

Privacy and Consent Policy

Carers Tasmania and Care to Serve are committed to protecting the privacy of personal information that the organisations collect, hold and administer, including that of employees and Carers. Personal information is information that directly or indirectly identifies a person



Our commitment to inclusion

We welcome, support and include First Nations carers and carers who may identify as LGBTIQ+ or are from culturally and linguistically diverse backgrounds or with disability. We value and respect the diversity of carers and their lived and living experiences. We recognise that carers are the experts in their own lives.

About this Policy

Responsibilities and delegations	
This policy applies to (Scope)	Board and all employees
Authorisation	This policy is issued under the Authority of the CEO
Specific roles and responsibilities	<p>Board</p> <ul style="list-style-type: none"> The Board is responsible for taking all reasonable steps to ensure the continual alignment of policy and practices with current privacy, confidentiality and consent requirements of Australian and Tasmanian governments <p>Chief Executive Officer (CEO)</p> <ul style="list-style-type: none"> The responsibility as Chief Privacy Officer (CPO) sits with the CEO. The CEO is responsible for taking all reasonable steps to ensure operational compliance with policies approved by the Board of Directors and ensuring processes, procedures and practices achieve conformance <p>Managers</p> <ul style="list-style-type: none"> All Managers are responsible for taking all reasonable steps to ensure that employees within their span of control implement the policy, processes, procedures, and practices within all aspects of work <p>Employees</p> <ul style="list-style-type: none"> All employees have a duty of care to undertake their duties aligned with this policy and associated processes, procedures, and practices
Policy owner	This Policy is owned by CEO
Exclusions	Nil
Policy category	Governance
Review frequency	Annual

Related documents and requirements

Policy context – this procedure relates to:	
Organisational policies	Code of Conduct Policy, Document and Record Control Policy, Cybersecurity Policy

Organisational procedures	Frontline Information Management Procedure, Record Control Procedure, Request for Information Procedure, SendSafely Procedure
Organisational forms, record keeping, other documents	Lumary Manual, Vision and Values
Standards	<ul style="list-style-type: none"> • Aged Care Quality Standards 1 • DHHS Quality & Safety Standards 2, 5 • ISO 9001:2016 6.1; 7.5 • National Standards for Mental Health Services 1 • NDIS Practice Standards and Quality Indicators 1, 2 • Royal Commission's recommended Child Safe Standards • ASES Standards 2022 • Rainbow Tick Standards
Legislation	<ul style="list-style-type: none"> • <i>Privacy Act 1988 (Cth)</i> • <i>Registration to Work with Vulnerable People Act 2013 (Tas)</i> • <i>Personal Information and Protection Act 2004 (Tas)</i> • <i>Right to Information Act 2009 (Tas)</i> • <i>Fair Work Act 2009 (Cth)</i> • <i>Archives Act 1983 (Cth)</i>
Contractual obligations	Employment Contract

Purpose

The aim of this policy is to protect the rights of Carers Tasmania / Care2Serve employees and clients in respect to privacy, confidentiality, consent and release of information.

Policy Statement

Carers Tasmania / Care2Serve collects and manages personal information for the purposes of providing services to and on behalf of informal Carers. The organisation is committed to protecting the privacy of personal information it collects, holds and manages.

Carers Tasmania / Care2Serve recognises the essential right of individuals to have their information managed as they would reasonably expect – protected on one-hand and accessible to them on the other. These privacy values are reflected in and supported by our core values and organisational ethos.

The Board, employees and service contractors are bound by the *Privacy Act 1988* including the *Privacy Legislation Amendment Act*, and by relevant state legislation. These impose specific obligations when it

comes to handling information. The *Privacy Act 1988* has no set time-limit and therefore obligations under this policy and the legislation endure after the Directorship or employee relationship ceases.

Board members, employees and service contractors must sign an acknowledgement of these confidentiality and privacy provisions upon entry to the organisation or when first assuming the position of Director. Signed confirmation of acceptance will be retained by the organisation. The policy is structured on the National Privacy Principles of the *Privacy Act 1988 (Cth)* and the Personal Information Protection Principles in Schedule 1 of the *Personal Information Protection Act 2004 (Tas)*.

