

Confidentiality and Privacy Policy

This policy relates to the following NSW Disability Services Standards: Standard 1 – Rights

Legislation and Reference Documents:

- *NSW Disability Services Act 1993*
- *Disability Discrimination Act 1992 (Cwth)*
- *Privacy and Personal Information Protection Act 1988*
- *Privacy Act 1988 (Cwth)*
- *Privacy Amendment (Private Sector) Act 2000*
- *Privacy Amendment (Enhancing Personal Privacy Protection) 2012*
- *Australian Human Rights Commission Act 1986 (Cwth)*

Definitions

- **Confidentiality** – confidentiality ensures that information is accessible only to those authorised to have access, and is protected throughout its lifecycle.
- **Consent** – refers to consent that is clearly and unmistakably stated and can be obtained either in writing, verbally or in another form where the consent is clearly communicated.
- **Personal information** – any information that can be used to personally identify a person. This may include their name, address, telephone number, email address, image, profession or occupation. Personal information also includes sensitive information about a person, such as health information.
- **Sensitive information** – information on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, health information or sexual activities is classified as sensitive information under legislation.

Policy

Burrundalai respects and maintains the rights of our service participants, their carers and families to confidentiality and privacy. The privacy of information is defined by legislation and Burrundalai acts in accordance with legal requirements.

There are times when information needs to be shared under legal requirements. Additionally, in working together across Burrundalai's services and with other external service providers, Burrundalai will seek appropriate consent from service participants to share their information.

Burrundalai will ensure that the agency's policy and procedures for confidentiality is maintained at all times.

This includes:

- Service participants and their carers and families have a right to confidentiality of information about them.
- Information is only to be collected regarding issues that are pertinent to Burrundalai's service.
- Information of a personal nature is kept in a secure place.

- Information is only shared on a “need to know” basis within the Service or to families/carers in accordance with consent procedures.
- Protocols for sharing information with outside agencies/organisations will be followed. Including under what circumstances informed consent will be sought for release of information within or externally to Burrun Dalai.
- The need for staff to be trained in confidentiality.
- The right of service participants and their families and carers (with consent) to access personal information kept about them.

Burrun Dalai ensures that the Service also maintains its Staff Confidentiality and Security Policy.

Procedures

**** If you are working with children and young people from Burrun Dalai’s OOHC services you must refer also to the OOHC Confidentiality and Privacy Policy. If you are unsure about what information can be shared with the carers and families of children and young people, discuss this with their caseworker.***

1. Burrun Dalai collects personal information (e.g. name, contact details as well as other information such as health information) in order to provide appropriate supports to service participants. The information may be used to:
 - Assess what services are required
 - Assess eligibility for services
 - Evaluate and review services
 - Research and analysis
 - Fundraising and marketing
 - Complaint handling

The purpose for collecting information will determine the type and amount of information required in each situation. Where it is not necessary to identify who information relates to, such as in anonymous surveys, personal information should be collected in a way so that an individual cannot be identified from the information. Burrun Dalai will not sell, trade or rent information under any circumstances. Where Burrun Dalai submits copies of records, files and other documents for accreditation or quality assurance purposes, consent will be obtained from the individual before doing so.

2. Burrun Dalai tells service participants and their families/carers about our privacy and confidentiality policy and practices. This includes:
 - The purpose for collecting information
 - How information will be used
 - Who (if anyone) information may be shared with and why/when
 - Limits to privacy of personal information
 - How a person can access or amend their health information
 - How a person can make a complaint about the use of their personal information
3. Burrun Dalai ensures that all staff have a clear understanding of their responsibilities to maintain confidentiality. Staff will participate in training or workshops on

confidentiality. The Chief Executive Officer is to ensure that all staff sign Burrun Dalai's Code of Conduct which includes a confidentiality clause.

