

Type	Policy
Items Revised	Updated to comply with revised legislation
Authorised By	CEO

PREAMBLE:

Lyndoch Living will use all reasonable efforts to protect the privacy of individuals' personal information and to comply with the obligations imposed by the *Privacy Act 1988* (Cth) (**Privacy Act**), the Australian Privacy Principles (**APP**), the *Aged Care Act 1997* and the Aged Care Principles.

This policy applies to residents, clients, all staff (including contracted agency staff), volunteers and students. Lyndoch Living will only collect personal information by lawful and fair means, and will only collect personal information that is necessary for one or more of our organisation's functions or activities. If it is reasonable and practicable to do so, we will collect personal information about an individual only from that individual.

In meeting our obligations with respect to the privacy of our clients, Lyndoch Living will acknowledge that people with vision or hearing impairments, and those of culturally and linguistically diverse people, may require special consideration.

Staff have access to a range of information pertaining to fellow staff, residents, clients, external contractors, and business activities of the organisation. This information is confidential and is not to be relayed without appropriate authorisation, and in accordance with the *Information Privacy Act 2000*.

STATEMENT OF POLICY:

Information relating to staff, residents, clients and Lyndoch's activities is confidential and is not to be relayed without appropriate authority.

Breach of confidentiality is serious and will result in disciplinary action and/or dismissal.

AIM:

To protect the confidentiality of information generated by the organisation about its staff, contractors, residents and clients, plus business activities deemed to be confidential.

PROCESS:

Residents/Clients

1. Management of Personal and Health Information:

- The organisation cannot use or disclose information of a personal nature, except to the extent that this is required, authorised or permitted under law. All staff are required to understand their obligations under the laws relating to maintaining the privacy of residents and clients.
- The organisation will only collect health information that is necessary for the organisation to perform its functions. Lyndoch will always try to do so in a fair, lawful and non intrusive way. Wherever possible, Lyndoch will collect information directly from residents and clients rather than from third parties. Lyndoch will endeavour to advise residents and clients if we collect information from a third party.
- When information is collected from residents and clients we will advise them why we are collecting it, any law that requires it to be collected, the organisations or type of organisations to whom we usually would disclose it, and the consequences for the resident or client if the information is not provided.

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- Generally, the information is collected and used for the purpose of providing care and treatment to residents and clients and for purposes directly related to providing such care and treatment. The information may be disclosed to other health care providers for the purpose of providing further treatment to the resident or client. Authority for the release of documentation in relation to transfer of residents to another facility is through the Director of Nursing or designated person. The designated person is the Registered Nurse in Charge of the facility at the time of transfer. The information is to be copied onto the appropriate sheet and each sheet signed and dated by the person authorised to release the information. Copies of confidential documents/records must not leave the premises without the written authority of the Chief Executive Officer except as detailed in relation to a transfer of a resident to another facility.

The information gathered may also be used for other purposes which are permitted under the privacy laws.

Examples of when we are allowed to use or disclose information about residents and clients include:

- To a court in compliance with a summons or court order or where there is a serious and imminent threat to an individual's life, health, safety or welfare or a serious threat to public health, safety or welfare.
- To properly appointed Powers of Attorney for information created specifically about residents or clients that the resident or client would be legally able to access. A copy of the Power of Attorney must be viewed by the Registered Nurse in charge in all instances prior to releasing information.
- To Lyndoch's legal representatives to protect the interests of Lyndoch in cases involving liability or compensation as approved by the Chief Executive Officer.
- Aside from where the law specifically allows us to use or disclose information, we do not use or disclose such information for purposes which are unrelated to the purposes for which we collected the information, without the consent of residents and clients.
- We do everything we can to make sure that the information we hold about residents and clients is accurate, complete, and current. We are required under the *Public Records Act 1973* to hold some records for extended periods. We will not keep information longer than is necessary.
- Access to our record keeping and computer systems is controlled and monitored. Staff only have access to systems that their duties require. Our computer systems uniquely identify individual users to ensure that access is appropriately authorised. Our physical or paper records are securely stored and can be accessed only by authorised personnel.
- Lyndoch may with the approval of the Chief Executive Officer endorse the use of resident and client records for research purposes as long as resident and client confidentiality is assured.
- On their request, we will give residents and clients access to information we hold about them. However, there are some exceptions to this. For example, we do not have to give access to health information we hold about the resident or client where doing so would unreasonably disclose information relating to others, or where the information would otherwise be exempt from disclosure by law, or if directed by our legal representatives not to do so. If the authorised person is unsure in this matter, refer the request to the Chief Executive Officer.
- It may be necessary from time to time transfer health information about residents and clients to organisations outside Victoria for the purpose of the provision of care or treatment to the resident and client. This will only be done where consent is given, where we believe that the recipient organisation is

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subject to binding privacy obligations that are substantially similar to the ones under which we operate, or where it is in the interests of the resident and client for us to do so (and it is impracticable to obtain consent, and if we were able to ask, the resident or client would be likely to give consent).

