
CR5 Privacy and Confidentiality

Policy context: This policy relates to the following legislation and / or Standard(s):	
Relevant International, National or State Standard	<ul style="list-style-type: none">• New Aged Care Quality Standards – Standard 8 Organisational Governance• Human Services Quality Standards: Standard 1 <i>Governance and Management</i>• NDIS Code of Conduct (2)
Legislation or other requirements	<ul style="list-style-type: none">• <i>Privacy Act 1988</i>• <i>Australian Privacy Principles</i>• <i>Commonwealth Privacy Amendment (Private Sector) Act 2000</i>• <i>Privacy Amendment (Notifiable Data Breaches) Act 2016</i>

PURPOSE

GOC Care collects and holds personal information in order to ensure that the most effective services are provided to its constituents. There must be trust by people accessing services that GOC Care will hold shared information confidential.

These guidelines describe the intentions of GOC Care in relation to client and other information and data, how personal information is stored and the purposes for which personal information is used and disclosed.

SCOPE

This policy applies to

- Employees
- Clients and their families / carers

DEFINITIONS

Confidentiality: A principle which states that personal information about others should not be revealed to persons not authorised to receive such information.

Privacy: Privacy is the ability of an individual or group to seclude themselves or information about themselves and thereby reveal themselves selectively. The boundaries and content of what is considered private differs between cultures and individuals, but shares basic common themes.

Personal information in the *Privacy Act* means information or an opinion (including information or an 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 reasonably be ascertained, from the information or opinion.

Record means:

- (a) a document

(b) a database (however kept)

(c) a photograph or other pictorial representation of a person

GUIDELINES

GOC Care recognises the essential right of individuals to have their information administered in ways that they would reasonably expect: Protected on one hand and made accessible to them and others who need it on the other.

Personnel will be authorised to access information on a 'needs to know' basis i.e. if it necessary for them to have access in order to do their job / provide a service to the client.

GOC Care collects and administers a range of personal information of the purposes of delivering services. The type of information that GOC Care collects and holds relates to:

- Clients
- GOC Care employees
- Other agencies / service providers

GOC Care will have procedures relating to:

- Information collection
- Storage of Information
- Disclosure of information, including cross-border disclosures
- Direct marketing
- Integrity of information
- Information security
- Access to amendment of information by stakeholders
- Archiving and destruction of information
- Complaints relating to information management

If other agencies collect, store, use or disclose personal information on behalf of GOC Care, or if they have access to personal information in GOC Care's information systems, GOC Care will include privacy clauses in any contracts or agreements to ensure that personal information is protected from unauthorised access, use or disclosure.

The following principles apply within this policy:

- Client consent to collect, store and disclose information will be sought in writing.
- Consent will be sought from clients or their carer prior to the collection from or disclosure to any third party e.g. an external agency.
- GOC Care undertakes to keep all information about individual clients confidential.

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- GOC Care will ensure that information collected from clients and carers be limited to that which is relevant and necessary to the client's involvement with GOC Care.
 - Clients will be provided with information regarding the collection, storage, disposal and accessibility of personal information.
 - Any information collected for a particular purpose (the primary purpose) will not be used or for another purpose (the secondary purpose) unless:
 - the client or their carer has consented to the use or disclosure of the information; or
 - the client would reasonably expect GOC Care to use or disclose the information for the secondary purpose and the secondary purpose is directly or closely related to the primary purpose.
 - Clients will be provided with access to an independent support person of their choice to assist them in all matters relating to the collection, storage, disposal and accessibility of personal information.
 - GOC Care will manage unsolicited personal information as per the requirements of Australian Privacy Principle 4.
 - Clients will be provided with the opportunity to 'opt out' of receiving information via group text/SMS or emails ('direct marketing' under the Act)
 - GOC Care will ensure that any personal information that has a likelihood of being stored outside of Australia (e.g. in the cloud or similar) will be stored in a manner which does not breach the Australian Privacy Principles.
 - Clients and / or their carers will be provided with reasonable access to information held about them and will be provided with mechanisms through which any incorrect or inaccurate information can be corrected.

PROCEDURES

GOC Care staff will take all reasonable steps to preserve the privacy and dignity of clients by utilising such strategies as:

- Ensuring doors are closed or the client is covered when undertaking personal care
- Knocking on doors before entering rooms where the client is, particularly bathrooms and bedrooms

Consent

- All information gathered is with the consent of the client. A Consent form will be completed with all new clients and renewed annually.
- GOC Care will seek permission from the client to liaise with other organisations in the interest of the individual. Before releasing information to outside organisations or government departments on client issues, consent will be requested in written or verbal form and the results will be recorded on the client's file.

Information Collection

GOC Care needs to collect information relevant to providing a range of disability, aged care and mental health support services. In the event that a client or prospective client does not wish to provide personal information, GOC Care may not be able to provide a service.

