject to the Privacy Act and we have an obligation to ensure that we manage this information in accordance with the Act.

The Commission may collect sensitive personal information with express or implied consent when it is necessary for or directly related to the performance of our functions or activities. The *Privacy Act* also allows the collection of sensitive information in certain other exceptional circumstances, including where a permitted general situation exists (eg to lessen or prevent a serious threat to life, health or safety).

At times the Commission may also collect personal information from third parties or publically available records. However, The Commission will only do so if after obtaining expressly or impliedly consent, unless it is unreasonable or impracticable to collect that personal information from the person or where ACQSHC are required or authorised to do so by or under an Australian law or court or tribunal order.

Healthcare Datasets

The Commission uses health and hospital datasets to meet its requirements to specify indicators, formulate datasets, advise the Minister of Health and report on the state of safety and quality. The Commission has access to some healthcare datasets. These datasets are de-identified, and are sourced with secure access under clauses B86 and B97 of the National Health Reform Agreement, and their use is the subject of the National Health Information Agreement (NHIA). The National Health Information Agreement govern structures and processes through which Commonwealth, State and Territory health, national statistical authorities and national health reform bodies' work together to improve, maintain and share national health information.

Healthcare datasets are only ever disclosed in a de-identified fashion. Where small cell data (that is, data sets with a small number of entries) is present, the Commission takes a range of measures (such as zeroing or aggregation) to ensure that no identifying data is used or disclosed. These data are not able to be searched or combined in a way that would allow a person to determine the identity of an individual. As such, the healthcare data the Commission holds is de-identified and not subject to the Privacy Act.

However, consistent with the Commission's commitment to treating healthcare information with care, the Commission manages the data in a manner consistent with this Privacy Policy and the *Privacy Act*.

Further, the Commission is subject to secrecy and disclosure provisions contained *National Health Reform Act* section 54, which relates to and impose strict obligations on the use and disclosure of protected Commission information. Therefore our management of health care datasets must be in accordance with the relevant secrecy provisions contained in the Act. The Act recognises the importance of protecting patient confidentiality. The Commission is prohibited from publishing information that is likely to enable the identification of a particular patient - see section 279(2).

The Commission also is required to adhere to data and privacy obligations contained within both the *National Health Reform Act (2011)* and Agreement, and the National Health Information Agreement, ensuring that privacy of individuals' information and the responsible access to and handling of health information and data.

How we collect and hold personal information

As mentioned above, the Commission only collects personal information that directly relates to the Commission's business functions, such as procurement records, consultancy records, committee membership records, creditor and debtor information, stakeholder lists, as well as recruitment records and personnel records.

This information is collected directly from those individuals or their authorised representative. The Commission may also collect personal information if it is required or authorised by or under an Australian law to do so. Where the Commission receives personal information about a person that it did not solicit from the individual, it will determine whether it could have collected that information in accordance with the APPs if it had been solicited information. If it determines it could not have obtained the information in accordance with the APPs, the Commission will consider whether it is obliged to retain that information and if not will destroy the information or ensure that the information is de-identified where it is lawful and reasonable to do so.

The Commission does not collect sensitive information about an individual unless the individual has consented to the collection of the information and the information is reasonably necessary for, or directly related to, one or more of The Commission's functions or activities. Sensitive information is defined in the *Privacy Act* to mean 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, membership of a trade union, sexual orientation or practices, or criminal record that is also personal information, or health information or, genetic information about an individual, or certain biometric information.

Where the Commission collects personal information it will inform you of a number of matters including our purpose for holding the information, requirements for access to information, the ramifications of a failure by us to collect the information and if the information is required under Australian law.

Why we collect, use and disclose personal information

The Commission collects personal information to enable it to undertake a range of business related purposes. These are grouped according to the specific purpose below:

Committee Files

The Commission collects and uses committee files to maintain current committee member information for business related purposes. The personal information relates to contact details; salary details; bank accounts; benefits and leave; taxation details; and terms of engagement.