4. Burrun Dalai ensures that all information on service participants and their families/carers is kept in a secure filing lockable cabinet or room, so that only those who need to access it can do so. Staff are to ensure that files are stored in the correct place when they are not being used. Files are not to be left unattended around the office.
5. Personal information is only collected from the individual it relates to unless collection from another party is authorised through expressed consent from the individual concerned. If the individual is under 16 years of age, information can be obtained from a parent/carer or legal guardian. If the person is a client of Burrun Dalai's OOH service, information privacy and consent provisions should be discussed with the caseworker.
6. Burrun Dalai ensures that the agency's systems are secured to protect confidentiality of documents containing personal information about service participants and their families/carers. Burrun Dalai ensures that when sending personal information by facsimile (fax) line, e-mail, registered mail and locked bag with couriers that confidentiality is maintained. When sending a confidential fax, the person sending it must phone the recipient and ensure that someone is able to pick up the fax immediately so that it is not left unattended. Personal information and documents must be posted by registered post.
7. Burrun Dalai ensures that when interviewing service participants and their families/carers, that they have access to privacy at the office or within the service participant's or carer's family's/carer's home. All staff members involved in interviews and conversations with service participants and their families/carers are responsible for ensuring privacy. Particular care is to be taken when conversations occur in a public place.
8. Burrun Dalai ensures that disruptions or intrusions into the privacy of service participants is minimised. Caseworkers and other staff are to keep a balance of sufficient contact to monitor the quality of care without intruding on their individual need for privacy. The staff member must ask the service participant about their privacy needs. When working with children or young people from Burrun Dalai's OOH service, the staff member should speak to the caseworker about privacy and confidentiality provisions for the service participant, and how information will be shared between the two services. Staff must listen and negotiate with service participants to establish a duty of care and balance lack of intrusiveness with a good understanding of the context in which services are seeking to make a difference in the life of the service participant.
9. Burrun Dalai ensures that when promoting the Service, the dignity and privacy of service participants is not compromised. When publications with images of, or information from, service participants are used for promotional purposes, consent from the appropriate person/s or authorities is to be obtained before any publication can be made. Staff do not have the authority to arrange publications without the approval of the Chief Executive Officer. The Chief Executive Officer is to authorise any proposed advertising or publication before it can proceed.

10. Staff will only use assessment tools that are developed to gather information for the wellbeing of the service participant and that is pertinent to Burrun Dalai's service delivery.
11. Burrun Dalai will not release any information, pictures or identifying material in regard to service participants or their families/carers that are engaged with the service. The names or other identifying information is not to be published. The authorisation of the Executive Officer is to be obtained before such material is released.
12. Burrun Dalai only uses personal information for the purpose for which it was given. It may be provided to government agencies, other organisations and individuals if:
 - The individual has consented
 - It is required by law
 - It will prevent or lessen an imminent threat to somebody's healthIf Burrun Dalai needs to disclose any information to conform with any laws or legal processes, staff will advise the individuals impacted about what information has been disclosed and to whom (unless informing them is precluded by legislation). If the information relates to a child or young person in Burrun Dalai's OOHC service, the caseworker should be informed and consulted. The Chief Executive Officer should be notified immediately of the need to release information.
13. Burrun Dalai takes steps to ensure that the personal information collected is accurate, up-to-date and complete. These steps include maintaining and updating personal information when we are advised by individuals (or carers/caseworks in the case of children and young people in Burrun Dalai's OOHC service) that there have been changes.
14. Individuals may request access to personal information held about them. Access will be provided unless there is a sound reason not to under the Privacy Act or other relevant law. Other situations in which access to information may be withheld include:
 - There is a threat to the life or health of an individual
 - Access to information creates unreasonable impact on the privacy of others
 - There are existing or anticipated legal dispute resolution proceedings occurring
 - Denial of access is required by legislation or law enforcement agencies.
15. Burrun Dalai is required to respond to a request to access or amend information within 30 days of receiving the request. Amendments may be made to personal information to ensure that it is accurate, relevant, up-to-date, complete and not misleading, taking into account the purpose for which the information is collected and used.
16. If staff are dissatisfied with the conduct of a colleague relating to privacy and confidentiality, the matter should be raised with the staff member's direct supervisor. If this is not possible or appropriate, follow the Grievance Resolution Policy. Staff members who are deemed to have breached privacy and confidentiality standards set out in this policy and procedure may be subject to disciplinary action.



**Burrun Dalai Aboriginal Corporation Inc.
Policies and Procedures**

Disability Services – Confidentiality and Privacy

17. If a service participant or stakeholder is dissatisfied with the conduct of a Burrun Dalai staff member or Board member, a complaint should be raised as per the Complaints Policy.

Attachments

- Burrun Dalai Code of Conduct