



HS7	Healthy and Safe Services	Information Privacy Policy and Procedures
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What this policy aims to do	Make sure all people who use MASS services have their right to privacy respected to ensure compliance with Australian law and the Australian Privacy Principles
Who this policy applies to	All people who use MASS services and all staff, contractors and volunteers involved in service delivery
Who is responsible for carrying out this policy	The Director or responsible managers and service delivery staff
What words used in this policy mean	Definitions are provided in Key Concepts, Appendix A.
Legislation this policy is based on	DHHS Human Services Standards Victorian Child Safe Standards <i>Privacy Act 1988 (Cwlth)</i> <i>Privacy and Data Protection Act 2014 (Vic)</i> <i>Health Records Act 2001 (VIC)</i> <i>National Disability Insurance Scheme Act 2013 (Cth) (NDIS Act)</i>
Other relevant policies	HS4 Rights and Responsibilities MS3 Staff Code of Conduct HS11 Complaints and Disputes

<https://www.oaic.gov.au/privacy/privacy-in-your-state/>

<https://www.oaic.gov.au/privacy/guidance-and-advice/guide-to-health-privacy/>

Version	Date	Author/Editor	File location	Approved by	Notes
1.0	26/8/2016	Peter Lane			
2.0	29/8/2018	D Stephenson		Director	
<i>Change Summary</i> – Updated how to report a privacy incident on advice by DHHS for compliance by July 2018.					
3.0	22/1/2020	D Stephenson	Sharepoint>Staff Resources>P&P>HS Health & Safety	S Reeves	Major review to comply with OAIC guidelines, APP Principles and Guide to Health Privacy (2019)

Privacy Policy

This policy outlines how MASS will collect, use, manage and disclose personal information. It applies to all personal information provided to or collected by MASS. The policy includes information related to clients and their families/carers, MASS staff and volunteers, the MASS Board and contractors.

What information does MASS collect?

MASS collects information to:

- Enable the efficient, effective and safe delivery of services to clients, with the involvement of the family or carers
- Manage employee records
- Handle complaints and compliments
- Communicate with stakeholders and volunteers
- Report to government agencies as required by law/legislation.

Table 1 – Primary Purpose of and type of personal information collected by MASS

Primary Purpose of Collection	Type of Information that may be collected
Enable the delivery of services to clients with Autism and their families	Personal information, sensitive information, health information, family arrangements, school records, NDIS plans, communication requirements, skill levels, Developmental Behaviour Checklist (DBC), General Health Questionnaire and Stress measurement
Manage employee records	Job application and references, employment conditions, personal information, education attainments, leave and entitlements, training record, Police Check, Working with Children Check, NDIS Worker Screening Check, Disability Workers Exclusion check
Handle complaints and compliments	Personal information, details of complaint, actions taken
Communication with stakeholders and volunteers	Personal details for correspondence, Volunteer Working with Children Check
Report to government agencies	Personal information, sensitive information, incident reports, child safety mandatory reporting information, restrictive interventions
Participate in quality assurance audits and activities as required by State and Commonwealth agencies	Personal information, sensitive information and health information of clients, families, staff and volunteers.

How do we collect this information?

MASS will respect the privacy of people who use MASS services and their right to choose if, when and how their information is collected, used and/or shared with others. MASS will only collect information about a person using a service that is needed for their care and support, and then only if the person (or their parent or guardian if a child) agrees, that is, gives their consent.

MASS collects information in a number of ways, including:

- In person and over the phone, from clients, parents/carers, guardian, teachers, health professionals, staff, volunteers,
- In writing from electronic and paper documents, including job applications, emails, letters, forms, questionnaires, consent forms, enrolment forms, excursion forms, medical reports, treatment reports, medication lists and prescriptions, NDIS plans.

MASS will collect information directly from the client where it is practicable to do so, but if the client lacks capacity, MASS will collect information from the parent, carer, guardian or relative.

