



SERVICE DELIVERY
E.15 Privacy

REVIEWED: APRIL 2022

E.15 Privacy

Mercy Services is committed to protecting and upholding the right to privacy of those who it supports, staff, volunteers, Board members and representatives of agencies we deal with. Mercy Services is committed to protecting and upholding the privacy rights of those who we support in the way we collect, store and use information about them, their needs and the services we provide to them.

Mercy Services requires staff, volunteers and Board/Committee members to be consistent and careful in the way they manage what is written and said about individuals and how they decide who can see or hear this information.

Mercy Services is subject to Australian privacy legislation and the organisation will follow the guidelines of the *Australian Privacy Principles* in its information management practices.

Mercy Services will ensure that:

- it meets its legal and ethical obligations as an employer and service provider in relation to protecting the privacy of clients and organisational personnel
- clients are provided with information about their rights regarding privacy
- clients and organisational personnel are provided with privacy when they are being interviewed or discussing matters of a personal or sensitive nature
- all staff, Board/Committee members and volunteers understand what is required in meeting these obligations
- it will adhere to all requirements imposed under the *Privacy Act 1988*, including the requirements imposed by the *Privacy Amendment (Notifiable Data Breaches) Act 2017*, to strengthen the protection of personal information.

This policy conforms to the *Privacy Act (1988)* and *the Australian Privacy Principles* which govern the collection, use and storage of personal information.

Record of policy development		
Version	Date approved	Policy Changes
1.0	01/10/2007	Policy created - <i>Replacing Policy Section 5 Service Delivery – Privacy & Confidentiality, and Freedom of Information</i>
1.1	01/05/2009	Transferred existing Policy to new format
1.2	18/09/2009	a) Expanded info previously in procedure section - <i>What personal information does Mercy Services collect and why does it need it?</i> b) Replace the word people with applicable persons (defined in 3.0 Policy Statement c) Added more Laws, Codes of Practice, Evidence
1.3	21/09/2010	Include student placements in same category as staff and volunteers Include student placements in same category as volunteers
1.4	22/03/2011	Updated Community Care Common Standards and EQulP5 Standards

1.5	26/11/2012	<p>a) Inclusion of definitions of Health Information, Personal Information, and Sensitive Information</p> <p>b) Delete reference to informing people that they can decline to be a contact person for a client. <i>(Mercy does not ask them if they are happy to be a contact person – this is the client’s role. If people contact Mercy declining to be a contact person this request will be respected).</i></p> <p>c) Add funding Department representatives and quality assurance surveyors as people who can access client records.</p> <p>d) New sections Clarify that funding department and quality assurance people can access client information.</p>
1.6	09/10/2014	<p>a) Reworded as: “In services where fees are charged if you withhold information about your income fees may be charged at the highest rate.”</p> <p>b) Delete that client approval will be sort before secondary use of their data. Add that marketing material is only from Mercy Services and client details not passed on to other parties.</p> <p>c) Add that a person can name people from whom they want their information withheld. Added Aged Care Accreditation Standards and updated Disability Standards</p>
1.7	13/08/2015	<p>a) Reduce all response times to request for access to 21 days.</p> <p>b) Make explicit requirement to comply with Australian Privacy Principles and delete types of information collected</p> <p>c) Add in types of information collected, list persons instead of phrase “applicable persons”. Add intention to provide policy in requested form. Change to “are normally” rather than “should be” the restricted list of people at an assessment/review. Change “signature” to “consent” re. disclosure to next of kin. Person given privacy explanation “on the occasion” rather than “before” information is collected. Add that referring agencies provide client information.</p> <p>d) Expand information given when amendment request is refused. Make explicit there is no fee for requesting access but may be for copying. Add to up-date third parties of amend information. Add more detail on statement from person that their information is inaccurate etc.</p> <p>e) Add section on overseas entities. Add that volunteers may also have access to a person’s personal information. Delete reference to local abuse protocol has expired. Change HACCC to community aged care.</p> <p>f) Change example to tax file number</p> <p>g) Replace Aged and Community Care Information Line with TARS</p> <p>h) Replace NPP with APP Updated as per changes above.</p>
1.8	15/11/2016	Top three dot points added from Client Agreement
1.9	14/03/2017	Major re-write Add Privacy Officer Change complaints process
2.0	05/04/2022	Redevelopment of organisational policy in new template & update

Responsibilities and delegations

This policy applies to	Staff, Volunteers and Board
Specific responsibilities	Risk & Compliance

Policy approval	Risk & Continuous Improvement Committee with Board Endorsement
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Policy context – this policy relates to:	
Standards	NDIS Practice Standards Aged Care Quality & Safety Standards
Legislation	Privacy Act, 1988 (Cth) Health Records Information Privacy Act, 2002 (NSW)
Contractual obligations	N/A
Organisation policies	Safeguarding, Risk Management, Incident Management, Complaints
Forms, other documents	

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Definitions

Personal information is any information that can be used to personally identify you. This may include your name, address, telephone number, email address and profession or occupation. If the information we collect personally identifies you, or you are reasonably identifiable from it, the information will be considered personal information.

