

Privacy

collection, use and disclosure, data quality, data security, openness, anonymity, transborder data flows, sensitive information

Arnold Bloch Leibler respects your privacy and is committed to complying with the National Privacy Principles contained in the *Privacy Act 1988* (Cth). The purpose of this document is to set out Arnold Bloch Leibler's policies in relation to the collection, holding, use and disclosure by Arnold Bloch Leibler of personal information relating to an individual.

For these purposes, *personal information* is information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

The types of personal information that we collect include personal information regarding our clients and their customers, suppliers, consultants, personnel and other persons with whom they have, or propose to have, or may have had dealings as well as personal information regarding our employees and applicants for employment.

Where the circumstances require, we may also need to collect sensitive information. For these purposes, *sensitive information* is 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 preferences or practices, or criminal record that is also personal information.

The sensitive information we may collect may include health information about an individual. *Health information* is personal information that comprises 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. Health information also includes information regarding organ donation or an intended organ donation.

Whenever an individual provides personal, health and/or sensitive information to us, we will treat that information in accordance with this policy.

Policy

1 Collection

- 1.1 Arnold Bloch Leibler will not collect personal information unless the information is necessary for one or more of the primary purposes of:
- providing professional services and advice to our clients;
 - our internal management needs; and
 - our marketing activities.

- 1.2 Arnold Bloch Leibler will collect personal information only by lawful and fair means and not in an unreasonably intrusive way.
- 1.3 Arnold Bloch Leibler may collect personal information about an individual when the individual uses our website, attends our offices, engages our services or provides instructions to us, communicates with us, makes enquiries of us, performs work at our direction, applies for employment with us or otherwise deals with us.
- 1.4 At or before the time Arnold Bloch Leibler collects personal information about an individual from the individual, Arnold Bloch Leibler will take reasonable steps to ensure that the individual is aware of:
 - the identity of Arnold Bloch Leibler and how to contact Arnold Bloch Leibler;
 - the fact that he or she is able to gain access to the information;
 - the purposes for which the information is collected;
 - organisations (or the types of organisations) to which Arnold Bloch Leibler usually discloses information of that kind;
 - any law that requires the particular information to be collected; and
 - the main consequences (if any) for the individual if all or part of the information is not provided.
- 1.5 If it is reasonable and practicable to do so, Arnold Bloch Leibler will collect personal information about an individual only from that individual. We may also need to acquire information about an individual from other sources, such as the financier, accountant or other advisers of that individual, from other parties to a matter (or their advisers) or from publicly available records.

If Arnold Bloch Leibler collects personal information about an individual from someone else, it will take reasonable steps to ensure that the individual is or has been made aware of the matters listed in sub-clause 1.4 except to the extent that making the individual aware of the matters would pose a serious threat to the life or health of any individual.

We ask that our clients obtain the consent of an individual or otherwise comply with any relevant privacy legislation before providing us with any personal information about any other individual.

2 Use and disclosure

Arnold Bloch Leibler may use and disclose the personal information we collect for the primary purpose for which it was collected as set out in clause 1.1 of this policy.

- 2.1 Arnold Bloch Leibler will not use or disclose personal information about an individual for a purpose (the secondary purpose) other than the primary purpose of collection unless:
- (a) both of the following apply:
 - (i) the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection; and
 - (ii) the individual would reasonably expect Arnold Bloch Leibler to use or disclose the information for the secondary purpose;
 - (b) the individual has consented to the use or disclosure;
 - (c) if the information is not sensitive information and the use of the information is for the secondary purpose of direct marketing:
 - (i) it is impracticable for Arnold Bloch Leibler to seek the individual's consent before that particular use;
 - (ii) Arnold Bloch Leibler will not charge the individual for giving effect to a request by the individual to Arnold Bloch Leibler not to receive direct marketing communications;
 - (iii) the individual has not made a request to Arnold Bloch Leibler not to receive direct marketing communications;
 - (iv) in each direct marketing communication with the individual, Arnold Bloch Leibler draws to the individual's attention, or prominently displays a notice, that he or she may express a wish not to receive any further direct marketing communications; and
 - (v) each written direct marketing communication by Arnold Bloch Leibler with the individual (up to and including the communication that involves the use) sets out Arnold Bloch Leibler's business address and telephone number and, if the communication with the individual is made by fax or other electronic means, a number or address at which Arnold Bloch Leibler can be directly contacted electronically;
 - (d) if the information is health information and the use or disclosure is necessary for research, or the compilation or analysis of statistics, relevant to public health or public safety:
 - (i) it is impracticable for Arnold Bloch Leibler to seek the individual's consent before the use or disclosure;
 - (ii) the use or disclosure is conducted in accordance with guidelines approved by the Commissioner under section 95A of the *Privacy Act* for the purposes of this subparagraph; and
 - (iii) in the case of disclosure, Arnold Bloch Leibler reasonably believes that the recipient of the health information will not disclose the health information, or personal information derived from the health information;