In certain circumstances MASS may collect information without consent and this may include:

- Being required or authorised by law
- To lessen or prevent a serious threat to life, health or safety of any individual
- Providing a health service by a registered health professional.

When MASS collects information, we will take reasonable steps to advise how the information will be handled. This will include the purpose of the collection, and how to access, update and correct information held about you.

MASS will request personal information on enrolment of students into its schools or for providing services in the client's home, in the community, or at events such as a camp. MASS will ask for consent for use of this information directly from the client where there is capacity, or from their parent, guardian or relative.

MASS may receive unsolicited information about a client, parent/carer, employee or volunteer. If permitted or required by law, MASS may keep records of this information, for example, mandatory reporting. If this information is not required, then MASS will destroy or de-identify the information when practicable, lawful and reasonable to do so.

Why do we collect personal information?

MASS collects information about its clients and their families to:

- Develop individualised program/learning objectives for clients while attending a MASS school and monitor progress
- Assess a client in their home situation for identifying goals for a service such as Mansfield Autism Practitioners and monitoring progress and desired outcomes
- Support the client's social and emotional wellbeing and health
- Support the family's involvement in their child's progress and their wellbeing
- Provide first aid if required and administer medication as authorised
- Take reasonable steps to reduce the risk of foreseeable harm to clients, employees, volunteers and visitors
- Make reasonable adjustment for clients with disabilities
- Provide a safe and secure workplace
- Enable MASS to communicate with parents/carers/guardians
- Investigate incidents and/or respond to any legal claims.

MASS collects information about employees, volunteers, contractors, board members and job applicants:

- To assess applicants' suitability for employment or volunteering
- To administer employment or volunteer placement
- For insurance purposes, including public liability and WorkCover
- To fulfil various legal obligations, including employment and contractual obligations, occupational health and safety law and to investigate incidents
- To respond to legal claims.

How does MASS hold and keep secure personal information

MASS takes reasonable steps to protect information from misuse, loss and from unauthorised access, modification and disclosure. MASS will de-identify or destroy personal information when it is no longer required.

Hard copy records that include personal and/or sensitive information are kept in locked storage and only staff that need to access the files for their respective role will be granted access. Practitioners that deliver services outside the MASS premises, will keep their files with them, or locked in a car or appropriate place.

Electronic records are kept secure by:

- Staff passwords to access information
- Limited access on need to know basis (sensitive, confidential)

When using software and contracted service providers to manage information, MASS will ensure they have a sound privacy, confidentiality and data security policy and procedures in place, along with an understanding of MASS's Policy and Procedures.

When does MASS use or disclose information

MASS will use or disclose information consistent with Victorian and Commonwealth privacy law:

- For a **primary purpose** stated in Table 1 (page 1)
- For a related **secondary purpose** such as for the MASS Director or Board to plan, review or report on MASS functions and performance
- With **notice and/or consent**, including consent provided on enrolment and other forms
- When necessary to **lessen or prevent a serious threat** to:
 - A person's life, health, safety or welfare
 - The public's health, safety or welfare
- When **required or authorised by law** including as a result of MASS's duty of care, anti-discrimination law, occupational health and safety, reporting obligations to government agencies and complying with tribunal or court order, subpoenas or Victoria Police warrants
- To investigate or report **unlawful activity**, or when reasonably necessary for a specified **law enforcement** purpose, including the prevention or investigation of a criminal offence or seriously improper conduct, by or on behalf of a law enforcement agency
- For **research or MASS statistics** purposes
- To establish or respond to a **Legal claim**

How do you access your information?

Clients, families and guardians

MASS clients and their families or guardian have a right to access the information that MASS holds about them, unless an exception applies. MASS will respond to information access requests by:

- Verifying the requesting individual's identity and their right to this information
- Locating the information required and ensuring there is no requirement to deny access
- Provide the information requested within 30 days in the form requested or agreed alternative form
- If access to information is denied, MASS will provide a written notice setting out the refusal grounds and complaint mechanism

Staff

MASS employees may first seek access to their personnel file by contacting the HR Manager.