Sensitive information has the highest level of protection and is defined as information or an opinion 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;
- criminal record; or
- health information.

The Health Records Information Privacy Act (NSW) also applies a higher privacy standard to organisations, such as Mercy Services, that hold "health information".

Health information includes information or an opinion about the physical or mental health or disability of an individual. Health information also includes personal information that is information or an opinion about (but not limited to):

- a health service provided, or to be provided, to an individual;
- an individual's express wishes about the future provision of health services to them;
- other personal information collected in connection with the donation of human tissue; and
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

If your organisation is a health service provider, 'health information' includes all of the above plus any other personal information collected to provide, or in providing a health service.

Governance of Personal Information

In handling personal information, Mercy Services staff will:

- ensure privacy for clients, residents, staff, volunteers or Board/Committee members when they are being interviewed or discussing matters of a personal or sensitive nature
- only collect and store personal information that is necessary for the functioning of the organisation and its activities
- use fair and lawful ways to collect personal information
- collect personal information only by consent from an individual

- ensure that people know what sort of personal information is held, what purposes it is held for and how it is collected, used, disclosed and who will have access to it
- ensure that personal information collected or disclosed is accurate, complete and up-to-date, and provide access to any individual to review information or correct wrong information about themselves
- take reasonable steps to protect all personal information from misuse and loss and from unauthorised access, modification or disclosure
- destroy or permanently de-identify personal information no longer needed and/or after legal requirements for retaining documents have expired
- notify individuals and the Office of the Australian Information Commissioner (OAIC) when there has been a data breach (or suspected breach) of personal information, if it is likely to result in serious harm to individuals whose privacy has been breached

Responsibilities for managing privacy

All staff are responsible for the management of personal information to which they have access or use in the course of their work. All Mercy Services content in publications, communications and website must ensure the following:

- appropriate consent is obtained for the inclusion of any personal information about any individual including Mercy Services personnel
- information being provided by other agencies or external individuals conforms to privacy principles
- that the website contains a Privacy statement that makes clear the conditions of any collection of personal information from the public through their visit to the website

The Head of Risk and Compliance is responsible for overseeing safeguarding of personal information relating to Mercy Services staff, Board/Committee members, volunteers and contractors.

The Privacy Contact Officer role will be overseen by the Risk and Compliance team under the Head of Risk and Compliance. This role will be responsible for:

- ensuring that all staff are familiar with the Privacy Policy and administrative procedures for handling personal information
- ensuring that clients and other relevant individuals are provided with information about their rights regarding privacy
- handling any queries or complaint about a privacy issue.

Personal Information (Data)

On initial intake, those Mercy Services are going to support will be told what information is being collected, how their privacy will be protected and their rights in relation to this information. This information will be collected by the relevant Coordinator, Care Manager or

Residential intake administrator.

Personal information collected and held by us

Mercy Services will seek your consent to enable us to collect information about you. In seeking your consent Mercy Services will try to explain:

- the purpose of collecting the information;
- who will have access to what parts of the information;
- what we will use the information for;
- who the health information will be passed on to;
- whether providing the information is voluntary or required by law; and
- the consequences of giving or refusing consent.

Mercy Services may collect the following types of personal information on clients, residents, staff, volunteers and those we support next of kin/carers:

- name;
- mailing or street address;
- email address;
- telephone number;
- facsimile number;
- age or birth date;
- photography or video recording of you;
- profession, occupation or job title;
- contact details of your next of kin/emergency contacts;
- personal goals/care preferences, risks involved in activities and venues you may use;
- details of the products and services you have purchased from us or which you have enquired about, together with any additional information necessary to deliver those products and services and to respond to your enquiries;
- bank account and payment details;
- any additional information relating to you that you provide to us directly through our websites or indirectly through use of our websites or online presence, through our representatives or otherwise; and
- information you provide to us through our service centre, customer surveys or visits by our representatives from time to time.

Mercy Services may also collect some information that is not personal information because it does not identify you or anyone else. For example, we may collect anonymous answers to surveys or aggregated information about how users use our website.

