

Privacy Policy

This Policy instrument was approved by the Senior Leadership Team on 6th November 2018.

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Scope

Marist180 as an agency recognises the importance of protecting the Privacy and the rights of individuals in relation to their Personal and Sensitive Information. This Privacy Policy applies to all Staff and Clients, and is compliant in accordance with the *National Disability Insurance Scheme Act 2018 (Cth)*, *Privacy Act 1988 (Cth)*, *Children and Young Persons (Care and Protection) Act 1998 (NSW)* and *Catholic Professional Standards*.

Purpose

This Policy indicates how Marist180 uses, collects, stores, discloses and handles Personal and Sensitive Information. Marist180 is committed to openness and transparency and ensuring that the reasons we require Personal and Sensitive Information about Staff and Clients are clear and in accordance with the current legal requirements.

Definitions

Client - A person participating in a program and receiving services provided by Marist180. The term includes NDIS Participants, Children, Young People and Adults.

People Manager - Anyone who manages people. The person in authority at a point in time, e.g. Area Manager, House Manager.

Personal Information - Any information that can be used to personally identify you. This may include but is not limited to your name, address, telephone number, email address and profession/occupation, health information or photographs of you. If the information we collect personally identifies you, or you are reasonably identifiable from it, the information will be considered Personal Information.

Privacy and Confidentiality - The terms Privacy and Confidentiality are interchangeably used. Within this Policy, Confidentiality refers to ethical, legal and contractual duties not to misuse or disclose Confidential Information and Privacy refers to an obligation or right indicated in legislation that governs how Personal and Sensitive Information can be gathered, used and disclosed.

Sensitive Information - This is a subset of Personal Information that requires a higher level of Privacy protection because inappropriate handling of such information could adversely affect an individual. Examples include racial or ethnic origin, religious beliefs, sexual orientation, gender identity, gender expression, and intersexual status, details of case management, health or criminal record.

Staff - Includes employees [whether permanent, temporary or casual], carers, volunteers, contractors, consultants, agents, students undertaking work or professional experience..

Policy

Marist180 is committed to promoting a culture that respects the Privacy rights of all Staff and Clients, ensuring that they have a right to Privacy and Confidentiality.

Marist180 is committed to accountability and transparency in order to comply with the **Privacy Act 1988 (Cth)** and **The Australian Privacy Principles (APP)**. Marist180 ensures the Privacy of Staff and Clients is upheld by:

- Provision of clear and transparent guidance and effective processes regarding the collection, handling and protection of Personal and Sensitive Information concerning individuals and Marist180 Confidential business and operating information.
- Recording and obtaining only necessary information with regard to service provision for Clients, to assist Clients or to promote welfare of the Clients
- Obtaining only necessary information with regard to employment files for Staff
- Storing all records and files related to Clients securely and systematically
- Advising Clients of Marist180's legal responsibilities regarding Personal Information and clearly defining the limits to Confidentiality where this applies
- Adhering to the **National Disability Insurance Scheme Act 2013 (Cth)**
- Adhering to **Section 16A of the Children's Care and Protection Act**, relating to the exchange and obtainment of information concerning children
- Providing a process of access to information and files that recognises the rights of individuals to view information that is recorded about them and to correct any information that may be out of date or no longer relevant

- Not releasing Personal, Sensitive or Confidential business or operating information without proper authorisation or consent and will never be sold or used for Personal gain
- Only seeking to obtain information about Clients in an appropriate and Confidential manner

A breach of this Policy by any Marist180 personnel may result in disciplinary action, up to and including termination of employment or other appropriate sanctions.

