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### **3.7 Child Care Services Taree & Districts Inc.**

#### **Privacy and Confidentiality**

**Child Care Services Taree & Districts Inc. (CCSTD) recognises that we hold a position of trust in holding personal and sensitive information. CCSTD has a strong commitment to maintaining the privacy and confidentiality of participants and their families. CCSTD is committed to ensuring the collection, use and storage and disclosure of participants' personal information is undertaken in such a way so as to protect participants' privacy and confidentiality.**

#### **Definitions**

##### **Personal Information**

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.

##### **Health Information**

Means information or an opinion about:

- Health or a disability (at any time) of an individual; or
- Health service provided or to be provided to an individual; or
- Personal information collected to provide, or in providing, a health service

##### **Sensitive Information**

Means information or an opinion about an individual's:

- Racial or ethnic origin;
- Political opinions;
- Membership of a political association;
- Religious beliefs or affiliations;
- Philosophical beliefs;
- Membership or a professional or trade association;
- Membership of a trade union;
- Sexual preferences or practices;
- Criminal record
- Personal information; or
- Health information about an individual; or
- Genetic information about an individual that is not otherwise health information

#### **The Purpose of the Policy**

Child Care Services Taree & Districts Inc. is committed to ensuring that information is used in an ethical and responsible manner. CCSTD recognises the need to be consistent, cautious and thorough in the way that information about people is recorded, stored and managed.

All people have legislated rights to privacy of personal information. In circumstances where the right to privacy may be overridden by other considerations (for example, child protection concerns), workers act in accordance with the relevant policy and/or legal framework.

#### **Service Provider Practices**

- CCSTD only collects information, about a participant, volunteer, support worker or employee, directly relevant to the delivery of supports or to the employment of an individual.

- Where possible, all personal information will be collected directly from an individual. When collecting personal information an individual is informed about each of the proposed collections, uses/disclosures. The individual will be advised of the consequences (if any) of failing to consent to one or more of the proposed collections, uses and /or disclosures i.e. whether a service will be denied if consent is not given. The individual may withdraw their consent at any time.
- Appropriate support will be provided/sought to ensure the individual has the capacity to consent. A participants Representative may act on an individual's behalf. When this occurs the participant will still be involved and information will be presented in an understandable and comprehensible way.
- If information about an individual has been collected from someone else, or through some other means, reasonable steps will be taken to inform the individual.
- Where information is used for NDIS Assessment, evaluation or research purposes, CCSTD will ensure identifying information eg: birth dates, names are removed.
- Personal information will not be used or disclosed for any purposes other than those stated in accordance with this policy, or unless an exception under state or federal law applies.
- All participant information is stored either in locked filing cabinet or on secure password protected software which is accessed only by relevant staff or authorities

### **Confidentiality**

- Information relating to a participant or support worker is treated in a confidential manner and stored securely.
- Any disclosure of the individual's disability is undertaken with their knowledge and in a positive manner on a need to know basis. Workers shall not communicate, publish, release or disclose any personal information provided to them in the course of their work regarding a staff, volunteer, support worker, participant or participant family members, including any disability, except:
  - As required to maintain or deliver supports, including NDIS or government funding for supports; or
  - As required to enable an individual's employment; or
  - In the course of assisting individuals to access training or search for employment; or
  - With the informed consent of the employee, worker, volunteer, participant or the participants representative or permitted by law.
- CCSTD follows the NDIS Code of Conduct which emphasises the needs to maintain the confidentiality of a participant's personal information. If there is a breach of the NDIS Code of Conduct the participant has the right to make a complaint either to CCSTD or to the NDIS Commission.

### **Security and Accuracy of Information**

- Reasonable steps will be taken to ensure that personal information held is accurate, complete, and up to date and is protected from misuse, loss, unauthorised access, modification and disclosure.
- Participants and support workers will be made aware of this policy by:
  - Incorporating it in the respective Staff Induction Handouts and Participant Service Agreements.
  - Providing copies to participants and all new workers

### **Individuals will be informed of:**

- Who is collecting the information
- Why the information is being collected
- What it will be used for; and where
- How they can get access to the information
- Who else usually has access to the information
- What the main consequences, if any, are for the person if they do not provide the information
- Who the information might be given to.

### **Staff, Support Workers and Office Practices**

- Interviews with participants and participant representatives will be conducted in a room where privacy can be assured.
- If a support worker is in a situation where they believe that they need to disclose information about a participant that they ordinarily would not disclose, they should seek the advice of the Manager before making the disclosure.
- Computer screens must not be visible to members of the public
- Participant's files are not to be left on unattended desks.
- Hard copies of information regarding participants will be stored in a filing cabinet that is kept locked when the office is unattended, with keys only available to authorised staff.
- Participant's information that is in electronic form and stored on CCSTD computer network will be password protected so that information is only accessible to authorised staff.
- Participant files, or individual sections or pages of files, are not to be removed from CCSTD premises in any format, unless CCSTD is so directed by an authority with the legal mandate to give the direction to do so.
- Information from a participants file is not to be copied, except as part of a backup procedure, without the express permission of the participant.
- Organisational arrangements for maintaining participant privacy and confidentiality will be reviewed annually as part of a privacy audit.
- If a staff member working for CCSTD has reason to believe that a person is at risk of significant harm they have a duty of care to report it to the Police, Commission and/or complete a mandatory report online. In this situation personal information may be disclosed.

### **Consequences of a Breach of Privacy or Confidentiality**

Committee members, support workers and staff of CCSTD are in a trusted position and as such, service users, participants and other staff members deserve to be secure in the knowledge that information is not shared or disclosed to any person or agency unless:

- Approved and with the knowledge of the participant or person concerned
- Disclosed as a mandatory reporter
- Under legal or legislative directive

Organisations that fail to achieve data compliancy may face hefty penalties

- Committee members found in breach of privacy or confidentiality will be removed from the committee and depending on the breach may face further action
- Support workers found in breach of privacy or confidentiality will be dismissed and depending on the breach may face further action

- Staff found in breach of privacy or confidentiality will be dismissed and depending on the breach may face further action.

### **Relevant Legislation and Standards**

- NDIS Practice Standards
- NDIS Code of Conduct
- NSW Disability Service Standards (NSW DSS)
- NDIS Terms of Business
- Freedom of Information Act 1982
- Privacy and Personal Information Act 1988 (NSW)
- The Disability Inclusion Act 2014 (NSW) and Disability Inclusion Regulation 2014 (NSW)
- Mental Health Act 2007 (NSW)
- Ombudsman Act 1974 (NSW)
- NDIA National Quality and Safeguards Policy 2018
- Disability Discrimination Act 1992
- Anti-Discrimination Act 1977(NSW)
- Criminal Records Act 1991(NSW)
- Work Health and Safety Act 2011(NSW)
- Children and Young Persons (Care and Protection) Act 1998