How we collect your personal information

Mercy Services collect your personal information directly from you unless it is unreasonable or impracticable to do so. When collecting personal information from you, we may collect it in ways including (but not limited to):

- during conversations between you, your supporter and our representatives;
- when you complete an application or assessment/service delivery form;
- letters or emails you have sent us; and/or
- through your access and use of our website.

Mercy Services will ensure where possible the setting for collection of this information provides appropriate privacy.

If those providing services to are unable to give consent we will seek consent from their Enduring Power of Attorney, Guardian or any other person who is authorised by law to act for or represent them.

Mercy Services may also collect personal information from third parties including (but not limited to):

- reports and information provided to us by other services that are or have assisted you, law enforcement agencies and other government entities.

Purposes for which Person Information is Collected, Held, Used and Disclosed

Mercy Services collects personal information about those with whom it supports so that it can perform business activities and functions to provide appropriate quality of care in line with the care needs and wishes of those it supports.

Mercy Services will collect, hold, use and disclose your personal information for the following purposes (but not limited to):

- to provide products and services to those supported and to send communications as requested;
- to answer enquiries and provide information or advice about existing and new products or services;
- to assess the performance of the website and to improve the operation of the website;
- to conduct business processing functions including providing personal information to contractors, service providers or other third parties;
- for the administrative, marketing (including direct marketing), planning, product or service development, corporate planning, contractors or service providers, quality control and research purposes;
- to enable government funders to monitor who is being assisted and how much assistance they are receiving with government funds;
- to provide updated personal information of those supported to our contractors or service providers;
- to update records and keep the contact details of those supported up to date;
- to process and respond to any complaint made by those supported; and
- to comply with any law, rule, regulation, lawful and binding determination, decision or direction of a regulator, or in co-operation with any governmental authority of any country (or political sub-division of a country).

Personal information of those supported by Mercy Services will not be shared, sold, rented or disclosed other than as described in this Privacy Policy.

Personal Information not supplied

If those supported do not provide us with the personal information described above, Mercy Services:

- may be unable to tailor the content of our services to individual preferences and experience of services may not be as enjoyable or meaningful;
- may charge fees at the highest rate (where fees are charged), if information about income is withheld;
- may not be able to provide the requested products or services, either to the same standard or at all; and/or
- may also decide not to provide a service or may change the type or location of the service if information regarding safety is not provided.

Storage of Personal Information

Mercy Services will take reasonable security safeguards to protect the security of personal information it holds it holds.

Safeguards employed include (but are not limited to):

- personal information being stored in filing cabinets and storage areas that are locked when unattended;
- providing guidance and awareness to staff on the importance on protecting the privacy of personal information held by Mercy Services
- ensuring record and information management systems are restricted to appropriate personnel only, with controls including individual passwords to prohibit unauthorised access
- establishing different access levels appropriate to the staff members responsibility and requirement to view such information;
- secure disposal of expired records or no longer required personal information; and
- installing virus protections and firewalls to avoid interference or misuse of information.

Client/resident records are only removed from Mercy Services premises:

- to be securely archived;
- as the result of a court order;
- for transfer to another organisation;
- to be given to the individual supported, their family or guardian; and/or
- in a secure way for the purpose of delivering services (only relevant sections of the record, in a non-identifying envelope/cover and while under constant supervision).

Mercy Services does not provide services to children (under 18 years of age). However, in relation to services it provides to adults may collect information regarding their children. As such Mercy will retain information relating to the applicable person as follows:

- in the case of information collected while the person was an adult – for at least 7 years from the last occasion on which they received a service;
- if information was collected about a child in relation to a service provided to an adult – the record (at a minimum) will be kept for at least 7 years from the last occasion in which the related adult had a service with Mercy.

Mercy Services will dispose of information securely. When a person's record is deleted or disposed of Mercy Services may keep a record of details such as (but not limited to):

- the name of the person;
- the period covered by the information: and/or
- the date on which it was deleted or disposed of.

When transferring a person's information to another organisation (and we do not continue to hold a copy of that information) Mercy Services will keep a record of the name and address of the organisation to which we transferred the information. When transferring information, appropriate consent would be obtained from the individual or representative prior to transferring information to the other organisation.

Disclosure of Personal Information

All Mercy Services staff, volunteers, and/or students on placement who collect or have access to personal information are to be aware of this Privacy Policy and have signed a confidentiality agreement (Attachment 1 and 2).

In general, the use of personal information (within Mercy Services) and disclose (to people/organisations outside Mercy Services) will only be undertaken for the primary purpose for which the information was collected.

Mercy Services may disclose your personal information to (but not limited to):

- its employees, contractors or service providers for the purposes of: operation of our business, fulfilling requests by you, and to otherwise provide products and services to you including, without limitation, couriers, contractors, and professional advisors such as accountants, solicitors, business advisors and consultants;
- suppliers and other third parties with whom we have commercial relationships, for business, marketing, and related purposes; and
- any organisation for any authorised purpose with your express consent.

