



Subject:	Privacy Policy and Procedure
Standard 1:	Management systems, staffing and organisational development (residential care) / Effective management (home care)
Expected outcome:	1.8 Information systems (residential care) / 1.8 Physical resources (home care)
Developed:	February 2018
Review date:	February 2019
Authorisation:	GM

1 POLICY

We will use all reasonable efforts to protect the privacy of individuals' personal information and to comply with the obligations imposed by the *Privacy Act 1988* (Cth) (**Privacy Act**), the Australian Privacy Principles (**APPs**), the Aged Care Act and the Aged Care Principles.

We will only collect personal information by lawful and fair means and will only collect personal information that is necessary for one or more of our organisation's functions or activities.

If it is reasonable and practicable to do so, we will collect personal information about an individual only from that individual.

In meeting our obligations with respect to the privacy of our clients we acknowledge that people with vision or hearing impairments and those of culturally and linguistically diverse people may require special consideration.

2 PURPOSE OF POLICY

The purpose of this policy and procedure is to:

- (a) ensure personal information is managed in an open and transparent way;
- (b) protect the privacy of personal information including Health Information of clients, residents and Workers;
- (c) provide for the fair collection and handling of personal information;
- (d) ensure that personal information we collect is used and disclosed for relevant purposes only;
- (e) regulate the access to and correction of personal information; and
- (f) ensure the confidentiality of personal information through appropriate storage and security.

3 SCOPE

This policy applies to employees, contractors or subcontractors, employees of a labour hire company assigned to work in our business, outworkers, apprentices or trainees, work experience students and volunteers (**Workers**).

4 PROCEDURE

4.1 What is "Personal Information"?

Personal Information is information or an opinion, 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.

4.2 What is "Sensitive Information"?



Sensitive Information includes 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 of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record, biometric information, biometric templates, health information about an individual and genetic information.

4.3 What is “Health Information”?

Health Information is:

- (a) information or an opinion about:
 - (i) the health or a disability (at any time) of an individual;
 - (ii) an individual’s expressed wishes about the future provision of health services to him or her; or
 - (iii) a health service provided, or to be provided, to an individual that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service;
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or
- (d) genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

4.4 What is “Unsolicited Information”?

Unsolicited Information is all personal information received from an individual that we did not actively seek to collect.

4.5 What is an “Employee Record”?

An Employee Record is a record of personal information relating to the employment of the employee. Examples of personal information relating to the employment of the employee are Health Information about the employee and personal information about all or any of the following:

- (a) the engagement, training, disciplining or resignation of the employee;
- (b) the termination of the employment of the employee;
- (c) the terms and conditions of employment of the employee;
- (d) the employee’s personal and emergency contact details;
- (e) the employee’s performance or conduct;
- (f) the employee’s hours of employment;
- (g) the employee’s salary or wages;
- (h) the employee’s membership of a professional or trade association;
- (i) the employee’s trade union membership;
- (j) the employee’s recreation, long service, sick, personal, maternity, paternity or other leave; and
- (k) the employee’s taxation, banking or superannuation affairs.

5 COLLECTION, USE AND DISCLOSURE

We will collect and use information about you during the course of your relationship with us. We explain below when and how we may collect, use and disclose this information.

It is important that the information we hold about you is up to date. You must let us know when the information you have provided has changed.



6 COLLECTION OF PERSONAL INFORMATION

6.1 Purpose of collection of Personal Information

We will only collect Personal Information about an individual by fair and lawful means and only if the information is necessary for one or more of our functions as an aged care provider and collection of the Personal Information is necessary to:

- (a) comply with the provisions of state or commonwealth law;
- (b) provide data to government agencies in compliance with state or commonwealth law;
- (c) determine eligibility to entitlements provided under any state or commonwealth law;
- (d) provide appropriate services and care;
- (e) enable contact with a nominated person regarding a client's health status; and
- (f) lawfully liaise with a nominated representative and to contact family if requested or needed.

Some individuals may not want to provide information to us. The information we request is relevant to providing them with the care and services they need. If the individual chooses not to provide us with some or all of the information we request, we may not be able to provide them with the care and services they require.

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:

- (a) you have consented to the collection of this information; or
- (b) the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or
- (c) a permitted general situation exists to the collection of the information; or
- (d) a permitted health situation exists in relation to the collection of the information; or
- (e) we are a non-profit organisation and:
 - (i) the information relates to our activities; and
 - (ii) the information relates only to the members of the organisation, or to individuals who have regular contact with us and our activities.

