

LYB.POL.22 - Privacy Policy

1 PURPOSE

In order to carry out its duties and functions, Loy Yang B (“**LYB**”) may need to collect and handle personal and health information (“**Information**”). LYB is committed to ensuring that it protects the privacy of any Information that it handles. As such, all Information collected, held or shared by LYB will be done so in accordance with this Privacy Policy.

2 POLICY

This Policy is based on, and is compliant with, the privacy principles contained in the *Privacy Act 1988* (Cth) (“**the NPPs**”) and in the *Health Records Act 2001* (Vic) (“**the HPPs**”), (“**the Acts**”).

The Policy sets out the procedures that LYB has implemented to comply with the NPPs and the HPPs and to protect the Information that it holds. The Policy applies to any personal, sensitive or health information that LYB collects, uses, discloses or handles about its employees, contractors, sub-contractors, customers vendors and service providers. The Policy also applies to Information collected from members of the general public when they approach LYB for purposes of community related events or projects.

LYB and each of its employees, contractors, sub-contractors, and vendors/service providers, who have access to Information collected by LYB, are expected to comply with this Policy. When handling a complaint from a customer or member of the public, employees, contractors and sub-contractors are also expected to comply with the Handling of Public Complaints Procedure (**Appendix C**).

3 DEFINITIONS

A reference in this Policy to “Information” means all “personal information”, “sensitive information” and “health information” that falls within the meaning of the Acts.

Personal information includes:

“Information or an opinion (including information or an opinion forming part of a database), whether true or not and whether in a material form or recorded about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion, but does not include health information.”

Sensitive information includes:

“Health information or personal information/an opinion about an individual’s:

- (i) racial or ethnic origin; or*
- (ii) political opinion; or*
- (iii) membership of a political association; or*

- (iv) *religious beliefs or affiliations; or*
- (v) *philosophical beliefs; or*
- (vi) *membership of a professional trade association; or*
- (vii) *membership of a trade union; or*
- (ix) *sexual preferences or practices; or*
- (x) *criminal records”.*

Health information includes:

“(a) *information or an opinion about:*

- (i) *the physical, mental or psychological health (at any time) of an individual); or*
- (ii) *disability (at any time) of an individual; or*
- (iii) *the individual’s express wishes about the future provision of health services to him or her; or*
- (iv) *a health service provided, or to be provided, to an individual*

that is also personal information; or

- (b) *other personal information collected to provide, or in providing, a health service; or*
- (c) *other personal information about an individual collected in connection with the donation/intended donation by the individual of his or her body parts, organs or body substances; or*
- (d) *other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or any of his or her descendants –*

but does not include health information or a class of health information that is proscribed as exempt health information for the purposes of the Health Records Act 2001 (Vic)”.

Health information collected by LYB may include pre-employment medical reports, medical certificates, sick leave records or WorkCover claims.

LYB only collects, uses or discloses sensitive information (including health information) about you as allowed by law, for example, where LYB has received your consent to do so, or the collection is necessary for the establishment, exercise or defence of a legal claim.

4 COLLECTION

4.1 Why Do We Collect Your Information?

In respect of employment, LYB collects such Information that is necessary to deal with employment related matters that affect you. This includes any information that is necessary to enable LYB to determine an individual’s eligibility and suitability for employment and to ensure you receive all of the benefits attaching to employment with LYB. To enable us to do this we may share your Information more broadly within the national business.

The types of Information that LYB collects and holds may include:

- name, address and contact details such as telephone numbers and email address;
- date of birth and age;
- qualifications; and
- Financial information including information with respect to bank account details.

If we do not collect your Information we may not be able to meet our legal obligations, make a valid assessment of your eligibility and suitability for employment or ensure that, on employment, you receive all of the benefits attached to employment with LYB.

In respect of customers or members of the public, LYB will only collect information that is necessary for it to process accounts, reply to queries or complaints, to provide services to its customers, to meet its legal obligations and to provide other community services within the Latrobe Valley and the wider Gippsland community.

