

PRIVACY & CONFIDENTIALITY POLICY

POLICY STATEMENT:

Issues of privacy and confidentiality arise during Employee ME's work in the community, with staff, volunteers, foster carers and other third parties. Employee ME acknowledge and respects the privacy and confidentiality of any person with whom the organisation deals and will maintain confidentiality unless otherwise required by law.

AIM:

Employee ME also functions within the realm of confidential information and communications. Many interactions with clients are confidential and must remain so to provide the utmost safety of all involved. Confidentiality is distinct from privacy in that it relates to how information is shared. Confidentiality presupposes that there are people who, at certain times and in certain circumstances, are authorised to have access to or to disclose specified confidential information.

Confidentiality gives rise to an obligation which restricts Employee ME from using or disclosing any information in a way which is contrary to the interests of the person or organisation from whom the information was gathered. It is also a mode of managing private information, by the restriction of access to information to authorised persons, entities and processes at authorised times, and in an authorised manner. Employee ME aims to respect the privacy and confidentiality of the individuals it engages within its daily operations. This applies to the type of information gathered and the application of processes and practices. This policy seeks to provide clarification and guidance on these matters.

1. OVERVIEW

1.1. BACKGROUND

Employee ME's purpose recognises that the company seeks to respond to people's needs and issues in ways which enhance and protect the dignity and integrity of clients. Our work requires that we deal with highly sensitive, private and confidential information and as an organisation we have a genuine need to collect this information in our daily work. In respecting our clients it is critical that we ensure privacy and maintain confidentiality. The importance of privacy and maintaining confidentiality also applies to all employees, volunteers and any other entities engaged with Employee ME and to the protection of their personal information.

While interrelated, the terms Privacy and Confidentiality have different meanings and this difference needs to be kept in mind at all times.

1.1.1. Privacy

Privacy applies to personal information that may enable identification, and specifically relates to an individual's ability to control the extent to which their personal information is available to others and themselves, including information about an individual's location, health and body, and communication with others.

For the purposes of this policy, privacy relates to information that is to be kept in a secure setting to protect it from unauthorised disclosure.

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1.1.2. Confidentiality

Employee ME also functions within the realm of confidential information and communications. Many interactions with clients are confidential and must remain so to be effective. Confidentiality is distinct from privacy in that it relates to how information is shared. Confidentiality presupposes that there are people who, at certain times and in certain circumstances, are authorised to have access to or to disclose specified confidential information.

Confidentiality gives rise to an obligation which restricts Employee ME from using or disclosing any information in a way which is contrary to the interests of the person or organisation from whom the information was gathered.

2. SCOPE

This policy applies to all personal information about any clients, residents or anyone who is or has been in receipt of our services, and all others engaged with Employee ME.

Also, employees, volunteers and any other entities, both currently and in the past, who are engaged with Employee ME, are both protected and bound by this policy. As such, Employee ME Director, General Manager all levels of management, support coordinators, employees, and volunteers, past and present are bound by this policy.

3. POLICY PRINCIPLES

The following principles establish the framework for all areas of activity within Employee ME:

- 3.1. Employee ME regards having the confidence of individuals as a privilege.
- 3.2. Employee ME will only use the information provided for the primary purpose for which it was collected, unless disclosure is (1) required to protect an individual from harm, or (2) is in the interest of public health or safety or (3) required under law
- 3.3. An individual's access to information concerning or collected about that individual is his/her right. Individuals have the right to request access to information held by Employee ME about them. Employee ME will provide access to the information, unless prevented by law.
- 3.4. Employee ME will not disclose information to a third party, or other institutions without consent, unless lawfully or contractually allowed or required to do so.
- 3.5. The formation of, or expression of a professional assessment or opinion must be recorded with care, (remembering that the relevant individual(s) may request to see their file).

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- 3.6. Employee ME will only record sensitive information (see definition) about a client with the individual consent of the person unless:
- the collection is required by law
 - the collection is necessary to prevent or lessen a serious and anticipated threat to the life or health of any individual, where the individual whom the information concerns:
 - a) is physically or legally incapable of giving consent to the collection
 - b) physically cannot communicate consent to the collection.

Owing to antidiscrimination law, sensitive information must not be collected and recorded about an employee, except in relation to professional associations and criminal records.

- 3.7. All individuals have the right to be informed on who has access to their information.
- 3.8. The collection and storage of unnecessary information about individuals is considered a breach in privacy and is inappropriate. Employee ME will remove information from records when it is no longer required (except where archiving is required).
- 3.9. Employee ME will take reasonable steps to ensure information is accurate and up to date. Individuals have a right to challenge the accuracy of personal information recorded about them.
- 3.10. Employee ME will ensure processes are in place to protect information under its control from:
- unauthorised access
 - improper use
 - alteration
 - unlawful or accidental destruction and/or loss.
- 3.11. Individuals have the right to withhold information for privacy reasons except where required by law (eg information pertaining to criminal histories).
- 3.12. Wherever it is lawful and practicable, individuals must have the option of not identifying themselves.
- 3.13. Although the Privacy Act only relates to individuals, Employee ME will apply the same principles to the collection of information about organisations and businesses. Where this policy refers only to individuals it applies equally to organisations/businesses.
- 3.14. This policy continues to apply to individuals even when their relationship with Employee ME is concluded. For example, former staff must not disclose information they have acquired about clients, staff or Employee ME business during their engagement once their engagement is terminated.