GOC Care collects information from clients or prospective clients directly or through a third party e.g. Disability Services, other services, etc.

(a) Clients or prospective clients

The personal information GOC Care collects from clients or prospective clients may include:

- Name and contact details
- Medical information and / or information relating to a disability
- Information relating to support needs
- Information relating to goals and aspirations
- Representative, advocate, case manager or carer details
- Guardian or administrator details
- Cultural background and / or preferred language
- Other circumstances which may impact on their care needs
- Any pets they may have
- Emergency contact details

GOC Care staff may use personal information in order to provide services to clients or to assess if GOC Care can meet the needs of prospective clients.

(b) Employee and Applicant Records

While employee information is exempt from the Australian Privacy Principles, GOC Care will ensure that all records are held securely and no unauthorised disclosure of information made.

Employee applications are retained for six months for the following purposes:

- As evidence that non-discriminatory processes were used in the recruitment and selection processes, and
- In case probation is unsuccessful for the successful applicant and further recruitment is necessary.

(c) Other agencies

GOC Care will collect and store information on other services necessary to make referrals, if a client or prospective client requires services which GOC Care is unable to provide. This information will be reviewed and updated on a regular basis (at least annually).

Unnecessary Information

As GOC Care does not manage or store personal information that is not relevant to its core functions, the following actions will be taken if information is received that is not necessary to GOC Care's activities:

- Relevant information will be noted and the document returned to the sender, or
- Blank out the unnecessary parts of the document before storing, or
- Note that the document has been sighted and return it to the sender.

Storage of Personal Information

GOC Care will store collected personal information in the following:

- Computer files (password protected)
- Hard copy files (in locked filing cabinets)
- Back up computer files

Information Disclosure / Consent

Disclosures may be made to the following agencies / services:

- Other support services
- Police
- Emergency services
- Department of Child Safety / Office of Public Guardian / Disability Services in instances of suspected abuse or neglect

GOC Care will use personal information only for the purpose for which it was collected and disclose personal information only if the individual or their guardian is reasonably aware of or has consented to that disclosure. The exceptions to this are:

- Where the safety of the client, their children, a GOC Care staff member or other persons is at **imminent** risk
- Where there is suspected child abuse or neglect, or
- Where records are subpoenaed or required by law.

There may be instances where clients are not in a position to give consent. In these situations, staff will make use of next of kin, carers or other formal or informal advocates to seek informed consent.

Non-identifying information may be shared across agencies involved in coordinated responses or other partnership arrangements. When this occurs, processes involved will be consistent with the Australian Privacy Principles.

All instances of disclosure to a third party will be noted on the appropriate record (progress notes for clients, employee file for employees, etc.). Information to be noted will include:

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- Name of the person who disclosed the information
 - If written or verbal consent was obtained
 - Date and purpose of the disclosure
 - Name of the person and agency to whom the information was disclosed.

Cross-border Disclosures

The only circumstances in which personal information might be disclosed outside Australia is if GOC Care utilised a cloud based back up system. This is not currently the case. Information sent to web-based email addresses such as Hotmail, Gmail and Yahoo may also be stored overseas, so this APP will apply at GOC Care. GOC Care is currently establishing mailboxes for all staff which will live on the GOC server.

Direct Marketing

GOC Care will not disclose personal information to a third party for direct marketing.

In some instances, GOC Care may send a group email or text to all clients, agencies or stakeholders on its database to advise of an event or other piece of information. Clients, carers or other agency stakeholders may advise GOC Care in writing if they do not wish to be contacted in this way.

Integrity of Personal Information

To ensure that personal information collected is kept accurate, up-to-date and complete, GOC Care staff will

- Regularly check with clients and / or carers to ensure contact details on files are correct
- Regularly review information held on other agencies

Information Security

The following steps are taken to protect stored personal information from misuse, interference, loss, unauthorised access, modification or disclosure:

- Password protection on all computers. Passwords are changed regularly (at least annually or when office staff leave)
- Locked filing cabinets
- Segregation of files so that staff working in one Program area do not have access to files relating to clients in other Programs.

It is preferred that whole files are never removed from the office i.e. only take information relevant for that piece of work e.g. meeting with client, their advocate or support person. Any information taken from a file will be returned upon return to the office.

Any files or documents being transported from the office by staff will be carried in a bag or folder to ensure that papers are secure if dropped or blown by the wind.

Mandatory data breach notification

GOC Care is required to notify any individuals affected by a data breach that is likely to result in serious harm. The Office of the Australian Information Commissioner (OAIC) will be advised of these breaches, and can determine if further action is required. The law also gives the OAIC the ability to direct an agency or business to notify individuals about a serious data breach.

