



## Privacy

### Principle:

1. Privacy legislation (the Commonwealth *Privacy Amendment (Private Sector) Act 2000*) requires private sector and non-government organisations to safeguard the privacy of personal information, including health-related information. The new legislation amends the *Privacy Act 1988*.
2. TasCAHRD is subject to additional privacy obligations by virtue of the Tasmanian *HIV/AIDS Preventive Measures Act 1993*. The obligations under the Tasmanian legislation are additional to those detailed in this policy.
3. TasCAHRD is committed to protecting the privacy and confidentiality of its members, clients, consumers, supporters, volunteers and staff. TasCAHRD's Privacy Statement commits to ensuring that the information provided is secure and the person providing the information is aware of what information is held and their rights in accordance with TasCAHRD policy.

TasCAHRD's Chief Executive Officer holds for training and reference purposes a copy of the *Guidelines on Privacy in the Private Health Sector* issued by the Commonwealth Privacy Commissioner, a copy of the *National Privacy Principles* (NPPs) or go to (<http://www.privacy.gov.au/publications/npps01.html>) for the Commonwealth *Privacy Act 1988*, and a copy of the Tasmanian *HIV/AIDS Preventive Measures Act 1988*.

### Definitions:

4. There are 9 National Privacy Principles (NPPs) that apply to personal information generally. In addition, NPP 10 contains some additional protections that apply only to sensitive information. The NPPs set out the standards for collecting, storing, using and disclosing personal information.

### Privacy Protection of “personal information”

5. The privacy protections apply to “personal information” that is held by an organisation. Personal information is information about a living person that identifies that person, or information from which the identity of the person can reasonably be ascertained.
6. The legislation also recognises that there are some categories of personal information that are deserving of a higher level of protection. These categories of personal information are defined

as “sensitive information”. An important subset of sensitive information is “health information”. Sensitive information and health information are discussed below.

## **Sensitive Information**

7. Sensitive information is information about a person’s:
  - Racial or ethnic origin
  - Political opinions
  - Membership of a political association
  - Religious beliefs or affiliations
  - Philosophical beliefs
  - Professional or trade association membership
  - Union membership
  - Sexual preference or practices
  - Criminal record.
8. Sensitive information also includes “health information” (see below).

## **Health Information**

9. “Health information” is information:
  - About a person’s health or disability (past, present or future); or
  - About a person’s expressed wishes regarding future health services; or
  - About health services provided, or to be provided to, the person; or

Other “personal information” collected whilst providing a health service.

“Health service” is broadly defined and includes any activity performed in relation to an individual that is intended to, among other things, maintain or improve the individual’s health. Information that is collected whilst providing a health service could be medical information such as a person’s history of illness but also includes that person’s personal details such as their name and address. It also includes information generated by the service provider such as notes about the person and their health. Information of a personal, health or sensitive nature is collected in accordance with TasCAHRD’s Client Records Policy, which includes issuing TasCAHRD’s Privacy Statement to all clients.

## Guidelines

### Collecting personal information

10. TasCAHRD's basic obligations under the NPPs are:

- To collect only necessary information to enable the Council's functions or activities.
- To use only fair and lawful ways to collect information and to obtain the person's consent before the information is collected.
- Where possible, to collect health information directly from the person concerned.
- At the time the information is collected, or as soon as is practical afterwards, to tell the person why the information is being collected and who else might see the information.
- Ensure the person concerned is aware of TasCAHRD's obligations as detailed above even where the information about them is collected from a third person.
- If it is practical, to give people the choice of interacting with TasCAHRD anonymously.

11. Privacy is addressed in a number of ways and other related policies include:

- Equal Employment and Opportunity
- Confidentiality
- Feedback and Complaints
- Consumer Rights and Responsibilities
- Worker Code of Conduct
- Building Access and Office Security
- Client Records
- Assessment and Care

### Sensitive Information

12. In addition, where the information being collected is health information, NPP 10 requires the consent of the individual to the collection of that information. Consent may be expressed or it may be implied. If an organisation has adequately explained why information is collected and how it will be used and disclosed and an individual provides information to that organisation, their consent will be implied. It is important that organisations explain clearly why information is collected and how it will be used and disclosed. This information is collected in accordance with TasCAHRD's Client Records Policy, and clients are to be given a copy of TasCAHRD's Privacy Statement (Attachment A).

- 13.** In general, the obligation to obtain consent applies whether health information is collected from the individual or from a third party. For example, this means that information about other family members or members of an individual's household should not be collected without their consent. However, recognising that the requirement to obtain consent under these circumstances could interfere with the delivery of health services, the Privacy Commissioner has made a temporary public interest determination allowing information to be collected about members of an individual's family or household without their consent.