Personnel Files

The Commission collects and uses personnel files to maintain current employee information for business related purposes. The personal information in these files relates to the employee and may include: applications for employment; terms of employment; records relating to employee's salary, benefits and leave; medical certificates or health related information; contact details; taxation details, and superannuation contributions.

Contractor Files

The Commission collects and uses contractor files to maintain current contractor information for business related purposes. The personal information relates to financial details; contact details; and terms of engagement.

Stakeholder Files

The Commission collects and uses stakeholder files to maintain current stakeholder information for business related purposes. The personal information relates to contact and employment details.

The Commission only collects personal information for purposes which are directly related to our functions or activities under the *Act* and only when it is necessary for, or directly related to such purposes. We only use personal information for the purposes for which we collected it. We do not give personal information about an individual to other Government agencies unless required under law or to private sector organisations unless the individual has consented. The individual would reasonably

expect, or has been told, that information of that kind is usually passed to those individuals, bodies or agencies; or it is otherwise required or authorised by law.

Quality and security of personal information

The Commission will take reasonable steps to ensure that personal information is accurate, current, complete and relevant. The Commission will also ensure that personal information is reasonably protected from misuse, interference, loss and from unauthorized access, modification or disclosure. The Commission will destroy or de-identify personal information if it is no longer needed for any purposes and if we are not required by an Australian law to retain it.

Access to personal information

A person can access the personal information that the Commission hold about them, and can ask the Commission to correct that information held. If a person is listed in one of the Commission's email lists they may opt out at any time by using the 'unsubscribe' options noted in our emails. Alternatively a person may wish to deal with the Commission anonymously. The Commission will endeavor to address requests if it is practicable to do so.

Should you wish to contact the Commission about any privacy inquiry or complaint, or should you wish to access your personal information, please contact the Chief Operating Officer on (02) 9126 3518 or write to GPO Box 5480 Sydney, NSW, 2001.

Information security

The Commission stores personal information using both physical and electronic filing systems as well as secure computer servers. The Commission employs a range of physical and electronic security measures to protect personal information from misuse and loss and from unauthorised access, modification or disclosure. These measures include restricted physical access to our offices; security firewalls and computer user identifiers and passwords.

Australian Privacy Principles

The Australian Privacy Principles (APPs) were released by the Office of the Australian Information Commissioner and came into force on the 12 March 2014, replacing the previously existing Information Privacy Principles. The following information outlines the principles and the Commission's privacy obligations when managing personal information.

CONSIDERATION OF PRIVACY OF PERSONAL INFORMATION

APP1 – Open and transparent management of personal information

This requires the Commission to manage personal information in an open and transparent way. This includes having a clearly expressed and up-to-date Privacy Policy which is available to the public.

APP 2 – Anonymity and pseudonymity

This requires the Commission to provide individuals with the option of not identifying themselves, or of using a pseudonym. Some exceptions apply here. These include where the Commission is required or authorised by or under an Australian law to deal with individuals who have identified themselves; or it is impracticable for the Commission to deal with individuals who have not identified themselves.

COLLECTION OF INFORMATION

APP3 – Collection of solicited personal and sensitive information

The Commission must not collect personal information (other than sensitive information) unless the information is **reasonably necessary for, or directly related to**, one or more of the Commission's functions or activities. The Commission must not collect sensitive information about an individual unless the individual has consented to the collection of the information and the information is reasonably necessary for, or directly related to, one or more of the Commission functions or activities. Under the exceptions listed in APP3.4 The Commission can solicit sensitive information in some cases without complying with APP3.3 where the collection is required or authorised by or under an Australian law. The Commission must collect personal information about an individual only from the individual unless the individual consents to the collection of the information from someone other than the individual or the Commission is required or authorised by or under an Australian law to collect the information from someone other than the individual or it is unreasonable or impracticable to do so. Sensitive information is defined as an opinion about an individual's racial or ethnic origin, political opinions, religious beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences, criminal record, health information and genetic information about an individual.