There may be circumstances when Mercy Services has to disclose information without the person's consent. These circumstances may include (but are not limited to):

1. if they do not have decision making capacity (*and their Enduring Guardian has authorised the disclosure*);
2. the law requires the matter to be referred to the Police or other authority agency on any perceived risk of abuse or neglect;

3. the law requires us to act upon serious concerns for the health or safety of an individual or another person;
4. the law requires us to report incidences of serious criminal offence; and/or
5. A court of law may subpoena a client/staff file and Mercy Services is required by law to provide the file.

In the event that any of the situations described above should occur, Mercy Services will make reasonable efforts to discuss the matter with the person at the earliest possible opportunity.

Transferring your information outside NSW

Mercy Services will only transfer health information out of NSW in the following circumstances:

- recipient subject to substantially similar privacy standards or laws - Mercy Services will satisfy itself that the recipient is subject to a law, binding scheme or contract that imposes substantially similar obligations to those imposed within NSW;
- consent - the person has consented to the transfer of their information;
- contractual obligation - the transfer is necessary for the performance of a contract between Mercy Services and the person;
- benefit to the person - the transfer is for the benefit of the person, and it is impracticable to obtain their consent, and, if it were practicable to obtain such consent, the person would be likely to give it;
- serious threat to health or welfare - the transfer is reasonably believed to be necessary to lessen or prevent a serious and imminent threat to the life, health or safety to any person, or a serious threat to public health or public safety; and
- lawful authorisation - the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.

Quality of Personal Information

Accessing Records

Individuals supported may request access to any personal information Mercy Services holds about them at any time by contacting us (see the details below).

Where a person seeks to access their information held by Mercy Services the person's request can utilise the form as in (Attachment 4). This form requires the person to specify the way they want to access the information. Mercy Services will respond to a request for access within 21 days after receiving the request.

Mercy Services may refuse a person access to their health information where (and not limited to):

- a) providing access would pose a serious threat to the life or health of any person (*for example where there is a risk that the information may cause the person significant distress, so as to result in them harming themselves or another*);
- b) providing access would have an unreasonable impact on the privacy of other people (*where a person's record contains information about someone else, Mercy Services*

will prevent an unreasonable impact on that other person's privacy by removing that other person's identifying details before releasing the information);

- c) the information relates to legal proceedings (existing or anticipated) between Mercy Services and the person, and the information is subject to legal professional privilege;
- d) providing access would reveal Mercy Services intentions in relation to negotiations with the person in such a way as to expose Mercy Services to disadvantage (*for example, regarding the settlement of a negligence claim*);
- e) denying access is required or authorised under another law;
- f) providing access would be likely to prejudice an investigation of possible unlawful activity;
- g) Mercy Services has been asked by a law enforcement agency performing a lawful security function not to provide access;
- h) the request for access is one that has been made unsuccessfully on at least one previous occasion and there are no reasonable grounds for making the request again; and/or
- i) the person has been provided with access to their information already and is making an unreasonable repeated request for access to the same information in the same manner.

If Mercy Services decides to refuse access, it will provide a written reason for the refusal. Access may be refused to a part of the information, to which a request relates, but provided to the remainder of the information.

Where Mercy Services refuses to provide the person with access to their health information on the grounds that providing access would pose a serious threat to their life or health, the notice of refusal must:

1. advise the person that he or she may nominate a medical practitioner to be given access to the health information instead; and
2. advise the person that any nomination must be made within 21 days, after receipt of the notice of refusal.

Access must then be provided to the nominated medical practitioner within 21 days of receiving the person's nomination.

Mercy Services may not be able to provide information in the way requested due to:

- sections needing to be blocked out or omitted due to the reasons listed above;
- the request placing unreasonable demands on Mercy Services resources;
- the request being detrimental to the preservation of the information; and/or
- the release involving an infringement of copyright.

In these cases, Mercy Services will discuss with the person the other options.

Updating or Correcting Personal Information

If personal information Mercy Services holds is believed to be incorrect, incomplete or inaccurate, then those individuals may request Mercy to amend it. This can be made either in writing, to the individuals Mercy representative or to the privacy mailbox as outlined in Contact Us.

Mercy Services will respond to a request to amend a record within 21 days after receiving the request. In response to a request for amendment, Mercy Services may amend (by way of corrections, deletions or additions) the person's information to ensure:

- the information is accurate; and
- the information is relevant, up to date, complete and not misleading, taking into account the purpose for which the information is collected and used.