Any breach of privacy involving personal data will be reported to the Director, who will determine if it constitutes a breach that needs to be reported. The following key steps would be undertaken in response to any potential data breach:

- Contain the breach
- Assess the risk for individuals associated with the breach
- Consider breach notification
- Review the incident and take action to prevent future breaches

Information regarding mandatory data breach notification requirements can be found at

<https://www.oaic.gov.au/agencies-and-organisations/guides/data-breach-notification-a-guide-to-handling-personal-information-security-breaches>.

Right to access and / or amend records

(a) Accessing records

- All clients or prospective clients (are provided with GOC Care's *Privacy and Confidentiality Statement* when they make contact with GOC Care and information is being collected
- Stakeholders have a right to read any personal information kept about them (with the exceptions noted below)
- Requests from stakeholders (or authorised representatives) to access information will be referred to the Coordinator or the Program or the GOC Care Director who will ensure that assistance is provided to the stakeholder to access their information within 10 working days of the request being received
- A stakeholder does not have to provide a reason for lodging a request
- No fees will be charged for lodging a request to access
- A GOC Care staff member will be available to the stakeholder to explain terminology or provide other assistance
- Stakeholders may access records on the premises but may not remove them from the office
- Photocopies of records will be provided within resource limitations
- GOC Care is the owner and controller of all records, No records may be removed from the premises without specific approval from the Director, who may seek legal advice, if necessary.

(b) Refusing a request to access personal information

A request by a stakeholder to access personal information held about them may be refused if:

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- GOC Care reasonably believes that giving access would pose a serious threat to the life, health or safety of the individual or to public health or safety, or
 - Giving access would have an unreasonable impact on the privacy of other individuals, or
 - The request is reasonably considered to be frivolous or vexatious, or
 - The information relates to existing or anticipated legal proceedings between GOC Care and the individual, and would not be accessible by the process of discovery in those proceedings, or
 - Giving access would reveal the intentions of GOC Care in relation to negotiations with the individual in such a way as to prejudice those negotiations, or
 - Giving access would be unlawful, or
 - Denying access is required or authorised by or under an Australian law or a court / tribunal order, or
 - Both of the following apply:
 - GOC Care has reason to suspect that unlawful activity or misconduct of a serious nature is being engaged in, and
 - Giving access would be likely to prejudice the taking of appropriate action in relation to the matter, or
 - Giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, and enforcement body, or
 - Giving access would reveal evaluative information generated within GOC Care in connection with a commercially sensitive decision-making process.

The decision to refuse a request must be made by the Director.

If the stakeholder wishes to appeal this decision they can use GOC Care's Complaints and Appeals policy and procedures.

(d) Changing Information

- If a stakeholder believes that the personal information held about them is inaccurate, incomplete or not up-to-date, the stakeholder may request an amendment.
- If this is a straightforward request e.g. to correct a name or address, GOC Care will make the change, subject to confirmation of the new information.
- In other circumstances, e.g. if a stakeholder queries the accuracy of case management notes, GOC Care will generally amend the record by attaching comments to the record noting the correct information or a statement that the stakeholder claims that the information is not accurate, complete or up-to-date. However, in no circumstances will the original entry be deleted.

Archiving and Destruction of Information

Archived information is securely destroyed as per *QUAL5 Document and Records Control and Management*.

Company information

Staff members are to be aware that sensitive organisational information is also covered by this policy. These stakeholders are not to discuss confidential and/or grievance issues from within the organisation.

Privacy and confidentiality training

Induction sessions run for new staff members outline GOC Care's legal and professional obligations with respect to privacy and confidentiality and training is provided in strategies utilised to ensure compliance.

Complaints regarding non-compliance with this policy

Clients and others who believe that GOC Care has not complied with this policy are encouraged to use GOC Care's Complaints policy to lodge a complaint.

Breaches of confidentiality

All staff members will sign a Confidentiality Agreement at the commencement of their involvement with GOC Care. Any breach of this Agreement will be investigated and may result in instant dismissal of the staff member.

REVIEW MECHANISMS

This policy will be reviewed regularly. Data which can assist in this review process can be gathered from:

- Annual internal audit
- Client feedback / complaints
- Staff feedback
- Board feedback

RELEVANT DOCUMENTATION

- Employee Confidentiality Agreement
- Board Confidentiality Agreement
- Volunteer Confidentiality Agreement
- Privacy and Confidentiality Statement for Clients
- Client Consent / Non-Consent form

OTHER RELEVANT POLICY & PROCEDURES

- Service Delivery Policy
- Workforce Management Policy

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- CR2 Stakeholder Complaints
 - HR4 Employee Orientation
 - HRV3 Volunteer Orientation
 - QUAL5 Document and records Control and Management

Approved by	GOC Care Director
Approval Date	January 2013
Date last reviewed	July 2019
Date to be reviewed	July 2021
This Document is CONTROLLED and is not to be altered without authorisation	