

# Fact sheet

## Sharing private medical information

April 2024

### Issue

The NSW Resources Regulator received notification that a mine operator has been sharing private medical information to their site's work health and safety committee as well as at shift prestart. The information being shared included the injured worker's name and specific medical and treatment information.

### Circumstances

Worker's injury and treatment information can be sensitive in nature. The NSW *Work Health and Safety Act 2011* and the *Privacy Act 1988* (Cth) regulates how individuals' personal information is handled.

Mine operators should be aware of their legislative obligations regarding sharing information about their workers, and subsequent treatment for injuries and illnesses. In addition, mine operators need to be aware when sharing information that there are 3 elements that may lead to an offence under s79(4) of the WHS Act 2011. This includes:

- a) that information shared was personal or medical (one or the other)
- b) that information must concern a worker (defined in s7(1) WHS Act) in the business or undertaking, and
- c) the person conducting a business of undertaking (PCBU) of that business or undertaking allowed access to information to the health and safety committee. This requirement does not apply if:
  1. the worker agrees to give the committee such access, or
  2. the PCBU deidentifies the information before allowing access so that it did not and could not readily identify the worker.

### Recommendations

Implementing a system to manage the disclosure of private information is important to protect the privacy of injured workers. It is recommended mine operators:

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- identify if any private medical information with regards to injured workers is being shared on site
- ensure control measures are implemented to eliminate the sharing of an injured worker's private and medical information
- develop and or update a workplace privacy policy that includes how workers private and medical information is collect, handled and stored
- ensure managers and workers understand workplace privacy by participating in training
- communicate so workers are aware of the policy and understand how their personal information will be treated
- deidentify incident information provided to the site work health and safety committee unless the worker gives permission for incident/injury/ illness information to be shared.

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