



# Canberra Health Services

## Operational Policy

### Information Privacy Policy

#### Policy Statement

Canberra Health Services (CHS) is committed to ensuring that information collected about an individual is managed in accordance with legislative requirements. CHS will not collect information about an individual if it is not required.

As Canberra Health Service (CHS) is a healthcare provider there are two types of information collected and managed by CHS whilst performing the functions of a health service organisation.

Any information collected by CHS in relation to the health, illness or disability of a consumer is personal health information. The management of this information is covered by the *Health Records (Privacy and Access) Act 1997* and is out of scope for this policy.

Any other personal information collected by CHS, such as from an employee, volunteer, student, contractor or from a consumer through a consultation process is covered by the *Public Sector Act 2014*, *Information Privacy Act 2014*, and *Territory Records Act 2002*.

This policy sets out how CHS collects, holds, uses and discloses personal information to carry out functions or activities, in accordance with the organisation's legal obligations under the *Information Privacy Act 2014*.

#### Background

This policy is made in accordance with Territory Privacy Principle 1 of the *Information Privacy Act 2014*. The specific legal obligations of CHS when collecting and handling personal information are outlined in the Act and, the Territory Privacy Principles (TPP) found in that Act.

The TPP apply to ACT public sector agencies and outline how these agencies should manage personal information.

#### Summary of the 13 Territory Privacy Principles

**1:** Open and transparent management of personal information. A public sector agency (agency) must comply with the TPPs and implement practices and procedures and create a policy stating how they will manage personal information. The policy must be available to the public.

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**2: Anonymity and pseudonymity.** Individuals must have the option of not identifying themselves, or of using a pseudonym, when dealing with an agency in relation to a particular matter. This does not apply if it is impractical for the agency to deal with anonymous or pseudonym individuals.

**3: Collection of solicited individual information.** The agency must only collect information that is necessary or directly related to the agency's function or activities. The collection of the information may be required by law. The information must only be collected by lawful and fair means.

**4: Dealing with unsolicited personal information.** If unsolicited information could not be collected under TPP3 and it is not contained in a territory record the information is destroyed or deidentified.

**5: Notification of the collection of personal information.** When information is collected from an individual the agency must notify the individual what information is collected, why the information is collected, what happens if information is withheld, who the information will be shared with, how the individual can access the information collected, that the agency has a privacy policy and how to access it.

**6: Use or disclosure of personal information.** When an agency has collected information for a particular purpose (primary purpose) the agency must not use or disclose the information for another purpose (secondary purpose) unless: the individual consents to the use or disclosure; it is reasonable to expect the agency to use or disclose for the secondary purpose; the use or disclosure is required or authorised by law or a court or a tribunal.

**7: Direct marketing.** The agency must not use the information collected for direct marketing. The ACT has adopted this principle from the *Commonwealth Privacy Act 1988*.

**8: Cross-border disclosure of personal information.** Before an agency discloses information about an individual to an overseas recipient the agency must take reasonable steps to ensure the overseas recipient does not breach the TPPs in relation to the information.

**9: Adoption, use or disclosure of government related identifiers.** The ACT has adopted this principle from the *Commonwealth Privacy Act 1988*, please refer to the Act for more information on the adoption use or disclosure of government related identifiers by private sector entities.

**10: Quality of personal information.** An agency must take reasonable steps to ensure the information collected is accurate, up to date and complete. The agency must also ensure the information used or disclosed is accurate, up to date, complete and relevant to the purpose.

**11: Security of personal information.** If an agency holds personal information the agency must take reasonable steps to protect the information from misuse, interference, loss or

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unauthorised access, modification or disclosure. If the information is no longer required, the agency must take reasonable steps to destroy or de-identify the information.

**12:** Access to personal information. If the agency holds information about an individual the agency must on request by the individual give the individual access to the information. The agency may refuse access to the information under the *Freedom of Information Act* or another law in force in the ACT that provides for access by people to documents. If the agency refuses then the agency must provide written reasons for refusal, and the mechanisms available to complain about the refusal.

