



CONFIDENTIALITY POLICY

Policy Number: 1:7

Pages: 5

Compliance with this Policy Directive is **Mandatory**

Policy Type	Clinical Policy Document
<p>Purpose of the Policy</p>	<p>Care Assess is committed to protecting and upholding the rights of all its clients to privacy, dignity and confidentiality in accordance with the relevant legislation.</p> <p>In providing community aged care health services, staff will receive sensitive personal or health-related client information. This information is to be treated with appropriate confidentiality within the relevant service area. Sensitive client information is not released outside this service area unless consent is provided and there is a requirement to do so according to relevant legislation.</p>
<p>Definitions</p>	<p>Confidentiality: Protection against disclosure to an outside person of information revealed in a professional relationship ¹.</p> <p>Confidentiality has a direct right and remedies at Common Law and Legislation.</p> <p>Privacy has no direct general right at Common Law. Rights to privacy are only those matters covered in the <i>Privacy Act</i>.</p> <p>A Relevant Person is in this example:</p> <ul style="list-style-type: none"> • a relevant health service (Care Assess); or • the board of a relevant health service; or • a person who is or has been a member of the board of a relevant health service; or • a person who is or has been the proprietor of a relevant health service; or • a person who is or has been engaged or employed in or by a relevant health service, or performs work for a relevant health service ². <p>Confidential Communication means: A communication made in such circumstances that, when it was made:</p> <ul style="list-style-type: none"> (a) the person who made it; or (b) the person to whom it was made;

was under an express or implied obligation not to disclose its contents, whether or not the obligation arises under law ³.

Confidential document:

Is a document prepared in such circumstances that, when it was prepared:

- (a) the person who prepared it; or
- (b) the person for whom it was prepared;

was under an express or implied obligation not to disclose its contents, whether or not the obligation arises under law ³.

Health Information:

The *Privacy Act* defines 'health information' as follows:

- (a) information or an opinion about:
 - (i) the health or a disability (at any time) of an individual; or
 - (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; or
- (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.

Personal Information:

Recorded information about an identifiable individual that may include his or her:

- name, address, email address, phone number,
- race, nationality, ethnicity, origin, color, religious or political beliefs or associations,
- age, sex, sexual orientation, marital status, family status,
- identifying number, code, symbol,
- finger prints, blood type, inherited characteristics,
- health care history including information on physical/mental disability,
- educational, financial, criminal, employment history,
- others' opinion about the individual, and
- personal views except those about other individuals ⁵.

Sensitive Information:

Is defined in the *Privacy Act* to mean 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;

	<ul style="list-style-type: none"> • membership of a trade union; • sexual preferences or practices; or • criminal record. <p>Sensitive information' also includes health information and genetic information about an individual that is not otherwise health information.</p> <p>Sensitive information' is subject to a higher level of privacy protection than other 'personal information' handled by organisations in the following ways:</p> <ul style="list-style-type: none"> • 'sensitive information' may only be collected with consent, except in specified circumstances. Consent is generally not required to collect 'personal information' that is not 'sensitive information'. • 'sensitive information' must not be used or disclosed for a secondary purpose unless the secondary purpose is directly related to the primary purpose of collection and within the reasonable expectations of the individual⁶.
<p>Policy</p>	<p>Any person engaged by Care Assess for the provision of health or health related services must not:</p> <p>Give to any other person/ agency, whether directly or indirectly, any information acquired as a relevant person if an individual receiving health services from a relevant health service could be identified from this information</p> <p>Some cases in which confidential information may be lawfully disclosed are set out in section 141(3) of the HSA 1988:</p> <ul style="list-style-type: none"> ▪ concerning the condition of a person who is a patient in, or is receiving health services from, a relevant health service, if the information is communicated: <ul style="list-style-type: none"> ▪ in general terms; or ▪ by a member of the medical staff of a relevant health service to the next of kin or a near relative of the patient in accordance with the recognised customs of medical practice; or ▪ the giving of information as described in HPP 2.2(a) of the Health Privacy Principles (HPPs) in the HRA 2001 (for secondary purpose directly related to primary purpose of collecting information), <ul style="list-style-type: none"> • 2.2(f) (for the management of a health service or training of employees), • 2.2(h) (to lessen or prevent a serious and imminent threat to the life, health, safety or welfare of an individual or a serious threat to public health, public safety or public welfare), • 2.2(k) (to establish, exercise, or defend a legal or equitable claim), • 2.2(l) (to use or disclose in prescribed circumstances) or • 2.5 (to identify an individual; or contact family members where, due to an accident, the individual is

	<p>unable to consent) of the HPPs in the HRA 2001; or</p> <ul style="list-style-type: none"> ▪ if it is required in connection with the further treatment of a client, or transferred electronically between hospitals for the treatment of client; or <p>Some cases in which confidential information may be lawfully disclosed are set out in section 141(3) of the HSA 1988:</p> <ul style="list-style-type: none"> ▪ with the prior <i>consent</i> of the person to whom it relates or, if that person has died, with the consent of the senior available next of kin of that person; or ▪ to a court, in the course of criminal proceedings; or ▪ concerning the condition of a person who is a patient in, or is receiving health services from, a relevant health service, if the information is communicated, 7.
Scope	<ul style="list-style-type: none"> • Category of Staff • Care Assess Directors. • Care Assess CEO. • Care Assess Clinical Management Staff. • Clinical Co-ordinators who act as mentors to all clinicians within Care Assess. • Registered Nurses and Enrolled Nurses under the direction of a Registered Nurse. • Program Coordinators responsible for specific programs administered by Care Assess. • Care Assess Agents and Contractors (includes sub contractors and temporary contractors).
References	<ol style="list-style-type: none"> 1- The Law Handbook 2012 – Confidentiality. 2- Health Service Act (HAS) 1988, Section 141. 3- Evidence Act 1995 – Section 117. 4- Australian Law Reform Commission Report 108/62 5- http://www.businessdictionary.com/definition/personal-information.html#ixzz27dAn053n 6- Protecting Information Rights – Advancing Information Policy: Office of the Australian Information Officer 7- Health Service Act (HAS) 1988, Section 141.
Related Policies	<ul style="list-style-type: none"> • Client Records • Privacy Policy • Procedure to Access Personal Information • Rights and Responsibilities

Date Implemented: March 2013

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Endorsed by:



Joe Towns
Chief Executive / Director

Review dates: July 2013