

## **Westcott Privacy Statement**

### **Introduction**

Grace Westcott, Barrister & Solicitor (“Westcott” or “the firm”) recognizes the importance of privacy and the sensitivity of personal information. The firm is committed to protecting the personal information that it collects, uses and discloses in providing legal services and in its own operations, in accordance with all applicable legislation, and consistent with its professional obligations. As a lawyer, Westcott has a professional and ethical obligation to keep confidential all information received within the lawyer-client relationship. This Privacy Statement outlines how the firm manages your personal information and safeguards your privacy.

### **“Personal Information”**

Privacy legislation in Canada defines “personal information” broadly as information about an identifiable individual or information that allows an individual to be identified. In general, personal information does not include what is considered business contact information: your name, title or position, business address, telephone number, facsimile number, or e-mail address.

### **Accountability**

From January 1, 2004, all organizations engaged in commercial activities must comply with the *Information Protection and Electronic Documents Act* (the “Act”), unless the federal cabinet has exempted the organization because it is subject to “substantially similar” provincial legislation. Law firms in Ontario are not subject to any such exemption orders. As a result, the obligations under the Act extend to lawyers and law firms, including Westcott. Although lawyers have always been obligated by the Law Society of Upper Canada’s *Rules of Professional Conduct* to protect the confidentiality of client information, the Act gives you additional rights concerning the privacy of your personal information.

Westcott is responsible for the personal information it collects and maintains. To ensure this accountability, the firm has established this policy and set in place procedures to implement it.

### **What personal information does Westcott collect?**

The types of personal information that Westcott may collect about you includes your name, home address, telephone number, personal email address, billing and account information, information about your legal issues and other information incidental to providing legal advice and services (including personal information about directors,

officers, employees, adverse parties, decision makers, experts, other professional advisors and a client's business partners, investors, shareholders, competitors and customers who are individuals).

The firm collects personal information by fair and lawful means. It collects information directly from clients at the start of the firm's retainer and during the course of its representation of you. It may also receive personal information indirectly from others, such as from a government agency or registry, your employer, if it is acting for you at your employer's request, your accountant and other consultants obtained by you to assist with your legal concerns.

### **Why does Westcott collect your personal information?**

In general, Westcott collects, uses and discloses personal information about its clients and service providers in order to provide its clients with professional legal services and to operate its firm business. It limits the amount of personal information it collects and discloses, wherever possible, to that which is necessary and appropriate. More specifically, it collects, uses and discloses your personal information for the following purposes:

- to establish and manage client relationships, provide legal advice, perform legal services, fulfill legal duties, and avoid conflicts of interest;
- to share personal information between third parties for the purpose of providing legal services. Such third parties may include opposing parties, parties in interest, opposing, foreign and other counsel and advisors, witnesses, decision-makers and experts;
- to represent clients in the context of business transactions involving the exchange or disclosure of personal information;
- to establish and maintain commercial relationships with clients, suppliers and other third parties, including to issue invoices, to administer accounts, to collect and process payments, to evaluate credit-worthiness and to fulfill contractual obligations;
- to contact and communicate with clients and other individuals for the purpose of market research, and evaluation of client service and satisfaction;
- to distribute its publications and invitations to events to individuals on its mail and e-mail lists;
- to develop, enhance, market, sell or otherwise provide Westcott's services;
- to develop and manage its knowledge management precedent system and databases;
- to consider the admission of individuals as employees and members of the firm;
- to develop and manage its business and operations;
- to detect and protect against error, negligence, breach of contract, fraud, theft and other illegal activity, and to audit compliance with Westcott's policies and contractual obligations, including, where necessary, to meet its insurance requirements;

- as permitted by, and to comply with, any legal or regulatory requirements or provisions; and
- for any other purpose to which you consent.

### **Credit Bureaus**

To help make credit decisions about clients, prevent fraud, check the identity of new clients and prevent money-laundering, the firm may on occasion request information about clients or prospective clients from the files of consumer reporting agencies.

### **Consent**

Westcott will obtain the consents required under applicable privacy laws if it seeks to collect, use or disclose your personal information for purposes other than those to which consent has been obtained, unless required or permitted by law. It may obtain consent for the collection, use and disclosure of personal information either orally or in writing and such consent may be expressly given or implied. In determining how the firm may obtain your consent, it will take into account the sensitivity of the personal information about you that it is collecting, using and disclosing. It will assume that an individual has consented to the firm's reasonable collection and use of personal information consistent with the purposes for which the information was given, when the client initiates contact with the firm or voluntarily provides personal information to the firm. It also assumes that clients who retain the firm consent to the reasonable collection, use and disclosure of their personal information to the firm's professionals and agents for purposes of its representation or provision of legal services to its clients and for the conduct of transactions or proceedings involving its clients.

