



## CR5 Privacy and Confidentiality

<b>Policy context:</b> This policy relates to the following legislation and / or Standard(s):	
<b>Relevant International, National or State Standard</b>	<b>Human Services Quality Standards:</b> Standard 1 – Governance and Management; Indicator 1 and Standard 4 - Safety, wellbeing and rights; Indicators 1 and 5.
<b>Legislation or other requirements</b>	<ul style="list-style-type: none"><li>• Commonwealth <i>Privacy Act 1988</i></li><li>• Queensland <i>Information Privacy Act 2009</i></li></ul>

### PURPOSE

The Eating Issues Centre (“TEIC”) collects and holds personal information in order to ensure that the most effective services are provided to its clients. There must be trust by the client that TEIC will hold shared information confidential. These guidelines describe the intentions of TEIC in relation to client information and data, how personal information is stored and the purposes for which personal information is used and disclosed.

### SCOPE

This policy applies to

- Employees
- Volunteers
- Contractors / Consultants
- People who use TEIC’s programs, services and activities

### DEFINITIONS

**Privacy** relates to many areas including the right not to be watched, listened to or reported upon without consent and not to be the focus of uninvited public attention. Privacy can be applied to clients’ physical environment and possessions, physical needs, personal relationships and personal information and needs.

In Australia, privacy law generally relates to the protection of an individual’s personal information. Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable.

**Confidentiality:** A principle which states that personal information about others should not be revealed to persons not authorised to receive such information.

**Personal information** in the *Privacy Act* means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Record** means:

- A document
- A database (however kept)
- A photograph or other pictorial representation of a person
- Biometric data

## **POLICY**

TEIC will undertake all reasonable actions to protect the privacy and confidentiality of people using our programs, activities and service and will comply with the requirements of the *Information Privacy Act 2009* (Qld.) *Privacy Act 1988* (Commonwealth) and Australian Privacy Principles.

## **GUIDELINES**

TEIC recognises the essential right of individuals to have their information administered in ways that they would reasonably expect - protected on one hand, and made accessible to them on the other.

People will be authorised to have access to this information on a *needs to know* basis i.e. they will only have access to personal information regarding clients and others that they require **in order to do their job**.

TEIC collects and administers a range of personal information for the purposes of delivering its services. The type of information that TEIC collects and holds relates to:

- Clients and prospective clients
- TEIC employees, prospective employees and volunteers
- Contractors / Brokerage agencies
- TEIC Committee of Management members
- Representatives of community, government and private agencies

TEIC will have procedures relating to:

- Information collection
- Storage of information
- Disclosure of information including cross border disclosures
- Direct marketing
- Integrity of information

- Information security
- Accessing and amending information
- Archiving and destruction of information
- Complaints about breaches of privacy or confidentiality

If other agencies collect, store, use or disclose person information on behalf of TEIC, or if they have access to the personal information in TEIC's information systems, TEIC will include privacy clauses in contracts and agreements to ensure that personal information is protected from authorised access, use or disclosure.

## PROCEDURES

### Information Privacy

This procedure relates specifically to the collection, use and disclosure of private information concerning clients which is collected as part of the delivery of services and may include information about clients' health, families and other social relationships, personal interests, skills, behaviour patterns and financial affairs.

- TEIC will ensure that the personal information that it collects, uses or discloses is accurate, complete and up to date.
- All staff will receive training in awareness of the Australian Privacy Principles.
- Staff will not proceed with client assessment and planning processes unless the client has provided consent.
- Where the client is unable to provide consent due to disability or medical condition, then consent will be obtained from their authorised representative.
- Staff will only seek information relating to clients relevant to effectively providing service. Staff operate on a 'need to know basis'. They do not seek more information about the client than is necessary to perform their roles.
- Upon initial assessment, clients are asked to sign a Client Consent form which requests agreement to the sharing of information with relevant professionals and others for the purpose of their care.
- Staff will disclose to other service providers only that information which is pertinent to the care of the client.
- Clients will be provided with information about:
  - How information about them is stored
  - Their right to access their personal information
  - Their right to request correction of their records held by TEIC
- Progress and Case notes are written in objective terms, observing respect for the feelings and dignity of clients, the right of clients to request access to their own files, and court requirements which may subpoena client files.
- Program staff only allow access to client records to those who have a need to the information to undertake their duties.
- Personal information on individual clients are kept in locked filing cabinets or on password protected computers. When removed from the office for any reason, files are placed in secure bag or container.
- All client related working notes that do not need to be kept permanently are shredded.