## **Storing information and maintaining the accuracy of information**

- 14.** Ensure to the maximum extent possible that the personal information collected, stored, used, or disclosed, is accurate, complete, and up-to-date and destroy or permanently de-identify personal information if it is no longer needed in accordance with the Client Record Policy. All information is stored in accordance with Client Records Policy, Information Technology Policy and Building Access and Office Security Policy.
- 15.** Protect personal information from misuse, loss, unauthorised access, modification or disclosure in accordance with the HIV Preventive Measures Act 1993.

## **Using and disclosing information**

- 16.** As a rule, only use or disclose personal information for the purpose for which it was collected.
- 17.** Personal information can be used for another purpose only if:
- the person to whom the information relates consents to its use for that purpose as outlined in the Confidentiality Policy or the Client Records Policy.
  - the secondary purpose is related to the primary purpose (in the case of health information, directly related to the primary purpose) and the individual would reasonably expect the organisation to use the information for that secondary purpose; or
  - there are legal or public health and safety reasons for its use for another purpose.

## **Access to information held about people**

- 18.** The National Privacy principles require organisations to be open about the way in which they handle personal information. All organisations covered by the *Privacy Act 1988* must set out a clear statement of their policies regarding management of personal information, and must provide this statement to anyone who asks for it and provide a copy to all clients. This Privacy Statement covers the following matters:
- The kinds of information that an organisation holds.
  - The main purposes for which the organisation holds the information.

- Whether the organisation contracts out services that involve disclosing personal information.
- How an individual can complain about a breach of privacy including a contact number in the organisation.
- The organisation's contact details.

How the organisation handles requests for personal information. A person must, upon their request, be given access to the health information held about them and provided with a copy if required.

## **Compliance with the *Privacy Act 1988***

- 19.** TasCAHRD staff must be aware of what personal information is collected, how that information is used and to whom it is disclosed, and how it is stored. Staff need to know when the personal information is sensitive information and handle it in accordance with the Client Records Policy.
- 20.** As TasCAHRD is defined as a health service provider for the purposes of the *Privacy Act 1988*, even contact details may be regarded as health information and thus entitled to the higher levels of protection applying to sensitive information. All staff, board members and volunteers will be required to sign a Confidentiality Agreement Declaration upon commencement of duties at TasCAHRD. This Declaration will be filed under File Number: 3.11.7, with their personnel record. Any breach of the TasCAHRD Privacy and Confidentiality Policies by a member of staff, board or volunteer may result in disciplinary action being taken.
- 21.** The CEO will ensure that all TasCAHRD forms provided for collecting personal information include a brief statement on the privacy of information collected and reference to TasCAHRD's Privacy Policy and Statement.
- 22.** When collecting sensitive information, it is collected in accordance with TasCAHRD's Client Records Policy, and clients must be given a copy of TasCAHRD's Privacy Statement.

## **Privacy Officer**

- 23.** The Chief Executive Officer shall be designated as the TasCAHRD Privacy Officer and will be responsible for implementing the organisation's privacy policy. The Privacy Officer will be the first point of contact when privacy issues arise either internally or from outside the organisation.
- 24.** The Privacy Commissioner's office has published *Guidelines on Privacy in the Private Health Sector* (available from the Chief Executive Officer) that also applies to the non-government and not-for-profit sector. The guidelines are not legally binding, but are designed to provide assistance in complying with the *Privacy Act 1988*. The NPPs are legally binding rules set out in Schedule 3 of the *Privacy Act 1988*, and they dictate how personal information must be handled.
- 25.** The Chief Executive Officer will ensure that all staff are familiar with TasCAHRD's Privacy Policy and procedures and with the National Privacy Principles as a means of promoting compliance with the requirements of the *Privacy Act 1988*.

## Privacy Audit

26. The Chief Executive Officer shall, each year, conduct a Privacy Audit to ascertain and review the type of personal information the organisation collects uses and discloses.
27. The Privacy Commissioner recommends that the following questions be asked during a Privacy Audit about the way TasCAHRD deals with personal information. The responses to these questions will help determine whether TasCAHRD is meeting its obligations under the *Privacy Act 1988* and the NPPs.
- (i) What personal (identifying) information does TasCAHRD collect? Is any of it health information or sensitive information?
  - (ii) How does TasCAHRD collect this information? Common ways include client registration forms, registrations forms for workshops or training and client satisfaction surveys.
  - (iii) Where and how does TasCAHRD keep this information? Is there a single client database? Is the information spread across several sites? Is it kept in different forms e.g. electronic and hard copy?
  - (iv) Who has access to the personal information held by TasCAHRD? Who actually needs to have access to it?
  - (v) Does TasCAHRD have systems in place to protect personal information from unauthorised access?
  - (vi) Why does TasCAHRD collect the personal information it collects? Is it essential to collect it for TasCAHRD's functions or activities?
  - (vii) Are the people to whom the information relates likely to know that TasCAHRD has collected the information?
  - (viii) How does TasCAHRD use the personal information it collects?
  - (ix) Is the information disclosed to anyone outside TasCAHRD?
  - (x) Does TasCAHRD contract out any functions or activities involving personal information? If yes, does TasCAHRD take any measures to protect the privacy of this information?
  - (xi) Does TasCAHRD make people aware of the intended use of any personal information collected from them?
  - (xii) Is the personal information TasCAHRD has collected accurate, complete, and up-to-date?