Privacy Principles

Collection and consent

Carers Tasmania / Care2Serve may request and store sensitive information for personnel records but will ensure they meet legislative requirements for collecting, storing and usage. Information will not be disclosed to a third party without consent and only if it is necessary for the carrying out of duties.

Client records must be maintained in accordance with professional standards and legal requirements. Client records are kept, providing a history of contact with a client and to assist with the employee to:

- Recall session information over time
- Discuss and record outcomes of clinical supervision relating to a carer
- Track a carer's progress and health outcomes over time
- Fulfill requirements for professional accountability in case planning and management
- Prepare reports, if required
- Allow for continuity of care of the client
- Record and monitor 'Duty of Care' issues.

Therefore, Carers Tasmania / Care2Serve will:

- Only collect information that is necessary for the performance and primary functions of the organisation
- Take all reasonable steps to ensure that information is collected by lawful and fair means and not in an intrusive manner
- Inform clients of their rights under this policy with respect to accessing information, why it is collected, to which persons or organisations their information may be disclosed, and any law or consequences relating to the collection of that information
- Inform clients that their client records may be reviewed by relevant funding bodies as part of their monitoring activities if they have provided their consent, excluding sensitive information, such as counselling notes. Information will be viewed only to check that our organisation has followed policy and procedures and that systems are in place
- Clients will be informed that information is required to be collected for contractual reporting using deidentified Minimum Data Set (MDS) and that it will be used to evaluate and improve services, and that the relevant funding body has access to the information that is collected
- Advise the information provider how their data is accessible to them and in what formats at the time it is collected

- Take reasonable steps to inform clients when collating any required recipient information that the recipient has the same rights under this policy with respect to accessing information, why it is collected, to which persons or organisations their information may be disclosed, and any law or consequences relating to the collection of that information
- Obtain informed consent from those from whom information is collected, being sure to clearly explain the purpose for and management of the information
- Take all reasonable steps to ensure that carers are informed verbally and/or in writing of their right to confidentiality and the limitations of this right before receiving a service.

Use and disclosure

Carers Tasmania / Care2Serve will:

- Not use or disclose personal information for any secondary purpose unless that purpose relates to providing services within the functions of the organisation and the individual would reasonably expect Care2Serve to provide the information. When information is used for a secondary purpose, such as a carer referral for the purposes of providing agreed supports, then a written note of the use or disclosure will be recorded
- Never release identifiable personal information without informed and expressed consent, with the exception of obligations under the *Privacy Act 1988* to protect the safety of the information provider or another related to them
- Any statistical information about clients which is made public will not identify individuals unless written consent has first been obtained from the client
- Enable anyone to unsubscribe from communications upon request

Carers Tasmania / Care2Serve recognises that there are legal limits to confidentiality vis-à-vis disclosure and under certain circumstances, client files and workers may be subpoenaed by a Court of Law, search warrant or summons, or written requests from the Human Rights Commission or Ombudsman.

In cases where an employee believes a client or clients have been abused or are at risk of injury or harm an exception to client confidentiality will arise. Employees, in consultation with the Chief Executive Officer, will provide relevant information to the authorised government agency or representative in-line with appropriate legislation.

Data quality

Carers Tasmania / Care2Serve will:

- Take all reasonable steps to ensure information is accurate, complete and up-to-date
- Only record data that demonstrably relates to the provision of services for carers, services to internal stakeholders or standard of reporting requirements
- Retain data in compliance with legislation.

Data security

Carers Tasmania / Care2Serve will:

- Securely safeguard data and store against misuse, loss, unauthorised access and modification

- Immediately advise the Office of the Australian Information Commissioner and clients of any data breaches in accordance with the organisation's legal obligations
- De-identify personal information that is not needed for the purpose that it was originally collected
- In the event of being unable to contact a client for a period of twelve months, their registration with the organisation will be deemed to have ceased, and their record will be made inactive on the CRM. Records will remain for a period of seven years to align with the *Archive Act 1983*. After seven years, the file will be deidentified and archived.

To further the organisation's commitment to protecting the privacy of personal information it collects, holds and manages, Carers Tasmania / Care2Serve uses encryption software called SendSafely when sending referrals between other service providers.

