

**P2023**

## **Privacy Statement & Policy**

(F2012 Privacy Checklist for your worksite- Community connections & F2013 Privacy Checklist for your worksite- CLSS)

Melba Support Services Inc. collects personal and health related information when providing the following community services and activities;

- Supported Accommodation
- Community Connections
- Individualised Support Arrangements
- Carer Respite
- Fundraising
- Individual Support Arrangements hosted by Melba

Melba is bound to adhere to the following Federal and State legislation;

- Information Privacy Act 2000 (Victoria);
- Health Records Act 2001 (Victoria); and
- Privacy Amendment (Private Sector) Act 2000 (National)

In the course of providing our services, personal and sensitive information is collected, held and maintained by Melba. Your privacy is important to us and we are committed to protecting the information we collect, monitoring its use and maintaining its integrity.

All information collected by Melba will be used only for the primary purposes intended. Where the intention includes confidentiality, the information will be retained as such unless otherwise required by law.

At times, we are obliged to forward information to, or create reports for, other service providers or government departments. Disclosure of such information is in accordance with our written policies and limited to the intended purpose as agreed with Melba.

By law, you are generally entitled to access your personal information that we keep on record. You can request more information about our Privacy Policy and find out how to access information held by Melba by contacting the Chief Executive Officer.

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## **PRIVACY POLICY**

### **1. PURPOSE**

As a trusted provider of disability services to the community, Melba Support Services Inc. is committed to the protection of personal (including health information) privacy and has adopted this set of privacy principles based on

- relevant State and Federal privacy laws; and
- its longstanding adherence to a range of existing legal and ethical obligations regarding privacy, security and confidentiality of personal information, including health information.

### **2. POLICY**

This policy sets out the principles that Melba has adopted in order to protect personal information, including health information, about individuals. These principles deal with the entire “lifecycle” of such information including: collection, use and disclosure, access to, correction of, security and disposal of personal information.

### **3. DEFINITIONS**

For the purposes of this policy, the following definitions have been adopted. These definitions reflect the position set out in relevant Federal and State privacy laws.

#### **3.1 “Personal Information”**

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

#### **3.2 “Health Information”**

This consists of:

- a) information or opinion about:
  - i) the health (whether physical, mental or psychological) or a disability (at any time) 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 all personal information.

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- b) Other personal information collected to provide or in providing, a health service;
- 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.
- d) Other personal information that is genetic information about an individual in a form which is or could be predictive of the health (at any time) of the individual or of any of his or her descendants).

**3.3 “Other Sensitive Information”**

This consists of information or an opinion about an individual’s:

- a) racial or ethnic origin; or
- b) political opinions; or
- c) membership of a political association; or
- d) religious beliefs or affiliations; or
- e) philosophical beliefs; or
- f) membership of a professional or trade association; or
- g) membership of a trade union; or
- h) sexual preferences or practices; or
- i) criminal record

that is also personal information.

**3.4 “Consent”**

Consent means the voluntary agreement of the individual (or the authorised representative of that individual where the individual lacks capacity to the consent) concerning a proposed action. Consent can be either express or implied. Express consent means consent provided explicitly, either verbally or in writing. Implied consent arises where consent may be reasonably inferred from the action or inaction of the individual.

**3.5 “Primary Purpose”**

This is the main reason the individual would expect their information to be used. For example, for people accessing Melba services, the primary purpose is the provision of essential services appropriate to the person’s needs.

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### **3.6 “Secondary Purpose”**

A secondary purpose is a use of information that may or may not be apparent to the individual at the time the information was collected. Some secondary purposes are directly linked to the primary purpose whereas others are not. An example of a directly linked secondary purpose relevant to Melba is the use or disclosure of information for billing purposes.

### **3.7 “Use”**

“Use” means use within the organisation. An example is sharing of information between the organisation’s accommodation and day services.

### **3.8 “Disclosure”**

“Disclosure means provision of information to external bodies, persons or organisations.

### **3.9 “Authorised Representative”**

The authorised representative is the person who is recognised at law (including under new privacy laws) to make decisions for and on behalf of an individual when that individual loses the capacity to make or communicate his or her own decisions

## **PRIVACY PROTECTION PRINCIPLES**

### **4. PRINCIPLE 1 – COLLECTION**

#### **a) How We Collect Personal Information**

We will only collect personal information that is necessary for one or more of our legitimate functions or activities.

We will only collect personal information by lawful and fair means, not in an unreasonably intrusive way.

As soon as practicable, we will provide people access Melba’s services and other persons in respect of whom we collect personal information with information about the privacy practices which we undertake or may undertake, together with an outline of their rights and our obligations.

Where we collect information from a third party, we will, subject to the exceptions permitted by law, attempt to provide the required information to the subject of the information.