- The organisation will ensure that any suspected infringements of privacy are thoroughly investigated. Disciplinary action will be taken in cases where investigations or suspected infringements of privacy are proven.
- Facsimile
Facsimile transmission of resident/client information is only to be utilised in cases where a slower method of transmission would have a serious adverse effect on resident/client care. Facsimile machines are not to be used for the transmission of resident/client information which is non urgent and can be transported by a slower, more confidential method.
- Electronic Communication
 - This refers to systems of information transfer such as telehealth, Vocera Voice Communication system, E-mail, Internet and similar systems.
 - With the increased use of electronic means of information transfer, caution must be exercised to ensure confidentiality. The requirements of this Policy apply equally to electronic communication.

2. Photographs/Media:

Residents and clients are entitled to their privacy which must be respected. Media can only enter the premises with the approval of the Chief Executive Officer. Photographing, video or audio recording of residents/clients is not permitted without the advance express approval of the individual. In instances where the individual cannot reasonably give consent, it must be sought from the family or guardian.

Photographs or recordings of residents, given with consent for one purpose, cannot be used for any other purpose without the consent of the individual.

Refer to [Consent to Use and/or Disclose Information](#) form (PROMPT)

3. Obtaining Access to Information:

If the resident or client:

- wants to have access to information held about them;
- believes information held is inaccurate and would like to request that it be amended;
- wants to know more about the type of information held, for what purposes and how that information is dealt with; or
- have concerns that their privacy rights may have been infringed

they should contact the Chief Executive Officer.

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4. Entering Resident Areas:

Our facilities are the residents' homes; as in the broader community, access to resident homes should be controlled in a reasonable manner. This can be achieved by:

- visitors to resident areas being monitored to minimise unsatisfactory outcomes for all residents;
- all staff knocking on resident doors and gaining resident consent before entering (clinical emergencies exempted);
- observing resident requests for privacy in their own rooms at all times;
- staff in authority managing large visitor groups into resident areas.

Staff

Information concerning an individual or group, whether related to their employment, their medical condition, private life or business dealings is to be considered confidential. Information of a personal nature recorded on personnel files is also considered as confidential. It is the responsibility of all staff to ensure that confidential information is not relayed or transmitted to a third party without appropriate authorisation. All staff records are stored in a designated safe area with limited access. Access to be by authorised personnel only.

Originals or copies of confidential documents/records must not leave the premises without the written authority of the Chief Executive Officer.

Staff records are the property of Lyndoch and the release of information from such records will only be issued in the following circumstances:

1. To staff to view their own personnel file.
2. If the disclosure complies with the *Information Privacy Act 2000*.
3. To Lyndoch's legal representatives to protect the interests of Lyndoch in cases involving liability or compensation as approved by the Chief Executive Officer.
4. If the record is subpoenaed to be held in the Court. In this instance a receipt must be obtained from the Clerk of Court and filed by the Chief Executive Officer until the record is returned.

Reference: *Information Privacy Act 2000*. Act No. 98/2000.

Electronic Communication

This refers to systems of information transfer such as video conferencing, E-mail, Internet and similar systems.

With the increased use of electronic means of information transfer, caution must be exercised to ensure confidentiality. The requirements of this Policy apply equally to electronic communication.

Digital Images/Photographs/Recordings

Technology enables mobile phones, ipads, ipods and similar type devices to now be equipped with cameras and voice recording capabilities. Lyndoch prohibits the use of any piece of technology that will invade the privacy of

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staff, residents, clients or visitors within the workplace, or to photograph or record any act or record considered confidential by the organisation.

Breaches of this policy will be deemed serious and will involve disciplinary action.

Associated documents that should be read in conjunction with this policy are:

- [Policy 10 – Confidentiality and Privacy](#)
- [Policy 31 – Media, Public Comment and Official Printed Material](#)
- [Vocera Communication Guidelines](#)
- [Consent to Use and/or Disclose Information](#)

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