



# Privacy and Confidentiality Policy

## Scope

This policy applies to Brook RED *Community Members/NDIS Participants, Nominated Support People*, board members, employees, volunteers, and students on placement.

## Purpose

To ensure that Brook RED manages personal information in an open, honest and respectful way and to ensure that individuals privacy is protected.

## Principles

Brook RED treats personal information with respect and values confidentiality and discretion in all interactions. Personal information will be kept secure, accurate and up to date. Brook RED's practices meet Australian Privacy Principles (APP's) and comply with the Commonwealth Privacy Act 1988 and NDIS legislation. The information we collect is used to provide services in a safe and healthy environment with individual requirements, to meet duty of care obligations, to initiate appropriate referrals and to conduct business activities to support those services.

## Australian Policy Principles

1. Open and transparent management of personal information
2. Anonymity and pseudonymity
3. Collection of solicited personal information
4. Dealing with unsolicited personal information
5. Notification of the collection of personal information
6. Use or disclosure of personal information
7. Direct marketing
8. Cross border disclosure of personal information
9. Adoption, use or disclosure of government related identifiers
10. Quality of personal information
11. Security of personal information
12. Access to personal information
13. Correction of personal information

## Policy

### **APP 1. Open and transparent management of personal information**

Brook RED takes steps to implement practises, procedures and systems to comply with the APP's and management of personal information is expressed in this Privacy and Confidentiality Policy. The Brook RED Privacy and Confidentiality Policy is available on request at our centres and online on our website. Brook RED welcomes feedback and complaints regarding any aspect of our service or operations. Please refer to the Complaints Policy and Procedure.

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## **APP 2. Anonymity and pseudonymity**

Individuals have the option of not identifying themselves, or of using a pseudonym, unless required by law or court or if it is impracticable to do so.

## **APP 3. Collection of solicited personal information**

### **Personal information**

Brook RED only collects *personal information* (other than sensitive information) that is reasonably necessary for Brook RED's functions or activities. We collect personal information to help us provide support to individuals, to improve service delivery and to meet our funding obligations. We collect names, contact details, health details (including diagnoses), emergency contacts, support person details (if applicable) and other demographic information. Brook RED also records contact with individuals and keeps file notes regarding these contacts. We use a 'Member Details Form' or 'NDIS Participant Details Form' to collect personal information and these forms are kept in a locked filing cabinet. We also enter personal information into our computer database which requires a staff login and password to access.

### **Sensitive information**

Brook RED only collects *sensitive information* about an individual if the individual consents to the collection of such information and it is reasonably necessary for Brook RED's functions or activities. Brook RED can also collect sensitive information if the following applies:

- Collection of the information is required or authorised by or under an Australian law or a court/tribunal order
- A *permitted general situation* exists in relation to the collection of information by Brook RED
- A *permitted health situation* exists in relation to the collection of information by Brook RED
- The information relates solely to Community Members/NDIS Participants of Brook RED or to individuals who have regular contact with the organisation in connection with its activities

Brook RED has a 'Privacy and Consent Form' which fully explains what happens to information and outlines the types of conditions an individual can consent to. Brook RED will only share personal information to others with the individual's permission, or when there are significant safety concerns or we are legally obligated to do so.

Collection of information is done in a lawful and fair way. Brook RED collects personal information about an individual only from the individual, unless it is unreasonable or impracticable to do so.

## **APP 4. Dealing with unsolicited personal information**

In circumstances where Brook RED receives unsolicited information, we will determine whether or not we could have collected the information under APP 3. If we determine that Brook RED could not have collected the personal information and the information is not contained in a Commonwealth record then Brook RED will destroy the information or ensure it is de-identified. If we determine Brook RED could have collected the personal information then

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APP's 5-13 apply as if the information had been collected under APP 3 (solicited). We will confirm this process with the individual.

## **APP 5. Notification of the collection of personal information**

Brook RED will notify individuals of the following as soon as possible:

- The identity and contact details of Brook RED. This is found on the 'Privacy and Consent Form', a copy of this will be provided to the community member
- Any information that Brook RED has collected from anyone else that the individual may not be aware of
- Whether the collection of information is required under Australian law or court/tribunal order
- The purpose of this collection of information
- The consequences (if any) for the individual if the information is not collected
- Anyone else that Brook RED may disclose information to
- How they can access and correct their personal information
- How they can make a complaint if APP's are breached

## **APP 6. Use or disclosure of personal information**

Personal information held by Brook RED is collected for a particular purpose and Brook RED will not use or disclose the information for any other purpose unless:

- Consent for the individual has been provided
- Use or disclosure of the information is required or authorised by or under an Australian law or a court/tribunal order
- A permitted general situation exists
- A health situation exists
- Use or disclosure of information is reasonably necessary for an enforcement related activity conducted by an enforcement body

The 'Privacy and Consent Form' fully explains what happens to information and outlines the types of conditions an individual can consent to.