- Records are securely archived for a period of seven years.
- Notes recorded on the computer are protected by a password and are subject to the same requirements as written notes.

TEIC will utilise the following strategies to ensure that privacy and confidentiality requirements are met with respect to clients:

- TEIC will only collect information pertaining to clients' support and referral needs.
- Information will be collected in a fair and non-intrusive way in a private environment,.
- Clients are informed regarding the purpose of collecting information and of their rights pertaining to privacy and confidentiality, including the processes for accessing information held about themselves and how to make a complaint regarding alleged breaches of confidentiality or privacy.
- Confidential information will be stored in lockable filing cabinets (if paper-based) or on a password protected computer (if electronic). Filing cabinets will be locked when there is no worker nearby.
- Paperwork containing client or other confidential information will not be kept on desks if there are no workers present to safeguard confidentiality.
- Care will be taken when holding discussions with clients that they cannot be overheard by people not involved in working with them. This includes phone conversations in shared offices.
- Clients will be informed during initial contact of the details of the confidentiality policy, in particular their attention will be directed to the confidentiality limitation conditions.
- Awareness of TEIC's privacy policy and procedure will form part of the orientation process of all Program staff.
- Relevant staff will organise home visits with clients/carers at times that are suitable to both parties.
- Relevant staff will ensure that the clients' physical needs are attended to during activities in a way, which respects the comfort and dignity of the person. This includes personal care, incontinence aids and clothing changes.
- Staff will ensure that the private property of clients is treated with respect.

### **Information Collection**

TEIC needs to collect information relevant to providing a service which operates under various legislations, in the event that a client, applicant, owner or contractor does not wish to provide personal information, than TEIC may not be able to provide a service or use their services.

TEIC collects information from clients and prospective clients in order to develop an appropriate response to their needs. TEIC collects information relating to clients or prospective clients via third parties e.g. referrals from other agencies, family members / carers and from prospective client themselves

The personal information TEIC collects from clients or prospective clients may include:

- Name and contact details
- Medical / disability information
- Representative, advocate, case worker, support worker details

- Guardian or administrator details
- Household members details
- Cultural background and preferred language
- Financial information
- Emergency contact details

TEIC staff may use personal information for determining eligibility, possible referrals and service delivery purposes.

As TEIC does not manage or store personal information that is not relevant to its delivery of services, the following actions may be taken if a document is received that contains unnecessary information:

- Note the relevant information and return the document
- Blank out the irrelevant parts of the document before storing, or
- Note that the document has been sighted and return it.

TEIC will provide a private place for face-to-face interviews at which personal information is collected. Staff will ensure that face to face and telephone conversations with applicants and clients are conducted in a way in which personal information may not be overheard.

Contractors and other services (i.e. brokerage agencies) are provided with client information relevant to undertaking repairs and maintenance on the property. TEIC will provide contractors with:

- Property address
- First name of client
- Contact number

In conversations with the TEIC worker about their needs, client's consent to release information is confirmed.

### **Limitations to confidentiality**

The worker will explain the limited confidentiality conditions including where:

1. Information may be shared at internal case conference meetings. This will be on a *needs to know* basis i.e. only personal information relevant to the provision of services to a client will be only shared with staff members who require that information to undertake their duties.
2. Non-identifying information will be shared with senior staff and across agencies involved in coordinated community responses to systemic issues
3. TEIC believes that:
  - The safety of a client, their children, the staff member, other clients or any other person is at risk
  - There is suspected child abuse or neglect

- A serious criminal offence has occurred or is likely to occur
- 4. TEIC believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to an individual's life, health or safety or a serious threat to public health or public safety
- 5. TEIC has reason to suspect unlawful activity and use or disclose the personal information as part of an investigation of the matter or in reporting our concerns to relevant persons or authorities
- 6. TEIC staff reasonably believe that the use or disclosure is reasonably necessary to allow an enforcement body to enforce laws, protect the public revenue, prevent seriously improper conduct or prepare or conduct legal proceedings
- 7. The use or disclosure is otherwise required or authorised by law.
- 8. Workers are authorised to share information with an external supervisor for the purposes of supervision and debriefing.