7 METHODS OF COLLECTION

7.1 Overview

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

- (a) from a client or resident;
- (b) from any person or organisation that assesses health status or care requirements, for example the Aged Care Assessment Team;
- (c) from the health practitioner of a client or resident;
- (d) from other health providers or facilities;
- (e) from family members or significant persons of a client or resident; and
- (f) from a legal advisor of a client or resident.

We will collect Personal Information from the client or resident unless:

- (a) we have the consent of the client or resident to collect the information from someone else; or
- (b) we are required or authorised by law to collect the information from someone else; or
- (c) it is unreasonable or impractical to do so.

At admission, a client or resident 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 client or resident and complied with to the extent permitted by law.

7.2 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.



7.3 Worker records

We must keep a record in respect of Workers about:

- (a) basic employment details such as the name of the employer and the employee and the nature of their employment (eg part-time, full-time, permanent, temporary or casual);
- (b) pay;
- (c) overtime hours;
- (d) averaging arrangements;
- (e) leave entitlements;
- (f) superannuation contributions;
- (g) termination of employment (where applicable); and
- (h) individual flexibility arrangements and guarantees of annual earnings.

We may also collect Personal Information about a Worker relating to their employment being Employee Records (as defined above).

7.4 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:

- (a) our identity and contact details;
- (b) the purpose for which we are collecting Personal Information;
- (c) the identity of other entities or persons to whom we usually disclose Personal Information to;
- (d) 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;
- (e) 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.

8 USE AND DISCLOSURE OF INFORMATION

8.1 Permitted disclosure

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

- (a) 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;
- (b) the individual has consented;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) 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; or
- (g) 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.



8.2 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:

- (a) 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;
- (b) we reasonably believe the disclosure is necessary or authorised by Australian Law; or
- (c) the individual has provided express consent to the disclosure.

8.3 Disclosure of Health Information

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

- (a) the individual is incapable of giving consent or communicating consent;
- (b) the service 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); and
- (c) the disclosure is not contrary to any wish previously expressed by the individual of which the service manager is aware, or of which the service 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.

9 ACCESS

9.1 Requesting access

You have a right to request that we provide you access to the Personal Information we hold about you (and we shall make all reasonable attempts to grant that access) unless providing access:

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

9.2 Process for requesting access

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

9.3 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:

- (a) there is a serious threat to life or health of any individual;
- (b) the privacy of others may be affected;
- (c) the request is frivolous or vexatious;



- (d) the information relates to existing or anticipated legal proceedings; or
- (e) the access would be unlawful.

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

9.4 **Granting access**

On request (and after determining an individual's right to access the information) we should provide access to Personal Information.

9.5 **Charges**

If we charge for providing access to Personal Information, those charges will not be excessive.

10 **PERSONAL INFORMATION QUALITY**

We aim to ensure that the Personal Information we hold is accurate, complete and up-to-date. Please contact us if any of the Personal Information you have provided to us has changed. Please also contact us if you believe that the information we have about you is not accurate, complete or up-to-date.

11 **CORRECTION**

If an individual establishes the Personal Information held about them is inaccurate, incomplete, out-of-date, irrelevant or misleading we must take reasonable steps to correct the information.

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

- (a) the reasons for the refusal, except to the extent that it would be unreasonable to refuse;
- (b) the mechanisms available to complain about the refusal; and
- (c) any other matter prescribed by the regulations.

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, irrelevant or misleading we must take reasonable steps to do so.

12 **DIRECT MARKETING**

12.1 **Personal Information**

We will not use or disclose Personal Information about an individual for the purposes of direct marketing, unless the information is collected directly from you and:

- (a) you would reasonably expect us to use or disclose your Personal Information for the purpose of direct marketing; and
- (b) we have provided you a means to 'opt-out' and you have not opted out.

12.2 **Sensitive Information**

We will not use or disclose Sensitive Information about an individual for the purposes of direct marketing, unless the individual has consented to the information being used for direct marketing.

12.3 **An individual's rights in relation to direct marketing activities**

If we use information for the purposes of direct marketing the individual may:

- (a) ask us not to provide direct marketing communications to them;
- (b) ask us not to disclose or use the information;
- (c) ask us to provide the source of the information.



13 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.