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4. PROCEDURES

4.1. Collection, use and disclosure of personal information

4.1.1. Collection

In accordance with the Australian Privacy Principles a person acting on behalf of Employee ME (e.g. any employee) in the collection of information from another individual will:

- a) only collect information that is necessary
- b) not collect personal information about an individual just because that information 'may come in handy later'
- c) tell the individual why the personal information is collected, how it will be used and disclosed
- d) consider whether the personal information is to be used for a particular purpose and not gathered for reasons other than that purpose
- e) consider whether personal information needs to be disclosed and whether it can be lawfully disclosed before doing so
- f) provide an individual with access to the personal information held about them on request
- g) keep personal information secure
- h) not keep information Employee ME no longer needs or is no longer required to retain
- i) keep personal information accurate and up to date

4.1.2. Access

4.1.2.1. Client Access

Clients may access their files upon request. Where such a request is made, the employee must inform and discuss the issue with their manager prior to allowing access to the file. This is in order to protect vulnerable clients, employees and volunteers. Third parties referenced in the files must be de-identified prior to access being provided.

4.2. Requirement to maintain Privacy and Confidentiality

4.2.1. Signed commitment

Employee ME Director, General Manager, all levels of management, support coordinators, employees, and volunteers will sign a Code of Conduct which identifies the need to maintain privacy and confidentiality of information during and after engagement with Employee ME.

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4.3. Employees' Personal Information

Employees are entitled to access their own employee files at a mutually agreed time with either the Director or General Manager. Employees are allowed to copy the contents of their file, but not to take the file away from the secure environment.

Records may be kept including the following information:

- a) engagement, training, or discipline of the employee
- b) termination of the employment of the employee, including resignation
- c) terms and conditions of employment of the employee including hours of work
- d) employee's personal and emergency contact details
- e) employee's performance and conduct
- f) employee's salary or wages
- g) employee's recreation, long service, sick, personal, maternity, paternity or other leave
- h) employee's taxation, banking or superannuation affairs.

5. RESPONSIBILITIES

Staff and volunteers

- comply with this policy and associated procedures
- inform and discuss issues arising with their General Manager or Director
- ensure clients are informed about their rights on client information management matters

Managers and Coordinators

- comply with this policy and associated procedures
- escalate matters as appropriate

General Manager

- ensure that all managers are knowledgeable and compliant with this policy and its procedures
- escalate matter to the Director as appropriate

Director

- final point of escalation in the event of non compliance under the policy or for other reasons relating to this policy and its procedures
- ensure that the policy is up to date
- provide advice as requested

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6. DEFINITIONS

client – any person (individual, group, organisation or business) who chooses to use the services of Employee ME, including but not limited to parents, family or guardians of those receiving services from Employee ME.

collection – is the act of gathering, acquiring or obtaining personal information from any source, including third parties.

confidentiality – an obligation which restricts anyone associated with Employee ME from using or disclosing any information in a way which is contrary to the interests of the person which provided it in the first place. It is also a mode of managing private information, by the restriction of access to information to authorised persons, entities and processes at authorised times, in an authorised manner.

consent – voluntary agreement with another party to gather, use or disclose information that may be private and/or confidential. Consent can be either express or implied. Express consent is given explicitly, either orally or in writing. If given orally, it must be noted on the client or employee file. Implied consent arises where consent may be reasonably inferred from the action or inaction of the individual.

disclosure – making personal information available to others outside or within Employee ME.

donors – all persons (individual or organisation) who contribute to or support revenue generation activities of Employee ME

employee information – personal information relating to the employment of the employee as per clause '4.3 Employees' Personal Information' above.

NB. For reasons relating to anti-discrimination law, an employee's personal information kept on record must not include any kind of active attempt to gather information that is defined as 'sensitive' with the exception of criminal records. If you are at all uncertain regarding this issue contact the Employee Relations Consultant in the People and Organisational Development team immediately.

health information – information or opinion about:

- the health or a disability (at any time) of an individual
- an individual's expressed wishes about the future provision of health services to him or her
- a health service provided, or to be provided, to an individual that is also personal information
- other personal information collected to provide, or in providing, a health service
- other personal information about an individual collected in connection with the donation or intended donation, by the individual of his or her body parts, organs or body substances.

NB: this kind of information is often gathered about residents and clients and it effects the implementation of APP regarding disclosure of information as 'Health Information' is a form of 'Sensitive Information'.

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individuals – are defined by Employee ME as:

- Directors
- General Managers
- Employees
- Volunteers
- Clients and customers accessing Employee ME services and/or website
- Donors
- Suppliers/contractors
- Job Applicants
- Referees.

Australian Privacy Principles – Principles governing the access, use, disclosure, retention and disposal of private information, as stipulated in the Privacy Act 1988 (Cth).

personal information – information or an opinion (including information or opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent or can be reasonably ascertained from the information or opinion.

privacy – an individual's right to control access to his or her personal information, and whether it is available to others.

sensitive information – is considered to be personal or health information or an opinion about an individual's:

- racial or ethnic origin
- political opinions
- membership of a political association
- religious beliefs or affiliations
- philosophical beliefs
- membership of a professional or trade association, where relevant to employment
- membership of a trade union
- sexual preferences or practices
- criminal record.

NB: Sensitive Information must only be gathered about a client or a resident. Owing to anti-discrimination law it must not be collected and recorded about an employee, except in relation to professional associations and criminal records.

use – in general terms, use of personal information refers to the handling of personal information by Employee ME.