- (e) Arnold Bloch Leibler reasonably believes that the use or disclosure is necessary to lessen or prevent:
 - (i) a serious and imminent threat to an individual's life, health or safety; and
 - (ii) a serious threat to public health or public safety;
- (f) Arnold Bloch Leibler has reason to suspect that unlawful activity has been, is being or may be engaged in, and uses or discloses the personal information as a necessary part of our investigation of the matter or in reporting our concerns to relevant persons or authorities;
- (g) the use or disclosure is required or authorised by or under law; or
- (h) Arnold Bloch Leibler reasonably believes that the use or disclosure is reasonably necessary for one or more of the following by or on behalf of an enforcement body:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of the orders of a court or tribunal.

(With respect to a disclosure made pursuant to Clause 2.2(h), Arnold Bloch Leibler would ordinarily give prior notice to the individual before making such disclosure, except where Arnold Bloch Leibler is required or compelled by law not to do so).

2.2 If Arnold Bloch Leibler uses or discloses personal information under paragraph 2.2(h), we will make a written note of the use or disclosure.

2.3 By engaging us, our clients consent to the disclosure by us of personal information where this is required in the course of representing them. For example, we may need to disclose information to barristers, courts, tribunals, mediators, governmental agencies, and other relevant persons, including persons with whom our clients have, or are proposing to have, dealings or to the legal or other representatives or financiers of those persons. We may also be required to disclose personal information to our auditors. We may also share personal information with other service providers, including those providing archival, administrative, delivery, technology and security services to us.

3 Data quality

3.1 Arnold Bloch Leibler will take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.

4 Data security

- 4.1 Arnold Bloch Leibler will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.
- 4.2 Subject to any legal requirements on Arnold Bloch Leibler from time to time regarding record keeping, Arnold Bloch Leibler will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which the information may be used or disclosed under Section 2 above.

5 Openness

- 5.1 Arnold Bloch Leibler has set out in this document our policies on the management of personal information. Arnold Bloch Leibler will make this document available on our website and to anyone who asks for it.
- 5.2 On request by a person, Arnold Bloch Leibler will take reasonable steps to let the person know, generally, what sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.
- 5.3 Arnold Bloch Leibler reserves the right to modify this policy in whole or in part from time to time without notice. Amendments will be effective immediately upon posting of the amended policy on our website.

6 Access and correction

- 6.1 If Arnold Bloch Leibler holds personal information about an individual, it will provide the individual with access to the information on request by the individual, except to the extent that:
- (a) providing access would pose a serious and imminent threat to the life or health of any individual;
 - (b) providing access would have an unreasonable impact upon the privacy of other individuals;
 - (c) the request for access is frivolous or vexatious;
 - (d) the information relates to existing or anticipated legal proceedings between Arnold Bloch Leibler or one of its clients and the individual, and the information would not be accessible by the process of discovery in those proceedings or is otherwise protected by legal professional privilege or the duty of confidence owed by Arnold Bloch Leibler to each of its clients;
 - (e) providing access would reveal the intentions of Arnold Bloch Leibler in relation to negotiations with the individual (whether such negotiations are conducted by Arnold Bloch Leibler on its own behalf or on behalf of a client) in such a way as to prejudice those negotiations;
 - (f) providing access would be unlawful;
 - (g) denying access is required or authorised by or under law. (It should be noted that as Arnold Bloch Leibler is a law firm, we owe a duty of confidentiality to our clients. The information that we hold may also be protected by legal professional privilege. This exception would also apply in circumstances where our retainer is terminated by a client and we exercise a lien over all documents and securities held on behalf of that client, until all money due for accounts rendered to that client and for any other purpose, have been paid.);