## **APP 7. Direct marketing**

Brook RED must not use or disclose personal information it holds about an individual for the purpose of direct marketing, unless:

- Brook RED collected the information from the individual
- The individual would reasonably expect Brook RED to use or disclose the information for that purpose
- Brook RED has a simple means by which individuals can easily request not to receive direct marketing communication from the organisation
- The individual has not made such a request to the organisation

## **APP 8. Cross border disclosure of personal information**

Brook RED does not send personal information overseas.

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## **APP 9. Adoption, use or disclosure of government related identifiers**

Where Brook RED is provided with third party information including government related identifiers it will follow its policy as per APP 3 and 4.

## **APP 10. Quality of personal information**

Brook RED takes reasonable steps in the circumstances to ensure that personal information held, used and disclosed is accurate, up to date and complete and relevant to its purpose.

## **APP 11. Security of personal information**

Brook RED makes every effort to ensure that personal information is protected from misuse, interference and loss, and unauthorised access, modification and disclosure. Filing cabinets are locked and our databases require an ID and password. Only Brook RED agents who require access to this information will have access.

If the personal information is no longer needed for any purpose, is not contained in a Commonwealth record and not required to keep by or under an Australian law or a court/tribunal order then Brook RED will destroy the information or ensure that the information is de-identified.

## **APP 12. Access to personal information**

Brook RED is strongly committed to ensuring that those individuals whose information we collect are able to access this information, consistent with self-directed recovery model. Individuals can access their personal information on request within a reasonable time period and if it is reasonably and practicable to do so. Unless:

- Brook RED believes that giving access would pose a serious threat to the life, health or safety of any individual, public health or public safety
- Giving access would have an unreasonable impact on the privacy of other individuals
- Request for access is frivolous or vexatious
- Information relates to existing or anticipated legal proceedings between Brook RED and the individual and would not be accessible by the process of discovery in those proceedings
- Giving access would reveal the intentions of Brook RED in relation to negotiations with the individual in such a way as to prejudice those negotiations
- Giving access would be unlawful
- Denying access is required or authorised by or under an Australian law or court/tribunal order
- Brook RED suspects that unlawful activity or misconduct of a serious nature that relates to Brook RED's functions or activities has been engaged in
- Giving access would be likely to prejudice the taking of appropriate action in relation to the matter
- Giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body

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Brook RED will provide written notice of refusal as appropriate. Access may also be given through the use of a mutually agreed intermediary and displayed on the 'Privacy and Consent Form'. Access is free of charge.

## **APP 13. Correction of personal information**

Records can be corrected at any time if information is incorrect or out of date. Brook RED can, on request of the individual, give the individual access their information. If any personal information about an individual held by Brook RED requires correction, Brook RED will take reasonable steps to correct that information to ensure that, having regard to the purpose for which it is held, the information is accurate, up to date, complete, relevant and not misleading. If information has been passed on to a third party Brook RED will take steps to notify the third party. A written notice will be provided if the correction is refused. Requests will be responded to within a reasonable time period.

## **Data Breaches**

- We will take reasonable steps to reduce the likelihood of a *data breach* occurring including storing personal information securely and accessible only by relevant employees
- If we know or suspect that personal information has been accessed by unauthorised parties and we think this could cause harm, we will take reasonable steps to reduce the chance of harm and advise the person of the breach and if necessary the Office of the Australian Information Commissioner
- A breach of privacy and confidentiality is an incident, if this occurs please refer to the Brook RED Responding to Incidents Policy to resolve
- A breach of privacy and confidentiality may require an investigation

## **Photo Consent**

From time to time, Brook RED employees may take photographs or videos of NDIS Participants on the team phone to assist with monitoring medical issues or behaviours of concern, training staff, evidence for NDIS reviews and/or to share happy moments with guardians or the team. Photographs and videos are only taken for this purpose and will only be shared with guardians, the team and the NDIS (if appropriate). Photographs and videos may be shared via text or email. They may be saved to the secure Brook RED server/laptop if they are required to be kept. All photos will be deleted from phones immediately after sharing/saving. NDIS Participants/Guardians complete the Photo Consent Form to indicate that they consent to sharing photographs/videos with team members and stakeholders, sharing photographs/video by email and phone and/or storing photographs on the Brook RED secure server.

