



Corporate Rights and Responsibilities Policy

Clients of all services will have security of tenure within the service/program. The conditions of security of tenure will be clearly defined, fair and equitable.

Client's rights and responsibilities will be clearly defined, understandable, fair and equitable. Clients will have rights of no less standing than other members of the community at large. To achieve this our practices will provide:

- That clients live, and staff work, in an environment free of harassment, retaliation and victimisation.
- That formal agreements are offered to all clients that specify the rights and responsibilities of both parties.
- That clients are enabled to express their opinions about the service.
- That clients are consulted and informed in relation to the delivery of services relevant to the individual.
- For confidentiality of clients' records and personal information.
- That each client is aware of the services that are available to them and the fees and charges that apply.
- That each client is aware of the avenues for comment and complaint and they are able to raise ideas and suggestions without fear of reprisal.
- That complaints are recorded, monitored and acted upon.
- Clients have the right to refuse treatment.
- That all care and service delivery ensures that privacy and dignity is provided to the client.
- Clients retain the right to take reasonable risks.
- Clients have the right to participate in and be a part of national and civic privileges, such as voting in elections.

Boandik Lodge will comply with the Australian privacy principles and is committed to upholding those principles for all clients, staff, contractors, volunteers and the community.

Authorised by Board of Directors:

Chief Executive Officer: (sgd) Gillian Mc Ginty

Date: 16/2/16

Signed and read by:

Quality Improvement Representative: (sgd) R Boatman

Date: 16/2/16

Date for Review: March 2018

To whom and where does this policy apply

To all staff of Boandik Lodge.

Responsibilities

All staff are responsible for upholding the rights and responsibilities of all clients. The chief executive officer and heads of departments will ensure this occurs.

The chief executive officer will be the nominated privacy officer responsible for the application of the privacy policy.

Training

Maintain and constantly update an understanding of rights and responsibilities of clients.

Ongoing professional training appropriate to the responsibilities of each member of staff. Completion of "In Their Shoes" and "In Their Homes" training package. Completion of annual update on client's rights.

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Charter of resident's rights and responsibilities

Boandik Lodge is committed to providing quality care to residents whilst adhering to the charter of residents' rights and responsibilities. Copies of the charter of residents' rights and responsibilities are displayed in all facilities and included in residential care agreements.

Preamble

Every person has the right to freedom, respect and the right to be treated fairly by others. A person's rights do not diminish when he or she moves into an aged care facility, regardless of his or her physical or mental frailty or ability to exercise or fully appreciate his or her rights.

A positive, supportive and caring attitude by family, friends, management, staff, carers, volunteers and the community will help people who live in residential care facilities to continue as integral, respected and valued members of society.

Australian society has a strong commitment to social justice principles. Those principles recognise the aspirations of all Australians to a dignified and secure way of life with equal access to health care, housing and education, and equal rights in civil, legal and consumer matters. They form the basis of a society which is free of prejudice and is caring, just and humane.

This charter affirms those social justice principles.

The personal, civil, legal and consumer rights of each resident are not diminished in any way when he or she moves into a residential care facility.

The charter also recognises that residents of residential care facilities have the responsibility to ensure that the exercising of their individual rights does not affect others' individual rights, including those providing care. The charter recognises that residents have specific rights and responsibilities that balance the needs of the individual against the needs of the residential care facility community as a whole.

Each resident has the right:

- to full and effective use of his or her personal, civil, legal and consumer rights.
- to quality care appropriate to his or her needs.
- to full information about his or her own state of health and about available treatments.
- to be treated with dignity and respect, and to live without exploitation, abuse or neglect.
- to live without discrimination or victimisation and without being obliged to feel grateful to those providing his or her care and accommodation.
- to personal privacy.
- to live in a safe, secure and homelike environment, and to move freely both within and outside the residential care service without undue restriction.
- to be treated and accepted as an individual, and to have his or her individual preferences taken into account and treated with respect.
- to continue his or her cultural and religious practices and to keep the language of his or her choice without discrimination.
- to select and maintain social and personal relationships with anyone else without fear, criticism and restriction.
- to freedom of speech.
- to maintain his or her personal independence, including recognition of personal responsibility for his or her own actions and choices, even though some actions may involve an element of risk that the resident has the right to accept, and that should then not be used to prevent or restrict the resident's actions.
- to maintain control over, and to continue making decisions about, the personal aspects of his or her daily life, financial affairs and possessions.

- to be involved in the activities, associations and friendships of his or her choice, both within and outside the residential care service.
- to have access to services and activities available generally in the community.
- to be consulted on, and to choose to have input into, decisions about the living arrangements of the residential care service.
- to have access to information about his or her rights, care, accommodation and any other information that relates to him or her personally.
- to complain and to take action to resolve disputes.
- to have access to advocates and other avenues of redress.
- to be free from reprisal, or a well-founded fear of reprisal, in any form for taking action to enforce his or her rights.

Each resident of a residential care service has the responsibility:-

- to respect the rights and needs of other people within the residential care service, and to respect the needs of the residential care service community as a whole.
- to respect the rights of staff and the proprietor to work in an environment free from harassment.
- to care for his or her own health and wellbeing, as far as he or she is capable.
- to inform his or her medical practitioner, as far as he or she is able, about his or her relevant medical history and his or her current state of health.

Charter of care recipients' rights and responsibilities – community care

Rights

1 General

Each care recipient has the following rights:

- (a) to be treated and accepted as an individual, and to have his or her individual preferences respected
- (b) to be treated with dignity, with his or her privacy respected
- (c) to receive care that is respectful of him or her, and his or her family and home
- (d) to receive care without being obliged to feel grateful to those providing the care
- (e) to full and effective use of all my human, legal and consumer rights, including the right to freedom of speech regarding his or her care
- (f) to have access to advocates and other avenues of redress
- (g) to be treated without exploitation, abuse, discrimination, harassment or neglect

2. Consumer directed care – choice and flexibility

Each care recipient has the following rights:

- (a) to be supported by the approved provider:
 - (i) to set goals in relation to the outcomes he or she seeks from home care; and
 - (ii) to determine the level of ongoing involvement and control that he or she wishes to have in the provision of home care; and
 - (iii) to make decisions relating to his or her own care; and
 - (iv) to maintain his or her independence as far as possible;
- (b) to choose the care and services that best meet his or her goals and assessed needs and preferences, within the limits of the resources available;
- (c) to have choice and flexibility in the way the care and services are provided at home;
- (d) to participate in making decisions that affect him or her;
- (e) to have his or her representative participate in decisions relating to his or her care if he or she requests it or if he or she does not have capacity.

3. Consumer directed care – care and services

Each care recipient has the following rights:

- (a) to receive reliable, coordinated, safe, quality care and services which are appropriate to meeting his or her goals and assessed needs;
- (b) to be given before, or within 14 days after, he or she commences receiving home care, a written plan of the care and services that he or she expects to receive;
- (c) to receive care and services that take account of his or her other care arrangements and preferences;
- (d) to ongoing review of the care and services he or she receives (both periodic and in response to changes in his or her personal circumstances), and modification of the care and services as required.

4. Consumer directed care – individualised budget and monthly statement of available funds and expenditure

Each care recipient has the following rights:

- (a) to receive an individualised budget for the care and services to be provided;
- (b) to have his or her individualised budget reviewed and, if necessary, revised if:
 - (i) the care and services to be provided, or the costs of providing the care and services change: or
 - (ii) he or she requests the approved provider to review and, if necessary, revise the individualised budget;
- (c) to receive a monthly statement of the funds available and the expenditure in respect of the care and services provided during the month.

