

## CLIENT POLICY 8 – CLIENT PRIVACY

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### Introduction

The Privacy Policy has been developed by Autism Association of South Australia trading as Autism SA (Autism SA) to demonstrate our compliance with our legal obligations and commitment to ensuring that information regarding clients, including their personal information, remains confidential.

### Policy

Autism SA collects and stores information that is essential to provide services to clients, engage in research and for reporting and accountability requirements. Autism SA is bound by the Privacy Act 1988 (Cth) (Act), including the Australian Privacy Principles (APPs) it contains. Autism SA recognises the rights of clients to access, update and correct this information as provided for by the APPs, and this document sets out how clients can do this. However, in the event of an inconsistency between this Act and this document, the legislative provisions will prevail.

### Definitions

The Act contains specific definitions of key terms and concepts, which have an identical meaning in this document. The main definitions in the Act of relevance to this document are set out below.

#### **Health information** means:

- (a) Information or an opinion about:
  - the health or disability (at any time) of an individual; or
  - an individual's expressed wishes about the future provision of health services to him or her; or
  - 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 part, 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.

#### **Health service** means:

- (a) an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the person performing it:
  - to access, record, maintain or improve the individual's health; or
  - to diagnose the individual's illness or disability; or
  - to treat the individual's illness or disability or suspected illness or disability;or
- (b) the dispensing on prescription of a drug or medical preparation by a pharmacist.

**Personal information** means 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.

**Responsible person** means information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a parent of the individual; or
- a child or sibling of the individual if the child or sibling is at least 18 years old; or
- a spouse or de facto partner of the individual; or
- a relative of the individual if the relative is:
  - at least 18 years old; and
  - a member of the individual's household; or
- a guardian of the individual; or
- a person exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health; or
- a person who has an intimate personal relationship with the individual; or
- a person nominated by the individual to be contacted in case of emergency.

**Sensitive information** means:

- (a) information or an opinion about an individual's:
  - racial or ethnic origin; or
  - political opinions; or
  - membership of a political association; or
  - religious beliefs or affiliations; or
  - philosophical beliefs; or
  - membership of a professional or trade association; or
  - membership of a trade union; or
  - sexual preferences or practices; or
  - criminal record;
 that is also personal information; or
- (b) information or an opinion about an individual's;
- (c) health information about an individual; or
- (d) genetic information about an individual that is not otherwise health information; or
- (e) biometric information that is to be used for the purpose of automated biometric verification or biometric identification; or
- (f) biometric templates.

## Implementation

### **Collection of personal information**

Autism SA collects personal information where this is reasonably necessary for it to provide services to clients and operate its business. Information is collected in a professional manner and by lawful and fair means. Personal information is generally collected from the individual client. However for clients under the age of 18, this information is obtained from parent(s), guardian(s) or other responsible persons. In some circumstances it is necessary to obtain personal information about an adult client from their close relatives or other responsible persons. This includes where a client's disability limits their capacity to provide such information (including personal information) as Autism SA requires. In addition to responsible persons, information (including personal information) about clients may be obtained from third parties other than responsible persons, including other similar agencies or health care providers and our other business partners, as well as our service providers.

If Autism SA collects personal information about clients from a third party we will, where appropriate, request that the third party inform clients that we are holding such information, how

we will use and disclose it, and that clients may contact us to gain access to and correct and update the information.

When Autism SA collects personal information from clients, we will take reasonable steps to notify clients or ensure clients are aware of:

- our identity and contact details;
- that we have collected their personal information, and whether that collect is required or authorised by law;
- the purposes of collection;
- the consequences if personal information is not collected (such as if this will affect our ability to provide services to clients);
- our usual disclosures of personal information of the kind collected;
- information about this Privacy Policy; and
- whether we are likely to disclose personal information to overseas recipients, and if practicable, the relevant countries in which they are located.

Some of the above information is included in this document.

### ***Collection of sensitive information (including health information)***

Autism SA will only collect sensitive information about an individual if the individual (or a responsible person on their behalf, if they are legally unable to consent, or physically incapable of doing so) consents to the collection, and the information is reasonably necessary for Autism SA's functions or activities, including the provision of services to that individual.

Sensitive information may also be collected about an individual:

- if required or authorised by or under an Australian law or a court/tribunal order
- when a permitted general situation (as defined in the Act) or permitted health situation (As defined in the Act) exists.

### ***Type of information collected***

Personal information collected by Autism SA from clients may include:

- personal details (title, name, address, phone number, email)
- date of birth
- relevant information required by Autism SA to effectively deliver services, including but not limited to health information, and videos and images made by Autism SA to assist with diagnosis
- next of kin and person to be contacted in case of emergency

### ***How we hold personal information***

Autism SA will hold personal information as either physical records, electronic records on our servers, and in some cases, as electronic records on third party servers, which may be located overseas.