**13:** Correction of personal information. If an agency holds personal information about an individual and the individual or the agency believe the information is inaccurate, the agency must take reasonable steps to correct the information to ensure the information is accurate, up to date, complete, relevant and not misleading.

## Purpose

The purpose of this policy is to set out how CHS collects, holds, uses and discloses personal information to carry out functions or activities, in accordance with the organisation's legal obligations under the *Information Privacy Act 2014*.

## Scope

This policy applies to all people who work (paid and unpaid) at CHS within the hospital inpatient, community and hospital outpatient setting. This includes but is not limited to, staff members, contractors, students, volunteers and other health care workers who during their work have access to an individual's personal information. Throughout this document people who work (paid and unpaid) at CHS are referred to as staff.

This policy applies to all personal information (that does not form part of a clinical record), in any format, that is collected, held, used and disclosed by any CHS facility.

This policy does not provide detail about records management, please see *Administrative Records Management Policy, Administrative Recordkeeping Procedures Manual* or *Territory Records Act 2002* for further information.

Personal health information is out of scope of this policy. The privacy of personal health information is covered by the *CHS Consumer Privacy Policy* and by the *Health Records (Privacy and Access) Act 1997*.

This policy does not cover the management of clinical health records. Please see *Clinical Records Management Policy, Clinical Records Management Procedure, Records Disposal*

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*Schedule for ACT Health Clinical Records Procedure and Confidentiality, Privacy and Access to Mental Health, Justice Health and Alcohol and Drug Services Clinical Records Procedure.*

## Roles & Responsibilities

The Chief Executive Officer is responsible for:

- Ensuring the organisation complies with this policy
- Ensuring the organisation meets the legislative requirements of the *Information Privacy Act 2014*.

Management Staff are responsible for:

- Ensuring staff are aware of the legislative requirements of the *Information Privacy Act 2014*
- Ensuring all staff are orientated to this policy and their associated responsibilities.

All staff are responsible for:

- Adhering to the Territory Privacy Principles of the *Information Privacy Act 2014*
- Following this policy when managing personal information
- Only accessing information that they need to perform their duties
- Protecting the privacy and confidentiality of personal information that they may collect or hold
- Not disclosing personal information without legal authority
- Not disclosing their computer passwords, as required by *Information and Communication Technology Resources – Acceptable use procedure*
- Accepting responsibility for all activities undertaken using their password
- Not removing confidential information from the work place unless authorised
- Disposing of any documents with personal information, that are not required to be filed in an administrative record, into a secure waste bin.

Individuals who CHS collect personal information from are responsible for:

- Notifying CHS when information held about them is incorrect and providing the correct information.

## Section 1: Collection of Personal Information

### Remaining anonymous

Generally, when an individual communicates with staff (for example when calling on the phone to make an enquiry) they have the option of remaining anonymous or using a pseudonym (a made-up name).

However, in some situations it is impracticable or unlawful for staff to deal with an individual without them providing identifying information, such as collecting information from an

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individual regarding employment at CHS. In this instance the individual will need to provide their name in order to receive services or assistance.

### **Collection of personal information**

At all times staff will only collect personal information where that information is reasonably necessary for, or directly related to, one or more of its functions or activities. Staff must not collect personal information about an individual if it is not required.

Normally CHS staff will not collect sensitive information (such as sexual identity or criminal history information) without an individual's consent.

CHS staff will only collect sensitive personal information without an individual's consent when it is required or authorised by a law, or court or tribunal order, or is necessary to prevent a threat to the life, health or safety of one or more individuals, or to public health or safety.

### **How do staff collect personal information?**

Staff must only collect information by lawful and fair means. The main way of collecting personal information about an individual is when they give it to staff.

An individual's personal information may be collected in a variety of ways, including through paper or online forms, in correspondence to and from the individual as well as email, over the telephone and by fax.