5. Personal information

Each care recipient has the following rights:

- (a) to privacy and confidentiality of his or her personal information
- (b) to access his or her personal information

6. Communication

Each care recipient has the following rights:

- (a) to be helped to understand any information he or she is given
- (b) to be given a copy of the Charter of Care Recipients' Rights and Responsibilities for Home Care
- (c) to be offered a written agreement that includes all agreed matters
- (d) to choose a person to speak on his or her behalf for any purpose

7. Comments and complaints

Each care recipient has the following rights:

- (a) to be given information on how to make comments and complaints about the care and services he or she receives
- (b) to complain about the care and services he or she receives, without fear of losing the care or being disadvantaged in any other way
- (c) to have complaints investigated fairly and confidentially, and to have appropriate steps taken to resolve issues of concern

8. Fees

Each care recipient has the following rights:

- (a) to have his or her fees determined in a way that is transparent, accessible and fair
- (b) to receive invoices that are clear and in a format that is understandable
- (c) to have his or her fees reviewed periodically and on request when there are changes to his or her financial circumstances
- (d) not to be denied care and services because of his or her inability to pay a fee for reasons beyond his or her control

Responsibilities

As a consumer I have the following responsibilities:

1. General

- (a) to respect the rights of care workers to their human, legal and workplace rights including the right to work in a safe environment
- (b) to treat care workers without exploitation, abuse, discrimination or harassment

2. Care and services

- (a) to abide by the terms of the written home care agreement
- (b) to acknowledge that my needs may change and to negotiate modifications of care and service when my care needs do change
- (c) to accept responsibility for my own actions and choices even though some actions and choices may involve an element of risk

3. Communication

- (a) to give enough information to assist the approved provider to develop, deliver and review a care plan
- (b) to tell the approved provider and their staff about any problems with the care and services

4. Access

- (a) to allow safe and reasonable access for care workers at the times specified in my care plan or otherwise by agreement
- (b) to provide reasonable notice if I do not require home care to be provided on a particular day

5. Fee

- (a) to pay any fee as specified in the agreement or negotiate an alternative arrangement with the provider if any changes occur in my financial circumstances

Observing client rights and responsibilities

Boandik Lodge aims to uphold clients' rights to autonomy, choice and control over the service they receive and ensure that clients are provided with information regarding their rights and their service. The service respects the dignity and independence of all clients and encourages participation in the ongoing development of the service.

- Each client is provided with information on the service, their rights and responsibilities, advocacy, confidentiality and the complaints resolution procedure on commencement of services. This information is clearly outlined in the agreement and information books and is discussed with staff.
- Each client will be encouraged to contribute to the service through its continuous improvement program. This may involve participation in surveys, and planning days, provision of formal or informal feedback. "What do you think?" forms and report forms are available to all clients and initially in the information pack. Boandik Community Care provide a "what do you think?" form to clients annually.
- Resident meetings are held on a monthly basis in residential care facilities.
- Boandik Community Care hold client focus groups annually in order to facilitate and encourage consumer participation in ongoing development of the service as well as provide the opportunity for feedback about the service.
- Services are developed in consultation with the client and/or their representative and are designed to reflect the client's needs and choices. Regular client reviews enable ongoing monitoring of client's needs and the service provided.
- Staff are educated on client's rights at orientation training, completion of training packages and information provision.

Choices

Clients will be encouraged to make choices in all aspects of life, care and services.

The role of senior staff in this regard is to:-

- (a) identify those choices when negotiating care, financial or lifestyle issues and advise the client of them.
- (b) offer professional advice so that the client can have an informed say when making a choice.
- (c) be aware of duty of care issues which, in certain circumstances, may need to override the degree of choice that the client may exercise.
- (d) be aware of legal issues and be able to access advice from the most appropriate source. Staff should not offer any advice which may lead to a breach of the law.
- (e) advise where the exercise of choice by a client may infringe upon the rights or quality of life of another person.

The process of advice, choice and counselling should be documented in progress notes to safeguard both the staff member concerned and Boandik Lodge.

Residents leaving residential aged care facility

Sometimes resident's health improves and he/she chooses to leave the facility for alternative accommodation. Boandik Lodge will support this choice but should ensure that the person is competent to make this decision.

The resident's decision should be made in consultation with a representative of the resident. If the resident does not have a representative that can assist then a referral should be made to a social worker.

Residents leaving against advice

When a resident states an intention to leave against professional advice, at least two qualified members of the professional staff will endeavour to persuade the resident to stay. If they feel safety issues are involved they will advise the resident's representative of the situation.

The staff members concerned are to record full details of the discussions held with the resident and/or representative and with others, and record their names and designations. It is not necessary to attempt to obtain the signature of the resident on a form of disclaimer.

When a resident does leave against advice, the director of care and chief executive officer are to be notified as soon as possible. The resident's nominated representative will also be informed, if not already done so. If the resident does not have a representative to assist them, support will be requested from a social worker.

If a resident under a custody order of the Guardianship Board leaves against advice, the registered nurse may seek assistance from the police. For police assistance telephone 8735 1020 or 131444.

The resident's medical practitioner is responsible for ensuring that urgent information is provided for continuity of care to the next attending practitioner.

Moving out

Boandik Lodge supports and encourages all residents to seek the most independent lifestyle available to them. Boandik Lodge will assist residents to investigate other accommodation options.

If a resident chooses to explore the possibility of other types of accommodation outside Boandik Lodge the director of care will assist by:-

- (a) Offering advice to the resident and/or their representative on the resident's assessed ability to cope with those alternatives. (This may include assessment from sources such as the resident, general practitioner, occupational therapist, physiotherapist or other sources).
- (b) Assisting the resident to identify and make initial contact with alternative sources such as Boandik Community Care, South East Regional Community Health Service, Aged Care Assessment Team, SA Housing SA, private agencies, Community Options Incorporated and social work department.

Allegations of abuse or exploitation

If an allegation is made by a client or their advocate that one of the following has occurred or is occurring:-

1. Physical abuse
2. Emotional abuse
3. Neglect
4. Verbal abuse
5. Sexual abuse
6. Property or financial misappropriation

whether by a staff member, family member, or any other person it is the responsibility of the staff member entrusted with the information of the allegation to inform the head of department, director of care, community services director or case manager.

The client is not to be persuaded to select a course of action but must have all options and consequences explained by the competent person.

It is to be remembered that this is a confidential matter and is not to be discussed with anyone who may have other knowledge, gain advantage from information or otherwise exploit information received. It is in the interest of the client to inform them of the confidential nature of the complaint, but they are not obliged to act accordingly.

Any allegation of physical or sexual abuse must be reported to the police and the Department of Health. This is a legal requirement. There is a clear procedure for reporting a reportable assault.

For other forms of abuse the head of department, director of care, community services director or case manager should discuss the abuse allegations with the client and the various options for reporting. The client can choose not to take action.

Carers are often the first to hear these allegations and should act immediately, especially if there is a belief that the client's safety or emotional health is at risk. The incident reporting procedure details this process.

In the instance of emotional or physical distress the client has the right to medical attention or trained counselling obtained on their behalf and with their consent.

Management of clients who smoke

Enshrined in the Aged Care Act (1997) and Principals is the right of clients to make choices and decisions regarding their health and lifestyle and also to take reasonable risks. Juxtaposed to this, there is an obligation on providers of aged care services to ensure the safety of all clients – including those who smoke and others who may be cohabiting with those who smoke. A further requirement is made of providers that a safe environment is provided for clients and staff.