- (h) providing access would be likely to prejudice an investigation of possible unlawful activity;
 - (i) providing access would be likely to prejudice:
 - (i) the prevention, detection, investigation, prosecution or punishment of criminal offences, breaches of a law imposing a penalty or sanction or breaches of a prescribed law;
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
 - (iii) the protection of the public revenue;
 - (iv) the prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct; or
 - (v) the preparation for, or conduct of, proceedings before any court or tribunal, or implementation of its orders;
- by or on behalf of an enforcement body; or
- (j) an enforcement body performing a lawful security function asks Arnold Bloch Leibler not to provide access to the information on the basis that providing access would be likely to cause damage to the security of Australia.

- 6.2 However, where providing access would reveal evaluative information generated within Arnold Bloch Leibler in connection with a commercially sensitive decision-making process, we may give the individual an explanation for the commercially sensitive decision rather than direct access to the information.
- 6.3 If Arnold Bloch Leibler is not required to provide the individual with access to the information because of one or more of paragraphs 6.1(a) to 6.1(j) (inclusive), Arnold Bloch Leibler will, consider whether the use of mutually agreed intermediaries would allow sufficient access to meet the needs of both parties.
- 6.4 Arnold Bloch Leibler intends to charge for providing access to personal information. These charges will be fixed by reference to:
- (a) the hourly charge-out rates at which we normally charge out the relevant personnel who are required to identify the personal information sought and to prepare that information for access; and
 - (b) the disbursements that we incur in preparing that information for access. (For example, we charge for providing photocopies at a rate of \$0.30 per page).
- We consider that these charges are not excessive. No charges will apply to the lodgement with us of a request for access to personal information.
- 6.5 If Arnold Bloch Leibler holds personal information about an individual and the individual is able to establish that the information is not accurate, complete and up-to-date, Arnold Bloch Leibler will take reasonable steps to correct the information so that it is accurate, complete and up-to-date.
- 6.6 If we disagree with an individual about whether any personal information that we hold is accurate, complete and up-to-date, and the individual asks us to associate with the information a statement claiming that the information is not accurate, complete or up-to-date, we will take reasonable steps to do so.
- 6.7 Arnold Bloch Leibler will provide reasons for denial of access or a refusal to correct personal information.

7 Identifiers

7.1 Arnold Bloch Leibler will not adopt as its own identifier of an individual, an identifier of the individual that has been assigned by:

- (a) an agency;
- (b) an agent of an agency acting in its capacity as agent;
- (c) a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract.

7.2 Arnold Bloch Leibler will not use or disclose an identifier assigned to an individual by an agency, or by an agent or contracted service provider mentioned in sub-clause 7.1, unless:

- (a) the use or disclosure is necessary for Arnold Bloch Leibler to fulfil its obligations to the agency;
- (b) one or more of paragraphs 2.2(e) to 2.2(h) (inclusive) apply to the use or disclosure;
- (c) the use or disclosure is by a prescribed organisation of a prescribed identifier in prescribed circumstances.

7.3 In this clause: *identifier* includes a number assigned by Arnold Bloch Leibler to an individual to identify uniquely the individual for the purposes of Arnold Bloch Leibler's operations. However, an individual's name or ABN (as defined in the *A New Tax System (Australian Business Number) Act 1999*) is not an identifier.

8 Anonymity

8.1 Wherever it is lawful and practicable, individuals will have the option of not identifying themselves when making contact with Arnold Bloch Leibler. However, Arnold Bloch Leibler will not act for an individual, nor deal with an individual in the course of acting for a client, unless the individual concerned has been identified to Arnold Bloch Leibler's reasonable satisfaction.

