

<p style="text-align: center;"><b>Westside Community Services Limited</b></p> <p style="text-align: center;"><b>CP16: Privacy and Confidentiality Policy</b></p>
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## **1. Introduction**

- 1.1. Comprehensive, clear and useful records about our clients, their needs and their use of our services are essential for effective and high-quality service delivery and to maintain appropriate accountability.
- 1.2. Our clients and staff have legislated rights to confidentiality and privacy in relation to the records we keep and our processes for collecting, using and securely storing data.
- 1.3. It is essential that we protect and uphold these rights.
- 1.4. The Privacy Act only relates to individuals; however Westside Community Services Limited (WCSL) 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.
- 1.5. Where applicable this policy will also apply to the confidentiality of sensitive information relating to the activities of Westside Community Services Limited.

## **2. Purpose**

- 2.1. Westside Community Services Limited's Privacy and Confidentiality policy ensures that:
  - It meets its legislative responsibilities, as contained within the Commonwealth Privacy Act 1988, to protect the personal information of its clients, staff and other persons and organisations with which it has dealings.
  - It is transparent about what information is collected and how it is used.
  - Its staff and clients are aware of their rights and responsibilities concerning privacy.

## **3. Scope**

- 3.1. This policy applies wholly or in part to Westside Community Services Limited's Board, Staff and Contractors

## 4. Compliance with National Privacy Principles

### 4.1 Collection

- WCSL will not collect personal information unless that information is necessary for one or more of its functions or activities.
- WCSL will only collect information by lawful and fair means and not in an unreasonably intrusive manner.
- WCSL will ensure that before, or as soon as practical after, the personal information is collected, that the person is aware:
  - That they are able to access the information and the process for accessing this information; and
  - The purposes for which the information is collected; and
  - Of the organisations (or types of organisations) to which the information is usually disclosed. Examples include:
    - Human Services
    - Department of Social Services
    - Employers (Reserved)
    - Health Care Professionals (Reserved)
  - That WCSL may be required under law to disclose information
  - The consequences (if any) if all or part of the information is not provided. Examples may be, but are not limited to:
    - Limitations on Westside's capacity to meet its Duty of Care responsibilities to the individual and others.
    - Limitations on Westside's capacity to deal appropriately with medical emergencies.
    - Inadequate or inappropriate support provided due to a lack of relevant information.
    - Inability to provide a service due to a lack of relevant information.
- Where reasonable and practical WCSL will only collect information about an individual from the individual.
- Where information is collected from a third party WCSL will take reasonable steps to ensure that the individual is aware of the matters listed, except where making the individual aware of the matters would pose a serious threat to the life or health of any individual.

## 4.2 Use and disclosure

WCSL will not use or disclose personal information for any other purpose than that which it was collected, unless:

- The individual has consented to the use or disclosure; or
- It reasonably believes that there is a serious and imminent threat to the individual's life, health or safety, or a serious threat to public health or safety; or
- It has reason to suspect that unlawful activity has been, or is being or may be engaged in, and uses or discloses the personal information in reporting its concerns to the relevant persons or authorities; or
- The use or disclosure is required under law; or
- It reasonably believes that the use or disclosure is reasonably necessary for use by or on behalf of an enforcement body.
- Where WCSL uses or discloses, it will maintain written evidence of the use or disclosure.

## 4.3 Data Quality

WCSL will ensure that it takes reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.

## 4.4 Data Security

- WCSL will take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.
- WCSL will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose for which information may be used or disclosed or to meet legal accountability requirements.

## 4.5 Openness

WCSL will, on request by an individual, let the individual know, generally, what sort of personal information it holds, for what purposes, and how it collects, holds and discloses that information.

## 4.6 Access and Correction

WCSL will provide an individual with access to the information it holds within thirty (30) days of the receipt of a written request by the individual, except where:

- Providing the information would pose a serious and imminent threat to the life, health or safety of any individual; or
- Providing access would have an unreasonable impact upon the privacy of others; or
- The request is frivolous or vexatious; or
- Providing access would be unlawful; or
- Denying access is required or authorised by or under law; or
- The information relates to existing or anticipated legal proceedings with the individual and not accessible by the process of discovery, or would prejudice negotiations with the individual.
- Providing access would be likely to prejudice an investigation of possible unlawful activity and any subsequent proceedings that may result; or
- The prevention, detection, investigation or remedying of seriously improper conduct or prescribed conduct.
- If WCSL is not required to provide access to the individual because of the one or more reasons detailed in it will, if reasonable, consider whether the use of a mutually agreed intermediary would allow sufficient access to meet the needs of both parties.
- WCSL will not usually charge for providing access to information, however, where a charge is considered appropriate the charge will be reasonable and no charge will apply for lodging a request for access.
- If the individual advises that information held is not accurate, complete or up-to-date, WCSL will take reasonable steps to ensure that the information is corrected.
- Where there is a disagreement about whether the information is accurate, complete or up-to-date and the individual supplies a statement claiming this and requesting WCSL to associate the statement with the information, WCSL will take reasonable steps to ensure this occurs.
- Where a request for access is denied or a refusal to correct personal information WCSL will provide reasons for this within thirty (30) day of the receipt of the written request.