There is overwhelming evidence showing that cigarette smoking has a negative impact on health and presents risks in relation to fire and burns.

The Work Health and Safety Act 2012 also obligates employers to ensure the safety and welfare of their employees. Exposure to cigarette smoke in the course of an employee's work could put an employee's health and safety at risk because there is also overwhelming evidence that exposure to cigarette smoke (passive smoking) has a negative impact on health.

In our residential aged care facilities, there are two broad groups of residents who smoke – those who do so safely with a full understanding of their own and others' safety and those who cannot do so safely because of mental confusion leading to impaired judgement and understanding and/or medical conditions that impair dexterity leading to an inability to safely light and handle burning cigarettes.

Clients with no mental or physical impairment

Residents who are able to smoke safely are required to do so outdoors, at least 5 metres from any open door or window. Clients of independent living units or those who reside in their own homes, may smoke inside their own homes, but are to be requested to abstain from smoking for at least 1 hour prior to staff entering those homes.

Clients with confusion or physical impairment

Clients must receive supervision if there is a risk to theirs or others' safety due to mental confusion or physical impairment. The requirement for them to smoke outdoors (if in RACFs) remains.

Assessment

A registered nurse or medical practitioner will assess whether or not a client has the mental and/or physical capacity to smoke safely without supervision. This assessment may be based on a MMSE Score, PAS score, or the smoking risk assessment.

An occupational therapist, physiotherapist, registered Nurse or medical practitioner will perform an individualised risk assessment for any client who does not have the physical or cognitive capacity to smoke safely without supervision. This assessment may involve an assessment of manual dexterity.

Planning

If a client requires supervision while smoking, it will be necessary to put in place systems and equipment to facilitate this. For example it may be necessary to have a fire proof smoking apron, wheel chair, a method of storing and accessing cigarettes and lighter, ash tray/butt pot, outdoor seating, suitable clothing, record to remind a client when cigarette last smoked or next due, who is willing/able to provide supervision and where the client will smoke.

The first option for supervising a client while smoking should be a family member. If this is not possible (because there is no family member available) then a staff member will need to be used. This ideally will be a staff member who is willing, but no staff member is to be subjected to passive smoking while supervising a client. It may be sufficient for the staff member to stand behind a window with a clear view of the client, providing that quick access can be gained to the resident.

The option of using electronic cigarettes should also be considered.

All this information will be written into the client's care plan. Care staff will be verbally prompted to refer to the care plan.

Implementation

A client who wishes to smoke will be assisted according to the written plan.

Handovers between staff will be conducted in a way which encourages staff members to become familiar with any adverse issues concerning the current wellbeing of residents, including issues around smoking.

When significant safety deviations occur from the care plan, these are to be immediately reported to a registered nurse.

It is not permitted for the staff member to also smoke a cigarette while supervising a client.

Evaluation

The plan to assist a client to smoke will be under constant review. If there is any reason for the plan to be changed, it must be done in consultation with a registered nurse, occupational therapist or medical practitioner.

Staff should always be alert to signs that a client is wishing to reduce the frequency of smoking or even stop smoking. It would be counterproductive to continue implementing a plan to assist a client to smoke if they stop demanding to smoke or miss having a cigarette without commenting.

Every assistance and support will be given to clients who wish to stop smoking.

Electoral enrolment

All eligible electors should be enrolled for their permanent place of residence. If a resident is enrolled to vote they must change their address when they move into a Boandik Lodge facility.

Eligible electors are persons who are aged 18 years or older, who are Australian citizens or British subjects and who are of sound mind. Of sound mind is defined as being capable of understanding the nature and significance of enrolment and voting. If a client does not meet these eligibility requirements they should not enrol.

There is no upper age limit for enrolment or voting. That is there is no age at which a person is no longer required to enrol and/or vote.

A mobile polling booth will visit each facility prior to federal and state elections. A resident can choose to utilise this service, submit a postal vote or visit a polling booth on election day.

Directors of care and registered nurses can advise the electoral commission on the voting day or before if a client is not able to participate in the voting process on this occasion. Family members can apply for permanent removal of a person from the electoral roll.

Bedrooms - locking and maintaining

Residents have a right to lock their bedroom door.

All bedroom doors are fitted with locks, which are linked into a master keying system. Residents have a right to their own key for their bedroom door.

Residents need to recognise a number of related circumstances.

1. Some residents are cognitively impaired and it may not be appropriate for keys to be issued. The loss of keys may well lead to a security risk. In such instances the director of care should negotiate the question of door keys with the resident and/or their representative.
2. Fire Safety is a major concern. To ensure the safety of the resident only the approved master keyed lock may be used. Deadlocks, sliding bolts and other similar methods must not be used.
3. Access by caregiving and housekeeping staff is necessary to maintain services. If any resident elects not to take advantage of these services the director of care must advise them of all known consequences and have the resident sign a statement to the effect that they decline to accept such services.
4. In cases where services are declined by the resident they must undertake to maintain the room in an acceptable state of hygiene and cleanliness. They must also accept that Boandik Lodge has to protect the rights of other residents and stakeholders of Boandik Lodge against nuisance, odours, vermin and other environmental problems.
5. Residents will be provided with signs that can be displayed outside the bedroom door requesting that staff and visitors not enter.

Privacy policy

Purpose of the privacy policy

Privacy is about the right of a person to know of and to control information recorded about them as an individual. All persons have a right to have access to such information and to have a say in what happens to information they reveal about themselves. They have a right to withhold that information but often need to reveal facts about themselves for many reasons. If they do reveal information about themselves they have a right to know how such information is to be used and that it will be respected. They are entitled to know why the information is required, who has access to it and how it is to be kept. They are entitled to know what information is held about them and whether that information is correct. If the information held is incorrect, they are entitled to have that error rectified.

This policy has been developed to assist all levels of Boandik Lodge's management structure to ensure that Boandik Lodge and staff recognise the rights of clients and others to privacy and to ensure that such rights are respected.

The guide is developed in accordance with the Australian Privacy Principles as contained in Schedule 1 of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012*.

Introduction

Boandik Lodge recognises the rights of its employees and clients to privacy. This policy document represents Boandik Lodge's commitment to respecting the rights of the individual with respect to privacy considerations and puts in place procedures to ensure that such rights are respected. The policy identifies those rights and Boandik Lodge's obligations to individuals, the community, employees and government.

This policy is written in accord with the Australian Privacy Principles. Boandik Lodge is an APP entity under the Privacy Act. It has been devised following an examination of the ways and means by which information is collected by Boandik Lodge, the reasons for that collection, the way in which such information is stored and the use to which the information is put. It is designed to clearly define and identify the considerations which need to be made to address all areas of risk to the rights of individuals with respect to the collection, storage and use of information held by Boandik Lodge.

The system must be reflective of current best practice and accepted standards and therefore shall be reviewed on a continuing basis.

Privacy is integral to all aspects of Boandik Lodge's dealings with its employees, clients and others who, from time to time, provide information to Boandik Lodge. To be effective this policy must be systematic and applied continuously.

Privacy issues may be addressed at various levels;

- Board and senior management (policy development and compliance)
- Privacy officer (operational systems supportive of strategic goals)
- Individual

At all levels Boandik Lodge's obligation, mission statement and objectives with respect to privacy issues must be known and met. This policy addresses strategies that should be considered under the following general areas to ensure that the Australian Privacy Principles are complied with;

- Commitment
- Planning
- Implementation
- Monitoring and evaluation
- Review

The privacy policy will be made available to all stakeholders on the Boandik Lodge website.