How do you update or correct your information

MASS will take reasonable steps to make sure the information that is collected is correct, either by a client or family member informing MASS or if MASS becomes aware the information is incorrect.

MASS requires that clients and families, as well as employees and volunteers update their information when required or as their situation changes. If MASS receives a correction request, the process to correct the information will include:

- Verifying the person's identity
- Locating the information to be corrected
- Being satisfied the information currently on file is incorrect
- Taking reasonable steps to correct the information
- Notify any third parties as agreed.

If MASS does not feel satisfied the information is incorrect, we will provide written notice to the requestee setting out the reasons for not making changes and how the individual may make a complaint.

Collecting and using health information

Health information may be personal and sensitive and MASS will only collect this information where it is necessary for health management activities. Health management activities may include:

- When a quality assurance body collects data about the quality of MASS services
- When an oversight body collects information about an incident
- Reports to an accreditation body

MASS may collect health information without consent where it is necessary for health management activities and it is not practical to use de-identified information or the information is required by or under Australian law. MASS will take reasonable steps to de-identify personal information before disclosure for health management activities.

Disclosing information about clients with impaired capacity

MASS may disclose a client's information to a 'responsible person' where:

- MASS needs to deliver a health service to the client
- The client lacks the capacity to consent or is unable to communicate consent
- The disclosure is either necessary to provide appropriate services or is made for compassionate reasons
- The disclosure is limited to the extent reasonable and necessary for the provision of care or treatment, or for compassionate reasons

- The disclosure is not contrary to the expressed wished of the client.

Health Information and Research

Generally, MASS will obtain consent from individuals if they are to be included in research. Under certain circumstances MASS may collect, use or disclose health information where it is necessary for research, or the compilation or analysis of statistics, relevant to public health or safety without consent.

What happens if there is a privacy breach?

A data breach is when personal information is lost or subjected to unauthorised access, modification, disclosure, or other misuse or interference. Examples of a data breach are when:

- A device containing personal information of clients is lost or stolen
- An entity's database containing personal information is hacked
- An entity mistakenly provides personal information to the wrong person

If a privacy breach, possible breach or near miss has occurred, the details must be documented, and a report sent to DHHS. Need to notify the Australian Information Commissioner and affected individuals in the case of a breach involving personal information that is likely to result in serious harm to any affected individual (OAIC Notifiable breaches webpage)

Does MASS provide personal information to overseas recipients?

MASS will not provide information to overseas recipients unless it is required to inform a parent, carer or legal representative of a client's situation and consent has been given by the client or their legal representative.

How can someone make a complaint?

If a client, parent, carer, employee, volunteer or an individual wants to make a complaint about MASS's Privacy Policy or the Australian Privacy Principles, then it is advised that in the first instance if practicable, one should:

- Contact the Director of MASS using the details below and provide sufficient details regarding the complaint, together with any supporting evidence and information and request resolution
- MASS Director will respond within 30 days to the complaint and provide information on the steps, if any, that MASS will undertake to resolve the complaint
- More information is provided in HS11 Complaints and Disputes Policy and in the Complaints and Compliments Pamphlet.

If an individual is not satisfied with the response, then they can make a complaint to the Australian Privacy Commissioners via www.oaic.gov.au