4.2 How Do We Collect Your Information?

LYB is constrained by the Acts to collect Information only where it is necessary for one or more of its functions or activities. When LYB collects information about you, it will take reasonable steps to inform you of:

- (a) the purposes for which the Information is collected;
- (b) to whom (if anyone) LYB may disclose the Information that has been collected;
- (c) any law that requires the particular Information to be collected; and
- (d) the main consequences (if any) if all or part of the Information is not provided.

If it is reasonable and practicable to do so, LYB will only collect Information about you directly from you.

If LYB collects personal information about you from someone else it will take reasonable steps to ensure that you have been made aware of the matters listed in (a) to (d) above, except to the extent that making you aware of those matters would pose a serious threat to the life or health of any individual.

Some personal information, such as Information about an individual's health, ethnicity or religious beliefs, may be defined by the Acts as "*sensitive information*" or "*health information*". LYB will only collect sensitive and/or health information with the consent of the individual concerned, or as otherwise allowed by the Acts.

5 USE AND DISCLOSURE

LYB may use or disclose Information:

- (a) for the purpose for which it was collected (the primary purpose); or
- (b) for a secondary purpose that:
 - (i) is directly related to the primary purpose (as defined by the Acts); and
 - (ii) for which you would reasonably expect LYB to use and disclose the

Information; or

- (c) if you have consented to the use or disclosure; or
- (d) as is otherwise allowed by the Acts.

When LYB collects Information, the purposes for which the Information is collected will usually be made clear on any forms that are to be completed, or be apparent from the circumstances. When required, we will seek your consent to use your Information in a particular way. If you require further information about the way in which your Information is used or disclosed, please contact LYB's Privacy Officer.

Note that LYB does not disclose your Information to an outside party unless we are required to do so by law or unless that party is contracted to LYB to provide administrative or professional services on our behalf and that party is bound by the same privacy rules as LYB follows.

Some examples of parties outside of LYB to whom we may disclose your Information and the reason for the disclosure are:

- LYB's medical advisor for the purpose of reviewing your pre-employment medical test;
- LYB's medical advisor for the purpose of reviewing your ongoing health during your employment with LYB;
- Government Agencies for the purpose of complying with relevant legislation;
- Prior employers (with your consent) for the purpose of obtaining references;
- LYB's legal advisers, insurers including **Equisuper** and WorkCover agents; and
- Bodies to whom you, as an employee, have requested LYB to remit payments as a salary deduction (with your consent).

6 SECURITY OF INFORMATION

LYB takes all reasonable precautions to ensure the security of your Information from loss, misuse, unauthorised access, modification or disclosure.

This is achieved through a number of means including:

- external and internal site security;
- restricted access to personal information;
- maintaining technology products to prevent unauthorised computer access; and
- Regular review and testing of our technology in order to improve the level of security.

When we no longer require your Information it is our practice to securely destroy the Information and/or delete it from our systems.

Before we retain any of your Information for future use we will ask you to specifically consent to us retaining it. This principle also applies to prospective employees who are not offered employment or do not accept an offer of employment.

7 KEEPING INFORMATION UP TO DATE AND ACCESSING IT

It is very important that the Information we collect from you is accurate, complete and up to date.

During the course of our relationship with you we will ask you to tell us of any changes to your Information. However, you can contact us at any time to update your Information or to tell us that the Information we hold about you is inaccurate or incomplete.

You may also request access to any of the Information that we hold about you.

All requests for access to Information will be handled as quickly as possible and we will endeavour to process any request for access within 30 days after receiving it. Some requests for access may take longer than 30 days to process depending upon the nature of the Information sought and the availability of LYB personnel.

LYB is not, however, always required to provide you with access to your Information on request.

We may refuse you access to your Information in a number of circumstances such as where the information may relate to existing or anticipated legal proceedings with you, where denying access is required or authorised by law, or where the request for access is regarded as frivolous or vexatious.

If we deny your request for access to, or refuse your request to correct Information, we will explain why.

8 ANONYMITY

8.1 What is a Commonwealth Identifier?

A Commonwealth identifier is a Commonwealth Government or Commonwealth Government Agency designated identification number such as your Tax File Number or Medicare number.