This document sets out Boandik Lodge's privacy policy. It identifies matters to be considered when managing privacy issues regularly dealt with by Boandik Lodge and exists to assist in the identification and management of additional issues that may become apparent from time to time. It is intended that this policy be read along with the Australian Privacy Principles and that it be referred to by all personnel of Boandik Lodge to ensure that best practice standards in the recognition of privacy matters are adhered to at all times.

Commitment

The Board will document its policy with respect to privacy issues. The policy will include the objectives and Boandik Lodge's commitment to maintaining the right to privacy of all persons, with respect to whom Boandik Lodge collects, stores, uses or disseminates personal information.

Privacy policy

Boandik Lodge recognises its obligation to comply with the Australian Privacy Principles. Boandik Lodge acknowledges and is committed to meeting its obligations under those principles to its clients, staff, contractors and the community.

Boandik Lodge has established and will maintain systems relevant to the collection, use and disclosure, quality, security, accuracy and correction of personal information provided to Boandik Lodge in all areas of its operations and practice.

Definitions

The following definitions, unless otherwise specified are taken from the *Privacy Act 1988* (the "Act").

"Directly related secondary purpose", refers to the use of information which use is directly related to the primary purpose for which the information was collected and the use of the information in the intended manner would be within the reasonable expectation of the person providing the information.

"Employee record", in relation to an employee, means a record of personal information relating to employment. Examples of personal information relating to the employment include:

- (a) engagement, training, disciplining or resignation;
- (b) termination of employment;
- (c) terms and conditions of employment;
- (d) employee's personal and emergency contact details;
- (e) employee's performance or conduct;
- (f) employee's hours of employment;
- (g) employee's salary and wages;
- (h) employee's membership of a professional or trade association;
- (i) employee's trade union membership;
- (j) employee's recreation, long service leave, sick, personal, maternity, paternity or other leave;
- (k) employee's taxation, banking or superannuation affairs.

"Health information" means:

- (a) information or opinion about:
 - (i) the health or a disability of an individual; or
 - (ii) an individual's expressed wishes about the future provision of health services to him or her;
or
 - (iii) a health service provided, or to be provided, to an individual; that is also personal information; or
- (b) other personal information collected to provide, or in providing, a health service; or
- (c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances.

"Health service" means:

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

Australian privacy principles": means the principles contained in the Privacy Act 1988 and the Privacy Amendment (Enhancing Privacy Protection) Act 2012. These principles are available from the Administration office at Lake Terrace.

"Responsible person" A person is responsible for an individual if the person is:

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

"Permitted health situation"

1. A *permitted health* situation exists in relation to the collection by an organisation of health information about an individual if:
 - (a) The information is necessary to provide a health service to the individual: and
 - (b) Either:
 - (i) The collection is required or authorised by or under an Australian law (other than this Act); or
 - (ii) The information is collected in accordance with rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the organisation.
2. A *permitted health situation* exists in relation to the disclosure by an organisation of health information about an individual if:
 - (a) The organisation provides a health service to the individual; and
 - (b) The recipient of the information is a responsible person for the individual; and
 - (c) The individual:
 - (i) Is physically or legally incapable of giving consent to the disclosure; or
 - (ii) Physically cannot communicate consent to the disclosure; and
 - (d) Another individual (the *carer*) providing the health service for the organisation is satisfied that either:
 - (i) The disclosure is necessary to provide appropriate care or treatment of the individual; or
 - (ii) The disclosure is made for compassionate reasons; and
 - (e) The disclosure is not contrary to any wish:

"Permitted general situation"

1. A *permitted general situation* exists in relation to the collection, use or disclosure by an APP entity of personal information about an individual, or of a government related identifier of an individual, if:
 - (a) The entity is an entity of a kind specified in an item in column 1 of the table; and
 - (b) The item in column 2 of the table applies to the information or identifier; and
 - (c) Such conditions as are specified in the item in column 3 of the table are satisfied.

Permitted general situations			
Item	Column 1 Kind of entity	Column 2 Item applies to	Column 3 Condition(s)
1	APP entity	(a) Personal information; or (b) A government related identifier	(a) It is unreasonable or impracticable to obtain the individual's consent to the collection, use or disclosure; and (b) The entity reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any individual, or to public health or safety.
2	APP entity	(a) Personal information; or (b) A government related identifier	(a) The entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in; and (b) The entity reasonably believes that the collection, use or disclosure is necessary in order for the entity to take appropriate action in relation to the matter.
3	APP entity	Personal information	(a) The entity reasonably believes that the collection, use or disclosure is reasonably necessary to assist any APP entity, body or person to locate a person who has been reported as missing; and (b) The collection, use or disclosure complies with the rules made under subsection (2).
4	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim.
5	APP entity	Personal information	The collection, use or disclosure is reasonably necessary for the purposes of a confidential alternative dispute resolution process.
6	Agency	Personal Information	Collection, use or disclosure is necessary for the entity's diplomatic or consular functions or activities
7	Defence Force	Personal Information	The entity reasonably believes that the collection ,use or disclosure is necessary for any of the following occurring outside Australia and the external Territories: (a) War or warlike operations; (b) Peacekeeping or peace enforcement (c) Civil aid, humanitarian assistance, medical or civil emergency or disaster relief.

2. The commissioner may, by legislative instrument, make rules relating to the collection, use or disclosure of personal information that apply for the purposes of item 3 of the table in subsection (1).

"Personal information" means information or an opinion (including information or an opinion forming part of a data base), 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.

"Primary purpose" is the main or dominant reason for which Boandik Lodge collects personal information

"Secondary purpose" any reason for which information is collected or used that is not the Primary Purpose for its collection and/or use referred to above.

"Sensitive information" means:

- (a) information or an opinion about an individual's:
- (i) racial or ethnic origin; or
 - (ii) political opinions; or
 - (iii) membership of a political association; or
 - (iv) religious beliefs or affiliations; or
 - (v) philosophical beliefs;
 - (vi) membership of a professional or trade association; or
 - (vii) membership of a trade union; or
 - (viii) sexual preferences or practices; or
 - (ix) criminal record;
- that is also personal information; or
- (b) health information about an individual.

Key concepts

Access: Involves an organisation allowing an individual access to records containing personal information held about them by Boandik Lodge. This may include inspecting personal information held or providing a copy of the information.

Collection: An organisation collects personal information if it gathers, acquires or obtains personal information from any source and by any means. This includes information not requested or obtained in error.

Disclosure: In general terms information is disclosed when an organisation releases information to third parties. Disclosure does not include giving information to an individual about themselves – that is "Access".

Use: This refers to the handling of information within an organisation.

Scope

This policy applies to all areas and functions of Boandik Lodge which collect, use, disclose, store and/or provide access to Personal Information, including sensitive information and health information about an individual and includes the areas and functions listed below:

- Client admissions
- Client care
- Diagnosis and opinions
- Care plans
- Client assets, property and resources
- Financial arrangements
- Health and infection control
- Information systems, computers and technology
- Human resources
- Work health and safety
- Security
- Organisation records
- Purchasing and contract management
- Professional advice

Health information is both personal and sensitive information. This policy covers all information collected by Boandik Lodge where such information may fall within any of these definitions. The policy covers all forms of records maintained by Boandik Lodge and applies to staff, contractors, clients and others who do or may have reason to use any information collected and held by Boandik Lodge.

