



THE DISABILITY  
TRUST

## Policy C-02

# Privacy, Dignity & Confidentiality

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### 1.0 Policy

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The Disability Trust affirms and respects the right of each client to privacy and confidentiality in all aspects of his or her life. Services are delivered in ways that respect the dignity of clients and their families.

The Disability Trust further ensures the confidentiality and security of the personal information of other parties including customers, donors, employees and contractors.

The Disability Trust acts in accordance with the Australian Privacy Principles contained in Schedule 1 of the Privacy Amendment (Enhancing Privacy Protection) Act 2012 to protect privacy and ensure that the collection, storage, use and disclosure of any personal information collected complies with the law.

### 2.0 Purpose

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2.1 This policy describes the principles of privacy that The Disability Trust adheres to and the measures that are taken to protect clients' privacy, to maintain personal dignity and to keep information confidential to those who have a right and need to know.

2.2 This policy also describes how private information of other parties is protected.

### 3.0 Responsibilities

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3.1 All staff have a general responsibility to keep confidential any private information regarding clients, customers or employees. This commitment extends to collecting and recording only such information as is required by management for service provision and to restricting access to such information to authorised persons except for the purpose of urgent medical treatment. All staff have a further general responsibility to respect the physical privacy of clients and other parties and for delivering services in ways that supports their dignity.

3.2 Management is responsible for ensuring that staff are trained in the requirements of this policy. Management are further responsible for ensuring that approvals are in place for the disclosure of information where it is required externally and that all service provision information is kept secure.

### 4.0 Definitions

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4.1 *Privacy*: Privacy is the state of being free from intrusion or disturbance in one's private life or affairs. This is also referred to as "the right to privacy".

4.2 *Physical Privacy*: Physical Privacy refers to the right to have access to a separate and individual space in particular in relation to personal use of bedrooms and bathrooms.

4.3 *Dignity*: Dignity refers to an individual's innate right to respect and ethical treatment.

4.4 *Confidentiality*: Confidentiality is the act of keeping secure and private all information (verbal and written) that has been entrusted to you in confidence. It also implies the act of limiting access to, or usage of, such information to authorised persons.



- 4.5 *Security and Integrity of Information:* Security refers to physical measures to restrict access to information such as by locking filing cabinets. Integrity refers to the act of keeping information free from unauthorised alteration or corruption.
- 4.6 *Disclosure:* Disclosure is the transfer of information to a third party outside the organisation.
- 4.7 *Use of Information.* Use refers to the handling of information within an organisation in relation to the primary purpose for which it was collected.

## **5.0 Requirements**

### **Affirming our Commitment to Privacy**

- 5.1 On entering a service of The Disability Trust all clients are issued with copies of the brochure "*Your Rights in Receiving Services*" which is available in twelve community languages including English. The Trust's commitments to privacy are outlined in this document and where required is verbally reinforced.
- 5.2 Plain English versions or pictorially supported versions of the privacy policy are available for people with intellectual disabilities and where appropriate these are included in Worker or Resident's Information packs. (See Plain English Policy: *Private Information About You and the Service You Receive*).
- 5.3 The full Privacy, Dignity and Confidentiality Policy is made available to anyone who requests it.

### **Collection of Personal Information from Clients and Families**

- 5.4 The Trust collects only personal information that is necessary for one or more of its functions or services and ensures that all information is collected in a fair and lawful means.
- 5.5 Only information, necessary for one or more functions or services of The Trust is collected. All personal information is only used for the purposes for which it was collected except where legal exemptions exist.
- 5.6 All information collected by The Trust is collected by lawful and fair means and is, where practical to do so, collected directly from the individual. The individual is informed of who is collecting the information (The Disability Trust), how it is stored and what it is to be used for.
- 5.7 Personal information is collected by staff of individual services through completion of various intake or service delivery forms. All forms used for the collection of information are approved by the management of The Trust for compliance with Privacy and Information Protection Principles. Generally such forms are completed by:
- the client, with assistance if necessary,
  - Guardian, family member or "person responsible" where the client's disability warrants this, or
  - a contracting or referring agency with the permission of the client or the "person responsible".
- 5.8 Information may also be collected and updated through face to face meetings, interviews, telephone calls, fax transmission or email. In service provision implementation of direct care or behavioural programs may require that information be collected through direct client observation and monitoring. Client



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files are regularly reviewed through internal audit processes to ensure that information is up-to-date, accurate, complete and appropriately secured. (See Policy B-04 Compliance & Audits).

- 5.9 In accordance with The Disability Trust's policy clients and /or their families may be refused service where they do not disclose or give permission for disclosure, of personal information necessary for protection of the safety of staff and other clients. (See Policy D-01 Client Intake, Entry & Exit and Policy E-06 Behaviour Support).