Collection of Information

Marist180 may collect any information about Staff and Clients, or any specified body (with consent) including any recorded visual or audio material, such as, but not limited to:

- Personally identifying information (Name, Address, Date of birth etc)
- Sensitive Information (Gender, race, health record, criminal record etc)
- Biometric information (Behavioural characteristics etc)
- Demographic information (Employment, income, ethnicity, education etc)
- Information relating to the applicants assessment criteria
- Information relating to the National Criminal Check and Working with Children check

Consent must always be obtained by Marist180 in order to collect your Personal Information. *[Use Authority to Obtain and Release Information Form, Media Consent Form]* Consent does not have to be in writing, but best practice is to keep a record of a person's consent in their specified files related to Clients. Voice recording may also be used when consent is sought over the phone. It is important that Staff convey to Clients the reason for collecting their Personal Information and to ensure full capability of understanding why they are giving information.

Changes introduced in 2011 to the ***Children and Young Persons (Care and Protection) Act 1998*** elevated child protection issues over privacy in NSW in certain circumstances. Under Section 16A information may be exchanged between individuals working with children and young people when:

- The exchange of information is related to the safety, welfare or wellbeing of a child or young person.
- The information is relevant to the purpose for which it is being shared
- The information is shared only with those who "need to know" in order to promote the wellbeing of the child or young person.
- Information about the child's or young person's parent/carer is shared only where this is relevant to the safety, welfare or wellbeing of the child or young person

Marist180 will ensure that unless ***Chapter 16A of the Children and Young Person's Care and Protection Act*** applies, the correct form of consent will be obtained. Clients are only able to give their consent if they are over the age of 16, if the child is under the age of 16 and no parental guardian is available, the consent of that child will be considered as legally acceptable. *[See Child Protection Policy]*

To conduct National Criminal Checks, Marist180 will follow the steps detailed on pages 70-72 of the National Police Check Service Handbook in order to meet Clause 11.3(b) of the Agreement, collecting the information for the application in either hardcopy or softcopy, subject to the accessibility needs of the applicant.

Marist180 will use the model *Application and informed consent form* to record application details, scanning and storing the applications electronically before securely destroying any hardcopy documents.

Marist180 will nominate a member of the People and Business administration team to provide the *Application and informed consent form* to applicants for completion.

Hardcopy applications will be scanned and emailed to a nominated NSS User for that Directorate. Emails sent for this purpose will comply with the information classification format detailed in Marist180's Information Security Policy.

Once emailed to the NSS User, the original sent email will be deleted by the supplying Clients member (no later than 24 hours from receipt of this notification)

Electronic versions of the application form may also be provided by applicants to the nominated Marist180 email address for Criminal Record Checks, which will be accessible only by NSS Users.

Once received by the NSS User and processed (including secure electronic storage of any attached documents), the original email will be deleted by the NSS User.

NSS Users will store retrieved Police Checks electronically for up to 12 months before securely destroying them. Marist180 will keep a documents file with a list of required tasks to be completed relating to the National Criminal Check database.

The nominated NPCS Contact will manage all administrative tasks relating to Criminal Check Processes and will have Report Query, Report Request and Organisation Query Permissions with report data being stored electronically within an access-restricted folder within the People and Business directory of Marist180 server with access limited to the NPCS Contact and Authorised Officer. **[Refer to Information Security Policy]**

Storage, Retention and Security of Information

This Policy aims to ensure Confidential Information that is recorded and stored in files across the agency is held with the rights and Privacy of those individuals in mind.

Marist180 takes reasonable steps to ensure all Personal Information is protected from misuse, loss and unauthorised access, modification and disclosure. We may hold information in either electronic or hard copy form which are stored securely for your protection. **[See Information Security Policy]**

Marist180 will hold your Personal files for a minimum of seven (7) years in order to comply with the current laws and legislations. Files relating to Aboriginal and Torres Strait Islander Clients will be kept indefinitely as per legislative requirements.

Marist180 may also obtain Personal and Sensitive Information about you after you have completed the program of which you were involved in, in order to assess your situation after your time with Marist180. Some Personal Information is destroyed or de-identified after service provision ceases.

Marist180 will electronically store all information relating to Police Checks (application forms, informed consent statements, identity documents, and Police Check results) in a structured electronic directory on the Marist180 server, with records stored by calendar month and an electronic summary (spreadsheet) of all Police Check documents stored.

