

MSA LTD POLICY

Privacy

1. PREAMBLE

Marist Schools Australia Ltd (“MSA Ltd”) is a not-for-profit company limited by guarantee. It will be a charity registered with the Australian Charities and Not-for-Profits Commission (ACNC), with the purpose of advancing education and advancing religion.

MSA Ltd aims to strengthen the governance of the Education Ministry of the Trustees of the Marist Brothers. MSA Ltd governs, manages and conducts registered non-government schools in Australia and it is particularly focused on ensuring that the Colleges follow all principles of good governance to maintain compliance with Australian legislation including the Education Legislation and provide a safe environment for our students.

2. POLICY STATEMENT

MSA Ltd is committed to protecting the privacy of all persons and entities with which it engages. All appropriate measures are enacted to ensure that personal information collected or shared by MSA Ltd is:

- accurate, complete, up to date and relevant to the function that it performs;
- handled sensitively, securely, and in accordance with Federal and State privacy laws;
- protected from unauthorised access, loss, misuse, disclosure or alteration.

MSA Ltd manages and protects personal information in accordance with the Privacy Act 1988 (Cth); the Australian Privacy Principles 2012 (APPs); and the Privacy Amendment (Notifiable Data Breaches) Act 2017 (Cth). In addition, MSA Ltd is bound by the following State-based legislation:

- Health Records and Information Privacy Act 2002 (NSW)
- Health Records Act (Vic)
- Health Records (Privacy and Access) Act (ACT)
- Privacy and Data Protection Act 2014 (Vic).

MSA Ltd only uses personal information for one or more of its primary purposes, or for a related secondary purpose, or for an activity or purpose to which an individual has consented. Some exceptions apply, such as when MSA Ltd is required or authorised by law to disclose the information for another purpose (for example, to prevent a threat to the life, health or safety of any individual; to fulfil child safeguarding obligations).

MSA’s Privacy Officer manages enquiries around access to and correction of personal information and will investigate incidents and complaints around privacy in a timely and effective manner.

3. PURPOSE

This policy outlines the purposes for which MSA Ltd collects, uses and shares personal information provided to it.

4. SCOPE

This policy applies to MSA Ltd staff and other people and entities with which MSA Ltd engages.

5. DEFINITION

“Colleges” means the Registered Non-Government Schools (including in some cases school boarding premises and the Registered School Boarding Premises) located in and operating in Australia which are listed in **Schedule 1** and such other colleges as the Company may establish or acquire and govern, manage and conduct (from time to time) being educational institutions offering primary and secondary schooling.

“Complaint” means an expression of dissatisfaction made to or about MSA, or one of its governed schools, where a response or resolution is explicitly or implicitly expected or legally required.

“Complainant” means the individual raising the complaint.

“Education Legislation” means the laws of Australia applicable to MSA Ltd including the Colleges, as registered non-government schools and in some cases as registered school boarding premises under MSA Ltd’s proprietorship, from time to time including the Australian Education Act 2013 (Cth), the Australian Education Regulation 2013 and the Education Acts (by whatever name) and Regulations made under those Acts, applicable in the states and territories in which the Colleges operate, as amended from time to time. The Education Legislation governs registration, regulation and funding of the Colleges. The Education Legislation includes legislative instruments made under Acts and Regulations such as Ministerial Order 870 which applies to the Colleges located in and operating in Victoria and other instruments, ministerial orders, guidelines and registration requirements applicable in the states and territories in which the Colleges operate, as amended from time to time.

“Primary Purpose and Secondary Purpose” means the purpose for which an organisation collects personal information is known as the ‘primary purpose’ of collection. If an organisation uses or discloses the personal information for another purpose, this is known as a ‘secondary purpose’.