### Collection and Maintenance of Personal Information of Others

- 5.10 The Disability Trust collects information from other sources that may be considered personal or sensitive and is therefore covered by the Privacy Act. In addition to delivery of disability services, personal information of individuals may also be collected for a range of other primary purposes of the organisation. This may include:
- Personal information of job seekers, employees and volunteers such as is required for their recruitment or termination, their supervision and performance management and for the purposes of protection of their health and safety or that of others.
  - Personal Information of customers of other services e.g. lawn mowing, training services, fitness programs or contracted care.
  - Personal Information of donors, sponsors or other parties supporting the charitable purposes of the organisation. (See Policy I-16 Fundraising and Sponsorship).
- 5.11 Only information necessary for these functions is collected. All personal information is only used for the purposes for which it was collected except where legal exemptions exist. When the information is no longer required it is destroyed in a manner commensurate with privacy requirements.
- 5.12 All information collected by The Trust is collected by lawful and fair means and is, where practical to do so, collected directly from the individual.
- 5.13 Information relating to individuals may also be collected via letters, resumes, application forms, face to face meetings, interviews or by email or fax. In some instances The Disability Trust may receive information about an individual from a third party e.g. reference checks, criminal record checks.
- 5.14 Resumes and other information from job applicants is destroyed or returned within three months from completion of an interview process unless the person is advised of and agrees to, their application being included on an eligibility list for subsequent employment.
- 5.15 The individual is informed of who is collecting the information (The Disability Trust), how it is stored and what it is to be used for.
- 5.16 All information is kept secured in locked cabinets or maintained on restricted data bases or on-line files.
- 5.17 Information relating to marketing of the organisation and its charitable operations is contained in. Policy I-16 Fundraising and Sponsorship
- 5.18 The Disability Trust does not buy or sell data bases or otherwise make personal information available commercially.



- 5.19 This policy covers client related information and that staff related information is covered in Policy F-05 Staff Files & Records.

**Disclosure of Information to Those Outside the Agency**

- 5.20 Personal information is not disclosed to a person, body or agency (other than the individual concerned) unless:
- It is for the main reason it was collected (the primary purpose) or for a related secondary purpose e.g. mail out of resumes for job seeking on behalf of a client receiving support to obtain mainstream employment
  - The client, guardian or "person responsible" has consented to the disclosure
  - It is required by or under law or requested by a Board or Tribunal with a legal authority
  - Where client confidentiality is deemed to be diminished by a serious or imminent threat to the life, health or safety of the individual or of another person
- 5.21 Clients are informed verbally of the Privacy and Confidentiality Policy as well as being given a written copy of the Policy including in Plain English if required, upon entry to any service of The Trust. Potential limitations to the rights to privacy or confidentiality are emphasised. Such limitations may result from:
- Court subpoenaing of client files or records
  - Any requirement for staff to testify under oath
  - The use or disclosure is necessary to prevent or lessen a serious or imminent threat to the life, health or safety of the individual concerned or of another person
  - The use or disclosure is necessary to prevent or lessen a serious or imminent threat to public health and public safety
  - Where authorised by or under law; or
  - The individual concerned is reasonably likely to expect that information of that kind is usually passed to that person, body or agency
- 5.22 Where personal information is disclosed for the purpose of urgent medical treatment clients are informed of the necessity to release confidential information when it is required.
- 5.23 Where it is regarded as beneficial to the client to disclose information, either verbally or in writing to an outside person, body or agency this occurs in accordance with the following procedures:
- The permission of the client, parent, person responsible or guardian is obtained if necessary in writing
  - The information is collected for a purpose that is lawful and of direct relevance to those receiving it and no extraneous information is forwarded
  - Those in receipt of the information are informed of its confidential nature
  - Where written information is forwarded, a record containing a note of the disclosure is included and a record kept on the client file of the information disclosed, and who received the information



- 5.24 The Privacy Act does not prohibit collection and transmission of deidentified statistical data (where an individual cannot be reasonably reidentified). Unless otherwise requested by a client or person responsible The Trust therefore includes such deidentified information in data returns for the purposes of accountability to government funding bodies.

**Use of Information Within the Agency**

- 5.25 The use of personal information regarding clients is restricted to those within the agency who have a legitimate "need to know".
- 5.26 Information contained in client files is restricted to that necessary for the smooth running of the service and/or monitoring of service outcomes.
- 5.27 Clients are informed verbally of persons who have access to their file upon acceptance to a service or agency of The Trust. Only staff members within the service, their supervisors and senior managers have access to the client's file and/or information relating to the client, unless the client gives prior written permission.
- 5.28 Staff (including casual and voluntary) are instructed to refrain from discussing personal details regarding individual clients with other staff members, other clients, and persons outside the service. It is accepted that all staff members may discuss personal client details with their supervisor or a senior manager for the purpose of supervision, determination of occupational health and safety issues or to ensure the proper care and support of the individual.
- 5.29 Employment Contracts of Staff emphasise their obligation to maintain privacy in line with this policy.
- 5.30 Where it is necessary for members of the board to be given information pertaining to a client issue, every effort is made to:
- Protect the privacy of the client by not disclosing his/her identity
  - Disclose only information relevant to the matters under discussion
  - Ensure that the information is passed on only to those persons who have a legitimate need to know
- 5.31 Board reports and other written internal documentation do not identify individual clients.

