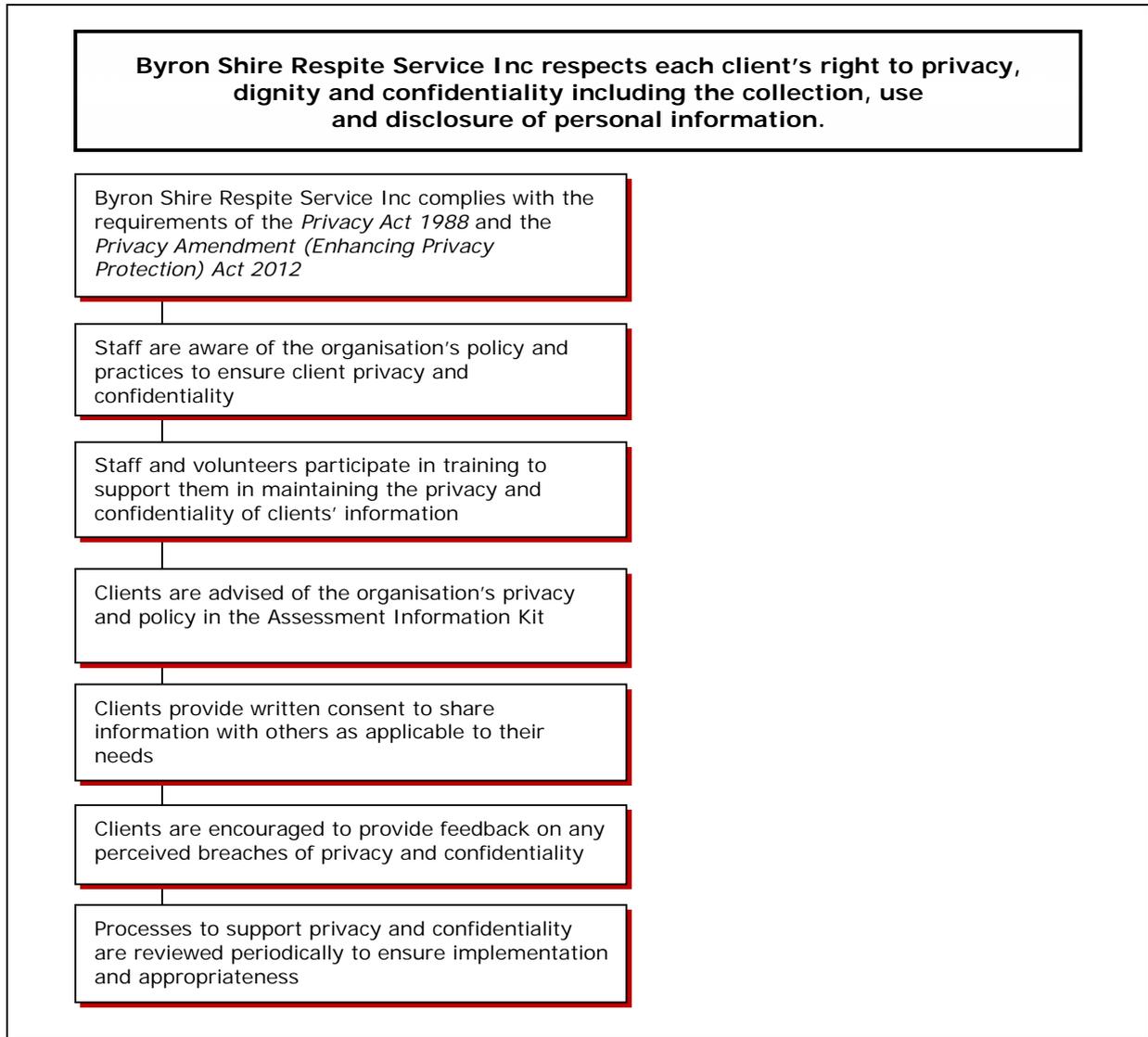


PRIVACY AND CONFIDENTIALITY



FORMS AND RECORDS

Client Information Kit	Shared Drive
Client Consent Form	Client records

15.1 Privacy and Confidentiality

Any reference to “client or clients” includes Participants of the National Disability Insurance Scheme.