#### 4.7 Identifiers:

WCSL will not adopt as its own identifier an identifier that has been assigned by an agency, an agent of an agency or a contracted service provider for a Commonwealth contract acting in that capacity.

WCSL will not use or disclose an identifier assigned unless the use or disclosure is necessary for WCSL to fulfil its obligations to the agency; or

#### 4.8 Anonymity

WCSL acknowledges that where lawful and practical, individuals have the option of not identifying themselves in their dealings with us.

#### 4.9 Trans border Data Flows

WCSL may transfer personal information to someone (other than the individual) who is in a foreign country only when:

- WCSL reasonably believes that the recipient is subject to a law, binding or contract that effectively upholds principles for fair trading that are substantially similar to the National Privacy Principles; or
- The individual consents to the transfer; or
- The transfer is necessary for the performance of a contract between the individual and the organisation, for the implementation of pre-contractual measures taken in response to the individual's request; or
- The transfer is necessary for the conclusion or performance of a contract concluded in the interests of the individual between the organisation and a third party; or
- All the following apply:
  - The transfer is for the benefit of the individual; and
  - It is impractical to obtain the consent of the individual for the transfer; and
  - If it were practical the individual would likely give consent.
- WCSL has taken reasonable steps to ensure that the information which it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the National Privacy Principles.

### 5. Procedures:

#### 5.1 General:

The Privacy and Confidentiality policy applies to all forms of information. This includes all written information in files and on computer, information obtained by word of mouth, from photographs, electronic recording etc.

Staff, volunteers and contractors providing a service to clients will be informed through induction and training programs of clients, staff and other relevant parties

right to privacy and confidentiality, and the measures necessary to protect them.

Staff will ensure that all new clients are advised of their rights to privacy and confidentiality, and the measures which will be taken to protect these rights. A written acknowledgement will be obtained from each client and/or their advocate acknowledging that this information has been provided.

Clients, staff and organisations or businesses must be accurately informed about who will have access to specific information and the purpose for which is being sought/released.

Release of Information/ Obtaining Information:

- Specific written consent must be obtained from each client, organisation or business before any information is released or sought from other sources.
- Where that information is sought from or provided to a government department or agency with which Westside has regular contact in connection with its activities written consent may not be required.
- Specific written consent will be obtained from each client, organisation or business when requesting their assistance with any public relations/ marketing activities. This consent will detail the nature of the information, including images that are to be used, the type of media in which it will be used and the anticipated duration of use.

## 5.2 Access

Clients and staff have the right to request access to the information held about them by WCSL. Requests for access are to be made in writing and subject to the provisions contained in section 3.6 of this policy, access will be provided within 30 days of the request.

In most cases access will be provided without costs, however where appropriate, e.g. copy of full file is requested, any fee charged will be reasonable and will be advised to the client or staff member before access is provided.

Where a request from a client for access to information is received this should be referred to the staff member's immediate manager. Where there is a concern regarding information to be released, the request should also be referred to the appropriate department manager.

Access to client files should be restricted to the staff member providing the service to that client and to other staff who have responsibility for conducting internal quality audits and/or have monitoring performance and compliance responsibilities.

## 5.3 Security of Information

All client interviews and meetings should, where practical, be carried out in a private environment. Where this is not possible staff members are to take reasonable steps to ensure that the privacy of the client is maintained.

All client files are to be kept in lockable filing cabinets when not in use. Where the file is temporarily removed from the filing cabinet a Client File Sign Out sheet is to be completed and updated when the file is return to the cabinet.

Client files should not, as a practice, be taken out of our offices. Where it is necessary to transport a file between offices the file must not be openly visible, must be carried in a secure fashion and must not be left unattended.

All formal and informal staff briefings and discussions between staff should be undertaken in an appropriate setting and are to be based on the professional ethics of confidentiality.

Inappropriate discussions will be viewed as gossip and a breach of this policy and the Workplace Gossip policy.

The disclosure of sensitive information between staff members will be restricted to a need to know basis.

The deliberate and inappropriate disclosure of information about clients and other entities covered by this policy is a serious matter and will be subject to disciplinary action (Refer section 5 and QP 4 Grievances and Problems).

## **6 Reporting Responsibilities**

Staff should refer to the Performance Management and Reporting Responsibilities policy and to Quality Procedure 04 Grievances and Problems for reporting breaches of this policy.