SendSafely is an end-to-end encryption platform that eliminates the need for pre-shared encryption keys and passwords. With SendSafely, only the sending and receiving organisations can view information. SendSafely is built on OpenPGP, which is the most widely used email encryption standard in the world. SendSafely is compliant with regulations like HIPAA, GDPR, PCI, CCPA and is recommended by the Australian Department of Social Services.

Openness

Carers Tasmania / Care2Serve will:

- Provide a copy of this policy to whomever requests it
- Make this information freely available in relevant publications and on the organisation's website
- Give stakeholders the option of remaining anonymous when completing evaluation forms or opinion surveys.

Access and correction

Carers Tasmania / Care2Serve will:

- Take all reasonable steps to ensure individuals have a right to seek access to information held about them and to correct it if it is inaccurate, misleading or out-of-date, only use or disclose information for the primary purpose for which it was collected or a directly related secondary purpose
- Provide access in accordance with the relevant legislation under which access is sought, as this varies between Commonwealth and Tasmanian Acts (as a Personal Information Custodian)
- Assist clients to understand and interpret information from their files where it may be of a sensitive or distressing nature, or where the client may experience difficulty understanding the information due to issues such as language, education or intellectual impairment
- Deny access to information if the request is reasonably considered to fall within Clause 6.1 of the Australian National Privacy Principles, but will consider the utilisation of an intermediary if warranted
- Delete all identifying information upon a proper request by anyone about whom data is held.

Identifiers

Carers Tasmania / Care2Serve will not adopt an identifier from another organisation or the Australian, Tasmanian or local government and use it as its own, nor will it disclose identifiers used to provide services to carers.

Anonymity

Carers will be advised that they have the right to access services without identifying themselves, but that some personal information is required to deliver some services. This will be disclosed at the initial stage of service request from the carer.

Transborder data flows

Carers Tasmania / Care2Serve will take all reasonable steps to ensure the transfer of data outside Australia does not occur.

Sensitive information

Carers Tasmania / Care2Serve will only collect or share sensitive information if it is:

- Required or permitted by law
- Reasonably required for the provision of services within the functions of the organisation
- Necessary to prevent or lessen a serious or imminent threat to the life or health of an individual
- Directly related to members of the organisation.

Consent shall be obtained from any individual who provides the information, except those where the law provides for collection.

In group settings, such as peer support groups, condition-based reference groups or sensitive consultations, participants shall be advised at commencement of the bounds of confidentiality what constitutes a breach and circumstances in which information may be disclosed in accordance with his policy.

Consent must be obtained from individuals to participate in and comply with the privacy provisions of the group agreed at the time.

Compliance

Policy adherence by all employees is essential to support the overall success of the organisations in achieving our vision, purpose and values, fostering best practice, and adhering to our legal obligations. Proven breaches of this policy may lead to disciplinary action.

Definitions

Staff/Employee	All staff including full time, part time, casual, contractors, volunteers and Directors
Board	The Board of Directors formed in accordance with the Constitution
Client	An informal carer or other person or entity that receives services from the organisation
Director	An elected or appointed member of the Board of Directors
Personal Information	Information about an identified individual, or an individual who is reasonably identifiable that may include name, address, medical records, bank account details, photos, videos, recordings, or workplace
Personal Information Custodian	A reference from the <i>Personal Information Protection Act (Tas)</i> , which in effect is Carers Tasmania Ltd / Care to Serve Ltd, as an organisation who enters into a personal information agreement relating to personal information
Sensitive Information	<p>Sensitive information means:</p> <ul style="list-style-type: none">(a) information or an opinion about an individual's:<ul style="list-style-type: none">racial or ethnic origin; orpolitical opinions; ormembership of a political association; orreligious beliefs or affiliations; orphilosophical beliefs; ormembership of a professional or trade association; ormembership of a trade union; orsexual orientation or practices; orcriminal record;that is also personal information; or(b) health information about an individual; or(c) genetic information about an individual that is not otherwise health information; or(d) biometric information that is to be used for the purpose of automated biometric verification or biometric identification; or(e) biometric templates.

Volunteer

A person who willingly gives their time to Carers Tasmania / Care2Serve for the common good and without an expectation of financial gain

End of Document