**Client Access to Personal Information**

- 5.32 Individuals have the right to access their personal information, except where access may present a threat to an individual or is deemed unlawful.
- Personal information held by The Trust is available for the individual to access on request and is generally provided unless:
- The information poses a threat to the of life of an individual or compromises the privacy of other individuals; or
  - Access would be deemed unlawful or a request to deny access has been refused by an enforcement body,
  - In this instance The Trust will provide written notice of the reason for refusal and provide information on how they may appeal the decision (See Policy C-01 Client Complaints & Feedback).
- 5.33 Information may be accessed upon request by the individual following



confirmation of their identity.

- 5.34 A client, or the person responsible, can ask that personal information be corrected, if it is inaccurate, incomplete or out-of-date.

**Security of Information**

- 5.35 The Trust takes all reasonable steps to protect personal information against misuse and to provide safeguards to ensure against loss, unauthorised access, misuse, modification or disclosure.
- 5.36 Personal information held by The Trust on databases, file servers or personal computers are password protected to restrict unauthorised access. Backups are kept on external hard drives which are kept in locked cabinets.
- 5.37 Personal records are secured in locked cabinets.
- 5.38 Normally information from client files and other highly confidential information is not transmitted via Email or Internet. Where required for the purposes of job search for clients, Emailed resumes containing some personal details may be submitted to potential employers with the permission of the client concerned. The Disability Trust will transmit such information only with the consent of the client. The Trust cannot assure the integrity of information transmitted electronically.
- 5.39 All emails sent from the organisation contain a privacy statement.

**Record Keeping**

- 5.40 Access to client records is restricted to those who have legitimate "need to know" or a legal right to access.
- 5.41 Information contained in client files is restricted to that necessary for the smooth running of the service and/or monitoring of service outcomes.
- 5.42 Personal information kept by The Trust is regularly updated and reviewed to ensure the information is accurate, up to date and only used for intended purposes.
- 5.43 All clients are notified of the possibility of client records being subpoenaed by the courts and the organisation's obligation to hand over files in these instances.

**Staff Training and Compliance**

- 5.44 Staff are trained in implementation of The Trust's Privacy Policy and breaches of these requirements may be considered a serious disciplinary issue.
- 5.45 Information on implementing privacy protocols is contained in Staff & Volunteer Induction manuals.
- 5.46 Job Contracts of permanent staff emphasise the need to abide by relevant policy including privacy requirements.
- 5.47 Casual staff members, students and volunteers are required to sign a declaration indicating that they will abide by The Trust's privacy policy.
- 5.48 Policy F-10 Employee Code of Conduct specifies the necessity of acting in ways that preserve the privacy and dignity of clients and others.

**Maintaining Personal Privacy, Research & Surveillance**

- 5.49 Clients are free of surveillance and protection beyond that clearly needed to



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enable the person to function in reasonable safety and health.

- 5.50 Clients may choose whether or not to participate in any research project.

### **Maintaining Privacy and Dignity during service delivery**

- 5.51 Staff are provided with training at induction on maintaining privacy and dignity of clients whilst delivering direct care and support.
- 5.52 Policy D-06 Delivery of Personal Care specifies requirements of staff to ensure that personal care is delivered in a way that respects the privacy and dignity of clients.
- 5.53 Policy F-10 Employee Code of Conduct details requirements for staff to ensure that privacy and confidentiality are maintained whilst working with clients in their home or in the community. This includes:
- Maintaining a professional standard of working that demonstrates respect of the rights of the individual, treat clients with courtesy and respect and maintain confidence and trust in the staff and the organisation
  - Knocking on any closed door and waiting for permission before entering
  - Ensuring that the doors on toilets/bathrooms always remain closed when a person is using them
  - Maintaining the integrity and security of personal items belonging to clients and providing secure spaces for storage of such items.

## **6.0 Forms and Records**

Form-D-07-02 Release of Information Consent Form

Form-D-07-03 One Off Approval for Disclosure of Information

## **7.0 Work Instructions and Safe Working Procedures**

Nil

## **8.0 Related Policies**

C-01 Client Complaints & Feedback  
 C-04 Valued Status  
 D-01 Client Intake, Entry & Exit  
 D-06 Delivery of Personal Care  
 D-07 Managing Client Files  
 E-06 Behaviour Support  
 F-05 Staff Files & Records  
 F-10 Employee Code of Conduct  
 I-16 Fundraising & Sponsorship

## **9.0 Related Documents**

Plain English Policy: Private Information About You and the Service You Receive

Brochure: Your Rights in Receiving Services

Staff Induction Training (iinduct)



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### 10.0 References

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Privacy Act (Commonwealth) 1988  
Privacy Amendment (Enhancing Privacy Protection) Act 2012  
Privacy & Personal Information Protection Act 1998 (NSW)  
Health Records and Information Privacy Act 2002 (NSW)  
Information privacy Act 2014 (ACT)  
Standards in Action: NSW Ageing and Disability Department 2011  
Disability Services Act 1986 (Cth)  
Disability Services Act 1993 (NSW)  
Disability Inclusion Act 2014 (NSW)  
Disability Services Act 1991 (ACT)  
National Standards for Disability Services (2013)