For legal and medical reasons, Mercy Services will generally not permanently delete information from a person's record. Mercy Services may refuse to amend the person's health information if it is satisfied that the health information is not incomplete, incorrect, irrelevant, out of date or misleading.

If Mercy Services is not prepared to make the amendment requested, it will give the person in writing:

1. the reason for the refusal;
2. the process for escalating this as a complaint; and
3. any other matter prescribed by the Australian Privacy Principles regulations.

With the individuals' consent Mercy Services will inform third parties about amended information provided by, or relied upon by, that third party.

Contacting us

If you have any questions about this privacy policy or a request of information please contact the designated Privacy Officer via:

Post: Privacy Officer, Mercy Services 32 Union St, Tighes Hill NSW 2297

Tel: 02 4961 2686

Email: privacy@mercyservices.org.au

Employee Records

Mercy Services will keep accurate, appropriate and secure records for all employees regarding details such as (but not limited to):

- employment particulars (including background checks);
- payroll;
- supervision / performance review;
- vaccination records; and
- learning and development.

Employee records are confidential and kept in locked/secure storage. The record comprises information about employment, including (but not limited to) recruitment (including background checks), terms and conditions of employment, performance, discipline, leave, emergency

contact details and vaccination record (where required). Employee records are confidential and kept in locked/secure storage.

Personal information collected as part of the employment and used directly in relation to that employment are not covered under the Australian Privacy Principles, however Mercy Services intends to commit to these privacy principles as it does for those supported by its services. Collection of personal information is only undertaken if it's necessary as part of business operations or required by law.

The following outlines a list of personal information that may be collected in the course of a staff member's employment. These details include (but are not limited to):

- Employment Application with Mercy Services;
- Background checks (Police, NDIS, Working with children check);
- Resume, including academic record and qualification/training confirmation;
- Salary packaging / payroll records (including bank / superannuation details);
- Leave records (and reasons / application);
- Staff details including emergency contact;
- Interview records and any performance reviews;
- Medical information relevant to their role and workers compensation records;
- Drivers licence, vehicle registration and insurance;
- Any changes in employment status or agreement; and
- Vaccination record.

Medical information and information collected for the purpose of administering compensation and benefits programs or addressing employee health concerns is confidential and will not be released without the employees consent except for legitimate business purposes such as administering the benefits program, addressing the employee's concern and/or in the course of administering workers compensation and injury management.

Mercy Services collects such information to enable it to achieve things such as (but not limited to):

- deliver employee benefits (superannuation, salary packaging)
- meet statutory and legal requirements
- conduct appropriate due diligence on employees prior to employment
- report to government agencies as part of regulatory or funding requirements
- support an employee's induction or any training requirements

If staff require information to be updated or corrected in their employee record they should contact the **People & Culture team**.

Access to Employee Records

An employee or their authorised representative may review any information pertaining to them contained in the employee file and provide correction, after arranging a time for review with the People & Culture team. Some information may need to be deleted or obscured in the file to protect the identity of any other parties within, whose consent was not given or obtained.

A reasonable charge may apply if the employee wants copies made of all or parts of their employee record. Mercy Services employees are prohibited from releasing any information about another Mercy Services employee to any person or employer/agency without the

appropriate delegation contained within their job role and/or a written authorisation from the individual. An employee record will be made available onsite within 5 business days after receiving the request. A Mercy Services employee has the right to request a correction notation be made for information contained in their Mercy Services file. The actual file, however, may not necessarily be changed.

External access to personnel files without the permission of the person shall be authorised only by the CEO / Head of People & Culture normally under the following (but not limited to) circumstances:

- to protect the legal interests of Mercy Services;
- in response to a law enforcement authority, if it is appropriate;
- in relation to a regulatory audit or accreditation process;
- pursuant to a federal, state or local government statute or regulation that specifically requires disclosure of certain information to certain parties;
- in response to a lawfully issued administrative summons or judicial order including a search warrant or subpoena. A subpoena or other legal process for the production of the human resources file shall be reviewed by Mercy Services Legal Counsel prior to release of the information; and
- in compelling circumstances affecting the immediate health or safety of the individual.

Disclosure of Employee Personal Information to Third Parties

Mercy Services may be required to disclose employee records to third parties without consent. Instances where this may occur include to Fair Work Australia and/or information requested by other Government Agencies (for example, the ATO, Dept of Health) or where otherwise required by law. Mercy Services will review any third-party request for such information to identify information such as (but not limited to):

- who is requesting the information;
- whether the information is being provided to meet a lawful request; and
- whether the information is necessary to comply with the request.