This summary document will be used to identify which records are to be destroyed at what point in time and will be regularly reviewed by NSS Users and the Authorised Officer

to ensure currency. An annual review will be undertaken to ensure that Marist180 complies with the terms outlined in the National Criminal Check Handbook.

No hardcopies will be retained of any information relating to applications, supporting documents, or Police check results, and all hardcopy documents will be securely destroyed during the submission process.

Use of Information

Marist180 and its related agencies comply with **Privacy Act 1988 (Cth)** when collecting and managing Personal and Sensitive Information. The information we collect from you or from an authorised third party will be held by the entity that collects it. It will be used to deliver services and to meet our legal responsibilities. We may also use your information within the agency as a whole, to plan, coordinate and improve the way we provide services.

Marist180 collects your Personal Information in order to perform our business activities and functions and to provide the best possible quality of work in your specific circumstance. Marist180 may use your Personal Information to:

- Provide any service to you
- Send communication requested by you
- Update our records and keep your contact and Personal details up to date
- Comply with any law, rule, regulation, lawful and binding determination, decision or direction of a regulator or in co-operation with any government authority

Information relating to Clients may be used during external audits, primarily to facilitate welfare and safety of such and to ensure Protection of Clients.

Disclosure of Information

Marist180 may disclose your Personal or Sensitive Information in accordance with *The Freedom of Information Act 1982 (Cth)*, *National Disability Insurance Scheme Act 2018 (Cth)*, *Privacy Act 1988 (Cth)* and *Children and Young Persons (Care and Protection) Act 1998 (NSW)* and *Catholic Professional Standards* to:

- Staff, related bodies corporate, contractors or service providers for the purpose of operation and to provide you with the best possible outcome for your situation
- Suppliers or third parties which we have commercial relationships or contractual agreements with for business and purposes relating to your specified case
- Any organisation for any authorised purpose with your consent

We may combine or share any information that we collect from you with information collected by any of our related bodies corporate in order to achieve the best results for you.

Clients are able to OPT out of information disclosure to third parties or external audits by selecting the OPT out option on the Consent Form or via email notice to communications@m180.org.au

Marist180 is legally able to obtain and disclosure information without consent if it directly relates to the safety, welfare and wellbeing of Clients. Such information is considered as, but not limited to:

- Where there is a reasonable suspicion of or potential for the abuse of children, elderly persons, or vulnerable adults

- Where you present a serious danger to yourself or others
- When we are subpoenaed by a Court due to Civil or Criminal litigation, or required by County, State or Federal laws

Marist180 will disclose your Personal and Sensitive Information or Criminal Check Outcome to third party bodies which are administrators of funding for Marist180 programs and services. The below relationships are governed via contractual deeds/agreements to perform quarterly consultation meetings and monthly reporting for all prospective Staff and Clients. Marist180 may disclose your Personal and Sensitive Information to the below third parties which can be contacted on the details provided below:

Department of Communities and Justice

Phone: 1800 000 164

Privacy@facjs.nsw.gov.au

Department of Youth Justice

Phone: 02 8346 1299

lester.currie@justice.nsw.gov.au

Department of the Prime Minister and Cabinet

PO Box 6500

Canberra ACT 2600

vtec@pmc.gov.au

NDIS Quality and Safeguards Commission

Phone 1800 035 544

contactcentre@ndiscommission.gov.au

Marist180 will not disclose your Personal or Sensitive Information to any offshore record keeping bodies.

Access and Correction of Information

You may request access to any Personal or Sensitive Information we hold about you at any time by contacting us (see contact details below). Where we hold information that you are entitled to access, we will try to provide you with suitable means of accessing it (via email, mail). Marist180 may grant access to your Personal Information to a Third Party only if your consent has been obtained or as required by law. **[Refer to File Access and Release Procedure]**

There may be instances where we cannot grant you access to the Personal Information we hold. This may occur if granting access to this information would:

- Interfere with the Privacy of others;
- Result in a breach of Confidentiality;
- Pose a serious risk to a person's safety; and/or
- Likely be prejudice during the preparation for or conduct of proceedings before a Court or Tribunal.

