



POLICY

Document Name:	Gov-005 Privacy and Confidentiality
Approved By:	Anita Veivers
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PURPOSE

The purpose of this policy is to articulate the kind of information Centacare FNQ and Catholic Early Learning and Care (the organisations) may collect how it is collected and how it is used. The primary purpose for collecting information from people is to enable the provision of best practice service delivery to vulnerable people, including planning, funding, monitoring, and evaluation of organisational services.

SCOPE & AWARENESS

This policy applies to all employees, volunteers and individuals who enter into specific relationships with the organisations for any period of time, e.g. student placements and work experience. The organisations support employees to meet the obligations set out in this policy through training and education, supervision, work instructions and other forms of communication. Employees requiring further explanation, information or assistance in understanding aspects of this policy, throughout their employment, shall seek clarification from their respective Supervisor.

POLICY

Privacy, consent and confidentiality are central to the business undertaken by the organisations. Understanding and applying the *Australian Privacy Principles* (APP) (Reference Document) to daily practice is an essential component to protecting the rights of our clients, co-workers and volunteers.

The organisations respect and acknowledge the privacy of clients, employees, volunteers and other individuals and is committed to protecting any personal and sensitive information which is held through its services. Privacy and confidentiality requirements are part of the legal accountability of the organisation.

The organisation takes seriously its commitment to promoting a culture that respects the privacy and confidentiality rights of individuals. The organisations believe it demonstrates its absolute regard for clients and employees by respecting people's right to privacy and by safeguarding any personal or sensitive information that is entrusted to the organisation.

At all times, the organisations aim to balance the rights of individuals to maintain control over their personal information and its contractual, legal and professional obligations.

The organisations comply with the *Australian Privacy Principles* (APP) (Reference Document), under the *Privacy Act 1988 (Cth)*. The APP provide a single set of principles to provide consistency for all organisations, agencies and service providers. The APP are found in the *Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)*.

DOCUMENT REFERENCE	VERSION	STATUS	APPROVAL DATE	REVIEW CYCLE	REVIEW DUE DATE	PAGE: 1 OF 5
GOV-005 PRIVACY AND CONFIDENTIALITY	3.0	APPROVED	27/06/2024	THREE YEARLY	30/06/2027	

State Government Departments require all contracted service providers who handle information of individuals in order to fulfil contractual obligations, to work under the *Information Privacy Act 2009 (Qld)*. Congruency exists under the APP's.

DEFINITIONS

Privacy and Confidentiality

There are different forms of privacy such as organisation privacy, personal privacy and intellectual privacy. For the purpose of this policy, the information relates to a person's privacy.

Privacy and confidentiality is the protection of a person's information that could be used to identify them. The privacy of a person is important as it protects information that may be regarded as sensitive or personal. Privacy is important as it prevents unauthorised use of the information for purposes of profit, persecution, fraud or other criminal activity.

Personal information

Personal Information refers to information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a. Whether the information or opinion is true or not; and
- b. Whether the information or opinion is recorded in a material form or not.

This definition is broad and can include information about a person such as:

- Name or alias; or
- Residential or postal address; or
- Contact numbers; or
- Email address; or
- Photographs and images; or
- Information about opinions or what a person does or does not like.

Sensitive information

Different to personal information, sensitive information and the way in which this information is handled requires a *particular* care. Sensitive information includes information or an opinion relating to:

- A person's racial or ethnic origin;
- Health or medical information;
- Political opinion;
- Membership of a political association; or
- Religious beliefs or affiliations; or
- Philosophical beliefs; or
- Membership of a professional or trade association; or
- Membership of a trade union; or
- Sexual orientation or practices; or
- Criminal record; or
- Biometric information.

Australian Privacy Principles

The *Australian Privacy Principles* (APP) (Reference Document) are a set of rules that outline the responsibilities of organisations and services. These rules are contained within the national laws relating to privacy; refer *Privacy Act 1988 (Cth)*.

The APP's have replaced the previous rules around privacy and confidentiality known as the *National Privacy Principles* (NPP's) and *Individual Privacy Principles* (IPP's) in order to provide consistency for all organisations dealing with personal and sensitive information.

DOCUMENT REFERENCE	VERSION	STATUS	APPROVAL DATE	REVIEW CYCLE	REVIEW DUE DATE	PAGE: 2 OF 5
GOV-005 PRIVACY AND CONFIDENTIALITY	3.0	APPROVED	27/06/2024	THREE YEARLY	30/06/2027	

The Australian Privacy Principles are:

1. Open and transparent management of personal information
2. Anonymity and pseudonymity
3. Collection of solicited personal information
4. Dealing with unsolicited personal information
5. Notification of the collection of personal information
6. Use or disclosure of personal information
7. Direct marketing
8. Cross-border disclosure of personal information
9. Adoption, use or disclosure of government related identifiers
10. Quality of personal information
11. Security of personal information
12. Access to personal information
13. Correction of personal information

DirectMarketing

Direct marketing is where an organisation can advertise directly to a client or individual using email, phone calls, letters, display ads or television. This usually requires the data of the person to 'target' the direct marketing.