9 Transborder data flows

9.1 Arnold Bloch Leibler may transfer personal information about an individual to someone (other than Arnold Bloch Leibler or the individual) who is in a foreign country. We will only do so if:

- (a) Arnold Bloch Leibler reasonably believes that the recipient of the information is subject to a law, binding scheme or contract which effectively upholds principles for fair handling of the information that are substantially similar to the *National Privacy Principles*;
- (b) the individual consents to the transfer. (By engaging us, our clients consent to the transfer of information to someone who is in a foreign country, in circumstances where we consider that it is necessary for us to do so in order to properly represent that client);
- (c) the transfer is necessary for the performance of a contract between the individual and Arnold Bloch Leibler, or for the implementation of pre-contractual measures taken in response to the individual's request;
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between Arnold Bloch Leibler and a third party;

(e) all of the following apply:

- (i) the transfer is for the benefit of the individual;
- (ii) it is impracticable to obtain the consent of the individual to that transfer; and
- (iii) if it were practicable to obtain such consent, the individual would be likely to give it; or

(f) Arnold Bloch Leibler has taken reasonable steps to ensure that the information, which it has transferred, will not be held, used or disclosed by the recipient of the information inconsistently with the *National Privacy Principles*.

10 Sensitive information

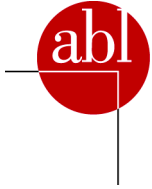
10.1 Arnold Bloch Leibler will not collect sensitive information about an individual unless:

- (a) the individual has consented. (By engaging us, our clients consent to the collection by us of sensitive information concerning their matter);
- (b) the collection is required by law;
- (c) the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:
 - (i) is physically or legally incapable of giving consent to the collection; or
 - (ii) physically cannot communicate consent to the collection; or
- (d) the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.

10.2 Despite sub-clause 10.1, Arnold Bloch Leibler may collect health information about an individual if:

- (a) the collection is necessary for any of the following purposes:
 - (i) research relevant to public health or public safety;
 - (ii) the compilation or analysis of statistics relevant to public health or public safety; and
 - (iii) the management, funding or monitoring of a health service;
- (b) that purpose cannot be served by the collection of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained;
- (c) it is impracticable for Arnold Bloch Leibler to seek the individual's consent to the collection; and
- (d) the information is collected:
 - (i) as required by law (other than this Act);
 - (ii) in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind Arnold Bloch Leibler; or
 - (iii) in accordance with guidelines approved by the Commissioner under section 95A of the *Privacy Act* for the purposes of this subparagraph.

10.3 If Arnold Bloch Leibler collects health information about an individual in accordance with sub-clause 10.2, Arnold Bloch Leibler will take reasonable steps to permanently de-identify the information before Arnold Bloch Leibler discloses it.



11 Arnold Bloch Leibler's website

- 11.1 Arnold Bloch Leibler's website may record information collected if an individual visits the site. The information recorded may include the date and time of the individual's visit to the site, the pages accessed, any information downloaded, and any information and details entered by the individual for the purpose of contacting us for any reason, including to apply for employment with us. Arnold Bloch Leibler may use information collected via its website for statistical, reporting and website administration and maintenance purposes.
- 11.2 Arnold Bloch Leibler's website may use 'cookies' to help personalise an individual's online experience. The individual has the ability to accept or decline cookies. If the individual chooses to decline cookies, they may not be able to fully experience the features of the site.
- 11.3 When transmitting personal information from a computer to Arnold Bloch Leibler's website, an individual must keep in mind that the transmission of information over the Internet is not completely secure or error-free. In particular, e-mails sent to or from the site may not be secure, and an individual should take special care in deciding what information to send to Arnold Bloch Leibler via e-mail. Other than liability that cannot lawfully be excluded, Arnold Bloch Leibler will not be liable in any way in relation to any breach of security or any unintended loss or disclosure of that information.
- 11.4 Arnold Bloch Leibler's website may provide links to other websites directly or indirectly to users of the website. Linked sites are not under Arnold Bloch Leibler's control and we do not accept any responsibility or liability that may stem from any linked website.

Further information

If you require further information regarding this policy, please contact us as follows:

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