



# Customer Circular

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## The *Privacy Act 1988* and compensation claims

### Purposes

The purposes of this Customer Circular are to remind agencies:-

- to have regard to the provisions of the *Privacy Act 1988* when dealing with employees' compensation claims and rehabilitation; and
- that Comcare, under certain circumstances, provides compensation information to third parties.

### Need to protect third party information

The Information Privacy Principles (IPPs) contained in the *Privacy Act 1988* protect individuals' personal information.

Under IPP 1 and IPP 3, an agency such as Comcare can only collect information that is *necessary* for its functions and *relevant* to the purpose for which it is collected.

### IPP 1

IPP 1 states that an agency such as Comcare can only collect relevant personal information; that is, information which is necessary for, or directly related to, the agency's functions.

The information that agencies provide to Comcare assists in the determination of employees' claims under the *Safety, Rehabilitation and Compensation Act 1988*, and is used, to a lesser extent, for occupational health and safety purposes under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*.

### IPP 3

Under IPP 3, Comcare must take all reasonable steps to ensure that the information collected is up to date, complete and *relevant* to the purpose for which it is collected.

Comcare may return to an agency any information that we do not consider to be relevant to the claim at that time.

Agencies should, therefore, be cautious when providing third party information to Comcare in documents such as grievance reports.

### Case Study

Mr Macarena puts in a claim for whiplash, as a result of a car accident, while travelling to work. His employer does not support the claim and provides a grievance report which discusses, in detail, Mr Macarena's difficulties with a co-worker, Mr Nutbush.

**Q:** *Should Comcare place the grievance report on Mr Macarena's file?*

**A:** No, the information contained in the grievance report:-

- is not directly related to the function or activity of Comcare (IPP 1); and
- is not relevant to the compensation claim for whiplash. (IPP 3).

In the circumstances, Comcare would return the grievance report to the employer. It would be useful, however, if the employer had a system that would enable this kind of information to be retrieved, and given to Comcare, *if* it becomes relevant later on.

Also, agencies should make sure that they do not provide updates on several employees in the one document. For example, in reports on the status of return-to-work plans, agencies should send Comcare a separate submission for each employee.

## Provision of information by employers/ agencies

Agencies, as Commonwealth and ACT Government employers, must also abide by the Information Privacy Principles contained in the *Privacy Act 1988*. If agencies provide irrelevant or third party information to Comcare, then they, in turn, could be in breach of IPP 11.

### **IPP 11**

IPP 11 deals with the release of information outside an agency. An agency may not release information to Comcare EXCEPT:

- where the employee has been made aware, or would usually be aware, that a release to that third party may occur;
- with the employee's consent;
- to prevent a serious and imminent threat to a person's life or health;
- where the release is required or authorised by law;
- where it is necessary for the enforcement of criminal or revenue law (in which case a note of the release must be made on file).

## Provision, by Comcare, of compensation information to other parties

The information collected from agencies and employees, by Comcare, can, under certain circumstances, be provided to third parties. This is highlighted on the front of Comcare's *Claim for Rehabilitation and Compensation*.

Employees and employers should be aware that, in accordance with IPP 2, information obtained in connection with a compensation claim *or a rehabilitation program*, may be given to the following:-

- Safety Rehabilitation and Compensation Commission
- An approved rehabilitation provider
- Treating and/or other medical practitioners
- Comcare's legal representatives
- Courts, Tribunals and/or other Commonwealth Agencies where there is an obligation under law to provide it
- Comcare Investigators
- Law enforcement authorities
- Comcare and the relevant minister
- Superannuation boards
- Department of Social Security

Employees, by signing the Claim Form, agree to the release of information to these agencies.

For more information please contact the National Business Manager, State Account Manager, or Claims Manager in your local Comcare Office. Contact details are listed below:

<b>NSW</b>	(02) 9550 8777	<b>ACT</b>	(02) 6276 0333
<b>VIC</b>	(03) 9652 3555	<b>Stress Claims Management Centre</b>	(02) 6276 0365
<b>QLD</b>	(07) 3233 1311	<b>National Claims Help Line</b>	1800 150 555
<b>WA</b>	(08) 9480 1444	<b>OH&amp;S Hotline</b>	1800 642 770
<b>SA/NT</b>	(08) 8224 1600		
<b>TAS</b>	(03) 6223 1366		

### **Comcare Internet Site**

If you would like more information on workers' compensation, rehabilitation or occupational health and safety, in the Commonwealth, please visit our Internet site at:

<http://www.comcare.gov.au>