6. APPLICATION

6.1 Categories of Personal Information Collected

Depending on the circumstances, MSA Ltd may collect personal information from an individual in their capacity as a student, contractor, volunteer, stakeholder, job applicant, alumni, visitor, parent, member of a MSA Ltd operations unit or committee, member of an Advisory Council, or others that come into contact with Colleges or other ministries. In such contexts, MSA Ltd may collect and hold:

- **Personal Information**, including names, addresses and other contact details; dates of birth; next of kin details; photographic images; and financial information;
- **Sensitive Information** (particularly in relation to student and parent records), including government identifiers (such as TFN), religious beliefs, nationality, country of birth, professional memberships, family court orders and criminal records;
- **Health Information**, (particularly in relation to student and parent records), including medical records, disabilities, immunisation details and psychological reports.

6.2 Job Applicants and Employee Records

As part of MSA Ltd's recruitment and employment processes for employees, contractors and volunteers, the information collected and held may include:

- **Personal Information**, including names, addresses and other contact details, dates of birth, financial information, citizenship, employment references, regulatory accreditation, media, directorships, property ownership and driver's licence information;
- **Sensitive Information**, including government identifiers (such as TFN), nationality, country of birth, professional memberships, family court orders and criminal records;
- **Health Information** (particularly in relation to prospective staff), including medical records, disabilities, immunisation details and psychological reports.

Generally, MSA Ltd will seek consent from an individual in writing before collecting sensitive information (including health information).

Employee records are not covered by the APPs or state-based legislation relating to health records. As a result, this Privacy Policy does not apply to MSA Ltd's treatment of employee records where the treatment is directly related to a current or former employment relationship between MSA Ltd and an employee.

6.3 Collection of personal Information

The collection of personal information depends on the circumstances and purposes for which MSA Ltd is collecting information. If it is reasonable and practical to do so, MSA Ltd collects personal information directly from the individual.

6.3.1 Solicited Information.

MSA Ltd has, where possible, standardised the collection of personal information by using specifically designed forms. However, given the nature of some operations, MSA Ltd also receives personal information by email, letters, notes, via the website, over the telephone, in face-to-face meetings, through financial transactions and through surveillance activities such as the use of CCTV security cameras or email monitoring.

MSA Ltd may also collect personal information from second or third parties (e.g. referees for prospective employees; medical practitioners) or independent sources. This will only occur where it is not reasonable and practical to directly collect the personal information from the individual.

6.3.2 Unsolicited information.

MSA Ltd may be provided with personal information without having sought it through standard means of collection. Referred to as 'unsolicited information', it is often collected by:

- misdirected postal and electronic mail
- employment application materials that are not in response to an advertised vacancy
- employment application materials that provide additional information to that which was requested.

Unsolicited information obtained by MSA Ltd will only be held, used and or disclosed if it is considered as personal information that could have been collected by standard means. If the unsolicited information could not have been collected by standard means, MSA Ltd will destroy, permanently delete or de-identify the personal information as appropriate.

6.3.3 Website information.

MSA Ltd collects information based on how individuals use the MSA Ltd website. This information is collected to analyse web traffic and to improve the site where required. MSA Ltd does not use this information to personally identify individuals.

6.4 Collection and Use of Sensitive Information

MSA Ltd only collects sensitive information if it is:

- reasonably necessary for one or more of MSA Ltd's functions or activities;
- with the individual's consent;
- necessary for a permitted general or health situation;
- necessary to lessen or prevent a serious threat to life, health or safety.

Sensitive information will be used and disclosed only for the purpose for which it was provided or a directly related secondary purpose, unless an individual agrees otherwise, or the use or disclosure of the sensitive information is permitted by law.

6.5 Use of Personal information

MSA Ltd only uses personal information for one or more of its primary purposes or for a related secondary purpose, or for an activity or purpose for which an individual consents.