Staff collect personal information such as contact details and complaint, review, request or report details when:

- The organisation is required or authorised by law or a Court or tribunal order to collect the information. Any information that goes into a patient/consumer clinical record is personal health information and is not covered by this policy, please see *Consumer Privacy Policy* or *Clinical Records Management Policy and Procedure*.
- The individual participates in community consultations, forums or make submissions to CHS, and consents to the organisation's collection of their personal information
- The individual contacts staff to ask for information (but only if staff need it)
- The individual makes a complaint about the way CHS have handled an FOI request or seek a review of an FOI decision
- The individual applies for employment or is an employee at CHS
- The individual asks for access to information CHS holds about them (excluding personal health information, please see *Clinical Records Management Policy and Procedure*) or other information about the operation of CHS.

Staff may also collect contact details and some other personal information if an individual is on the organisation's committees or participating in a meeting or consultation with CHS.

Normally staff collect information directly from individuals unless it is unreasonable or impracticable to do so. In certain circumstances, for example where it is required by law,

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staff may also obtain personal information collected by other Australian, state and territory government bodies or other organisations.

Staff may also collect personal information from publicly available sources where that may enable the organisation to perform its functions effectively.

### **Types of information CHS collect and hold**

At all times staff should only collect the information required to provide a service or response to the individual. The personal information staff collect and hold at CHS include:

- Information about an individual's identity (e.g. date of birth, country of birth, passport details, visa details and drivers' licence)
- An individual's name, address and contact details (e.g. phone, email and fax)
- Information about an individual's personal circumstances (e.g. age, gender, marital status and occupation)
- Information about an individual's financial affairs (e.g. payment details, bank account details, and information about business and financial interests)
- Information about an individual's employment (e.g. applications for employment, work history, referee comments and remuneration)
- Information about assistance provided to an individual under the organisation's assistance arrangements.

Sensitive information (see definition of terms section) is handled with additional protections under the *Information Privacy Act 2014*.

### **Notice of collection**

When staff need to collect personal information from an individual, they are required to notify them about:

- Who CHS is and how it may be contacted
- The circumstances in which CHS may or have collected personal information
- The name of the law that requires CHS to collect this information (if any)
- The purposes for which CHS collect the information
- How the individual may be affected if CHS cannot collect the information it needs
- The details of any agencies or types of agencies which CHS normally share personal information with, including whether those recipients are overseas, and which countries those recipients are located in
- That CHS have a privacy policy, *Personal Information Privacy Policy*, explaining how the organisation handles individuals' information and deals with complaints about its information handling. A copy of the privacy policy can be provided to the individual or can be accessed via the ACT Health website.

### **Collection through CHS websites**

Personal information through the CHS website and affiliated applications is covered by the ACT Government Web Privacy Policy. The ACT Government Web Privacy Policy can be viewed at <https://www.cmtedd.act.gov.au/legal/privacy>.

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**Social Networking Services**

If an individual interacts with a CHS social networking page or profile, CHS has viewing access to the extent the individual’s own privacy settings or disclosures allow. No personal information is collected or stored by CHS through its use of social networking services. Each social network (e.g. Facebook, Twitter) may collect information in accordance with its own privacy policies.

**Email lists**

CHS may use subscriber email lists to share information. On voluntarily subscribing, an individual’s name and email address is collected and stored by CHS. An email with a link to unsubscribe is automatically emailed to individuals upon subscription.

**Section 2: Use and Disclosure of Personal Information**

**Use and disclosure**

Staff must not use an individual’s personal information for a secondary purpose or share their personal information with other government agencies, private sector organisations or anyone else without their consent, unless an exception/s applies.

Exceptions are available in a number of circumstances including when:

- An individual would reasonably expect staff to use the information for the secondary purpose that is related (or directly related – in the case of sensitive information) to the original purpose for which the information was collected
- The use or sharing of information is legally required or authorised by an Australian law, or court or tribunal order
- The collection is reasonably necessary for a law enforcement-related activity such as the prevention, detection, investigation, prosecution or punishment or criminal offences or breaches of the law; intelligence gathering, surveillance, conduct of protective or custodial services
- Staff reasonably believe that collection is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety
- Staff have reason to suspect unlawful activity, or misconduct of a serious nature, that relates to its functions and staff reasonably believe that collection of the information is necessary in order for it to take appropriate action
- Staff reasonably believe that the collection is reasonably necessary to help locate a person who has been reported as missing.