13.1 Information of a Client or Resident

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

13.2 Security measures

Our security measures include, but are not limited to:

- (a) training our Workers on their obligations with respect to your Personal Information;
- (b) use of passwords when accessing our data storage system; and
- (c) the use of firewalls and virus scanning tools to protect against unauthorised interference and access.

This applies to Workers 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:

- (a) comply with the Australian Privacy Principles;
- (b) have up-to-date virus protection software and firewalls installed on any device used to access documents containing Personal Information;
- (c) notify us of any actual or potential breaches of security;
- (d) 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.

13.3 Response to a data breach

A data breach occurs when personal information is lost or subjected to unauthorised access, modification, use or disclosure, or other misuse or interference. All Workers are responsible for reporting any actual or suspected data breach to the Care Manager on duty, Facility Manager/DON or General Manager.

Detail about how we manage any actual or suspected data breach is set out in our Data Breach Response policy which includes our Data Breach Response Plan.



14 SECURITY CAMERAS ON SITE

- LBHA maintains a series of security cameras operating at various locations on all campuses for business security and related staff safety support
- LBHA has responded to feedback from its employees' concerns regarding their safety and notably performing duties after hours to external residential wings
- LBHA acknowledges varying security risks are presented but also acknowledges that cameras are only ever part of a solution package and never to be relied upon as a standalone risk mitigation measure
- LBHA advertises at each campus that cameras are installed for security purposes and content monitored as appropriate to the incidents being reported or investigated
- Content footage captured is held on dedicated computers and secured at each site with content removed after an appropriate time
- Cameras are not installed in resident's rooms or general resident dedicated spaces; however, residents will appear in footage from cameras installed in publicly monitored spaces for the security purpose outlined e.g. walkway leading out onto the gazebo in Home Hill

CAMERAS IN RESIDENT'S ROOMS

- **LBHA does not support the installation of cameras in resident rooms given it is the view of LBHA that this practice directly conflicts with its advocacy and support for the privacy, independence and dignity of vulnerable individuals in its care.**
- Conceded is the very remote possibility of an exceptional circumstance, also assessed as a severe risk, which could warrant the inclusion of a camera.
- If that was ever to occur, then under this Policy it would be necessary that:
 - The safety of the resident is the priority and a camera is not to be relied upon as the only element of a safety strategy
 - The camera installation would only be considered as part of a package of measures to support the safety of the resident/s and receive due consideration for its lower place in the hierarchy of safety controls
 - The risk is assessed as severe e.g. a simple quality complaint issue would not be considered a valid reason for a camera to be positioned in a room
 - Any response which includes a camera must be agreed in writing between the resident, and/or their EPOA if appropriate,
 - The inclusion of a camera is to be negotiated and implemented by the General Manager or their assigned on the clear understanding the content footage is to be secured and carefully protected to ensure there is no unintended distribution.
 - Further the agreement must include a resolution as to how the subject material is to be reviewed, daily at a minimum, by who to best support scrutiny, and destroyed if irrelevant to emergency under review, and
 - The inclusion of a camera in a strategy is only to be implemented for the period of the emergency
- To be clear the General Manager or their assigned, cannot implement a camera installation where LBHA has no control over content – no LBHA control, no camera.
- In the circumstance an unauthorised camera is uncovered then that camera will be removed and confiscated by handing over immediately to the senior site supervisor, secured and incident immediately reported to the General Manager or their assigned.



- Staff are not permitted to review any footage/content pending direction from the General Manager or their assigned.
- The confiscated camera is not to be released pending a complete investigation. The discovery is to be treated as a workplace incident and incident investigation processes initiated immediately.
- Resident and/or EPOA notification is to be treated sensitively, however the confiscated camera and content is not to be released without approval from the General Manager or their assigned.

15 MEDIA

No Workers shall make any statement to the press, radio or television station or to any reporter for the media. If a Worker is approached to make a statement or comment they must refer the person to our General Manager.

16 PRIVACY OFFICER

We have appointed a Privacy Officer, our General Manager, to manage and administer all matters relating to protecting the privacy of individual's Personal Information.

The Privacy Officer can be contacted if any relevant person wishes to obtain more information about any aspect of this policy or about the way in which we operate to protect the privacy of individual's Personal Information.

As stated above, complaints may also be made to the Privacy Officer if any person suspects we have breached this Privacy Policy, the Australian Privacy Principles or they are otherwise unhappy with the management of their or if they are responsible for another person, that person's Personal Information.