APP4 – Dealing with unsolicited personal information

If the Commission receives personal information that it did not solicit the Commission must determine whether it could have obtained the information under APP3 if the Commission had solicited the information. If the Commission determines that it could not have collected the information and the information is not contained in a Commonwealth record, the Commission must destroy the information or ensure that the information is de-identified but only if it is lawful and reasonable to do so.

APP5 – Notification of the collection of personal information

The Commission must either at or before the collection of personal information notify individuals of a number of matters set out at APP5.2. These matters include the purpose for holding personal information; requirements for access to information and the ramifications of a failure by the Commission to collect the information, if the information is required under Australian law or a tribunal/court order.

DEALING WITH PERSONAL INFORMATION

APP6 – Use and disclosure of personal information

The Commission must only use the personal information collected for a purpose other than the primary purpose if the individual has consented to the use or disclosure or if the exceptions apply in APP6.2 or 6.3. These exceptions include whether the individual would reasonably expect the Commission to use the information for the secondary purpose and where disclosure is required under the Commission to use or disclose the information for a secondary purpose and that purpose is directly related to the primary purpose, that use or disclosure is permitted.

APP7 – Direct Marketing

APP7 relates to direct marketing activities and applies to private sector entities.

APP8 – Cross-border disclosure of personal information

Before the Commission discloses personal information about an individual to an overseas recipient it must take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the APPs, other than APP1, in relation to the information.

APP9 – Adoption, use and disclosure of government related identifier

APP9 prohibits an organisation from adopting a government related identifier. It applies to private sector organisations.

INTEGRITY OF PERSONAL INFORMATION

APP10 – Quality of personal information

This requires the Commission to take such steps (if any) as are reasonable in the circumstances to ensure person information that is collected, used or disclosed is accurate, current, complete and relevant.

APP11 – Security of personal information

This requires the Commission to take such steps as are reasonable in the circumstances to ensure that personal information is protected from misuse, interference, loss and from unauthorised access, modification or disclosure. The Commission must also take reasonable steps to destroy or de-identify personal information if it is no longer needed for any purposes for which it may be used or disclosed, it is not contained in a Commonwealth record and The Commission is not required by or under an Australian law to retain it.

ACCESS TO, AND CORRECTION OF, PERSONAL INFORMATION

APP12 – Access to personal information

The Commission is required to give an individual access to personal information upon request of that individual. The Commission can refuse to give access to the information under the Freedom of Information Act 1982 or any other Commonwealth Act, to the extent that the Commission is required or authorised to refuse access. The Commission must respond to the request for information and give access to the information if it is reasonable and practicable to do so. Where an individual's request for information is refused, the Commission must give reasons to the individual for that refusal and mechanisms available to complain about the refusal, unless it would be unreasonable to do so.

APP13 – Correction of personal information

The Commission must take reasonable steps to correct personal information that it holds where it is satisfied that the information is inaccurate, out-of-date, incomplete, irrelevant, misleading or where the individual requests the Commission to correct the information. Where personal information is corrected, the Commission must take reasonable steps to notify third parties of the amendment.

Privacy compliance

The Commission has established internal controls to ensure that it meets its obligations to manage personal information appropriately and to comply with the APPs. The Commission reviews how and when it collects personal information to ensure that the collection is permitted in accordance with the APPs. The Commission also reviews its use and disclosure of personal information to ensure that it manages personal information in accordance with the APPs.

From time to time, the Commission will review and revise this Privacy Policy. We reserve the right to amend this policy at any time and any amendments will be notified by posting an updated version on the Commission's website (<http://www.safetyandquality.gov.au>).

If a person has concerns or wishes to make a complaint about the Commission's privacy practices, they should submit a written complaint by using the contact details set out in this policy. The Commission will endeavour to respond to communication within 30 days.

If you are not satisfied with our response, you may make a written complaint to the Privacy Commissioner setting out the details of the practices which you think interfere with your privacy. The Privacy Commissioner will generally expect you to complain to the Commission first, and will likely refer your complaint to us if you have not done so already.

For more information about the Privacy Commissioner, privacy see the Office of the Australian Information Commissioner's website (www.oaic.gov.au) or telephone 1300 363 992 (local call charge).