**(xiii)** Does TasCAHRD transfer information overseas? There are particular privacy requirements concerning the transfer overseas of personal information, and these can be found on the Privacy Commissioner's website at [www.privacy.gov.au](http://www.privacy.gov.au).

**28.** Following the privacy audit, the TasCAHRD Board shall each year examine how TasCAHRD's practices measure up to the standards set by the NPPs, and shall develop a plan to change any of the Council's practices that do not comply with the NPPs.

## **Complaints handling process**

A person who is dissatisfied with the way in which their personal information is handled is entitled to follow TasCAHRD's Feedback and Complaints Policy procedures, and if not satisfied with the result of their complaint, may then have their complaint dealt with by the Privacy Commissioner's office.

## **Policy Statement**

### **Privacy Statement**

**29.** The Tasmanian Council on AIDS, Hepatitis and Related Diseases (TasCAHRD) is committed to protecting the privacy and confidentiality of our members, board members, clients, supporters, volunteers and staff. TasCAHRD supports and is bound by the Privacy Amendment (Private Sector) Act 2000 and the National Privacy Principles, a copy of which can be found at <http://www.privacy.gov.au/publications/npps01.html>

TasCAHRD is committed to ensuring that the information you provide to us is secure and that you are aware of what information is held and your rights. TasCAHRD is subject to additional privacy obligations under the HIV/AIDS Preventative Measures Act 1993.

## **Information you provide**

TasCAHRD has clear policies and procedures in relation to both privacy and confidentiality and is obligated to ensure that information is collected, used and stored in an appropriate manner under the Privacy Act 1988. If we no longer require your personal information it is our practice to securely destroy the information or delete it from our systems.

Personal information supplied to TasCAHRD will only be used for the purpose specified for which you are providing the information. Consent is required for collecting information about health and sensitive information, and is collected in accordance with TasCAHRD's Client Records policy, ensuring that clients are making informed decisions in regard to confidentiality and privacy.

## **How we use the information**

When you become a member or board member you generally are asked to provide us with your name and contact details for communicating information about the work of TasCAHRD. Volunteers and staff are asked to provide information for the primary purpose of their employment or volunteer role with TasCAHRD. Personal information may be collected about staff and volunteers from other sources, for example: in the course of establishing and administering membership of a superannuation fund or regarding information from a government agency. Clients are asked to provide sensitive information that may include information about health to assist with maintaining or improving an individual's health and well being.

We may use the information for internal reviews and analysis and may also use it to produce certain consolidated statistics about our services. However, we will not disclose your individual information nor sell, trade or rent that information.

If we need to disclose any information to conform with any laws or legal process we will inform you what information has been disclosed and to whom (unless informing you is precluded by legislation), so that you can take necessary action. Consent to disclose personal and sensitive information may be obtained either in writing or verbally.

## **Access and Security**

A person must, on request, be given access to the health information held about them in accordance with TasCAHRD's Client Record Policy. General personal information collected is maintained on TasCAHRD databases, password protected and used only for the purpose of which the information has been obtained. Sensitive information must be coded and stored in a secure location separate from the coding information in accordance with TasCAHRD's Client Records Policy. TasCAHRD destroys or permanently de-identifies personal information if it is no longer needed in accordance with the Client Record Policy and relevant legislation.

## **Complaints**

A person who is dissatisfied with the way their personal information is handled is entitled to have their complaint dealt with by the Privacy Commissioners Office after first attempting to resolve the issue formally following TasCAHRD's Feedback and Complaints Policy.

## **Policy Privacy Disclaimer**

**30.** This disclaimer is to be included on all documentation where personal information is being requested. Such as:

- volunteer forms;
- confidentiality agreement;
- training application forms;

- TasCAHRD membership; and
- client record forms.

Please Note: Replace the text in bold with details specific to each form requesting information.

*Privacy Disclaimer:* The Tasmanian Council on AIDS, Hepatitis and Related Diseases (TasCAHRD) is committed to ensuring the privacy of information it collects. Personal information supplied to TasCAHRD will only be used for administrative and volunteer matching purposes, and is bound by the *Privacy Amendment (Private Sector) Act 2000* and *National Privacy Principles*. For a copy of our Privacy Policy and Statement, please contact our office on 6234 1242 or visit [www.tascahrd.org.au](http://www.tascahrd.org.au).

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