MSA Ltd's primary uses of personal information include, but are not limited to:

- providing education, pastoral care, extra-curricular and formation services through Colleges and ministries
- satisfying legal obligations, including our duty of care and child protection obligations;
- keeping Colleges and ministries informed as to Marist Brother or Marist Association matters through correspondence, newsletters and magazines;
- marketing, promotional and fundraising activities;
- supporting the activities of the Regional and School Advisory Councils;
- supporting community-based causes and activities, charities and other causes in connection with a school's functions or activities;
- helping to improve day-to-day operations, including staff training
- systems development; developing new programs and services; undertaking planning, research and statistical analysis;
- College and ministry administration, including for insurance purposes;
- the employment of staff;
- the engagement of volunteers.

6.6 Disclosure of Personal Information

Personal information may be disclosed to government agencies, other parents, other schools, recipients of MSA Ltd publications, teachers, counsellors and coaches, services providers, contractors, business partners, related entities and other recipients if the individual:

- has given consent; or
- would reasonably expect the personal information to be disclosed in that manner.

MSA Ltd may disclose personal information without consent if:

- disclosure is reasonably necessary for a law enforcement activity;
- the disclosure will lessen or prevent a serious threat to the life, health or safety of an individual or to public safety;
- another permitted general or health situation applies.

6.7 Disclosure of Personal Information to Overseas Recipients

Personal information about an individual may be shared with or disclosed to an overseas organisation in the course of providing services, for example, to facilitate a pilgrimage or student exchange program, or for storage purposes by an offshore cloud provider.

MSA Ltd will take all reasonable steps not to disclose an individual's personal information to overseas recipients unless:

- the individual's consent is secured (or may be implied);
- MSA Ltd is satisfied that the overseas recipient is compliant with the APPs, or a similar privacy regime;
- there is a reasonable belief that the disclosure will lessen or prevent a serious threat to the life, health or safety of an individual or to public safety;
- the circumstances relate to suspected unlawful activity or serious misconduct.

6.8 Personal Information of Students

6.8.1 The Privacy Act does not differentiate between adults and children and does not specify an age after which individuals can make their own decisions with respect to their personal information. MSA Ltd will take a common sense approach to dealing with a student's personal information and generally will refer any requests for personal information to a student's parents/carers.

6.8.2 MSA Ltd will treat notices provided to parents/carers as notices provided to students and treat consents provided by parents/carers as consents provided by a student.

6.8.3 MSA Ltd is cognisant of the fact that children do have rights under the Privacy Act, and that in certain circumstances (especially when dealing with older students and especially when dealing with sensitive information), it will be appropriate to seek and obtain consent directly from students. There may also be occasions where a student gives or withholds consent with respect to the use of their personal information independently from their parents/carers.

6.7.4 There may also be occasions where parents/carers are denied access to information with respect to their children, because to provide such information would have an unreasonable impact on the privacy of others, or result in a breach of MSA Ltd's duty of care to a student.

6.9 Storage and Security of Personal Information

MSA Ltd stores personal information in a variety of formats, including but not limited to:

- databases
- hard copy files
- personal devices, including laptop computers
- third party storage providers, such as cloud storage facilities
- paper-based files.

MSA Ltd takes all reasonable steps to protect the personal information it holds from misuse, loss, unauthorised access, modification or disclosure. These steps include, but are not limited to:

- restricting staff access and user privileges, depending on their role and responsibilities,
- ensuring staff do not share personal passwords;
- ensuring hard copy files are stored in lockable filing cabinets in lockable rooms. Staff access is subject to user privilege;
- ensuring access to MSA Ltd's premises are secured at all times;
- ensuring IT and cyber security systems, policies and procedures are implemented and up to date;

- ensuring staff comply with internal policies and procedures when handling the information;
- undertaking due diligence with respect to third party service providers who may have access to personal information, including customer identification providers and cloud service providers;
- destroying, deleting or de-identifying personal information that is no longer needed or required to be retained by any other laws.

MSA Ltd's website may contain links to other third-party websites. MSA Ltd is not responsible for the information stored, accessed, used or disclosed on such websites and cannot comment on their privacy policies.