MASS Director

(03) 5775 2876 Phone, (03) 5775 3006 Fax, info@autismmansfield.org.au email

Types of Information That MASS May Collect

<p>Personal Information That MASS May Collect</p>	<p>Client information Name, address, date of birth, gender, school information Photo of child, NDIS or DHHS registration</p> <p>Family information Name of primary carer, partner, siblings, contact details, emergency contact, relationships to client, parent/carers occupation</p> <p>Permissions for activities, excursions, use of photographs</p> <p>Skill level and support requirements</p> <p>Interests and activities that client prefers, social connections</p>
<p>Sensitive Information MASS May Collect</p>	<p>Client background information (country of birth, aboriginality, language/s spoken at home, religion)</p> <p>Behaviours of concern Goals and priority areas</p> <p>Client’s living arrangements Family members in the home, behaviours of concern, home situation, pets, behaviour support plans (BSP), approved restrictive practices</p> <p>Student access or activity restriction details Custody arrangements , orders,</p>
<p>Health Information MASS May Collect</p>	<p>Family doctor’s details, health insurance details (Medicare, private, ambulance etc), Specialists information, other health professionals involved in care information,</p> <p>Medical conditions, allergies, immunisation (copies of diagnoses, treatment or action plans)</p> <p>Medications and prescriptions</p> <p>Changes in behaviour</p> <p>General Health information</p> <p>Family stress thermometer</p>

Information Privacy Procedures

Collecting Information

- MASS staff will only collect information about a service user that is needed for their care, and only if the person agrees
- MASS staff will tell services users what information they are collecting and what is the purpose of the collection
- MASS staff will make sure all information collected is accurate by using templates to collect the information from the client/family or to record conversations providing information
- MASS will provide Consent Forms to clients/families to record what is agreed in relation to the collection of information

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Participate in quality assurance audits and activities as required by State and Commonwealth agencies	Personal information, sensitive information and health information of clients, families, staff and volunteers.

Holding and Keeping Secure Personal Information

- MASS staff may collect a record of information about a client and family as a hard copy document or via electronic means

- ☑ Hard copy documents that include personal, sensitive or health information will be stored in a locked cupboards and staff will only access that information on a need to know basis
- ☑ Electronic copies of documents will be saved in ProSims as a client record and access to this information will only be on a need to know basis for service delivery

Disclosing Information

- ☑ MASS staff will not share information about a person with anyone else unless it is important for their care, and will get permission from the person/family or their guardian (unless the information is needed urgently to protect health and safety)
- ☑ Service users will be told where their file is kept and that they can see it any time
- ☑ If MASS staff share private information about a person for any reason, they must record in the file what information they shared, why and whether they had permission
- ☑ If MASS staff pass on information they collect for reporting or research, they will remove names and make sure people cannot be identified. MASS staff will only pass on information for research or reporting if the client/family have agreed
- ☑ MASS may be required to pass on personal or sensitive information to third parties such as Victoria Police, if required by law. This information should be documented in the client and/or staff members/volunteers file.

Accessing Information

- ☑ MASS will respond to information access requests by:
 - Verifying the requesting individual's identity and their right to this information
 - Locating the information required and ensuring there is no requirement to deny access
 - Provide the information requested within 30 days in the form requested or agreed alternative form
 - If access to information is denied, MASS will provide a written notice setting out the refusal grounds and complaint mechanism
- ☑ Staff will explain the information written in a personal file if requested by a service user

Collecting and Using Health Information

MASS can collect health information in relation to clients if:

- ☑ The client or the family/carer where appropriate, consents to it, either expressly or implied
- ☑ The information is reasonably necessary for the provision of services to the client and their family

- ☑ In an emergency, health information may need to be collected from relatives.
- ☑ MASS will notify clients and their families of the need to collect health information and the purpose of the collection to facilitate an informed choice.

Updating or Correcting Information

- ☑ Service users can have information changed in their files if it is wrong or no longer current
- ☑ If MASS receives a correction request, the process to correct the information will include:
 - Verifying the person's identity
 - Locating the information to be corrected
 - Being satisfied the information currently on file is incorrect
 - Taking reasonable steps to correct the information
 - Notify any third parties as agreed.
- ☑ If MASS does not feel satisfied the information is incorrect, we will provide written notice to the requestee setting out the reasons for not making changes and how the individual may make a complaint.