Responding to reference checks

Mercy Services provides a statement of service for staff and employment checks relating to rental or mortgage applications. These are at the request of the individual employee who consents to Mercy Services in providing their information to the third party. The information provided will be in line with the request and authorisation of the staff member.

Outside of the above, as an organisation, Mercy Services does not provide references for employees or former employees. The only information Mercy will confirm for reference checks is employment start/end dates, role title, duties/responsibilities and reason for leaving. If an individual agrees to be a reference it is not on behalf of Mercy Services.

If a personal reference is requested from Mercy Services, it is managed on a case-by-case basis by the People & Culture team.

Unsuccessful Application Information

After any unsuccessful application, Mercy Services People & Culture team retains the candidate's interview questions and responses for a minimum of two years to aid any feedback or if the candidate applies for another position. Some other candidate details such as resume and contact information is also retained in an online platform for a similar period.

The People & Culture team review the information held on past candidates to ensure after this period information from an unsuccessful candidate is securely disposed of. Such information is only available to this team.

Data Breaches

A data breach arises when personal information is accessed or disclosed without authorisation or is lost/stolen. Mercy Services' Privacy Officer will be responsible for reviewing the situation and if required, reporting to the incident to the OAIC via the [Notifiable Data Breach form](#) following notification to the CEO. Mercy Services will notify affected individuals and the Office of the Australian Information Commissioner (OAIC) if the breach is likely to result in serious harm in line with the below requirements.

Eligible data breaches for reporting require the following (but may not be limited to):

- there is unauthorised access to or unauthorised disclosure of personal information, or a loss of personal information, that an organisation or agency holds
- this is likely to result in serious harm to one or more individuals, and
- the organisation or agency hasn't been able to prevent the likely risk of serious harm with remedial action.

Following any data breach, a full review will be undertaken to identify causes and remedial action to take to prevent from reoccurrence. Outcomes of such a review are to be presented to the Risk & Continuous Improvement Committee.

Responding to a Data Breach

Upon identification of a data breach, Mercy Services Compliance Officer will investigate the matter with senior management from the service area impacted and Mercy Services IT provider. If a reportable breach is identified the CEO will be advised and a response team established to address the breach. Initial steps will be taken to contain any ongoing issue while the matter is reviewed.

Outcomes of a review into a data breach will be reported to and documented at the Risk & Continuous Improvement Committee. Mercy Services will follow guidance from the Office of the Australian Information Commissioner when responding to data breaches.

Complaining about a Privacy Breach or Disclosure

If someone Mercy Services supports or a staff member has a concern over a privacy matter or disclosure of their information, we encourage them in the first instance, to raise the issue with their Mercy representative or Manager to try and resolve the issue. If they remain unsatisfied with the response, the concern or complaint can be raised with the Complaints Officer by:

- Calling: 02 4944 1944 (and asking for Complaints Officer)
- E-mailing: complaints@mercyservices.org.au
- Writing: Complaints Officer
Mercy Services, 13 Brooks Street, West Wallsend NSW 2286

As per the Complaints Policy, complaints received will be reviewed with a response provided within 14 working days by the Complaints Officer, who will be independent of the original compliant. If your complaint around privacy remains unresolved to your satisfaction Mercy Service will assist the complainant in directing them to: **NSW Information and Privacy Commission** on 1300 363 992 <http://www.ipc.nsw.gov.au/>.

An advocate or support person can be included in this process to assist. Agencies that can assist are:

- The Disability Advocacy Service: (02) 4927 0111; or
- The Aged Care Rights Service (TARS): 1800 424 079.
- Older Persons Advocacy Network: 1800 700 600

Staff Privacy or Confidentiality Breach

Staff and volunteer expectations around privacy and confidentiality are outlined in the confidentiality statements (Appendix 1 & 2) and the Staff/Volunteers Code of Conduct. Confidentiality statements are agreed to on joining Mercy Services. Any deliberate or negligent breach of this privacy policy or disclosure of individuals' personal information may result in disciplinary action up to and including possible termination of employment depending on the severity of the breach.

In terms of privacy and confidentiality relating to electronic communications and social media, including on work devices, staff are to follow the Social Media, Information & Communication Technology policies.

EMPLOYEE CONFIDENTIALITY STATEMENT

*"Information" for the purpose of this statement shall mean:
Any information, however communicated or obtained,
related to or connected with the organisation's operations and/or
the private details of clients and/or employees/volunteers.*

During the course of your employment you may become aware of information and material relating to the affairs and operations of the organisation, including other staff and volunteers which is confidential and which you must not disclose to anyone without the permission of Mercy Services or the person concerned.