6.10 Responding to Data Breaches

MSA Ltd will take appropriate, prompt action if there is reasonable grounds to believe that a data breach may have, or is suspected to have occurred. Depending on the type of data breach, this may include a review of internal security procedures, taking remedial internal action, and/or notifying affected individuals and the Office of the Australian Information Commissioner (OAIC).

If unable to notify individuals, MSA Ltd will publish a statement on the MSA Ltd website and take reasonable steps to publicise the contents of this statement on other media.

6.11 The Quality of Personal Information

MSA Ltd takes all reasonable steps to ensure the personal information held, used and disclosed is accurate, complete and up-to-date, including at the time of using or disclosing the information.

If MSA Ltd becomes aware that the personal information it holds is incorrect or out of date, reasonable steps will be taken to rectify this.

6.12 Access to and Correction of Personal Information

Persons to whom this policy applies may submit a request to MSA Ltd to access their personal information or request that changes be made. MSA Ltd will take steps to verify an individual's identity before granting access to or correcting the information.

If a request is refused, MSA Ltd will provide the reason/s for this decision. If the refusal relates to a request to change personal information, the individual may make a statement about the requested change and it will be attached to their record.

7. COMPLAINTS

Complaints about how MSA Ltd manages personal information, including a breach of the APPs, ought to be made in writing to MSA's Privacy Officer (refer 8, below).

MSA Ltd will respond to the complaint within a reasonable time (usually no longer than 30 days) and may seek further information in order to provide a full and complete response.

MSA Ltd does not charge a fee for the handling of complaints.

If a complainant is not satisfied with MSA Ltd's response, the complaint can be referred to the Office of the Australian Information Commissioner (OAIC), using the OAIC online [Privacy Complaint form](#) or by mail, fax or email. A referral to OAIC should be a last resort once all other avenues of resolution have been exhausted.

8. CONTACTING MSA Ltd

MSA Ltd's Privacy Officer can be contacted about this Privacy Policy, or about personal information generally, by:

- Emailing: elizabeth.gallagher@marists.org.au
- Calling (02) 9218 4000
- Postal correspondence to: Marist Centre PO Box 1247, Mascot NSW 1460

9. MONITORING BREACHES AND REPORTING PROCESSES

MSA Ltd will review the efficacy of its privacy policy and the management of any breaches. Recommendations for improvement will be reported to MSA Ltd by the National Director of MSA Ltd.

10. RELATED POLICIES AND DOCUMENTS

Complaints Management

11. POLICY HISTORY AND REVIEW SCHEDULE

Approved by	Board of MSA Ltd
Policy Owner	National Director
Date(s) Reviewed or Updated	16 November 2021
Next Review Date	16 November 2022

Schedule 1

Colleges

- (a) Sacred Heart College, Adelaide SA, ABN 52 010 674 805:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (b) Newman College, Churchlands WA, ABN 34 822 196385
- (c) Assumption Catholic College, Kilmore VIC, ABN 85 917 803 177:
 - (i) Registered Non-Government School
 - (ii) associated Registered School Boarding Premises, registered under the Education and Training Reform Act 2006 (Vic) and the Education and Training Reform Regulations 2017 as amended from time to time
- (d) Lavalla Catholic College, Traralgon VIC, ABN 74 453 482 885
- (e) Red Bend Catholic College, Forbes NSW, ABN 70 721 984 562:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (f) Marcellin Catholic College, Bulleen VIC, ABN 77 413 001 496
- (g) Marist College Bendigo, Bendigo VIC, ABN 48 218 856 996
- (h) Marist College Canberra, Pearce ACT, ABN 62 466 078 521
- (i) St Joseph's College, Hunters Hill NSW, ABN 75 236 399 077:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (j) St Gregory's College, Campbelltown NSW, ABN 18 940 977 322:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (k) Marist College Ashgrove, Ashgrove QLD, ABN 13 937 359 780:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises.
- (l) The John Berne School, Lewisham NSW, ABN 68 159 188 251