We take steps to hold all hard copy and electronic records of personal (including sensitive) information in a secure manner to ensure that they are protected from misuse, interference and loss, and unauthorised access, modification or disclosure.

It is our policy to destroy or de-identify personal information once it is no longer needed for a valid purpose or required to be kept by law, and we have procedures in place to do this.

### **Purposes for which we collect, hold, use and disclose personal information**

In general, Autism SA will collect, hold, use and disclose client personal (including sensitive) information for the purpose of delivering services to the relevant client, and the conduct of our business.

By providing us with personal information, clients consent to us using and disclosing their personal information for the following purposes:

- providing goods and/or services to them;
- providing news and information about Autism SA's products and services;
- sending marketing and promotional material that we believe the client may be interested in, either from us, any of our related entities or a third party business which we consider may be of interest; and
- personalising experiences with Autism SA, for example, via connectivity with social media services.

Individuals may opt out of receiving marketing and promotional material from Autism SA at any time by contacting our Privacy Officer, using the contact details set out below.

There may be circumstances in which we are authorised or required by law to use or disclose personal information. For instance:

- A number of laws require the provision of personal information to third parties, including the *Corporations Act 2001* (Cth). The precise information required to be provided will vary depending on the circumstances requiring disclosure of that information.
- We may also use or disclose personal information about clients to avoid, lessen or prevent a serious emergency or crime. If we use or disclose personal information about clients in those circumstances we will make a written record of such use or disclosure.

We may disclose personal information between our associated entities or to third parties such as our suppliers or our professional advisors, where permitted by the Act.

Any disclosure that is required to be made to any third party will be made primarily for the purpose of delivering services to clients. If we disclose information to a third party, we generally require that the third party protect information to the same extent that we do.

### **Communicable diseases**

Autism SA does not seek to actively obtain information about the communicable or infectious disease status of clients. Policies and procedures are in place for the control of cross infection, and additional precautions will be used where necessary. Information in regard to health or infectious disease status that is disclosed to Autism SA by clients will remain confidential.

Clients who have an infectious or communicable disease have a responsibility to act (as their disability allows) in an appropriate manner and in accordance with the advice provided by their medical practitioner(s) that seeks to minimise the risk of the disease being passed onto another person.

Where the risk of infection is high, the person should be guided by their medical practitioner(s) in respect of absencing themselves from participating in Autism SA programs, in either the short or long-term. Where someone with an infectious or communicable disease presents to Autism SA programs after having consulted their medical practitioner(s), it is presumed they present no greater risk to others than would ordinarily be encountered in the community.

Where a person is advised that the effects of an infectious or communicable disease are likely to prevent them from participating in Autism SA programs this should be notified to Autism SA so that

longer term arrangements can be made. Autism SA does not require details of the condition but does require an indication of the likely period of absence.

Clients infected with infectious or communicable disease are not discriminated against in terms of the provision of services or their treatment while receiving Autism SA services.

## **Autism SA responsibilities**

### **Autism SA will ensure that:**

- Client records, including files, videos and electronic records, and all other materials containing personal information, are kept in a secure manner and are only available to authorised employees, as determined by the Chief Executive Officer.
- At the time of Autism SA commencing its provision of services, clients are informed about the information that Autism SA collects (or may collect) about them, the reason for collecting the information and their right to access this information, and are asked to provide written consent to Autism SA's collection and use by executing a Consent Form. Any consent given in this manner can be varied at any time. However, variations may restrict the ability of Autism SA to (effectively) deliver services to clients.
- Information is only disclosed to another person or service provider when consent has been gained in writing from the client (or parent(s)/guardian(s) if the client is under 18 years or a responsible person if the client is over 18 years but unable to give informed consent), including at the time of entering the Autism SA service by executing a Consent Form, as disclosed by Autism SA in this document, or where Autism SA is otherwise permitted to do so by the Act.
- Written permission is obtained prior to public release of client creative output ("original material"), video material and/or photographs of Autism SA clients. Autism SA will notify clients of the extent to which video material and/or photographs of Autism SA clients are proposed to be distributed/released and who will have access to the material at the time of seeking permission for its release, as explained in the Consent Form completed at the time of entering Autism SA services.
- The interests of its clients are safeguarded by having any person or organisation requesting access to the original material of clients, or photos or video featuring Autism SA clients to provide details of how the material will be used and who will have access to the material disclosed prior to consideration of the material being released. This information will be documented and a signed agreement between the parties will detail the extent to which such material can be used.
- Personal information is not sold, rented, traded or marketed to a third party and is not used for any purpose apart from the initial reason it was collected.
- Autism SA will endeavour to ensure that recorded information is kept up to date.
- As part of the diagnostic assessment process, videos/digital recordings of individuals suspected of having an Autism Spectrum Disorder are made. Parents, guardians or other responsible persons (as relevant) must provide written consent for this to occur. These videos remain the property of Autism SA and are stored securely and are not released to any other party without express consent by the client or a responsible person on their behalf, and if released is agreed to, are released only for the purposes of securing appropriate services for the client, or any other purpose in respect of which consent is provided (including through the Consent Form signed at the time of entering the Autism SA services).
- People will be removed from the Autism SA mailing list when Autism SA receives a written request to this effect.