If the above does occur, we will provide you with a reason as to the refusal.

Marist180 is required to provide applicants access to their police check results upon request. If a dispute does occur regarding the results of the police check, the responsible officer will take you through the [requirements of appealing the police check results](#). Marist180 will obtain the required information and documents from you to support your claim of a dispute. Your dispute will be lodged into the National Database to begin investigation after which Marist180 will be informed of the successful or unsuccessful dispute outcome. Marist180 will advise you of your Criminal Check Dispute Outcome.

A *Dispute resolution process for Police Checks* information sheet will be provided to each applicant, along with the *Application and informed consent form*, detailing the process for addressing disputes, which will align with the requirement to accept and escalate any dispute raised by an applicant

If you believe that the information we hold about you is incorrect, incomplete or not up to date, you may request to amend it by contacting us via phone, email or post (details below).

Document Security

Staff are required to ensure that all documents relating to the Agency and Clients are secure at all times. This includes ensuring that no printed material is left unattended at printer locations or elsewhere. If unattended material is located, Staff must dispose of these using the designated security bins.

Contact Details

Contact Us

If you have any questions about this Privacy Policy, any concerns or a complaint regarding the treatment of your Privacy or a possible breach of your Privacy, please use the contact details below to contact our Privacy Officer or [follow this link](#) to submit your concern online.

We will treat your request or complaint confidentially. Our representative will contact you within two (2) business days after receipt of your complaint to discuss your concerns and outline options regarding how these may be resolved.

Organisation Name: Marist180

Attention to: Privacy Officer

Mailing Address: PO Box 451, Blacktown NSW 2148

Phone Number: 02 9672 9200

Email: privacy@m180.org.au

If for some reason, you are not satisfied with your outcome, you are able to direct your query to the NSW Ombudsman via the details below:

Phone: 02 9286 1000 or 1800 451 524

Email: nswombo@ombo.nsw.gov.au

Legislation

[Australian Crime Commission \(National Policing Information Charges\) Act 2016 \(Cth\)](#)

[Australian Privacy Principles](#)

[Freedom of Information Act 1982 \(Cth\)](#)

[Children and Young Persons \(Care and Protection\) Act 1998 NSW](#)

[Government Information \(Public Access\) Act 2009 NSW \(GIPA\)](#)

[Health Records and Information Privacy Act 2002 NSW \(HRIP\)](#)

[The National Police Checking Service \(NPCS\) Standards](#)

[NSW Child Safe Standards for Permanent Care](#)

[National Disability Insurance Scheme Act 2013](#)

[National Disability Insurance Scheme \(Protection and Disclosure of Information - Commissioner\) Rules 2018](#)

[Ombudsman Act 1974 NSW](#)

[Privacy Act 1998 \(Cth\)](#)

[Privacy and Personal Information Protection Act 1998 NSW](#)

[Public Interest Disclosures Act 1994 NSW](#)

[State Records Act 1998 NSW](#)

Related policies, procedures and forms

Authority to Obtain and Release Personal Information Form

Code of Conduct

Duty of Care

Feedback and Complaints Management Policy

Feedback and Complaints Management Procedure

Information Security Policy

Media and Public Statements Policy

Media Consent Form

Responding to a Breach of Privacy Procedure

Review

To be reviewed as per the Policy Review Schedule, or as legislation requires.

Document history

2009	Policy developed v8
Nov 2009	new logo added v9
June 2011	updated v10
March 2014	updated v11
April 2016	update v12
July 2018	update v13
August 2018	National Criminal Check update – Anastasiya Holubko v14
6 th November 2018	Added Document Security – Anastasiya Holubko v15
3 rd April 2019	NDIS and CPSL Legislation – Anastasiya Holubko v16
8 th September 2020	Anastasiya Holubko – update v17