You will also find out the identity of Mercy Services clients and some details about their lives and issues. This is information you gained through your employment and it must not be disclosed to people who have no need to know – including some staff/volunteers at Mercy Services.

It is a requirement of your employment, which continues after termination, that you will keep such information from those who are not entitled to it. You will use such information only in the course of carrying out your duties and not for your personal benefit or to the benefit of any person not entitled to the information.

If you are uncertain about what information should be kept confidential or disclosed, please refer to your Manager or our Privacy Officer and refer to the Privacy Policy (E.15 Privacy).

I acknowledge and agree to the above statement and agree to the terms set out.

Name:

Address:

Signature: Date:.....

VOLUNTEER or STUDENT PLACEMENT CONFIDENTIALITY STATEMENT

"Information" for the purpose of this statement shall mean:

Any information, however communicated or obtained, related to or connected with the organisation's operations and/or the private details of clients and/or employees/volunteers.

During the course of your voluntary work or student placement you may become aware of information and material relating to the affairs and operations of the organisation, including staff, volunteers and/or other students on placements which is confidential and which you must not disclose to anyone without the permission of Mercy Services or the person concerned.

You may also find out the identity of Mercy Services clients and some details about their lives and issues. This is information you gained through your voluntary work or student placement and it must not be disclosed to people who have no need to know – including some staff/volunteers at Mercy Services.

It is a requirement of your voluntary work or student placement, which continues after termination, that you will keep such information from those who are not entitled to it. You will use such information only in the course of carrying out your duties and not for your personal benefit or to the benefit of any person not entitled to the information.

If you are uncertain about what information should be kept confidential or disclosed, please see your Manager or our Privacy Officer and refer to the Privacy Policy (E.15 Privacy).

I acknowledge and agree to the above statement and agree to the terms set out.

Name:

Address:

Signature: Date:.....

Mercy Services Privacy Notice: Client Summary

Mercy Services is committed to protecting your privacy. We start from a belief that you should control who has information about you and what they do with your information.

What personal information do we collect and why do we need it?

To enable us to fulfil our responsibilities as a provider of health and support programs we may need to collect your: name; contact details; demographic background; photograph; health status; level of risk; your personal goals/care preferences and other relevant information.

We may use this information to: provide you with the most appropriate service for your needs; provide you with information about us, our programs/activities or services; conduct research on program performance; and to provide Government funding departments with information on programs.

We will also use this information to send you details of our other activities or services that may be of interest to you. Your details will never be given to other organisations for marketing purposes. If you no longer wish to receive information about our services, let us know and we will remove your details.

What will happen if I don't provide some information?

You have the right to not disclose information to us. In services where fees are charged, if you withhold information about your income, fees may be charged at the highest rate. Mercy Services may also decide not to provide a service or may change the type or location of the service if information regarding safety is not provided.

How do we collect the personal information?

You (or your representative) are our primary source of information. Wherever practicable, we will ask you for the information directly. However, we may need to contact others such as: your doctor, your family, agencies that assist you etc. We will only collect information about you from other people/agencies when you have given your permission for this to happen.

We collect the information in person, in writing, by telephone, by fax and by email. We collect this information through our staff, information you supply, through our contracted agents and from other service providers.

Who will see or have access to your personal information?

Your information will usually only be seen or used by persons working in, or for, Mercy Services. These people may include our staff or volunteers and those checking that we are providing a quality service as per our funding agreement (*representatives of the department that funds your services & our external quality assurance agency*). These people have all signed a confidentiality agreement and are fully aware of the need to treat your information with respect and confidentiality. Access to your information is restricted to those who need to use the information to provide you with a service and to those who complete the administration for the service.

There may be circumstances when we have to disclose information without your consent. Such as:

1. you do not have decision making capacity (*and your Enduring Guardian has authorised the disclosure*);
2. the law requires the matter to be referred to the Police or other authority agency on any perceived risk of abuse or neglect;
3. the law requires us to act upon serious concerns for the health or safety of a client or another person;

4. the law requires us to report incidences of serious criminal offence; and/or
5. A court of law may subpoena a client/staff file and Mercy Services is required by law to provide the file.

In the event that any of the situations described above should occur, we will make reasonable efforts to discuss the matter with you as soon as possible.

When we have information provided by a third party, such as a government department, we will only use and retain this information for the time and purposes agreed with this party.

If access to your information is requested by another party we will ensure we have your permission before access is granted or refused where appropriate.

We make all reasonable efforts to ensure our information systems and files (electronic and paper) are kept secured from unauthorised access. Information that is no longer current will be isolated and eventually destroyed after the legal time for storing has passed (7 years after your last service or if you were a child when we provided a service, we keep records until you turn 25).