LYB does not use Commonwealth identifiers as a means of identifying the Information that we may have collected about you.

8.2 Do I have to be Identified at All?

Wherever it is lawful and practicable to do so, we will offer you the opportunity to deal with us anonymously. However, in most circumstances, for example, to reply to a specific employment related query, it will not be practical for you to deal with us anonymously.

8.3 Does my Information Leave Australia?

LYB does not send Information outside of Australia unless:

- (a) it is authorised to do so by law; or
- (b) it has obtained your consent; or
- (c) the Information is transferred for your benefit.

9 CONCERNS AND COMPLAINTS

9.1 Responsibilities, Enquiries and Requests for Access

The General Manager at Loy Yang B has appointed the Human Resources Manager as LYB's Privacy Officer.

For every operation or function of LYB where Information is collected, the Privacy Officer is responsible for ensuring compliance with this Privacy Policy.

It is LYB Management's responsibility to inform employees and other relevant parties that the Privacy Policy is established, maintained and enforced. The Privacy Officer will ensure that he/she periodically advises LYB's employees and other relevant parties of any changes or any new Privacy Policy in a timely manner.

It is the responsibility of all employees and other relevant parties to ensure that they understand and adhere to the Privacy Policy implemented by LYB and that they maintain up-to-date knowledge of changes or any new Privacy Policy and/or Procedure.

If you have any questions about this Privacy Policy or wish to lodge a request to access your Information you can contact LYB's Privacy Officer in the following ways:

By telephoning: (03) 5177 2042
By facsimile: (03) 5177 2015
By writing to: Human Resources Manager
LYB Operation & Maintenance Loy Yang Pty Ltd
Barton's Lane
Traralgon Vic 3844

Or at

Locked Bag 2500
Traralgon Vic 3844

9.2 Complaints About a Breach of My Privacy

If you believe that LYB has not protected your Information as set out in this Privacy Policy you may lodge a complaint with us in the following ways:

By telephoning: (03) 5177 2042
By facsimile: (03) 5177 2015

By writing to: Human Resources Manager
LYB Operation & Maintenance Loy Yang Pty Ltd
Barton's Lane
Traralgon Vic 3844

Or at

Locked Bag 2500
Traralgon Vic 3844

9.3 What if I am not satisfied with the response?

If you are not satisfied with the results of your complaint to LYB, you can refer your complaint to the Office of the Australian Information Commissioner.

The Office of the Australian Information Commissioner can be contacted in the following ways:

By telephoning: 1300 363 992

By writing to: Director of Complaints
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 1042

9.4 Privacy Awareness LYB

All employees will be provided with access to LYB's Privacy Policy and Procedure. All employees will be supplied with applicable Privacy updates to ensure that they understand the Privacy related issues that could adversely affect LYB's position if not properly adhered to.

All applicants for employment with LYB, contractors, sub-contractors, vendors, and other third parties who have access to and/or utilise personal/sensitive information collected and/or held by LYB will be provided with this Privacy Policy.

A copy of this Privacy Policy is available on request by any person and can be found on the LYB website.

9.5 Non-compliance & Disciplinary Actions

Any LYB employee or relevant third party that identifies, knows about or suspects a breach of this Privacy Policy must immediately report the matter to the Privacy Officer.

Employees or other relevant parties that contravene or do not comply with this Privacy Policy may be subject to disciplinary action.

9.6 Contractual Arrangements

LYB will ensure that all contractual arrangements with third parties adequately address privacy issues.

9.7 Privacy Audits and Changes to this Policy

LYB will conduct periodic privacy audits in order to ascertain:

- what sort of personal/sensitive information is collected and held;
- how that information is collected;
- what the reasons are for collection of that information;
- where and how that information is stored;
- how that information is secured;
- who has access to that information;
- whether that information is shared with anyone;
- whether the intended use of collection is communicated; and

- whether that information is current and necessary

9.8 Our Privacy Policy may Change from Time to Time

LYB regularly reviews all of its policies and procedures.