15.1.1 PRINCIPLES FOR THE COLLECTION OF CLIENT INFORMATION

Byron Shire Respite Service Inc (BSRS) is committed to the principles outlined in the *Privacy Act 1988*, the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* and the Australian Privacy Principles. BSRS has in place procedures that ensure compliance with the legislation including the protection of sensitive information including health information.¹ The Client Information Kit provides information on privacy and confidentiality of client information.

Management, staff and volunteers are provided with training and information on the rights of clients to privacy and confidentiality and the processes to support this. New staff/volunteers with the organisation have to sign off on client confidentiality.

15.2 Collection, use and disclosure of personal information

15.2.1 KINDS OF PERSONAL INFORMATION COLLECTED

BSRS may collect and hold information about a range of persons it comes into contact with, including:

- Clients and prospective clients
- Job applicants
- Volunteers
- Suppliers and their employees
- Contractors; and
- Individuals who visit the BSRS web site.

The personal information BSRS collects and holds about an individual depends on their interaction with BSRS. It may include:

- Individuals' contact details, including name, organisation, occupation, job title, address, phone number, facsimile number and email address
- Information individuals give BSRS in the course of their relationship with Byron Shire Respite Service Inc as a client, prospective client, prospective employee, volunteer, contractor or supplier
- Health information
- Details of individuals' qualifications, membership of professional associations, interests and expertise
- Referral information
- Information BSRS obtains from individuals in the course of providing services for clients or employers
- Where necessary, individuals' financial information

¹ Australian Government Office of the Australian Information Commissioner 2014 *Privacy Fact Sheet 17: Australian Privacy Principles*

15.2.2 PURPOSES FOR WHICH BSRS COLLECTS, HOLDS, USES AND DISCLOSES PERSONAL INFORMATION

BSRS only collects and holds personal and sensitive information that is necessary for it to provide individuals with the services and support they are seeking, or otherwise to enable it to operate its business so as to carry out its function as a provider of respite care programs and services.

Sensitive information is personal information about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record, health or genetic information.

Generally, BSRS will collect and hold individuals' personal information for the purpose of:

- Providing services to the client or someone else they know
- Providing individuals with information about other services that BSRS offers that may be of interest
- Providing individuals with information relevant to the operation of our business
- Facilitating BSRS's internal business operations, including the fulfilment of any legal requirements
- Analysing BSRS's services and client needs with a view to developing new and/or improved services
- Contacting individuals, in the case of an emergency involving someone else they know; and
- Contacting clients to provide a testimonial for BSRS.

15.2.3 HOW PERSONAL INFORMATION IS COLLECTED AND HELD

Wherever possible, BSRS will collect personal information directly from the client, prospective client, prospective employee, volunteer, contractor or supplier. We will only collect this information if the individual has:

- knowingly provided their personal information to us; or
- has authorised a third party to provide us with the individual's personal information; or
- if the personal information is publicly available.

We have a consent form that details approved consent.

There may, however, be some instances where personal information about an individual will be collected indirectly because it is unreasonable or impractical to collect personal information directly from that individual. We will usually notify the individual about these instances in advance, or where that is not possible, as soon as reasonably practicable after the information has been collected.

If the personal information an individual has provide to BSRS is incomplete and/or inaccurate, BSRS may be unable to provide the individual or someone else they know, with the services sought.

The key guidelines for respecting an individual's privacy and confidentiality in BSRS are:

- Client, volunteer and employee files and other information are securely stored and can only be accessed by personnel who have been properly authorised.
- All computer based information is protected through the use of access passwords on each computer. Data is backed up daily and stored securely.

- If a client ceases to use the services of BSRS or an employee, or volunteer ceases employment with BSRS, their personal information will be held on site for at least seven years to comply with legislative and professional requirements. After that time the information may be destroyed.
- Clients can withdraw their consent to share personal information at any time
- Assessments and reviews are always conducted in private with the client and the manager/coordinator unless the client consents to their carer, advocate or other person being present
- During client assessments the manager/coordinator asks the client about any particular privacy requirements they have such as their preference for a male or female support worker. These are noted on their assessment form and on the support plan
- Any discussions between staff about clients are held in a closed office
- Any references to individual clients in meeting minutes refer to the client by initials only or another unique identifier, such as their client number.