We will only use photographs, recordings or other personally identifying information of you in reports if we have your consent.

How can I view or change my file?

You can request information from, or access to, your Mercy Services file. You must make this request in writing and can use the form available from us. Mercy Services will provide you with a response to your request within 21 days of receipt of your letter.

If the Mercy representative does not believe it is appropriate to meet the exact nature of the request they will consult with the Privacy Officer and or Executive Manager before responding. If any factors prevent us from meeting your exact request we will discuss with you the next best options. There is no charge for requesting to access your information, unless presentation of it is required in a specific format.

If you believe there are errors in our records about you, please let us know and we will be happy to investigate and correct any inaccuracies. Where the suggested corrections relate to a difference of opinion we will keep both opinions on file.

Complaint procedure

If you believe that your privacy has been breached, please contact us using the contact information below and provide details of the incident so that we can investigate it.

We encourage you, in the first instance, to raise this with your Mercy representative or Manager to try and resolve the issue. If you are still not satisfied with the response to your concern or complaint please contact our Complaints Officer by:

- Calling: 02 4944 1944
- Emailing: complaints@mercyservices.org.au
- Writing: Complaints Officer, Mercy Services, 13 Brooks St., West Wallsend NSW 2286

Once received we will review your concern or complaint and commit to providing a response within 14 working days, the Complaints Officer will be independent of the original compliant. If your concern still remains unresolved to your satisfaction we will assist you in directing your issue to: **NSW Information and Privacy Commission** on 1300 363 992.

At any stage you can involve a support person or advocate. Agencies that may help in this area are:

- The Disability Advocacy Service: 1300 365 085;
- The Aged Care Rights Service (TARS): 1800 424 079; or
- Older Person Advocacy Network: 1800 700 600.

If you would like a full copy of Mercy Services Privacy Policy or have any questions about privacy at Mercy Service please contact our Privacy Officer at privacy@mercyservices.org.au.

The Mercy Services Privacy Policy complies with the Australian Privacy Principles as required by the amendments to the Privacy Act (1988) and complies with the Health Privacy Principles as required by the Health Records and Information Privacy Act 2002 (NSW).

Request for Access to Personal Information

Name

Address

Phone Date of Birth.....

My involvement with Mercy Services is as a:

- Client (program).....
- Employee
- Volunteer
- Donor
- Supporter
- Other

I want to know:

.....

.....

.....

I would like this information provided:

- by giving me a reasonable opportunity to inspect and make notes from my Mercy Services file; or
- by a Mercy Services staff person showing me the contents of my file and explaining these to me; or
- in a written summary (*you must collect this from our office or pay for it to be sent by registered mail*); or
- photocopy of all of my file (*you must collect this from our office or pay for it to be sent by registered mail*); or
- other (*please signify*)
- I authorise another person to have access to my information instead of it being sent/given to me. The person I want to access this information is:

Their name:

Their address:

Signed Date

Mercy Services aims to be open and accountable but there are some reasons why we may be unable to provide the information you want or in the way you want - please read the next page for a list of these reasons.

Mercy Services will provide the information requested in the way requested unless:

- providing access would pose a serious threat to the life or health of any person (*for example where there is a risk that the information may cause the person significant distress, so as to result in them harming themselves or another*);
- providing access would have an unreasonable impact on the privacy of other people (*where a person's record contains information about someone else, Mercy Services will prevent an unreasonable impact on that other person's privacy by removing that other person's identifying details before releasing the information*);;
- the information relates to legal proceedings (existing or anticipated) between Mercy Services and the person, and the information is subject to legal professional privilege;
- providing access would reveal Mercy Services intentions in relation to negotiations with the person in such a way as to expose Mercy Services to disadvantage (*for example, regarding the settlement of a negligence claim*);
- providing access would be unlawful;
- denying access is required or authorised under another law;
- providing access would be likely to prejudice an investigation of possible unlawful activity;
- Mercy Services has been asked by a law enforcement agency performing a lawful security function not to provide access, as it would likely cause damage to the security of Australia;
- the request for access is one that has been made unsuccessfully on at least one previous occasion and there are no reasonable grounds for making the request again;
- the person has been provided with access to their information already and is making an unreasonable repeated request for access to the same information in the same manner;
- providing access would be detrimental to the preservation of the information or (having regard to the physical form in which the information is contained) would otherwise not be appropriate; or
- would involve an infringement of copyright subsisting in matter contained in the information.

If any of these factors prevent us from meeting your exact request we will discuss with you other options.

Send this request to our Privacy Officer via:

Post: Privacy Officer, Mercy Services 32 Union St, Tighes Hill NSW 2297
or
Email: privacy@mercyservices.org.au