

PRIVACY POLICY

Purpose of This Policy

The purpose of this policy and procedure is to:

- ensure personal information is managed in an open and transparent way
- protect the privacy of personal information including Health Information of Consumers
- provide for the fair collection and handling of personal information
- ensure that personal information we collect is used and disclosed for relevant purposes only
- regulate the access to and correction of personal information
- ensure the confidentiality of personal information through appropriate storage and security

Protecting Your Privacy

McKenzie Aged Care Group is committed to protecting all Consumers privacy and to ensuring we can provide the best possible care and services. We are bound by the *Privacy Act 1988 (Cth)* (the Privacy Act), the *Privacy Amendment (Notifiable Data breaches) Act 2017* and the Australian Privacy Principles.

A copy of our Privacy Policy is available at all homes and can be obtained from the Facility Manager.

Collection of Information

We collect personal information about Consumers directly from the individual or their legal representative. We will only collect information for a purpose that relates directly to our functions and activities as an aged care provider and collection of the Personal Information is necessary to:

- comply with the provisions of state or commonwealth law;
- provide data to government agencies in compliance with state or commonwealth law;
- provide data to any persons who may at any time have a responsibility for the welfare and care of the Consumers;
- determine eligibility to entitlements provided under any state or commonwealth law;
- provide appropriate services and care;
- enable contact with a nominated person regarding a Consumer's health status; and
- lawfully liaise with a nominated representative and to contact family if requested or needed.

We understand that Consumers, families and representatives may not want to provide information to us. The information we request is relevant to providing care and services Consumers need. If Consumers, families and representatives choose not to provide us with some or all of the information we request, we may not be able to provide the appropriate care and services required.

We will not collect your Sensitive Information (including Health Information) unless the collection of the information is reasonably necessary for or directly related to one or more of our functions and:

- you have consented to the collection of this information; or
- the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- a permitted general situation exists to the collection of the information; or
- a permitted health situation exists in relation to the collection of the information.

Methods of Collection

Personal Information and Sensitive Information (including Health Information), may be collected:

- from a Consumer
- from any person or organisation that assesses health status or care requirements, for example Allied Health Professionals, medical practitioner, nurse practitioner
- from the health practitioner of a Consumer
- from other health providers or facilities
- from family members or significant persons of a Consumer
- from a legal advisor of a Consumer

We will collect Personal Information from the Consumer unless:

- we have the consent of the Consumer to collect the information from someone else
- we are required or authorised by law to collect the information from someone else
- it is unreasonable or impractical to do so

At admission, a Consumer should identify any parties from whom they do not wish Personal Information accessed or to whom they do not wish Personal Information provided. This should be recorded in the file of the Consumer and complied with to the extent permitted by law.

Unsolicited Information

If we receive Personal Information from an individual that we have not solicited and we could not have obtained the information by lawful means, we will destroy or de-identify the information as soon as practicable and in accordance with the law.

Notification

We will at or before the time or as soon as practicable after we collect Personal Information from an individual take all reasonable steps to ensure that the individual is notified or made aware of:

- our identity and contact details
- the purpose for which we are collecting Personal Information
- the identity of other entities or persons to whom we usually disclose Personal Information
- that our privacy policy contains information about how the individual may complain about a breach of the APPs and how we will deal with a complaint
- whether we are likely to disclose Personal Information to overseas recipients and if so, the countries in which such recipients are likely to be located and if practicable, to specify those countries

Use & Disclosure

We will use and disclose personal information only for the purpose for which it was collected as set out in the above section of “Collection of Information” or for any other purpose that is otherwise directly related to our functions or activities as an aged care provider or otherwise permitted at law.

a) Permitted Disclosure

We may not use or disclose Personal Information for a purpose other than the primary purpose of collection, unless:

- the secondary purpose is related to the primary purpose (and if Sensitive Information directly related) and the individual would reasonably expect disclosure of the information for the secondary purpose
- the individual has consented
- the information is Health Information and the collection, use or disclosure is necessary for research, the compilation or analysis of statistics, relevant to public health or public safety, it is impractical to obtain consent, the use or disclosure is conducted within the privacy principles and guidelines and we reasonably believe that the recipient will not disclose the Health Information
- we believe on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to an individual's life, health or safety or a serious threat to public health or public safety
- we have reason to suspect unlawful activity and use or disclose the Personal Information as part of our investigation of the matter or in reporting our concerns to relevant persons or authorities
- we reasonably believe that the use or disclosure is reasonably necessary to allow an enforcement body to enforce laws, protect the public revenue, prevent seriously improper conduct or prepare or conduct legal proceedings
- the use or disclosure is otherwise required or authorised by law

If we receive Personal Information from an individual that we have not solicited, we will, if it is lawful and reasonable to do so, destroy or de-identify the information as soon as practicable.

a) Cross Border Disclosure

We will not disclose an individual's Personal Information to an overseas recipient. If we do, we will take all steps that are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles, unless:

- the overseas recipient is subject to laws similar to the Australian Privacy Principles and the individual has mechanisms to take action against the overseas recipient
- we reasonably believe the disclosure is necessary or authorised by Australian Law
- the individual has provided express consent to the disclosure

b) Disclosure of Health Information

We may disclose Health Information about an individual to a person who is responsible for the individual if:

- the individual is incapable of giving consent or communicating consent
- the Manager is satisfied that either the disclosure is necessary to provide appropriate care or treatment or is made for compassionate reasons or is necessary for the purposes of undertaking a quality review of our services (and the disclosure is limited to the extent reasonable and necessary for this purpose)
- the disclosure is not contrary to any wish previously expressed by the individual of which the Manager is aware, or of which the Manager could reasonably be expected to be aware and the disclosure is limited to the extent reasonable and necessary for providing care or treatment

A person responsible is a parent, a child or sibling, a spouse, a relative, a member of the individual's household, a guardian, an enduring power of attorney, a person who has an intimate personal relationship with the individual, or a person nominated by the individual to be contacted in case of emergency, provided they are at least 18 years of age.

We will collect and use information about the Consumer during the course of the relationship with McKenzie Aged Care Group.

Correction of Information

It is important that the information we hold about the Consumer is up to date. The Consumer and their representative must advise our home when information previously provided has changed.

If we disagree with an individual about whether information is accurate, complete and up-to-date, and the individual asks us to associate with the information a statement claiming that the information is inaccurate, incomplete, out-of-date, incomplete, irrelevant or misleading we must take reasonable steps to do so.

If we refuse to correct the Personal Information as requested by the individual, we will give the individual written notice that sets out:

- the reasons for the refusal, except to the extent that it would be unreasonable to refuse
- the mechanisms available to complain about the refusal
- any other matter prescribed by the regulations

Access to Information

Consumers, families and representatives have a right to request that we provide access to the Personal Information we hold (and we shall make all reasonable attempts to grant that access) unless providing access:

- is frivolous or vexatious
- poses a serious threat to the life or health of any individual
- unreasonably impacts upon the privacy of other individuals
- jeopardises existing or anticipated legal proceedings
- prejudices negotiations between the individual and us
- be unlawful or would be likely to prejudice an investigation of possible unlawful activity
- an enforcement body performing a lawful security function asks us not to provide access to the information
- giving access would reveal information we hold about a commercially sensitive decision making process

We may charge fees to access records in accordance with the Victorian Health Records Act 2001 and the Federal Privacy Act 1988.

Requesting Access

Requests for access to information can be made orally or in writing and addressed to the Manager of the relevant home. We will respond to each request within a reasonable time.

Declining Access

An individual's identity should be established prior to allowing access to the requested information. If unsatisfied with the individual's identity or access is requested from an unauthorised party, we can decline access to the information.

We can also decline access to information if:

- there is a serious threat to life or health of any individual
- the privacy of others may be affected
- the request is frivolous or vexatious
- the information relates to existing or anticipated legal proceedings
- the access would be unlawful

We will provide, in writing, the reasons for declining access to information.

Personal Information Security

We are committed to keeping secure the Personal Information you provide to us. We will take all reasonable steps to ensure the Personal Information we hold is protected from misuse, interference, loss, from unauthorised access, modification or disclosure.

Information of a Consumer

- We must keep the records of a Consumer in a secure storage area.
- If the records are being carried while providing care only the staff member carrying the records will have access to them
- Records of previous Consumers and earlier unused volumes of current Consumers shall be archived and stored securely, away from general use
- Only health professionals attending to the care of a Consumer are to have access to information of the Consumer. All records shall only be used for the purpose intended
- A Consumer, or their representatives shall be provided access to records as requested and after consultation with the Manager. At these times, a qualified staff member is to remain with a Consumer or representative to facilitate the answering of any questions raised
- Details of a Consumer are not to be provided over the phone, unless the staff member is sure of the person making the inquiry. If in doubt, consult the Manager
- No staff shall make any statement about the condition or treatment of a Consumer to any person not involved in the care except to the immediate family or representative of the Consumer and then only after consultation with the Manager
- All staff must be discrete with their comments at all times, protecting and respecting the privacy, dignity and confidentiality of all Consumers
- Handovers shall be conducted in a private and confidential manner

Security Measures

Our security measures include, but are not limited to:

- training our staff on their obligations with respect to your Personal Information
- use of passwords when accessing our data storage system
- the use of firewalls and virus scanning tools to protect against unauthorised interference and access

This applies to staff (including contracted staff) who are required to have up-to-date virus protection software and firewalls installed on any device used to access documents containing Personal Information.

Contractors working on our behalf are required to:

- comply with the Australian Privacy Principles
- have up-to-date virus protection software and firewalls installed on any device used to access documents containing Personal Information
- notify us of any actual or potential breaches of security
- indemnify us in relation to any loss suffered by a breach

We will, as soon as practicable and in accordance with the law, destroy or de-identify any Personal Information that is no longer required for our functions.