17 GRIEVANCE PROCEDURE

17.1 How to make a complaint

If you wish to make a complaint about the way we have managed your Personal Information you may make that complaint verbally or in writing by setting out the details of your complaint to any of the following:

- (a) General Manager
 - (i) Phone: 07 4783 0100
 - (ii) Email: generalmanager@lbha.org.au
- (b) Facility Manager/DON
 - (i) Phone: 07 4783 0100
 - (ii) Email: h.davey@lbha.org.au

Alternatively, complaints may also be referred to a number of services as set out below:

- (a) Australian Information Commissioner
The Australian Information Commissioner receives complaints under the Act. Complaints can be made:
Online: <http://www.oaic.gov.au/privacy/making-a-privacy-complaint>
By phone: on 1300 363 992
By fax: on +61 2 9284 9666

In writing, by addressing your letter to the Australian Information Commissioner at the:
Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

OR



Office of the Australian Information Commissioner
GPO Box 2999
Canberra ACT 2601

(b) Aged Care Quality and Safety Commission

The Aged Care Complaints Commissioner receives complaints about aged care services under the Act. Complaints can be made:

Online: <https://www.agedcarequality.gov.au/making-complaint/lodge-complaint>

By phone: on 1800 951 822.

Or if you need an interpreter you can phone the Translating and Interpretation Service on 131 450 and ask them to put you through to the Aged Care Complaints Commissioner on 1800 500 552.

For hearing or speech impaired TTY users phone 1800 555 677 then ask for 1800 550 552.

For Speak and Listen users phone 1800 555 727 then ask for 1800 550 552.

For Internet relay users connect to <https://internet-relay.nrscall.gov.au/>.

In writing to:

Aged Care Complaints Commissioner

GPO Box 9848

Brisbane Qld

HOW WE WILL DEAL WITH YOUR COMPLAINT

The complaint will be investigated by us in accordance with our internal procedures and processes.

The complainant may be invited to participate in a conference by the Worker conducting the investigation. At the discretion of the General Manager or Facility Manager/DON other interested parties may also be invited to participate in the conference to discuss the nature of the complaint and attempt to resolve it. This may include the presence or participation of a support person or advocate for the complainant.

The complainant will be provided with a response to their complaint within a reasonable timeframe after completion of any investigation. This response will be in writing and will include the outcome of the investigation, any proposed action and details of the right to lodge a complaint with any relevant external organisations.

RESOURCES:

- Privacy Collection Statement (Attached)



PROTECTING YOUR PRIVACY

Lower Burdekin Home for the Aged Society is committed to protecting your privacy and to ensuring we can provide you with the best possible care and services. We are bound by the *Privacy Act 1988* (Cth) (the **Privacy Act**) and the Australian Privacy Principles.

This Privacy Collection Statement should be read in conjunction with our Privacy Policy which contains detailed information on how we protect your privacy, including the way in which we may collect, use and disclose your information.

A copy of our Privacy Policy is available on our website or at our facility. We will provide a copy of our Privacy Policy to you when you are admitted to our facility or before we start providing services to you.

COLLECTION OF INFORMATION

We collect personal information about individuals 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. We understand that you may not want to provide information to us. The information we request of you is relevant to providing you with the care and services you need. If you choose not to provide us with some or all of the information we request, we may not be able to provide you with the care and services you require.

For more detailed information, please refer to our Privacy Policy.

USE AND DISCLOSURE

We will use and disclose your personal information only for the purpose for which it was collected 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.

Please refer to our Privacy Policy for more detailed information.

ACCESS AND CORRECTION OF INFORMATION

Our Privacy Policy also contains detailed information on how you may access the personal information we hold about you and how you can seek to have your personal information corrected.

OVERSEAS RECIPIENTS

We will not disclose your information to overseas recipients. 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.

MAKING A COMPLAINT

If you wish to make a complaint about the way we have managed your personal information you may make that complaint verbally or in writing by setting out the details of your complaint to any of the following:

- (i) **The General Manager** on
Phone: 07 4783 0100
Fax: 07 4783 5258
Email: generalmanager@lbha.org.au
- (ii) **Aged Care Quality and Safety Commission**
Online: At <http://www.agedcarecomplaints.gov.au>
By phone on 1800 951 822
- (iii) **Office of Australian Information Commissioner**

HOW TO CONTACT US:

If you have any questions in relation to privacy or how we manage your personal information, please contact us on 07 4783 0100. Alternatively, you can e-mail: generalmanager@lbha.org.au

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