If staff have collected and hold an individual’s biometric information (such as their fingerprints or photograph) or biometric templates (digital representations of an individual’s distinct characteristics) this information is allowed to be provided to an enforcement body (like the Australian Federal Police or Department of Immigration) if staff comply with any guidelines made by the Information Privacy Commissioner.

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Staff may also disclose personal information to Commonwealth intelligence agencies where that disclosure is authorised by the head of the intelligence agency and the agency certifies that the collection of the personal information from the CHS is necessary for its functions.

**Sharing information with service providers**

In some instances, CHS contracts with service providers to support CHS to carry out specific activities and functions. It may be necessary for staff to share personal information with these service providers to enable them to perform their functions efficiently and effectively.

In these situations, CHS protects personal information by only entering into contracts with service providers who agree to comply with Territory requirements for the protection of personal information.

**Disclosure of personal information overseas**

In some circumstances CHS may need to share or store information with overseas recipients.

If this disclosure is necessary, staff will take reasonable steps before disclosing the information to ensure that the recipient treats the personal information with the similar standard of care as is required by the *Information Privacy Act 2014*.

In some cases, the information will already be sufficiently protected under the law governing the overseas recipient, and the individual can access mechanisms to enforce those protections.

If it is practical and reasonable to do so staff will obtain an individual’s consent to overseas disclosure. However, there may be situations where staff are unable, for example, where it shares information as part of a law enforcement activity.

For more information about use and disclosure of employee personal information please contact Workforce Relations at [CHS.WR@act.gov.au](mailto:CHS.WR@act.gov.au) or call 5124 9610.

**Section 3: Quality of Personal Information**

**Quality of personal information**

CHS is required to take reasonable steps to ensure that the personal information it collects is accurate, up-to-date, and complete. Personal information CHS uses or discloses must also be relevant for the purpose for which it uses or discloses it.

In some circumstances and if it is appropriate, staff can assist the individual to correct their personal information held by CHS if it is no longer accurate, up-to-date and complete.

**Correcting personal information**

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If an individual asks staff to correct their personal information, staff must take reasonable steps to correct the information if they are satisfied that it is incorrect, inaccurate, incomplete, irrelevant, out-of-date or misleading.

If staff agree to correct information and that information has previously been shared with another agency, an individual may request that staff notify the other agency of the possible need for them to correct that information.

There may be reasons why staff refuse or are unable to correct that information, for example if the organisation is required or authorised by law not to correct the information.

If staff refuse or are unable to correct the information CHS must give the individual written notice of why they have refused to correct their information and how the individual may complain about the decision, within 30 days.

If staff refuse or are unable to correct an individual’s personal information, the individual can ask the organisation to attach or link a statement to the information, stating that the individual believes the information is incorrect and why.

Staff will not charge an individual any fees for making the request for correction, correcting the information or attaching a statement to the personal information.

## Section 4: Storage and Security of Personal Information

### Storage and security of personal information

CHS is required to take reasonable steps to ensure that personal information it holds is safe and secure.

CHS strives to protect personal information from misuse, interference or loss and from unauthorised access, use, modification or disclosure in accordance with the *Information Privacy Act 2014*.

The *Territory Records Act* establishes frameworks for the management of individuals’ personal information if it is held within the files or data systems of CHS. Information collected by staff that is placed in a paper based administrative record must be managed as directed by *Administrative Records Management Policy* and *Administrative Recordkeeping Procedures Manual*.

The organisation’s Information Technology (IT) systems employ comprehensive protections to guard against unauthorised access. Staff are responsible for complying with the *Information and Communication Technology Resources – Acceptable use* procedure.

At CHS personal information is only available to staff who require access in order to perform their roles.

