



Access to Care – Confidentiality of Information Policy and Procedures

1 Statement of Purpose

The following policy and procedures have been developed and will be implemented to meet the requirements of:

- National Disability Insurance Scheme Act 2013
- National Disability Insurance Scheme (Code of Conduct) Rules 2018
- National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018
- National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018
- National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018
- National Disability Insurance Scheme (Practice Standards-Worker Screening) Rules 2018
- National Disability Insurance Scheme (Procedural Fairness) Guidelines 2018
- National Disability Insurance Scheme (Quality Indicators) Guidelines 2018
- The NSW Privacy Act 1998;
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992;
- The Guardianship Act (1987) and Guardianship Regulations (2005);
- The National Disability Insurance Scheme Terms of Business;
- Other legislative or related provisions

In particular, the policy and procedures seek to ensure that:

- Each participant receives supports and services that promote and respect their legal and human rights and enables them to exercise choice like everyone else in the community.
- Each participant is aware of their rights and can expect to have them respected
- Each participant will receive supports and services that reflect their right to privacy and have their personal records and details about their lives dealt with in an ethical and confidential manner in line with relevant legislation
- Access to Care uphold and promote the legal and human rights of each participant.

2 Privacy and Confidentiality Policy

For the purposes of this policy, all information about a participant (medical, personal, financial or otherwise) who is provided with supports and services is to be treated in the strictest confidence.

Each participant provided with supports and services will be given the same level of privacy, dignity and confidentiality as expected by other members of the community.

This right also covers information staff may obtain or be provided with during the course of their duties, concerning the families, friends, advocates or guardians of such participants.

Each participant will be provided information and explanation of this policy and procedure in the language they understand using TIS, multilingual staff, along with information and details of external advocates as a part of the participant info pack.

The Access to Care should gather information from the participant, their family and significant people or service providers about the cultural and linguistic background of the participant on an ongoing basis. This information should be reflected in the planning and provision of the services and support for the participant.



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3 Policy for Maintaining Participant Information

Each participant (or his/her representative) is to be kept fully informed about:

- what information the service maintains about the participant;
- the reasons why such information is being kept;
- where the information is being kept;
- who can access the information;
- the right of the participant (or his/her guardian/person responsible) to inspect their personal records and file notes; and,
- the right to complain if the participant's privacy, dignity or confidentiality is not being respected.

Information recorded about the participant will be the minimum necessary to enable the efficient and effective provision of supports and services to the participant. Such information will be provided to another staff on a 'need-to-know' basis only. If being aware of particular information about a participant is necessary for a staff member to be able to provide appropriate supports and services to the participant, then that staff member has a 'need to know'.

All records and file notes remain the property of Access to Care and cannot be removed, either in part or whole, by any participant or their representative.

The written consent of the participant (or that of his/her guardian/person responsible) is required before any information about the participant is sought from, or released to, another service agency or external person and consent to release or request information will be used,

The exceptions to this policy are only those provided for by other agreements or at law.

For example:

- 'Community Visitors' appointed by the New South Wales Community Services;
- Commission under the Community Services [Complaints, Appeals and Monitoring] Act 1993 could inspect such records at any time. The consent of the concerned participant [or their representatives as appropriate] would usually be sought by the Community Visitor/s, prior to this occurring;
- Records maintained about the life and circumstances of a participant may be subpoenaed by the Courts and must at law be provided by the service;

Documents disclosing information about a participant's personal affairs to another are exempt from Freedom of Information Act (FOI legislation). This exemption is to protect the privacy rights of individuals and it will prevent someone from obtaining details regarding the personal affairs of another (whether that person is dead or alive). 'Personal affairs' includes, but is not limited to, information pertaining to the address, age, medical history, family situation, employment, social security status, financial situation and criminal record of an individual.