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## Definitions of Terms Used

### Community Members

Anyone who accesses Brook RED services including our community programs and NDIS supports.

### Data Breach

A data breach is a type of security incident where personal, sensitive or confidential information normally protected, is deliberately or mistakenly copied, sent, viewed, stolen or used by an unauthorised person or parties. A data breach where people are at risk of serious harm as a result is reportable to the Office of the Australian Information Commissioner

### NDIS Participants

Individuals that Brook RED provides support to under NDIS funding and practice guidelines.

### Nominated Support People (NSP)

A Community Member/NDIS Participant may appoint a family member, friend or other support person to be their NSP.

### Permitted General Situation

There are seven permitted general situations:

- lessening or preventing a serious threat to the life, health or safety of any individual, or to public health or safety
- taking appropriate action in relation to suspected unlawful activity or serious misconduct
- locating a person reported as missing
- asserting a legal or equitable claim
- conducting an alternative dispute resolution process
- performing diplomatic or consular functions – this permitted general situation only applies to agencies
- conducting specified Defence Force activities – this permitted general situation only applies to the Defence Force

### Permitted Health Situation

There are five permitted health situations:

- the collection of health information to provide a health service
- the collection of health information for certain research and other purposes
- the use or disclosure of health information for certain research and other purposes
- the use or disclosure of genetic information
- the disclosure of health information for a secondary purpose to a responsible person for an individual

Health Information is a type of sensitive information.

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## Personal information

Personal information is defined as any 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'

Common examples are an individual's name, signature, address, telephone number, date of birth, medical records, bank account details, employment details and commentary or opinion about a person.

Personal information of one individual may also be personal information of another individual. Examples include a marriage certificate that contains personal information of both parties to a marriage, and a vocational reference that includes personal information about both the author and the subject of the reference.

The personal information 'about' an individual may be broader than the item of information that identifies them. For example, a vocational reference or assessment may comment on a person's career, performance, attitudes and aptitude. Similarly, the views expressed by the author of the reference may also be personal information about the author.

Personal information that has been de-identified will no longer be personal information. Personal information is de-identified if the information is no longer about an identifiable individual or an individual who is reasonably identifiable.

What constitutes personal information will vary, depending on whether an individual can be identified or is reasonably identifiable in the particular circumstances.

## Sensitive information

Sensitive information is a subset of personal information and is defined as:

Information or an opinion (that is also personal information) 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 preferences or practices, or
- criminal record
- health information about an individual
- genetic information (that is not otherwise health information)
- biometric information that is to be used for the purpose of automated biometric verification or biometric identification, or
- biometric templates

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Information may be sensitive information where it unambiguously implies one of these matters. For example, many surnames have a particular racial or ethnic origin, but that alone will not constitute sensitive information that necessarily indicates the racial or ethnic origin of an individual with that surname.

Terms such as 'political opinions' and 'philosophical beliefs' are not defined in the Privacy Act. They take their ordinary meaning and should be interpreted broadly. However, not every value, belief or opinion of an individual will be considered to be a political opinion or philosophical belief.

Sensitive information is generally afforded a higher level of privacy protection under the APPs than other personal information. This recognises that inappropriate handling of sensitive information can have adverse consequences for an individual or those associated with the individual. For example, discrimination or mistreatment is sometimes based on a person's race or ethnic origin or union membership. Mishandling of sensitive information may also cause humiliation or embarrassment or undermine an individual's dignity.

## References

APP Guidelines

Brook RED Complaints Policy and Procedure

Brook RED Member Details Form

Brook RED Photo Consent Form

Brook RED Privacy and Consent Form

Brook RED Responding to Incidents Policy

NDIS (Provider Registration and Practice Standards) Rules 2018

NDIS (Quality Indicators) Guidelines 2018

Privacy Fact Sheet 17 - Australian Privacy Principles

## Document Control and Record of Changes

Version	Effective Date	Approved by	Summary of Change	Date of Next Review
Version 01	August 2016	Eschleigh Balzamo	Introduction of new policy	-
Version 02	April 2017	Eschleigh Balzamo	Change of format	January 2018
Version 03	May 2017	Eschleigh Balzamo	Change to version control Change of content and format	January 2018

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Version 04	September 2019	Eschleigh Balzamo	Review and update	January 2021
Version 05	June 2021	Eschleigh Balzamo	Review and update	June 2023

The General Manager has overall responsibility for this policy. If there are any questions regarding this policy, please direct these to the Business Services Manager or General Manager.