As a result we may change this Privacy Policy from time to time.

This Privacy Policy was last amended on **27 February 2018**.



Tony Hicks
General Manager, Loy Yang B

Approved: 6/03/2018
Review Date: 6/03/2019

Appendix A

National Privacy Principles -

NPP 1 – Collection

Collection of personal information must be fair, lawful and not intrusive. A person must be told the organisation's name, the purpose of collection, that the person can get access to their personal information and what happens if the person does not give the information.

NPP 2 – Use & Disclosure

An organisation should only use or disclose information for the purpose it was collected unless the person has consented, or the secondary purpose is related to the primary purpose and a person would reasonably expect such use or disclosure, or the use is for direct marketing in specified circumstances, or in circumstances related to public interest such as law enforcement and public or individual health and safety.

NPP 3 – Data Quality

An organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to date.

NPP 4 – Data Security

An organisation must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access modification or disclosure.

NPP 5 – Openness

An organisation must have a policy document outlining its information handling practices and make this available to anyone who asks.

NPP 6 – Access & Correction

Generally speaking, an organisation must give an individual access to personal information it holds about that individual on request.

NPP 7 – Identifiers

Generally speaking an organisation must not adopt, use or disclose, an identifier that has been assigned by a Commonwealth government 'agency'.

NPP 8 – Anonymity

Organisations must give people the option to interact anonymously whenever it is lawful and practicable to do.

NPP 9 – Transborder Data Flows

An organisation can only transfer personal information to a recipient in a foreign country in circumstances where the information will have appropriate protection.

NPP 10 – Sensitive Information

An organisation must not collect sensitive information unless the individual has consented, it is required by law – or in other special specified circumstances, for example, relating to health services provision and individual or public health or safety).

(Reference: <https://www.oaic.gov.au/privacy-law/privacy-archive/privacy-resources-archive/national-privacy-principles>)

Appendix B

Health Privacy Principles -

HPP 1 – Collection

An organisation may only collect health information that is necessary for its functions or activities. An organisation should only collect health information about an individual from that individual and should take steps to ensure that the individual knows who is collecting that information, the purpose of collection, and the main consequences if the information is not provided. The organisation must also inform the individual that they may have access to the information.

HPP 2 – Use and Disclosure

Generally, organisations must only use or disclose health information for the primary purpose for which it was collected. Use or disclosure of the health information for a secondary purpose may only be done:

- in specified circumstances set out in the Principle; or
- where the consent of the individual is obtained; or
- Where it is directly related to the primary purpose of collection and the use or disclosure is within the reasonable expectation of the individual.

Secondary uses of an individual's health information are also permitted in cases where there is a strong public interest in allowing it.

HPP 3 – Data Quality

Health information held by an organisation must be accurate, complete and up to date and relevant to its functions and activities.

HPP 4 – Data Security and Data Retention

Organisations must protect health information they hold from misuse, loss, unauthorised access, modification or disclosure.

HPP 5 – Openness

Organisations must document clearly their policies on management of health information and make those policies available to the public. An organisation must take reasonable steps to let a person know in general terms, on request, the sort of health information that it holds about the individual, the purpose for which it is held and how it collects, holds, uses and discloses that information.

HPP 6 – Access and Correction

Generally speaking, individuals have a right to access their health information and make corrections to it where necessary.

HPP 7 – Identifiers

Organisations must have a clear and definite need for an identifier before one may be assigned and

limits are imposed on the assignment, use and adoption of unique identifiers.

HPP 8 – Anonymity

An organisation must give people the option to interact anonymously whenever it is lawful and practicable to do so.

HPP 9 – Transborder Data Flows

Generally, an organisation may only transfer personal information to another organisation outside Victoria if the first organisation reasonably believes the recipient is subject to a law, or other binding obligation, which imposes restrictions on the handling of that information which is substantially similar to the Health Privacy Principles.

Appendix C

See procedure LYP0710 for Handling of Public Complaints Procedure

Click the [\[Para-Link\]](#) to view the above procedure