



Privacy Risks and Obligations for Life Insurers presented by Moray & Agnew

WORKBOOK

Wednesday, 30 November 2022

Our Presenters

If you have any questions following the session, feedback or require assistance in relation to a particular issue, please get in touch.



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Course Overview

Our presentation covered:



Agenda

01. Overview Application, Definitions, Scope, Regulator, Penalties, Breaches	02. APPs What are they?
03. Cases Examples of recent cases	04. Issues and Proposals Current issues and developments
05. Specific Issues Common issues for noting	06. Summary A summary of the issues
07. Questions We invite your questions	08. Contact details How you can <u>keep in contact</u>

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Case Studies

Below is the list of case studies referred to in the presentation for your reference.

Issue 5: Relevant AFCA recommendations



- **Case number: 247324 (12/6/13)** - The Insurer's request to provide full and complete copies of the Applicant's ITRs and NoAs was proper and reasonable and permitted under the terms and conditions of the relevant policy. It was also decided that the Insurer was entitled to make a request for copies of the Applicant's full hospital records and raw clinical notes.
- **Case number: 247380 (24/4/13)** – Insurer entitled to request medical and financial information pre-dating Applicant's disability.
- **Case number: 263507 (8/4/13)** – Authority signed by the Applicant entitled Insurer to disclose his personal information to a list of parties, including to make enquiries of the Applicant's worker's compensation insurer.
- **Case number: 293617 (15/7/14)** – Insurer telephone conversation with Applicant's brother breached privacy principle regarding use and disclosure.

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Issue 5: Relevant AFCA recommendations (continued)



- **Case number: 323390 (4/6/14)** – Insurer entitled to provide medical information to the Applicant's treating practitioners so they may help the Applicant understand some of the medical terminology used in reports. Insurer also entitled to rely upon authority provided by the Applicant to provide a medical report provided by the Applicant to third parties.
- **Case number 641693 (21/5/20)** - There is no obligation on insurers to encrypt or password protect emails.
- **Case number 691033 (14/8/20)** – Insurer breached its privacy policy when one of its advisors sent emails to a customer from his personal email address.
- **Case number 700890 (24/9/20)** – Insurer did not breach the privacy act by requesting authority to obtain further medical records to update its records and review the disclosure on another policy the complainant held with it.
- **Case numbers 740813 and 750819 (22/7/21)** – AFCA cannot award compensation for a breach of privacy rights and so concluded that the Office of the Australian Information Commissioner is the more appropriate to deal with the complaint.

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Issue 5: Relevant AFCA recommendations (continued)

- **Case number 794030 (12/11/21)** – No liability of insurer for release of customer's personal information by financial advisor linked to the bank group to series of financial advisors which purchased the business from the original licensee.
- **Case number 807507 (6/12/21)** - No breach of privacy to record a conversation where a party is informed the call is to be recorded and either expressly consents to the recording or impliedly does so by continuing with the conversation.
- **Case number 764824 (15/3/22)** - Confidential information about other people not connected to the claim may be redacted to maintain privacy. However, redacting must be carried out judiciously so that the insurer can still get the information it needs.
- **Case numbers 771640 & 800217 (21/4/22)** – insurers need necessary and relevant information for the purposes of assessing the claim, including sensitive information.

Top 10 Key Takeaways

The top 10 key points to take away from this webinar are:


Summary




01. New and expanding area of law	02. Personal info includes names, addresses, emails, photos
03. Breach includes <u>unauthorised</u> access or disclosure, loss	04. You should report any breaches
05. Not use personal info for secondary reasons unless have consent	06. If personal info served purpose – destroy it
07. Increase trend: consent, transparency, pro-privacy defaults	08. Penalties increasing: <u>\$50m</u> per breach

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Summary





09.

Soon entities could be sued directly by clients & others regarding personal information handling practices, including any breaches that may have occurred. This includes potential class actions

10.

There is also potential for employees and contractors to be held liable for any breaches they were involved in. Be sure to undertake regular privacy and cyber security training

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Action Items

How can you apply what you have learned in today's webinar in your organisation or role? Take 15 minutes to half an hour to complete the table below.

Action Items	
1	
2	
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Free Consultation Offer

A free 15 minute, initial phone consultation is available to webinar attendees. This offer is valid until 23 December 2022.

Free Consultation

*available until 23 December 2022



Attendees today are offered a free 15 minute, initial phone consultation with our Privacy experts.

In our experience, often a short phone call can provide directional guidance and prevent issues becoming problematic.

Phone Special Counsel, Bill Fragos on 0459 809 829 to schedule your call.

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