

Privacy, Dignity & Confidentiality

Objective:

ABLECARE Staff is committed to ensuring that the collection and use of private and personal information complies with relevant privacy and confidentiality legislation.

Scope:

This policy applies to all Staff, Volunteers, Contractors and Visitors and Service recipients.

Policy Statement:

All Employees understand and acknowledge through signing the employment contract that they owe the organisation, its employees and service recipients a duty of confidentiality that they will not, at any time, knowingly disclose to any unauthorised persons confidential information.

All individuals have the right to know what information an organisation holds about them, to correct that information if it is wrong and to expect that the information will not be disclosed to others. They have the right to access advocacy or other independent support to assist in matters relating to the collection, storage, disposal and accessibility of personal information.

All employees understand and acknowledge through signing their employment contract that they owe all stakeholders a duty of privacy and dignity that they will, at all times, maintain. Privacy and dignity will be understood to cover respect for the persons physical body, personal space and belongings, living arrangements and person information. Violations may result in disciplinary action against the offending individual which may include termination of employment.

ABLECARE works in accordance with the relevant legislation including;

- Disability Act 2006
- Privacy & Data Protection Act 2014 (Vic)
- Health Records Act 2001 (Vic)
- Freedom of Information Act 1928 (Cth)
- Charter of Human Rights & Responsibilities Act (Vic)

Process

1. Collection, updating and storing of information

Personal and health records are created for all service recipients when they commence the delivery of services by ABLECARE along with Employees when they commence employment with ABLECARE. At times there will be information collected from a third party, such as discussions with Case Managers for Service Recipients and Referee checks for Employees, these will be held in accordance with any requirements under the relevant privacy principles.

ABLECARE are required to collect and retain this information to provide suitable care, support for service recipients and professional development for employees. These records enable us to quickly identify which course of action is likely to be the most safe and effective for the person. It will also reduce the need to have the same information collected on multiple occasions. Only with the consent of the service recipient or employee, personal information may be collected for business related marketing.

Personal and health information ABLECARE may collect and hold includes but is not limited to:

- Name
- Address
- Telephone numbers, email addresses
- Date of Birth
- Gender
- Country of birth
- Medical details
- Names of carers/next of kin/informal carers/administrators
- Education details
- Vocational details
- Communication, Sensory and Work capability Assessments
- Plans from other providers
- Bank details
- Tax File Numbers
- Centrelink Numbers
- Qualifications
- Wage details
- Licence Number
- Police Checks and Working with Childrens Check applications and outcomes
- The tasks for a person may need assistance
- Income support recipient status

2. Access to information

Employees and service recipients can request to see information held in their records; this may include viewing the information, obtaining a summary of or in some cases, a full copy of records. Information can be explained to the person or an authorised representative. An authorised representative or advocate can act on a persons behalf if the person asks them to or the person cannot legally make a decision about their information. ABLECARE cannot remove or destroy any information on request, but correction to the information will be noted.

Access to information will not be provided where any of the following exceptions apply; according to the respective privacy principles;

- Providing access would post a serious threat to the life or health of any individual
- Providing access would have unreasonable impact on the privacy of another individual
- For personal information the request is frivolous
- For health information the request is unreasonable and repeated with access to the same information having previously been provided
- There are considerations with regard to legal proceedings which are in progress, being investigated or anticipated
- Providing access would be unlawful

All access and disclosure requests for information should be forwarded in writing to the Managing Director indicating as clearly as possible the information being sought and the purpose for which the information will be used.

Support staff requiring access to information on service participants will only do so during the times they are providing direct support to the person or role specific documentation relevant to the person such as:

- Developing Plans for Service participants
- Completion of Compliance requirements for service provisions

Information on any service recipient is never to be accessed which undertaking duties not specific to the support of the service recipient at that time. It is not acceptable to access information “because you regularly work with them” or “you need it next time you are working with them”.

ABLECARE applies the following principle to all information;

- All information, unless a public document, is to be treated as private and is not be accessed or discussed unless pertinent to the duties of an employee role with ABLECARE

Archiving

All records that are not considered current shall be relocated to the Archives and will be securely kept at all times. All records for both service recipients and employees will be kept for a minimum of seven years after the last transaction. In respect to a child’s records, these shall be retained until the child has attained the age of 25.

The archiving process will be undertaken at the end of each Calendar year, this process will be overseen by the Managing Director; they will assign suitable staff members to assist with the process, ensuring confidentiality is maintained at all times. All records will be destroyed in accordance with the relevant legislation.

3. Use and Disclosure of Information

ABLECARE will only use and disclose information for the primary purpose for which it was collected. At no time shall staff access information that is not relevant to the roles and responsibilities they are assigned within ABLECARE. Any breach may result in disciplinary action being taken.