15.2.4 USES AND DISCLOSURE OF PERSONAL INFORMATION

Wherever possible, individual's personal or sensitive information will only be disclosed with their prior consent or if required or authorised under law in circumstances relating to public health and safety and in connection with certain operations by or on behalf of an enforcement body.

The provision of information to people outside the service must be authorised by the manager/coordinator

BSRS may be required to disclose an individual's personal or sensitive information:

- to other health service providers as appropriate to provide emergency care or services
- to government officials (or their delegates) in the conduct of quality reviews or the investigation of complaints. We advise clients that these individuals are required to keep all information accessed through this process confidential.

15.2.5 DISCLOSING PERSONAL INFORMATION OVERSEAS

It is unlikely that BSRS will disclose an individual's personal information overseas. However, if information is disclosed overseas, BSRS must ensure that the personal information is substantially treated in accordance with the Australian standards.

15.3 Clients Right to Access Information

Individuals have a right to read any personal information kept about them. Clients can nominate a representative to access the client's records held by BSRS. A request from a client, their advocate, carer, legal representative under the legislation, appointed guardian or power of attorney to access information is referred to the manager/coordinator who confirms the request and then arranges for the client to view their information.

Access is provided to individuals within two weeks from the date of the request. The manager/coordinator is available to assist a client in understanding the information and to explain terminology or provide other assistance.

On advice from BSRS' legal representative, access to an individual's record may be denied. This will be discussed with the individual should this situation arise.

15.4 Confidentiality of Complaints and Disputes

If at any time an individual believes BSRS has compromised their privacy, that BSRS has breached the Privacy legislation, they have a right to complain. To complain the individual can contact their

project manager. If the complaint has not been satisfactorily resolved within 10 working days, the individual should contact the Service manager.

As far as possible, the fact that an individual has lodged a complaint and the details of that complaint are kept confidential amongst staff directly concerned with its resolution. Similarly, information on disputes between a client and a staff member or a client and a carer is kept confidential. The individual's permission is obtained prior to any information being given to other parties whom it may be desirable to involve in the resolution of the complaint or dispute.

If an individual has a complaint about a breach of their privacy, which is not satisfactorily resolved by BSRS, the individual (or their advocate in the case of a client) has the right to complain to the Office of the Australian Information Commissioner (OAIC). Additional information about privacy in Australia may be obtained by visiting the web site of the Office of the Australian Information Commissioner at www.oaic.gov.au.

15.5 Reporting data breaches

Should BSRS have reasonable grounds to believe an eligible data breach has occurred, any individual at risk must be promptly notified of serious harm. BSRS must also notify the OAIC.

An eligible data breach means unauthorised access to or unauthorised disclosure of personal information, or a loss of personal information. This includes unauthorised access by an employee or an independent contractor, as well as unauthorised access by an external third party (such as by hacking)².

An eligible data breach occurs when the following criteria are met:

- There is unauthorised access to, or disclosure of, personal information held, or information is lost in circumstances where unauthorised access or disclosure is likely to occur.
- This is likely to result in serious harm to any of the individuals to whom the information relates.
- *BSRS* has been unable to prevent the likely risk of serious harm with remedial action.

A data breach can be reported online, via the OAIC website. Information provided should include:

- BSRS's name and contact details
- a description of the data breach
- the kinds of information involved e.g.
 - financial details,
 - identity information,
 - contact information,
 - health information,
 - Tax File Number
- the steps BSRS recommends individuals should take to reduce the risk that they experience serious harm as a result of the data breach

15.6 Monitoring Privacy and Confidentiality Processes

Privacy and confidentiality processes and systems are regularly reviewed as part of the BSRS quality improvement process and staff, clients, clients with a disability or special needs and other

² Australian Government Office of the Australian Information Commissioner, Data breach preparation and response: A guide to managing data breaches in accordance with the Privacy Act 1988 (Cth), p.32

stakeholders are encouraged to provide ongoing feedback on issues and areas where improvements can be made.