Pseudonym

A pseudonym is a name that is not the real or true name of a person. It may also be the nickname or abbreviated version of a name that does not reveal a person's true name. Example – "Please just call me Max".

COMPLAINTS

Complaints regarding privacy will be actioned under the *Feedback and Complaints Policy* (GOV-007) and associated documents (GOV-007.01 to GOV-007.06).

If the complaint is not resolved to the satisfaction of any person concerned, they may contact the *Office of the Australian Information Commissioner*.

LEGAL, DUTY OF CARE AND CONFIDENTIALITY CONSIDERATIONS

All employees across the organisation are required to inform clients:

- That their personal and sensitive information collected will not be released to anyone outside the organisation without their written consent or their verbal consent noted in case-notes;
- That their rights to confidentiality and privacy protection are within the limits imposed by the legal system and duty of care principles.
- That their information may be shared with other C workers on a need-to-know - only basis in order to provide them with the best possible service.

Information about a client is confidential and subject to legal constraints. The situations when confidentiality cannot be guaranteed include:

- If an employee believes the client is a danger to themselves or others;
- If the client is under 18 years of age and it has been carefully determined that the client has an understanding of making independent privacy decisions. Feedback is negotiated, discussed and agreed upon with the qualified employees, and also supported through an assessment of the child's ability to understand.

DOCUMENT REFERENCE	VERSION	STATUS	APPROVAL DATE	REVIEW CYCLE	REVIEW DUE DATE	PAGE: 3 OF 5
GOV-005 PRIVACY AND CONFIDENTIALITY	3.0	APPROVED	27/06/2024	THREE YEARLY	30/06/2027	

- If an employee has been informed about, or suspects a child (under 18) being abused, or at risk of abuse, they are required by law to notify the Department of Child Safety, Seniors and Disability Services (via the relevant line supervisor);
- Employees must advise clients that it is lawful for the Department of Child Safety, Seniors and Disability Services to request and be given information if a child is receiving a service.
- Any other exemption permitted through the *Privacy Act 1988 (Cth)*. Clients' files have been subpoenaed through a Court.
- Where information relates to existing or anticipated legal proceedings between the organisation and the individual.

Issues of safety, client confidentiality and duty of care must be considered carefully. Worker and client safety should always override the need for client confidentiality in circumstances where a high level of aggression and violence may be encountered. In addition to the moral obligation to inform others of the potential risk in working with a particular client, there may also be a legal obligation to inform others of possible threat to them. Any worker who may be at a high level of risk from a potentially violent client has a right to know the risk. Disclosing information of this nature to another worker must be carried out in consultation with the Team Leader and/or Manager.

Where safe and appropriate, the need to break confidentiality and disclose personal information for the above reasons should be conveyed to the client and their consent obtained. Any determination of a need to break confidentiality without client consent must be carried out in consultation with the Manager and/or the Executive Director. Any determination to break confidentiality without client consent must be clearly and factually documented. The Executive Director, through the Managers, is responsible to inform the relevant insurance company.

RESPONSIBILITY

The Executive Director, Centacare FNQ and Catholic Early Learning and Care is responsible for the overall development and continuous improvement of this policy. Managers, Team Leaders, and other supervisors are responsible for the appropriate and consistent implementation of this policy.

Employees with supervisory responsibilities:

- are required to ensure performance expectations are clearly articulated, well understood and shared as common goals.

All Employees:

- are required to read and sign a *Deed of Confidentiality* (HRM-007.02) upon employment commencement.
- under common law, employees are expected to accept a duty of confidentiality in all its facets across the organisation.
- must take all reasonable steps to protect and uphold the right of all clients, volunteers, members, employees and other individuals, to privacy and confidentiality.
- are responsible to respect confidences shared by colleagues in the course of their professional relationships.
- are responsible for ensuring that any Interpreter engaged by the service be provided a copy of the *Deed of Confidentiality* (HRM-007.02).

REVIEW PROCESS

When the legislation or standards affect this policy reviews will be conducted as required.

Information that will inform this review includes:

DOCUMENT REFERENCE	VERSION	STATUS	APPROVAL DATE	REVIEW CYCLE	REVIEW DUE DATE	PAGE: 4 OF 5
GOV-005 PRIVACY AND CONFIDENTIALITY	3.0	APPROVED	27/06/2024	THREE YEARLY	30/06/2027	

- Practical application of all procedures;
- Feedback from employees;
- QMR reviews and Corrective Action Plans;
- Audits (internal or external).

DOCUMENT REFERENCE	VERSION	STATUS	APPROVAL DATE	REVIEW CYCLE	REVIEW DUE DATE	PAGE : 5 OF 5
GOV-005 PRIVACY AND CONFIDENTIALITY	3.0	APPROVED	27/06/2024	THREE YEARLY	30/06/2027	