- There is a nominated Privacy Officer, who is aware of the requirements of the Act and the APPs, ensures that Autism SA fulfils its obligations under the Act and acts in accordance with the APPs. Contact details for the Privacy Officer are set out below.

### **Clients' rights and responsibilities:**

- Clients have the right to ask Autism SA what information is kept about them, and to have it updated or corrected, by making a request to the Privacy Officer. Parents/guardians of children under 18 years can exercise this right on behalf of their child, and a responsible person can exercise this right on behalf of an adult where the client's disability prevents the individual from making decisions.
- In rare circumstances, and only where it is permitted under the Act, Autism SA may not be able to provide clients with access to their information, or amend it as requested by a client. For example, where the requested access will have an unreasonable impact upon the privacy of others or where Autism SA is required or permitted by law to withhold the information, we may refuse access. Autism SA will respond to all requests for access to or correction of personal information within a reasonable time. If Autism SA is unable to provide a client with access, or make amendments as requested, reasons for our refusal will be provided.
- Clients have the right to ask the Privacy Officer for advice or assistance in regard to accessing and/or updating their records.
- Clients must respect the right of others to have their personal information remain confidential.
- Clients are responsible for ensuring that Autism SA is informed of any change to their personal information as soon as possible, so that records can be updated as required.
- Clients do not need to provide a reason for requests for access to their personal information. Autism SA will not charge clients to correct their personal information that we hold in our records.

### **Complaint procedures**

If clients believe that Autism SA may have breached the Australian Privacy Principles that apply to their personal information, or has failed to comply with this policy, please direct that complaint to our Privacy Officer, using the contact details set out below.

We take all complaints seriously, and will respond to complaints within a reasonable period.

If a client is dissatisfied with the handling of their complaint, the client may contact the Office of the Australian Information Commissioner as follows:

Office of the Australian Information Commissioner  
 GPO Box 5218  
 Sydney NSW 2001  
 Telephone: 1300 363 992  
 Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

### **Cross Border Disclosures of Information**

Autism SA may disclose personal information between its related bodies corporate (if any) where permitted by the Act.

As at the date of this Privacy Policy, Autism SA is not likely to disclose personal information to any overseas recipients. If in future we do propose to disclose personal information overseas, we will do so in compliance with the requirements of the Act. We will, where practicable, advise clients of the countries in which any overseas recipients are likely to be located.

By providing personal information to Autism SA, clients consent to Autism SA disclosing that personal information to any such overseas recipients for purposes necessary or useful in the course of operating our business, and agree that APP 8.1 will not apply to such disclosures. For the avoidance of doubt, in the event that an overseas recipient breaches the Australian Privacy Principles, that entity will not be bound by, and clients will not be able seek redress under, the Act.

If clients do not want us to disclose their information to overseas recipients, they should please let us know.

### **General**

Where practicable, we are required to provide the option for clients to deal with us anonymously or under a pseudonym. This option will not be available where we are required or authorised by law to deal with individuals who have identified themselves, or if we need to verify identity in order to provide products or services to clients.

This document reflects our Privacy Policy as at the approval date in the header. We may amend our Privacy Policy at any time by posting an updated Privacy Policy on our website. The date of this Privacy Policy will inform you as to whether there have been updates since your last visit.

### **Privacy Officer**

Autism SA's Privacy Officer can be contacted as follows:

Privacy Officer, Autism SA  
Physical address: 1/262 Marion Road, Netley SA 5037  
Postal address: PO Box 304, Marleston DC SA 5033  
Phone: 08 8379 6976  
Fax: 08 8338 1216  
Email: [admin@autismsa.org.au](mailto:admin@autismsa.org.au)

### **Supporting Standard**

Standard 4 National Standards for Disability Services: Privacy, Dignity and Confidentiality

### **Related Policies and Procedures**

Plain English version of the Privacy Policy  
Infection Control (AUTISM SA WHS POLICY 5)

### **Relevant Legislation**

Privacy Act 1988 (Cth), including the Australian Privacy Principles inserted by the Privacy Amendment (Enhancing Privacy Protections) Act 2012 (Cth)