### **Consent / Information Disclosure**

All staff of TEIC will ensure that clients are informed about how their personal information will be used. This should include an understanding of:

- Who will access information
- The reason why information is collected
- Whether collection of information is voluntary or mandatory
- How information will be used
- The authorised personnel who have access to it
- Disclosure of information in certain situations.

TEIC will use personal information only for the purpose for which it was collected and disclose personal information only if the individual or their guardian is reasonably aware of or has consented to that disclosure. The exceptions to this are:

- Where the safety of the client, their children, a TEIC staff member or other persons is at imminent risk
- Where there is suspected child abuse or neglect, or
- Where records are subpoenaed or required by law.

There may be instances where clients are not in a position to give consent. In these situations, staff will make use of next of kin, carers or other formal or informal advocates to seek informed consent.

Non-identifying information may be shared across agencies involved in coordinated responses or other partnership arrangements. When this occurs, processes involved will be consistent with the Australian Privacy Principles.

If access to records is authorised or required by statute, and prior to any release of this type of information, staff should refer to the Policy on Legal Action: Provision of Information.

TEIC will support the rights of all clients to obtain access to copies of information held by them regarding that client.

When first becoming a client of TEIC, clients will be informed, as a matter of routine, about their rights of access to their own records.

Access to client information for use by approved research projects will only occur with the client's consent. Where possible, a consent form will be completed.

Clients will be assured that their personal information will be protected regardless of the form in which the information is held (e.g., hard or electronic copies).

Client records compiled and kept by TEIC are the property of TEIC.

TEIC will release information concerning clients to those clients and others only upon receipt of a request or authority signed by the client.

Disclosure to any third party is not permitted, except when required by law. Disclosure may be required by law in the following circumstances:

- Pursuant to a court order
- Pursuant to a writ of non-party discovery
- Pursuant to an order of a coroner or some other tribunal created by statute
- Pursuant to other provision contained in statutes
- Pursuant to a police search warrant
- Statistical information from minimum data sets as required by government.

All instances of disclosure to a third party will be noted on the appropriate record (progress notes for clients, employee file for employees, etc.). Information to be noted will include:

- Name of the person who disclosed the information
- If written or verbal consent was obtained
- Date and purpose of the disclosure
- Name of the person and agency to whom the information was disclosed.

Some documents may be privileged and as such do not have to be disclosed. Privileged documents can include those prepared solely for the purpose of obtaining legal advice or in anticipation of or during court proceedings.

Disclosure may also be desirable in the following situations:

- Where the interest of the client requires disclosure such as case conferencing with other health professionals involved in the client's care: and/or where there is a duty to the public to disclose such as the provision of information to the police to assist in enquiries.
- In these cases disclosure must not be made unless the client's consent (in writing) is obtained.

## **Integrity of Personal Information**

To ensure that personal information collected is kept accurate up to date and complete TEIC staff will

- Regularly ask client during contact if details on file correct
- Scheduled reviews includes review of personal information

## **Right to access and / or amend records**

### *(a) Accessing information*

- Stakeholders have a right to read any personal information kept about them.
- Request from stakeholders (or authorised representatives) to access information will be referred to the relevant senior staff member who will ensure that assistance is provided to the stakeholder to access their information within 10 working days of the request being received.
- A stakeholder does not need to provide a reason for requesting access.
- A fee will not be charged for lodging a request for access.
- A staff member will be available to the stakeholder to explain terminology or provide assistance.
- If access to records is requested, workers are to inform stakeholders that they may read copies of official documents or workers notes that relate to them on the premises but not take them home.
- Photocopies of documents will be provided within resource limitations.
- TEIC is the owner and controller of all stakeholder records. No records may be removed from the premises without specific written approval by the Director, in consultation with legal advice.