This Policy does not apply to a staff employee record access to which may be gained through the grievance policy of Boandik Lodge. Where staff attend Boandik Lodge for the provision of a health service any information retained from that attendance is health information and is covered by the terms of this Policy.

Objectives

The objectives of the privacy policy are to ensure:

1. The only personal information collected is that required by Boandik Lodge to effectively and properly care/provide services to the client.
2. Personal information which is collected is collected lawfully, fairly and openly, where possible, directly from the individual concerned.
3. The person or persons from whom the personal information is collected know the reason for the information being requested, including any secondary purpose, and of any law requiring the collection of the information.
4. To ensure that all persons from whom personal information is collected are informed of the identity of Boandik Lodge and how to contact Boandik Lodge with their concerns on privacy matters including how to access personal information held about them.
5. That all persons from whom the personal information is collected are informed of their rights to obtain the records of information provided to Boandik Lodge.
6. That there is no unauthorised use or disclosure of personal information. There are certain circumstances where disclosure of personal information is required by law. This includes obligations not to conceal a crime or intended crime and allegations of abuse.
7. That all personal information held by Boandik Lodge is kept secure.

Responsibilities and accountabilities

1. The chief executive officer and board of directors will be responsible for the establishment and maintenance of the privacy policy.
2. The chief executive officer will be accountable to the board for the day to day oversight of information management including the collection, access, correction, storage, use and disclosure of personal information.
3. The chief executive officer with the approval of the board shall appoint a "privacy officer" who shall be responsible to manage the collection, access, correction, storage, use and disclosure of personal information and may seek advice from such appropriate professionals as deemed appropriate including specialist consultants, legal counsel and/or other persons qualified to assist in privacy issues.
4. The chief executive officer will ensure that privacy is a consideration in all projects dealing with personal information and will ensure that a privacy impact assessment is undertaken during the design phase of the project.
5. Managers, including the chief executive officer, will be responsible to consult and communicate with relevant personnel on issues relating to privacy.
6. All employees of Boandik Lodge will be responsible and accountable for their role in ensuring that privacy principles are complied with.

Collection of information

1. Staff of Boandik Lodge are authorised to collect only that information which is necessary for the performance of the service requested of Boandik Lodge by the client. If information is given to staff that is irrelevant to such purpose or purposes it should not be recorded or if recorded shall be destroyed by the staff member as soon as possible after its collection. (See "destruction of information" below).
2. Information may be collected for a permitted general situation or a permitted health situation.

3. Information should be collected directly from the client. If it is not possible for any reason to collect the information from the client directly a responsible person may be requested to provide the information needed. (See “collection of information from third parties” below).
4. At any time staff collect personal information, or as soon as possible thereafter, staff shall identify themselves to the client by their first name and shall identify their position in Boandik Lodge and the purpose for which they are collecting the information.
5. When personal information is initially being collected from an individual staff requesting such information will:
 - (a) Identify themselves and their position within Boandik Lodge and, if necessary, give the name of Boandik Lodge;
 - (b) If not already done so, provide details to the client on how Boandik Lodge may be contacted;
 - (c) Advise the client of the primary purpose for which the information is being collected and any directly related secondary purpose for which such information may be used or disclosed;
 - (d) Advise the client of their right to access information held by Boandik Lodge in respect to them;
 - (e) If the information being collected is to be passed on to another organisation the staff shall advise the client accordingly and seek the client’s consent for the information to be passed on. Such consent shall be placed on the file with the information recorded and, if reasonably possible, checked by the client and signed by them to authorise such disclosure;
 - (f) If any legal requirement has been imposed requiring the collection of information from the client this fact is to be identified to the client;
 - (g) The client should be advised of the consequences likely to flow to the client if any information requested of the client is not provided.
 - (h) The client should be requested to advise of any circumstance which may lead to inadvertent release of information to persons who the client does not want information to be released to (see contact procedures below).
6. Where the consent of the individual is requested for the use and or disclosure of personal information such consent must be given separately from any consent for treatment or other service provided by Boandik Lodge. Consent given with respect to treatment is not consent to deal with information about the individual.
7. Where possible, prior to the client attending Boandik Lodge written advice on the need to collect personal information, its storage, use and disclosure will be provided to the client. Such advice will include information required by the client to access their record for the purpose of ensuring its accuracy and correction if necessary.
8. Where, in the course of providing services to clients, information is recorded such as clinical notes, plans, charts, records of diagnostic tests, records of treatment and medication such information is to be recorded accurately and only in prescribed files. Only information relevant to the needs of the client is to be recorded.

Collection of personal information from third parties

1. Where information is obtained from a third party or, for whatever reason, required personal information cannot be obtained directly from the client, persons who are requested to provide information on behalf of the client are to be identified, particularly where the person is a responsible person for the individual, and a record, including contact details, kept of the circumstances of their attendance and the information obtained.
2. Where possible, as soon as is reasonably practicable after the collection of information from third parties, including a person responsible, the privacy officer or a person delegated by the privacy officer to perform the task shall refer all information provided to the client for verification of its accuracy and completeness.
3. Staff should remain mindful that personal information, in particular sensitive information including health information, required to be collected may not be known to the third party being requested to provide information. Third parties, including a responsible person, should not be requested to

confirm such information previously obtained except where consent to discuss such information with the third party is recorded on the file or in the case of a serious threat to the health or welfare of the client.

Use and disclosure of information

Boandik Lodge will not use or disclose personal information about an individual for a purpose (the secondary purpose) other than the primary purpose unless:-

1. The secondary purpose is directly related to the primary purpose and the person could reasonably expect the organisation to use or disclose the information for the secondary purpose.
2. The individual has consented to the use and disclosure.
3. Health information is to be used for research or compilation of statistics relevant to public health or safety and it is not practical to obtain the individual's consent. In these situations the use or disclosure must be conducted in accordance with the National Privacy Principles and Boandik Lodge must be sure that the information will not be disclosed to others or personal information derived from the health information.
4. A permitted general situation exists.
5. A permitted health situation exists.
6. The information is reasonably necessary for one or more enforcement related activities.

Boandik Lodge can disclose health information about a client to a person who is responsible for the client if:-

1. The client is physically or legally incapable of providing consent or
2. Physically cannot communicate consent or
3. The disclosure is necessary to provide appropriate care or treatment or
4. The disclosure is made for compassionate reasons.

In all of the above circumstances the disclosure must not be contrary to any wish expressed by the client.

Retention of information

1. As a general rule all information collected by Boandik Lodge for use in providing a service to its clients will be retained by Boandik Lodge for seven (7) years following the date of the last service provided to the client. Records for clients who are aboriginal will be retained indefinitely.
2. Personal Information collected which is not relevant to the services requested will not be retained but shall be destroyed as soon as practicable after collection.
3. At the time any file maintained by Boandik Lodge is considered to be finalised such files are to be referred to the privacy officer for a determination of the period the file is to be retained.

The retention period of any file is to be recorded by the privacy officer on the outside of the file.

Health records of adult clients are to be maintained for a minimum of seven (7) years following the date of the last recorded service provided to the adult client.

Verification of information

1. As soon as possible after the collection of personal information a copy of the recorded information provided by the client or third party is to be given to them for review to ensure that the information recorded is correct.
2. Processes will be established to ensure Boandik Lodge is advised of changes to client information.
3. On each occasion a client returns to Boandik Lodge, any existing records are to be retrieved and verified against any further information received to ensure all records are accurate, complete and up-to-date.
4. Except in the circumstances outlined in "collection of information from third parties" no review of information held by Boandik Lodge will be undertaken with a third party without the specific authorisation, in writing, of the individual.
5. An individual may, at any time, request access to information held by them for the purpose of verifying the information held (see minor requests below).