Information that can be disclosed is that which is required by law or which is publicly known, and such public knowledge is not the result of an unauthorised or unlawful act or omission by a staff member. In the case of the client being able to make an informed choice, any information in relation to serious misconduct by the person, or staff to the person, and incidents involving medical intervention will only be disclosed to family or carers when permission is given by service participant.

In supplying personal information, customers and staff give consent for this information to be shared in a medical emergency to aid treatment. ABLECARE may also be required by law to release personal information, such as;

- Reporting of notifiable diseases to the Department of Health and Human Services
- Providing health and personal records to a court when required in relation to legal proceedings
- Providing health or personal records to a law enforcement agency (eg Police) in response to a search warrant
- Providing information to Centrelink and the Australian Taxation Office

Any information sharing or gossip that is outside of what is relevant to the persons involvement with ABLECARE, either directly or indirectly, is not appropriate. Formal conversations about service recipients and colleagues should take place in a private setting and not in front of other service recipients or colleagues and never in a public place.

Breaches of privacy can be:

- Providing written information, either electronic or paper based, not in accordance with guidelines;
- Providing verbal information not in accordance with guidelines
- Discussing personal incidents relevant to ABLECARE business operations with or in front of other people.

Confidential information will include current or future business affairs and interest or methodologies of the organisation and must not be used, copied, accessed, modified or disclosed to any third person without the prior written permission of the organisation. All staff are required not to disclose, directly or indirectly, any process and planning or market-related information regarding ABLECARE that may in any way be used to disadvantage the business opportunities, operations or employees of the organisation.

Use of internet-based systems

Several internet-based systems are accessible to staff within ABLECARE to provide and gather information on service recipients and staff to support service recipients and to meet funding body and legislative requirements. At Induction staff will be given the relevant permissions in the systems they will need to access to enable them to perform their roles within the Company. At to time should access be given to another person using a user-specific log on. These systems have digital footprint for all activity within the application, so system administrators and managers are able to see what all users are accessing and updated within the system.

Users must be vigilant when using portable devices to access the systems in public surroundings. When not using the system, all users should ensure they are logged out; users should also be aware of who can view the information.

System used for service recipient personal information should only be accessed during rostered hours of work.

4. Respecting Privacy and Dignity

As stated in the Charter of Human Rights and Responsibilities, all persons have the right to not have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with and the right to not have their reputation unlawfully attacked.

When supporting clients in Residential Services and day to day life, support staff must always:

- Provide a space where people can be alone or receive visitors in private if they choose to
- Give people privacy for their personal relationships, appropriate to their age and maturity
- Allow people to attend to their bodily functions as a dress and undress with dignity and without an audience; this includes have doors and functioning locks on Bathrooms and Toilets

- Seek permission before helping with personal care tasks
- Give people as much choice as possible about whether they want to be alone or with others
- Allow people to receive and make telephone calls in private, with telephones located appropriately to enable this
- Deliver mail promptly and confidentially in a manner accessible for the person, for example reading mail to a person with literacy difficulties in a private room
- Allow people to have their own belongings, particularly for personal hygiene, and sufficient space to store personal belongings

Written permission at least 24 hours prior is required to be given when wishing to enter a person's room in residential services for the following purposes;

- Undertaking or preparing for refurbishment, maintenance or repairs
- Showing the room to a prospective resident
- Showing the room to a prospective buyer or lender
- Having the room inspected for valuation or insurance purposes

5. Balancing Privacy, Dignity and Duty of Care

Support staff must balance the right to privacy with Duty of Care requirements to minimise the risk of harm to people. Sometimes the right to privacy conflicts with operating procedures of Duty of Care requirements. In some cases Duty of Care may override the right to privacy, for example when a person with epilepsy requires one to one supervision when in the bath.

Where the right to privacy may need to be compromised by a Duty of Care requirement, this will be discussed with the client or authorised representative and Manager at ABLECARE. These planned infringements on rights must be outlined in the persons support plan. A Behavioural Support Plan which gives effective consent may be required to lessen or eliminate infringement in the future.

References to standards and legislation:

Standard	Criterion	Description
HSS Standard 1 – Empowerment	1.1	People understand their rights and responsibilities
HSS Standard 4 – Participation	4.1	People exercise their choice and control in service delivery and life decision, where appropriate
HSS Standard 4 – Participation	4.6	People develop, sustain and strengthen independent life skills
NSDS – Standard 1 – Rights	1.1	The Service, its staff and its volunteers treat individuals with dignity and respect
NSDS – Standard 1 – Rights	1.9	The service keeps personal information confidential and private

Privacy Act 1988: Commonwealth Privacy Act 1988

Privacy Act 2012: Privacy (Enhancing Privacy Protection) Act 2012

Privacy Regulations 2013: Privacy Regulations 2013