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**Accessing an individual’s own personal information**

In accordance with the *Information Privacy Act* (Territory Privacy Principles 12 and 13) an individual has the right to ask for access to personal information that CHS holds about them. They are also entitled to request that staff correct that personal information, if they believe it is no longer accurate or up-to-date.

If an individual contacts staff to request access to their personal information staff must provide them with the following information:

- Employees wishing to access their personnel file can contact their manager.
- Other individuals wanting to access personal information not held in a clinical record can contact the Archives ACT Reference Archivist at [reference@act.gov.au](mailto:reference@act.gov.au) as per *Administrative Record Keeping Procedures Manual*.

If the request to access information is not reasonable or practicable staff must respond to the request in writing within 30 days informing the individual why the organisation is unable to provide them with access to that information.

CHS will not charge the individual any fees for making the request or providing them with access.

Individuals also have the right under the *Freedom of Information Act 1989* to request access to documents that CHS hold and ask for information that CHS hold about them to be changed or annotated if it is incomplete, incorrect, out-of-date or misleading. Requests to access CHS documents under the freedom of information Act should be directed to [HealthFOI@act.gov.au](mailto:HealthFOI@act.gov.au) or 5124 9831.

**How to make a complaint**

Complaints about how CHS has managed an individual’s personal information need to be made in writing to the contact details below. Staff are also able to assist individuals to lodge their complaint if required.

CHS will consider a complaint to work out how they can resolve the issue satisfactorily. CHS will tell individuals promptly that they have received their complaint and then respond to the complaint within 35 days as per the *Consumer Feedback Management Policy and Procedure*

If an individual is not satisfied with the organisation’s response, they may request a further response from the consumer feedback team or they can make a formal privacy complaint to the Australian Privacy Commission under Section 34 of the *Information Privacy Act 2014*.

The Australian Privacy Commission is an independent body that will assess the individual’s complaint and can make a determination that the actions of CHS are an interference with the individual’s privacy. If the individual’s complaint is upheld by the Commissioner they may be able to seek a remedy in the Magistrates Court.

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Consumers can contact the Consumer Feedback and Engagement Team via:

- Email - [healthfeedback@act.gov.au](mailto:healthfeedback@act.gov.au)
- Telephone – (02) 62077627
- Online form – <https://www.health.act.gov.au/about-our-health-system/consumer-feedback/i-want-provide-feedback-about-public-health-service>.

Staff can contact the Workforce Relations Unit via:

- Email - [CHS.WR@act.gov.au](mailto:CHS.WR@act.gov.au)
- Telephone – (02) 51249610.

## Related Policies, Procedures, Guidelines and Legislation

### Policies

- Consent and Treatment Policy
- Clinical Record Management Policy
- ACTPS Use of Social Media Policy
- ACTPS Human resources privacy policy
- ACTPS Web Privacy Policy
- Administrative Records Management Policy

### Procedures

- Clinical Record Management Procedure
- Administrative Recordkeeping Procedures Manual
- Information and Communication Technology Resources – Acceptable use

### Legislation

- *Information Privacy Act 2014*
- *Health Records (Privacy and Access) Act 1997*
- *Human Rights Act 2004*
- *Freedom of Information Act 1989*
- *Workplace Privacy Act 2011*
- *Public Sector Act 2014*
- *Territory Records Act 2002*

## Definition of Terms

**Personal Information** – information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information or opinion is recorded in a material form or not.

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**Personal health information** – any personal information, whether or not recorded in a health record, relating to the health, an illness or a disability of the consumer, or collected by a health service provider in relation to the health, an illness or a disability of the consumer.

**Sensitive information** – information that is 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 orientation or practices
- Criminal record
- Genetic information
- Biometric information (including photographs, voice or video recordings).

## Search Terms

Privacy, private, information privacy, personal, personal information, confidentiality, confidential, Freedom of Information, FOI.

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*Policy Team ONLY to complete the following:*

<i>Date Amended</i>	<i>Section Amended</i>	<i>Divisional Approval</i>	<i>Final Approval</i>

*This document supersedes the following:*

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