Contact process

Staff of Boandik Lodge may often have cause to contact persons about their record. In such situations the fact that a record has been collected may be revealed to a third party leading to a breach of privacy. This may occur when making follow up calls to check on a client's progress or in submitting accounts to the client on organisation letterhead.

- (a) If specifically requested contact with a client by mail will not be sent in labelled envelopes. All staff collecting information will ensure that clients are advised of the usual procedure in sending mail in labelled envelopes.
- (b) Staff contacting the client by telephone shall identify the client before identifying Boandik Lodge in any telephone contact so as to ensure the client's privacy is not compromised. Messages should not be left on answering machines or with third parties without the consent of the client.

Security of information

1. Only staff specifically authorised or required to use or refer to it may have access to any personal information in respect of clients held by Boandik Lodge. Any unauthorised disclosure or use of personal information by staff will result in disciplinary action which may include instant dismissal from employment.
2. All personal information held by Boandik Lodge which may contain any sensitive information will be secured. If in electronic form it will be protected by password only known to relevant staff, if in written format it will be in lockable filing cabinets or similar facilities. Where this is not practicable, for example where access is required continually, all records used in such circumstances are to be maintained under the constant supervision of a responsible staff member and access limited to persons requiring access to the record for the provision of services by Boandik Lodge.
3. Files for community clients may need to be taken out of the office, files are transported in a lockable bag by case manager.
4. Sensitive information retained in safe storage will be removed from such safe storage only for the use of staff members tending to the provision of services to the client or for other legitimate reference.
5. Equipment used for transfer of information has appropriate security measure in place. Facsimile machines are located in an area that is lockable with access only available to authorised staff.
6. The privacy officer will be consulted prior to any personal information held on files being copied or disclosed to third parties. The privacy officer will determine whether the written consent of the client is required before personal information can be released. Copies of information made in accord with this policy are to be treated as if they were original records.
7. Any breach by staff of items 2 to 4 above may result in disciplinary action being taken by Boandik Lodge.

Destruction of information

1. All personal information no longer required which is in written or paper form is to be destroyed by means of shredding, pulping, burning or disintegration of the written documents.
2. A suitable contractor who provides a guarantee of secure destruction may be engaged to dispose of information held in written or paper form. A certificate is to be requested from such contractor confirming destruction of the said records.
3. Electronic records are to be overwritten before deletion. All electronic data storage devices, including back up devices, are to be audited at least once every 18 months to ensure no non-essential data is retained in electronic form.
4. All discs, including hard drives, are to be degaussed prior to sale or disposal so as to ensure no electronic data continues to be stored thereon.
5. Prior to destruction of a record containing personal information a letter of advice shall be sent to the client or a representative at the last known address advising:
 - that Boandik Lodge holds a file on the person;
 - the nature of the information held;

- that unless the client objects within 28 days of the date of the letter, that the file held by Boandik Lodge is to be destroyed;
- the reason the information held is to be destroyed;
- the method of destruction;
- the client's right to access the record before its destruction.

If, after 28 days from the date of posting, no reply has been received to a letter of advice the record concerned may be destroyed on approval of the privacy officer.

7. A register is to be maintained recording all files destroyed and a copy of all letters of advice referred to in clause 5 above is to be maintained in association with the register for a further period of seven years.
8. Should the original of any of the following be found on any file relating to a client such original document must not be destroyed at any time without legal advice. If such information is found steps shall be taken to locate the client or their representative immediately:
 - any Will or Power of Attorney, Power of Guardianship or Medical Power of Attorney;
 - any Certificate of Birth, Death, Marriage or Divorce;
 - any other legal document purporting to have continuing effect.

Openness

1. Boandik Lodge is bound by this policy to comply with the Australian Privacy Principles and all staff of Boandik Lodge shall comply with such principles and respect the rights of clients to privacy and access to their records.
2. All persons providing personal information to Boandik Lodge shall be provided with written advice on the reasons for the collection of the personal information, the purpose for which the information is to be used and the person's rights of access to and, if necessary, correction of, any information held by Boandik Lodge.
3. Staff are authorised to and shall, on request of any person, advise that person in general terms of the kind of personal information held by Boandik Lodge as follows:
 - Medical records;
 - Nursing notes;
 - Pharmacy records;
 - Address details;
 - Emergency contact details including names of next of kin.
4. Any persons requesting access to personal information held by Boandik Lodge shall be advised of the requirements of Boandik Lodge's access policy.
5. Clients will receive an annual reminder in newsletters of the privacy policy, confidentiality requirements and their ability to request access to records.

Access to records

1. On all occasions on which personal information is collected, the client or the person from whom the personal information is collected will be shown the original record or be provided with a copy of the personal information collected for the purpose of verifying the accuracy of the information recorded.
2. The client has the right to decide the personal information that is provided to an external person or authority. However there are certain circumstances where this can be overridden, including when:-
3. There is an obligation not to conceal a crime or intended crime
4. Disclosure may be required in the person's interest, eg allegations of abuse
5. In these situations the department head will consult with the privacy officer before information is released. The release of this information will be recorded in the register.
6. With the exception of minor requests for Information (see below) as a general rule persons requesting access to information held by Boandik Lodge will be asked to put their request in writing identifying themselves and their contact details and stating the information required.
7. Upon receipt of a request for access to information the privacy officer will undertake all reasonable steps to ensure the identity of the person requesting the information and, if the person is a responsible person, confirm that person's identity and status as a responsible person.

8. On satisfying themselves as to the identity and status of the party requesting access the privacy officer will enter details of the request into a record maintained for the purpose of recording requests for access, record the details of the person requesting the information and any subsequent action in respect of each request.
9. The privacy officer will assess all requests for access to personal information to determine that no information requested or for which release is proposed identifies or impacts upon the privacy of any other person. In such case any information which tends to identify another person will be deleted prior to release.
10. Prior to release of information to an individual the privacy officer may, if deemed by them to be appropriate and if acceptable to the person requesting the information, arrange an opportunity to discuss the information to be provided in order that the information may be properly understood and is not taken out of context particularly where such information may be distressful to the individual concerned.
11. Information will not be released if the release of such information is likely to endanger the life, health or safety of any individual, including the person requesting the information and the person about whom release of the information is sought.
12. Information of a commercial nature will not be released unless management of Boandik Lodge approves such release.
13. Boandik Lodge will not, except on advice from competent legal counsel, release personal information under this policy if the purpose of the request is to obtain information in respect of Boandik Lodge which may be used against Boandik Lodge in legal proceedings and is not otherwise discoverable in pre-trial proceedings.
14. The privacy officer may refrain from responding to a request for release of or access to personal information if, in the opinion of the privacy officer after consultation with the chief executive officer/department head such request is frivolous or vexatious. The privacy officer will maintain a record of all such requests and their reasons for refusing release.
15. Information, the release of which is prevented by law or release of which is likely to prejudice lawful enquiries, will not, following consultation with the policing authority, be released without authority.
16. Where a request for the release of information is refused the privacy officer will (unless requested to withhold the information by a law enforcement body) advise the person requesting release of the information the reason for the refusal to release the information sought and the avenues of appeal available to them.
17. Where possible receipt of a request for release of or access to personal information will be acknowledged immediately and the information requested provided to the person requesting it within 14 days of receipt of the initial request.
18. Information provided in response to an application may, if requested by the person, be transmitted by facsimile or electronic means only if the privacy officer is satisfied that the information to be provided will be received in a secure environment.
19. Where possible information will be personally delivered to the person requesting the information. Where delivery by mail is requested information will be posted by registered mail at the cost of the person requesting the information.
20. Information will be provided to third parties, eg legal representatives, only on receipt of a signed authority from the person in respect of whom the information is held. The original of such authorities will be retained by the privacy officer and a copy placed on the client file with a record of the date and information provided.
21. Unless specifically instructed by the client to the contrary medical records may be passed to non-treating medical practitioners if considered to be a directly related secondary purpose for the care and welfare of the client for the purposes of obtaining specialist advice and/or opinions respecting the clients care and proposed medical procedures, tests and similar purposes.
22. Upon receipt of a request for release of or access to personal information the privacy officer will assess the request and the costs involved in providing the information. The privacy officer will, after estimating the cost, contact the person requesting access and advise them of the likely cost of providing the information requested. The person requesting access may then amend their request or