### **Accuracy of Information**

In order to provide clients with a professional level of service and to maintain appropriate contact preferences, Westcott may ask you to update your personal information or preferences from time to time. Clients are encouraged to notify Westcott when their information changes so that the firm may update the personal information it maintains in its client files.

### **To whom does Westcott disclose your personal information?**

Under certain circumstances, Westcott may disclose your personal information:

- when the firm is required or authorized by law to do so, for example if a court issues a subpoena;
- when you have consented to the disclosure;

- when the legal services it is providing to you require it to give your information to a third party, for example, to a lender, your consent will be implied, unless you advise the firm otherwise;
- where it is necessary to establish or to collect fees;
- if the firm engages a third party to provide administrative services to it (like computer consultants or computer back-up services for archival file storage) and the third party is bound by the firm's privacy policy;
- if it engages expert witnesses on your behalf or if it retains other law firms in this or in other jurisdictions, on your behalf; or
- if the information is already publicly known.

## **Web Site**

*Tracking Website Usage* - On its website, as on most other commercial websites, the firm may monitor traffic patterns, site usage and related site information in order to optimize its web service. When an individual visitor accesses the Westcott website, the firm may use a browser feature called a "cookie" to collect information, such as the type of Internet browser and operating system the visitor uses, the domain name of the website from which the visitor came, date and duration of the visit, number of visits, average time spent on the website, pages viewed and number of cookies accumulated. A "cookie" is a small data file that is sent to your browser and stored on your computer's hard-drive when you visit certain web sites in order to "track" your movements on the site. Unless a visitor specifically informs Westcott (e.g., by sending the firm an email from the website), it will not know who the individual visitors are. It may provide aggregated information to third parties with whom it have a commercial relationship to measure the use of its website, to improve its functionality and content of the website and to facilitate usage by a visitor, but these statistics do not include any identifiable personal information. Visitors can reset their browsers either to notify them when they have received a cookie or to refuse to accept cookies.

*On-line Communications* – In order to provide its website users with public information or requested services, visitors may voluntarily submit personal information to the firm for such purposes as downloading publications or asking a question. Westcott uses information you provide only for the purpose for which you have provided it.

*E-Mail Communications* – Westcott may send e-mail communications to individuals in its contact database to advise of legal developments or to advise of events or seminars.

*Links* – The Westcott website may present links to other web sites. You should be aware that operators of linked web sites may also collect your personal information generated through the use of cookies when you link to their web sites. Westcott is not responsible for how such third parties collect, use or disclose your personal information. It is important to review their privacy policies before providing them with your personal information.

## **Where does Westcott store your Personal Information?**

Your personal information is stored in secured locations and on computers controlled by Westcott, located either at its offices or in secure off-site storage.

## **How does Westcott protect your personal information?**

Westcott takes all reasonable precautions to ensure that your personal information is kept from loss, unauthorized access, modification or disclosure. Among the steps taken to protect your information are:

- premises security;
- restricted access to personal information stored electronically;
- deploying technological safeguards like security software and firewalls to prevent hacking or unauthorized computer access;
- internal password and security policies;
- lawyers' obligation to maintain client confidentiality under the *Rules of Professional Conduct* of the Law Society of Upper Canada;
- all employees and third parties that have access to personal information collected by Westcott will be required to sign a confidentiality agreement that is in keeping with this policy.

## **Access to Your Personal Information**

Individual clients may ask for access to any personal information the firm holds about them. Summary information is available on request. More detailed requests that require archival or other retrieval costs may be subject to the firm's normal professional and disbursement fees. However your rights to access your personal information are not absolute. Access may be denied when:

- denial of access is required or authorized by law (for example, when a record containing personal information is subject to a claim of legal professional privilege by one of the firm's clients);
- information relates to existing or anticipated legal proceedings against you;
- when granting access would have an unreasonable impact on other people's privacy or confidential information;
- when to do so would prejudice negotiations with you;
- to protect the firm's rights and property;
- where the request is frivolous or vexatious.

If Westcott denies your request for access to, or refuses a request to correct information, it shall provide reasons. Westcott does not use your Social Insurance Number as a way of identifying or organizing the information it hold about individuals.

## **Challenging Compliance with this Privacy Statement**

Westcott will respond to complaints from individuals or questions about its compliance with this and with applicable privacy laws. It will investigate and attempt to resolve all complaints. To challenge the firm's compliance with this policy, please contact its Privacy Officer, Grace Westcott, at:

133 Lowther Avenue  
Toronto ON M5R 1E4  
Tel: 416 489-2738  
Fax: 416 489-1918  
[gw@westcottlaw.com](mailto:gw@westcottlaw.com)

Westcott reserves the right to change its privacy statement at any time by posting a new privacy statement on its web site.