### *(b) Refusing a request to access personal information*

A request by a stakeholder to access information held about them may be refused, if

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

behalf of, an enforcement body; or

- Giving access would reveal evaluative information generated within TEIC in connection with a commercially sensitive decision-making process.

The decision to refuse a request can be made, in the first instance, by the relevant Program Manager. If the stakeholder wishes to appeal this decision they can use TEIC's Complaint and Appeals policy.

### *(c) Changing information*

If a stakeholder believes that the personal information held about them is inaccurate, incomplete or not up-to-date, the stakeholder may request an amendment.

If a stakeholder makes a straightforward request for an amendment, for example to correct a name or address, TEIC will usually make the change, subject to confirming the new information.

In other circumstances, for example if a stakeholder queries the accuracy of case management notes, TEIC will generally amend the stakeholder's record by attaching comments to the record noting the correct information or a statement that the stakeholder claims that the information is not accurate, complete or up-to-date. However, in no circumstances will the original entry be deleted.

### **Archiving and destruction of information**

Archived information is securely destroyed after the following time periods:

<b>Document type</b>	<b>Length held before destroyed</b>
<b>Staff records:</b>	Three years (including those for any staff who have ceased employment with the service)
<b>Employment applications</b>	Successful applications: Length of the employee's employment + 3 years (see above) Unsuccessful applications: 6 months
<b>Client records</b>	Seven years after the client exits the service
<b>Financial records</b>	Seven years
<b>General administrative records</b>	Five years
<b>Minutes of Committee of Management meetings</b>	Indefinitely

When destroying records after the expiry date of the storage period, it must be done in such a way that the records are completely destroyed by shredding or incineration (in accordance with local authority by-laws).

Deletion of electronic records must conform to relevant Australian Standards.

### **Cross-border disclosures and overseas recipients**

An 'overseas recipient' is a person who receives personal information from an Australian organisation and is:

- Not in Australia or an external Territory

- Not the organisation disclosing the personal information, and
- Not the individual to whom the personal information relates.

TEIC's data is all backed up within Australia, with no cloud-based systems currently in use. Care should be taken, however in sending of personal information to web-based email addresses such as Yahoo, Gmail and Hotmail as this information could be stored outside of Australia, in countries which do not have privacy legislation comparable to Australia's. Clients and other TEIC stakeholders will be advised of the possibility of information going to such countries.

TEIC will take all steps that are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles.

### **Privacy and confidentiality training**

Induction sessions run for new Committee of Management and staff members outline TEIC's legal and professional obligations with respect to privacy and confidentiality and training is provided in strategies utilised to ensure compliance.

### **Client information and the TEIC Committee of Management**

TEIC clients will not be identified by name in reports to the Committee of Management.

All new Committee of Management members are made aware of their responsibilities regarding confidentiality as part **of their induction and written guidelines and information kits given to new and potential members.**

### **Breaches of confidentiality**

All staff, volunteers and Committee of Management members will sign a Confidentiality Agreement at the commencement of their involvement with TEIC. Any breach of this Agreement will be investigated and may result in (a) instant dismissal of the staff member or volunteer, (b) removal from the Committee of Management for Committee of Management members.

### **Promotion of Client Activities**

TEIC may use personal information such as phone number, postal address or email to contact clients of scheduled activities. Clients may advise TEIC in writing if they do not wish to be contacted in this way.

### **Direct Marketing**

TEIC will not disclose personal information to a third party for direct marketing.

### **Complaints regarding non-compliance with this policy**

Clients and others who believe that TEIC has not complied with this policy may use TEIC's Complaints and Appeals policy to lodge a complaint.

## REVIEW MECHANISMS

This policy will be reviewed regularly. Data which can assist in this review process can be gathered from:

- Internal audits
- Client feedback / complaints
- Staff feedback / complaints
- Committee of Management feedback / complaints

## RELEVANT DOCUMENTATION

- Client/Service User Consent form
- Client/Service User Feedback Forms

## OTHER RELEVANT POLICY & PROCEDURES

- CR2 Client Complaints
- CR6 Stakeholder Feedback

<b>Approved:</b> The Eating Issues Centre Committee of Management
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<b>This Document is CONTROLLED and is not to be altered without authorisation</b>