confirm their request on the basis of the amount to be charged. The amount charged will not exceed the actual cost of providing the information requested.

23. If, upon provision of information, the person provided with the information advises of an error in the information provided the privacy officer will take written instructions of the nature and details of the error or errors reported and will append such written instructions to all documents which are or are likely to be affected by the error.
24. As a general rule original documents will not be provided in response to an application for access unless such are specifically requested. If original documents are requested the privacy officer will ascertain the need for such access and will obtain legal advice before releasing original documents.

Minor requests for access

1. A minor request for Information is made when a person seeks to view their record in person merely to check information readily available. The purpose of such access is to allow the person requesting access to verify information held.
2. A person may have access to their record if such records are readily available at the time of the request.
3. The staff member of whom the request has been made, upon establishing that the person requesting access is the person about whom the information has been recorded and that the person only wishes to view the information, shall allow the person access to the information.
4. Access granted in this manner will be supervised by a staff member and the record kept under control of the staff member at all times. The staff member may answer any questions asked by the individual and may explain the meaning and context of the information viewed.
5. Photocopies of a limited number of documents may be taken.
6. A record of such access will be recorded consisting of the date of the access, details on how the person's identity was established, a record of any copies of documents taken and any amendments advised.
7. Amendments should be advised and such advice recorded but no alteration to any documentation permitted.
8. Any questions in respect of minor requests must be referred to the privacy officer.

Correction of records

1. Following a grant of access to a record, a person about whom personal information is held may request in writing that the personal information held be amended or corrected.
2. All requests to amend or correct personal information held are to be referred to the privacy officer, who will record details of the request in a register maintained for the purpose of recording requests for access.
3. The privacy officer on receipt of a request to amend or correct personal information will append to any original written record details of the correction requested in such a manner that the amendment is readily apparent as a correction.
4. At no time is a written record to be altered or the original record obscured, erased, cut out or otherwise made unreadable.
5. No subsequent use and/or disclosure of any written record is to occur without use and/or disclosure of the amendment.
6. In the case of electronic or other forms of data storage a new record will be made recording the date of effect as the date the correction or amendment was made and will be cross referenced to the original record in order that the original of the record may be accessed if required.

Identifiers

Boandik Lodge will assign each client, where necessary, a unique identifying cypher that may be used for reference within Boandik Lodge. This cypher shall bear no resemblance to any existing number used by any other organisation, government department or agency, eg social security number, Medicare number or tax file number.

Anonymity

1. Unless required by law or for the provision of services to the person, no personal information tending to identify the person will be requested or recorded by Boandik Lodge.
2. All persons attending Boandik Lodge are to be advised that information provided to Boandik Lodge may be given anonymously.
3. All persons attending Boandik Lodge are to be advised that while they have a right to remain anonymous certain information will be required and that services cannot be provided to them unless their identity is recorded used or disclosed.

Complaints

1. Any complaint, written or oral, respecting any privacy issue is to be referred immediately to the privacy officer who will record and investigate the details of the complaint and maintain a statistical record of the type of complaint, section involved, form of breach (if any) and other details relevant to ensure an accurate assessment of the operations of the Privacy Policy.
2. The complainant is to be contacted by the privacy officer immediately the complaint has been received or within 24 hours weekdays, the following Monday for complaints received on weekends, and such contact is to be recorded on the relevant file and will record the complainant's version of events and their expectations.
3. On being contacted by the privacy officer the complainant is to be advised of the privacy officer's role to investigate the complaint, procedures to be followed and advice on how to contact the privacy officer directly, if necessary, being given the privacy officer's contact number to enable follow up of the complaint.
4. The privacy officer must assure themselves of the identity of the complainant who should be asked to put their complaint in writing if this has not already been done.
5. The privacy officer will investigate the complaint and may question staff in respect of the matter, examine documentation and systems to identify any shortcomings in procedures and/or this policy and to satisfy themselves as to any action needed to prevent any further breach of privacy.
6. Upon completion of the Investigation the privacy officer will prepare a report to the Chief Executive Officer with any recommendations for changes of procedure, this policy, disciplinary action or any other matter considered relevant by the privacy officer.
7. Upon completion of the investigation the complainant is to be advised of the results and any corrective action to be taken. As considered appropriate by the privacy officer this report may be given in writing, by face to face contact or by telephone with a record of the advice given to the complainant and their response recorded on the file.
8. If the matter cannot be resolved following investigation the complainant is to be advised of their rights under the Privacy Act or any relevant code and a report prepared for the appropriate body.
9. All complaints are, at all times, to be handled in a respectful manner with due consideration to be given to the rights of the complainant.
10. In the event that a complainant behaves in a vexatious, unreasonable or disrespectful manner the privacy officer may, at their discretion, discontinue the investigation, but in such case must record their reasons for so doing on the relevant file.
11. In the event that the privacy officer finds a complaint to be frivolous or unfounded after investigation, this fact will be recorded on the relevant file including the reasons for reaching the belief that the complaint is frivolous.
12. The privacy officer will keep a record of all complaints received and provide a report on comments and complaints to the quality committee bi-monthly.

The privacy officer and the chief executive officer will monitor the statistics on complaints to ensure that recurring problems are effectively dealt with.

Policy review

The application of this policy will be monitored and reviewed by the privacy officer through the conduct of internal and external audits and monitoring of the complaints system. Internal systems audits will be

conducted annually by the privacy officer and relevant employees. A report on the findings of such internal and external audits shall be provided to the board of directors.

To ensure compliance with privacy principles, relevant personnel will conduct annual inspections of Boandik Lodge's documentary security facilities and procedures including waste disposal and submit reports to the privacy officer who will submit a report to the board of directors on Boandik Lodge's compliance with this policy and the Australian Privacy Principles.

External audits could be conducted by:

1. Relevant statutory authorities
2. Privacy consultants approved by the board of directors
3. Industry bodies

Staff training

All new staff will be instructed in this policy and the importance of adhering to privacy principles in their initial induction training. Adherence to this policy and the privacy principles is a fundamental term of each employee's contract of employment, a breach of which will lead to disciplinary action including, if warranted after investigation, dismissal from employment.

Outcomes

Risks to the privacy of clients and their records arising out of deliberate or inadvertent breaches of the Australian Privacy Principles will be identified, assessed and controlled.

Cross-border disclosure

Boandik Lodge may provide information to a responsible person who lives outside Australia. The client will have provided permission to disclose the information to the responsible person or it will be a permitted health situation. There are no other circumstances that would require Boandik Lodge to provide information to an entity outside Australia.

