2.2.6  CONFIDENTIALITY AND PRIVACY

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Background and Context

CBS is committed to providing an environment that aims to ensure confidentiality and privacy are preserved. All employees, volunteers and Board Directors, regardless of their paid status are required to sign a legally binding confidentiality agreement before commencing duties.

CBS is bound by the provisions of the Privacy Act 1991 and the Personal Information Protection Act 2004.

In complying with the laws of Australia, there may be occasions where CBS is legally compelled to breach confidentiality.

Purpose

In the process of assessment, allocation and service provision, disclosure of personal information of consumers may be necessary. Should that be the case, the explicit permission of the consumer shall be obtained. This policy is to clarify the process under which personal information is gathered, stored and disclosed.
Scope

Consumers enjoy the right to privacy and confidentiality subject to the laws of Australia. Confidentiality and privacy issues will be explained to the consumer on initial assessment. Interpreters should be utilised should it appear desirable and the consumer agrees. Consumers have the right to withdraw consent at any time. However consumers have the responsibility to inform CBS if they wish to do so.

Confidentiality Agreements shall be signed by all staff, Directors and volunteers of CBS.

Decisions about care and/service delivery will involve consultation with and consent of consumers (or their carer/advocate). Information requested of consumers should be limited to that which is needed to assess and provide services. Contractors are also required to maintain the confidentiality of any consumer information provided to them (as covered in their agreement with CBS).

Consumers (or their carer/advocate) will be asked to sign a consent form at point of entry into the service. It is acceptable for staff to sign this consent form on the consumer’s behalf, and with the consumer’s consent if a ‘phone assessment is undertaken.

Written and/or Verbal consent from the consumer or legal guardian must be obtained where an exchange or provision of information to another service provider or party is required.

Consumers have access to all documents and records relating to their service provision (refer Freedom of Information Act 1991).

Staff shall not discuss information relating to individually identified consumers except as necessary to provide support services. Such discussions as are necessary shall take place in a secure and confidential environment and shall only be on a ‘need to know’ basis.

A similar approach shall guide disclosure of personal information relating to other personnel.

Reporting to Governments

Along with all government funded organisations, CBS is required to provide governmental departments with statistical information on nearly every service supplied. This information is used to verify use of resources by CBS as well as to inform governmental policy makers about relevant demographic issues. Except in cases where the funding is already tied to an identified individual, this information goes through a process which de-identifies the person/s receiving the service. CBS is unable to supply services to people who do not share the information governments require for policy making purposes
Confidentiality

Confidentiality applies to verbal and written information, and is not limited to working hours. Staff and consumers of the service are expected to respect confidentiality principles at all times.

CBS employees may hear a range of information about consumers and other staff, contractors and volunteers. However, information relating to the task you are employed to undertake is the only information you need.

Confidentiality is about keeping information which is of a private nature to yourself. “Recognition” is possible even though you may not mention a consumer’s name (especially in Tasmania or in a local community).

**What sort of information is considered confidential?**

The answer to that question will vary from person to person. Generally, we are speaking about personal information that may fall into the categories of financial, health, sexuality, family or legal matters. However this may not be a complete list.

**Breaching Confidentiality**

Any decision by employees, volunteers, or Directors to break confidentiality must first be discussed with the individual concerned (wherever possible) and the CEO or delegate.

If permission to breach confidentiality was not able to be obtained, consumers must be fully informed of reasons for any breach in confidentiality.

Any decision to breach confidentiality will be taken only in accordance with this policy and any relevant Commonwealth or State legislation.

**Reasons for Breaching Confidentiality:**

Commonwealth or State law requires the reporting of some specific information (Mandatory reporting requirements). CBS is legally required to report this information to relevant authorities.

Files may be subpoenaed as evidence and the organisation may be called as a witness in a legal proceeding.

Some other circumstances may require that confidentiality be breached:

1. A consumer states that they are going to harm or kill themselves or another person.
2. A consumer states that they are going to damage the property of an individual, group or organisation.

It should be noted that the need to breach confidentiality is rare, and would only occur in accordance with legislative requirements and under extraordinary circumstances.
Privacy

Privacy is additional to confidentiality. It is about allowing people space and is guaranteed by legislation. The legislative basis is included under Section 9 of CBS Policies.