Breach of Privacy Incident Reporting

- ☑ It is critical to protect the privacy of clients and to report any breach or incident. A privacy incident report form is provided by DHHS as part of the Critical Incident Management System and is located at <https://feedback.dhhs.vic.gov.au/layout.html#/privacy>
- ☑ The form requires the entry of details about the privacy incident, clients involved, immediate risks and how the incident is being managed. The form includes fields on information security and practices.
- ☑ MASS will receive a confirmation email and a reference number for an incident and DHHS will work with MASS to manage the incident as required.
- ☑ The user guide for completion of the privacy incident report form is <https://dhhs.vic.gov.au/user-guide-funded-agency-staff-members-privacy-incident-report-form>

Complaints

If a client, parent, carer, employee, volunteer or an individual wants to make a complaint about MASS's Privacy Policy or the Australian Privacy Principles, then it is advised that in the first instance if practicable, one should:

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MASS Director

(03) 5775 2876 Phone, (03) 5775 3006 Fax, info@autismmansfield.org.au email

Appendix A - Key Concepts

Personal Information is information or opinion, whether true or not, about a person whose identity is apparent, or can reasonably be ascertained, from the information or opinion – that is recorded in any form. For example, a person’s name, address, phone number and date of birth (age) De-identified client/family/carer information can also be personal information.

De-identified information is not considered *personal information* as all personal identifiers have been removed. Generally, de-identification includes 2 steps:

- Removing personal identifiers, such as name, address, date of birth or identifying information
- Removing or altering other information that may allow an individual to be identified, for example, because of a rare characteristic of the individual, or a combination of unique characteristics that enable identification.

De-identification may not altogether remove the risk that an individual can be re-identified as another dataset could be matched with the de-identified information. Also, when dealing with small numbers of people delivering a service could lead to identification of an individual.

Health Information is information or opinion about a person’s physical, mental and psychological health or disability, that is *personal information* – whether in writing or not. This includes information or opinion about a person’s health status and medical history, immunisation status and allergies, as well as counselling records.

Sensitive Information is information or opinion about a set of specific characteristics, including a person’s racial or ethnic origin, political opinions or affiliations, religious beliefs or affiliations, philosophical beliefs, sexual orientation or practices, or criminal record. It also includes health information.

Collection means gathering, acquiring or obtaining personal information for inclusions in a record or generally available publication. Examples of collection include a recording a client’s information, a completed consent form, a specialists or doctors report, video footage or photographs or emails or other written personal information about a client.

Consent can be either express or implied. Express consent is given explicitly, either orally or in writing by an affirmative, unambiguous act. Implied consent arises where one can infer from the circumstances and the conduct of the client, that consent is being given to the handling of the personal/health information.

The key elements of consent are:

- The individual is adequately informed before giving consent
- The individual gives consent voluntarily

- The individual has the capacity to understand and communicate consent
- The consent is current and,
- The consent is specific.

Disclosure is when personal/health information is made accessible to others outside MASS and the subsequent handling of the information is no longer in the control of MASS.

Responsible person is a term used for someone who may provide information for a client who lack physical and/or mental capacity to do so. A responsible person for a client includes:

- A parent, or child or sibling of the client (who is at least 18 years old)
- Spouse or de facto partner
- A guardian
- a person executing enduring power of attorney granted by the client that is exercisable in relation to decisions about the client's health
- nominated emergency contact.

Incorrect information could be classified as:

- **inaccurate** – if it contains an error, for example incorrect personal information
- **out of date** – information that is no longer current, that is a medication may have changed or ceased
- **incomplete** – if it presents a partial or misleading picture, rather than a true or full picture
- **irrelevant** – if it does not have a bearing or connection to the purpose for which it is held
- **misleading** – if it conveys a meaning that is untrue or inaccurate.

Incapacity – Clients may be physically or legally unable of giving consent if they cannot understand the issues relating to the decision they are being asked to make, and are unable to form a reasoned judgement. This can occur on temporary basis or a permanent basis.

The *Privacy Act 1988* does not specify an age after which an individual can make their own privacy decision. As a general principle, a client under the age of 18 years has capacity to consent when they have sufficient understanding and maturity to understand what is being proposed. MASS will assess the client and involve them in any decisions related to privacy.