Human relations

Introduction

Many of the issues that apply to the Boandik Lodge community are the same as those that apply anywhere. This impacts on the rights of clients, and as well some of the problems that clients may experience such as sexual harassment, and the potential for sexual assault. Wherever possible, protocols that are used in the wider community for dealing with problem behaviour such as sexual harassment, or sexual assault should be used within Boandik Lodge, so that clients here have the same rights and responsibilities as the general community.

In dealing with sexuality in residential facilities at Boandik Lodge there are two broad objectives.

1. To ensure that residents have the same rights and freedoms to pursue their lives, including sexual aspects, as people in the community generally. Because of the communal living arrangements at Boandik Lodge at times extra flexibility is required to ensure that residents are given the opportunity to have desired experiences while maintaining privacy.
2. Within Boandik Lodge there is an “at risk” population of residents who need protection. These residents fall into two groups:-
 - those with cognitive impairment who may not be able to provide consent for sexual activity.
 - those with impaired communication. These residents may not be able to indicate clearly by either verbal or physical means their lack of consent.

Our duty of care to these residents is to protect them from unwanted sexual activity that may leave them with emotional trauma, as well as the potential for physical illness, eg sexually transmitted disease. Residents at risk include those who receive unwanted sexual advances, and disinhibited residents who engage in sexual behaviour they would not have otherwise sought, and then suffer negative consequences.

Relationships

Clients have a right to form a range of friendships of their own choice. Adult relationships may include close friendships involving sexual expression.

Clients should receive individualised support and education to enable them to make decisions about relationships and lifestyle choices.

Individuals should be assisted to maintain feelings of self-worth independently of having a partner, and independently of their sexuality.

When two adults make a choice to be or to live as a couple, their decision should be supported on an individual basis.

Abusive practices

A practice is abusive if it infringes the rights of another person, and cannot be justified as benefiting the person.

Limitations on expressing emotions and sexuality

Boandik Lodge will support the social and legal limits on expressing emotions and sexuality that are accepted and upheld in the general community.

Social limits on behaviours are limits that are very commonly supported in the community and are upheld in the law.

Restrictions on the way a person expresses emotions and sexuality may be considered if a person’s behaviour interferes with the rights of others.

Sexuality refers to a range of emotions including feelings of love, affection, attachment, physical sensations and sexual activities.

Any proposal to restrict a resident's expression of sexuality for the benefit of or for the protection of the resident will be assessed on an individual basis using an inter-disciplinary process in consultation with the resident/family/significant others.

Any intervention affecting relationships will be the least restrictive that is necessary in the circumstances.

Any resident who is sexually active needs to be advised to follow safe practices that prevent the spread of sexually transmitted diseases.

All staff are reminded that they are bound by their own professional code of ethics and/or conditions of employment.

Privacy and confidentiality

In terms of human relationships privacy describes the personal ownership of one's body and personal space, possessions, personal living areas, and information about personal details including relationships. Private information is information about an individual that is not observable, and that is known by others only if it is disclosed.

Residents/clients have rights both to privacy of information and to privacy of places.

Information about a resident's/client's sexuality is private and confidential.

Privacy is given high regard.

Decision making for adults

Information about an adult's sexual behaviour is highly confidential. Information about sexual behaviour may be disclosed only if it is given with the resident's consent.

In terms of sexual relationships, privacy may facilitate the development of a sexual relationship for those residents who wish it to occur, but it also can help protect residents who do not wish to have a relationship from unwanted advances, eg ensuring privacy during bathing or dressing. Privacy awareness is an ongoing issue relevant to all staff and residents/clients.

Promotion of safe sex

As an immediate measure to assist in the identification of "at risk" residents, senior nursing staff, in conjunction with medical staff and social workers (where a social worker is already involved in a resident's care) should consider if there is the potential for their residents to be "at risk".

Consent for adults

Adults are generally considered able to make their own decisions about sexual activities, about choice of sexual partners, and about the confidentiality of private information.

A relationship between two adults will be considered to be consenting if the following occurs:-

- The couple freely visit one another.
- Those immediately responsible for the residents are aware of the friendship, and there are no grounds for believing that either individual is exploiting the other or that one partner is not consenting.
- The individuals do not complain.

An independent assessment of an adult's ability to give informed consent in the area of human relations will be provided only if requested on an individual basis.

If an individual is considered not able to consent to sexual activity an individual strategy would need to be developed in conjunction with all relevant health professionals, the individual themselves and their guardians. The Office of the Public Advocate may be able to provide guidance in complex situations.

The practical strategies employed will vary with the individual's needs, and whether the person has potential sexual partners. The latter is relevant because any consideration about consent to sexual activity will have much greater significance to residents/clients considering entering into a relationship.

If a decision needs to be made about an adult's sexual behaviour, then the following steps will occur:-

1. If it is believed that the residents involved are able to make their own decisions, then decisions will be left to the residents and will be treated as confidential.
2. If there is doubt about the ability of a resident to make an informed decision on the relevant topic, then an assessment of the resident's ability to give informed consent will be sought from an independent professional.
3. If a resident is found to be unable to make an informed decision, the director of care will take the following steps:-
 - Speak to the resident about the issues, to identify the resident's wishes.
 - Identify support resources.
 - Encourage the resident to nominate one or more advocates of his/her choice, who will speak on behalf of the resident. The advocate may be a member of the resident's family.
 - Refer the issue to a group, which comprises the resident's advocate, the independent person, and the social worker. This group will be asked to make the relevant decisions. The group may or may not include a member of the resident's family. This will be determined by whether a family member is willing or available to participate or if they are attending in the capacity of guardian or advocate.
 - If the group is unable to make a consensus decision, then the issue should be referred to an external authority, eg the public advocate.
 - Any decision should be discreetly documented, ie not disclosing the confidential content of discussion.
 - A process for review, at appropriate intervals, should be determined by the group.

Rights of family members to be informed

Residents are encouraged to communicate with their families about personal matters. If requested, staff will assist residents to communicate with families. It is common to maintain confidentiality about sexual behaviour.

If a resident who is able to consent clearly requests that information about sexual behaviour be kept confidential from the family, then this wish will be respected.

If staff are unsure about either the ability of a resident to make a decision, or about the right of the family to be informed, then the issue will be referred to the director of care who will seek advice from the public advocate if required.

If a family member approaches a member of staff for information about the sexual behaviour of a resident, the request will be referred to the resident, who will be offered support by the director of care.

Supporting principles and legislation

Disability Services Act 1986
Equal Opportunities Act 1984
Criminal Law Consolidation Act 1935 – 1978
Crimes Act
Sexual Discrimination Act

Further information

Department for Communities and Social Inclusion
Aged Rights Advocacy Service
Office of the Public Advocate

Work procedures

Client request to access personal information	WP BRR6
Disposal of personal property after death	WP BRR5
Ensuring compliance with Australian privacy principles	WP BRR8
Maintaining clients privacy & dignity	WP BRR7
Maintaining resident's privacy & dignity	WP BRR4
Resident choosing to leave facility	WP BRR3
Resident electoral roll	WP BRR2

Forms

BRR9	Client release authority
BRR3	Consent to access aged care client record
BRR2	Medical clearance certificate (HAMP)
BRR8	Privacy audit
BRR4	Privacy consent form
BRR1	Privacy policy statement
BRR6	Request for information
BRR7	Request for information – action record
BRR5	Third party consent form

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