How much privacy can a client expect?

Clients should have as much privacy as possible!

Even though consumers/clients may need extra support to go about their daily routine, they retain the right to as much privacy as you and I would expect in our own homes. For example – visitors; phone calls; letters and correspondence; bills (power, phone, etc); discussions between friends & family; physical privacy.

Information (holding, withholding & destruction)

The consumer has the right to withhold information for privacy reasons. If, however, information about the level of income is not provided, then fees will be charged at the highest rate (ie. non-pensioner rate).

If a service to a consumer has stopped being provided, but may need to be resumed at a future date, information relating to the consumer will be kept secure within the office for at least five years, preferably in the current files. If the service is no longer required by the consumer, then information relating to that consumer will be archived at the end of the financial year. All information on a consumer will be destroyed seven years after they cease to receive service.

Information about a consumer will not be shared with another agency without the consent of the consumer or his/her legal guardian or advocate. An example of where sharing of information may be requested would be when the consumer has been assessed as unable to pay the fee for another service and did not wish to be re-assessed.

When obtaining consent for the release of personal information (at the outset and at review), the advisability of a name, address and telephone contact of a third person (or class of persons eg. medical practitioners) in the case of an emergency, shall be stressed. If the consumer refuses, this shall be noted on the consumer’s Emergency Care Plan. Where the consumer agrees, the details will be placed on the Emergency Care Plan.

Related Information

Freedom of Information Act 1991
Privacy Act 1998
Personal Information Protection Act 2004
**Access to information**

Consumers will have the right to read any personal information kept about them by CBS. Requests from consumers to access personal information will be referred to the CEO who will ensure that assistance is provided to the consumer to access the relevant information within five working days (but often the same day) of the request. Assistance will be made available (including through an interpreter) to explain any terminology to the consumer.

**Security of information**

Information regarding consumers is to be stored securely at all times and locked away when the office is unattended (also refer policy 1.3.1). Only appropriate staff should have access to consumer information and only on a ‘need to know’ basis.

**Consent**

Written consent to share information will generally be obtained at assessment and verified at review if this is possible and the consumer agrees.

**Right to withdraw consent**

Consumers/clients have the right to withdraw consent for the sharing of information at any time and without being required to provide a reason. They are to be advised of this right at the outset as well as at any time information is requested by another party. Notwithstanding the foregoing, CBS may be required by law to provide certain information. CBS abides by the law.

**Public Policy Statement**

Community Based Support Inc. makes every effort to adhere to or exceed the Privacy Guidelines developed by the Australian Privacy Commissioner (available at [http://www.privacy.gov.au](http://www.privacy.gov.au)).

- All information taken is relevant to the running of CBS Inc. Information required by law to be disclosed will be disclosed. Note:
  - CBS collects personal, medical, support and account information in order to allocate services within budgets according to need and to tailor our services to meet those needs on a manner that is safe for our workforce. You have a right to know why your personal information is being collected.
  - CBS is required to collect and report all referral and service provision data where the service is supplied from government grants.
  - All other information relates to the provision of services, statistical reports and/or the charging of costs and/or fees.
CBS endeavours to maintain accurate information and where possible, revises its data at least annually

All records are on a ‘need to know’ basis and are stored securely

Information on databases is available only by password

You may access your personal information at 5 normal working days notice

Only persons entitled by law may access your personal information

You may give consent for the sharing of referral and/or other information and revoke consent at any time

Where ever possible CBS interviews are conducted privately

All staff, volunteers and Directors sign a Secrecy Declaration as a condition of employment/involvement

Breaches of this policy by staff may result in disciplinary action and/or legal proceedings.

**QUERIES, CONCERNS AND FURTHER INFORMATION**

If you have any queries, concerns or require further information relating to privacy and Community Based Support Inc, you are invited to contact CBS by:

**Telephone**  1300 227 827 or (03) 6208 6600

**Letter**  24 Sunderland Street, Moonah (P O Box 823), Tasmania 7009

**Email**  admin@cbsaust.org.au

**Facsimilie**  (03) 6208 6699