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4 Procedures for Obtaining, Storing and Managing Confidential Participant Information

4.1 Requesting and Obtaining Confidential Information

- 4.1.1 Obtaining personal information from a participant is to take place in an area that provides privacy and confidentiality. Any specific requests from the participant as to the privacy requirements in this process should be accommodated e.g. the preference for the presence of a particular carer, guardian/person responsible or advocate.
- 4.1.2 Staff members will only obtain information regarding a participant's personal affairs with the consent of the participant or their guardian/person responsible. A "Consent to Release/Request Information Form" must be completed by the staff member identifying the information required and be signed by the participant or his/her guardian/person responsible (refer to Attachment 1 for Consent Form). Once signed, the consent form will be placed in the appropriate section of the participant's file.
- 4.1.3 When staff members request information, the participant (or their guardian/person responsible) has a right to withhold information for privacy reasons and cannot be coerced into disclosing information which they choose to withhold.
- 4.1.4 Staff members are to make participants or their representative aware that by giving their consent to receive a service and provide confidential information for that service, the information will be used by the service only, unless otherwise requested by the participant.

4.2 Use of Confidential Information

- 4.2.1 Staff members can use participant information that does not directly or indirectly identify a participant for purposes such as planning, service review and evaluation.
- 4.2.2 Staff members will only use information regarding the personal affairs of a participant for the purpose for which it was obtained, unless specific consent from the participant or their guardian or person responsible is obtained. Such information will usually be limited to the assessment of the participant's need for a support or service, personal information identifying the participant, medical and diagnostic information and information related to the provision of services to the participant.
- 4.2.3 Staff members will not use any videos or video graphic material without seeking consent from the participant.

4.3 Management of Confidential Information

- 4.3.1 It is the responsibility of the staff to accurately maintain the file and records of a participant.
- 4.3.2 Participant files and records must be securely stored when not in use.
- 4.3.3 Loss or theft of a participant file or record must be immediately notified to service management, giving information about when it was last seen, where it was stored and the actions taken by the staff member. Police will be notified of any theft of a participant file or record.
- 4.3.4 The participant file is the responsibility and property of the service and, although the participant has the right of access to personal records, it remains the property of the service when the participant exits the service, and will be kept for a minimum of seven years. T
- 4.3.5 The participant records will be maintained, destroyed, retrieved according to the NDIS guidelines as well as the relevant state and territory laws.

4.4 Access to Confidential Information

- 4.4.1 The service management will be notified when a participant (or their guardian or person responsible) seeks access to their file or records. Service management must be consulted regarding the arrangements for the release of information and verification of that person's authority to have power of access.



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4.4.2 Another person on behalf of the participant may also make a request for access with the consent of that participant or their guardian/person responsible. In such event, the consent of the participant must be verified and the purpose for disclosure to the third party must be confirmed with the participant or their guardian/person responsible. This information must be recorded on the 'Consent to Release/Request Information Form'.

4.5 Entries to Participant's Files

4.5.1 Information recorded by staff on any participant must be accurate, brief or to the point, i.e. only record important information that another support staff 'need to know'. The information is to be objective, legible, identify the person recording the information and the date. The information recorded must be for the sole purpose of helping to ensure that the best possible supports and services are provided to the participant.

4.5.2 The participant file and records maintained by Access to Care on each participant will be regularly reviewed to identify redundant/unnecessary information which will then be archived.

4.5.3 No participant file notes or records about a participant will be photocopied unless the copy is to be forwarded by a staff member to another service agency or external person with the written consent of the concerned participant and/or their guardian/person responsible.

5 Guidelines for Commencing and Maintaining Participants Files

5.1 Upon commencement with Access to Care the participant or person with authority is informed that Access to Care will maintain personal information about them to provide supports and services to them. The participant or person with authority is to be advised of the type and format of the information kept on them by the organisation.

5.2 A participant file is to be created on entry to the organisation.

5.3 The participant file is to be the master file and maintained by Access to Care in the format required. Other working files may be used (e.g. Individual Service Plan etc.), as long as there is regular amalgamation of records to the master file.

5.4 The participant file is to be kept securely when not in use.

5.5 All staff members providing a service to the participant are responsible for fully documenting significant issues and events in the work with the participant and regularly ensure that this information is placed in the participant's file.