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## **b) When We Collect Personal Information**

We will not collect health information or other sensitive information about an individual except in the following circumstances:

- a) Consent (or where the individual cannot give or communicate the consent, consent of the authorised representative), or
- b) required/permitted by law, or
- c) to prevent or lessen a serious and imminent threat to the life or health of any individual, subject to the relevant legislative requirements, or
- d) in defence of a legal claim, or
- e) to provide a health service, so long as the information collected is required to be obtained by law or is collected in accordance with rules established by the bodies referred to in relevant privacy legislation;
- f) public health and public safety research or statistical analysis, subject to the relevant legislative requirements, or
- g) management, monitoring or funding of the health service provided, subject to the relevant legislative requirements, or
- h) provision of health service in relation to individuals who are incapable of giving consent, subject to the relevant legislative requirements, or
- i) collection by or on behalf of a law enforcement agency, subject to the relevant legislative requirements, or
- j) where we collect health information from a person (other than the client or the client's treating health professional) who asks or confirms that the information is to remain confidential, we will only record the information if it is relevant to the provision of health services to or care of the client. We will also take reasonable steps to ensure that the information is accurate and not misleading. We will also take reasonable steps to record that the information was given in confidence and is to remain confidential.

## **5. PRINCIPLE 2 – USE & DISCLOSURE**

We will only use or disclose personal information (including health information and other sensitive information) in the following circumstances:

- a) for the primary purpose for which it was collected, or

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- b) for a directly related secondary purpose within the reasonable expectation of the individual to whom it relates, or
- c) where the individual (or in the appropriate case, the authorised representative) consents, or
- d) for public health/public safety research or statistical analysis subject to the relevant legislative requirements, or
- e) for lessening or preventing certain threats to individual health or safety or public health or safety, subject to the relevant legislative requirements, or
- f) certain investigations into suspected or actual unlawful activity, subject to the relevant legislative requirements, or
- g) uses/disclosures that are permitted or required by law,
- h) use/disclosure linked to certain activities of law enforcement bodies, subject to the relevant legislative requirements (where that occurs, a note must be made of the use/disclosure), or
- i) communicating with the person responsible for the person accessing Melba's services where that person cannot give or communicate their consent, subject to the relevant legislative requirements, or
- j) funding, management, planning, monitoring, improvement or evaluation of health services, or training of employees or persons working with us, subject to the relevant legislative requirements, or
- k) such other use as permitted or required by law including relevant privacy laws and any regulation/guidelines to be introduced in the future.

**6. PRINCIPLE 3 – DATA QUALITY**

We will take reasonable steps to make sure that the personal information we collect, use or disclose is accurate, complete and up-to-date.

**7. PRINCIPLE 4 – DATA SECURITY AND DATA RETENTION**

We will take reasonable steps to protect personal information we hold from:

- a) misuse and loss;
- b) unauthorised access;
- c) unauthorised modification;

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- d) unauthorised disclosure.

We will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose, subject to relevant legal requirements regarding document retention and deletion.

## **8. PRINCIPLE 5 – OPENNESS**

This Privacy Policy will be made available to anyone who asks for it.

On request by a person, we will take reasonable steps to let the person know, in general terms, what sort of personal information we hold, for what purposes, and how we collect, hold, use and disclose that information.

## **9. PRINCIPLE 6 – ACCESS AND CORRECTION**

### **(a) Access**

Where we hold personal information about an individual, we will provide the individual with access to the information in a form or manner suitable to the individual's reasonable needs. These access rights are subject to exemptions and exceptions recognised by law.

We will not charge for the lodgement of an application which requests access. We may, however, render charges for providing access to personal information. Those charges will not be excessive and will be consistent with specific legal requirements regarding charges for records access.

### **(b) Correction**

We will take reasonable steps to correct information we hold about an individual where the individual establishes that the information is either not:

- a) accurate,
- b) complete; or
- c) up-to-date.

Where we and the individual cannot agree as to whether the information is in fact accurate, complete or up-to-date, we will associate with the information a statement recording that dispute, where the individual asks for it. We will also take further steps as are required by the relevant privacy legislation.

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**10. PRINCIPLE 7 – IDENTIFIERS**

An identifier includes a number which we assign to an individual to identify uniquely that individual for the purposes of our operations but does not include the individual’s name or an ABN (as defined in the New Tax System – Australian Business No. Act 1999).

We will not adopt as our own identifier of an individual an identifier of an individual that has been assigned by a Commonwealth agency, an agent of an agency acting in its capacity as agent, or by a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract. We will therefore not adopt as our own identifier a Medicare number or a Department of Veterans Affairs’ number (and other forbidden identifiers).

Such forbidden identifiers may, however, be used where they are specifically permitted to be used under the relevant privacy legislation.

We will not use, disclose or keep a record of the forbidden identifiers except in the circumstances outlined in the relevant legislation. Those circumstances are similar to the circumstances outlined in Principle 2 dealing with use/disclosure of personal information (see Principle 2).

**11. PRINCIPLE 8 – ANONYMITY**

Wherever it is lawful and practicable, individuals will have the option of not identifying themselves when entering transactions with us.

**12. PRINCIPLE 9 – TRANSBORDER DATA FLOWS**

We will not undertake the cross-border transfer of personal information save in the circumstances permitted under the relevant legislation. The permitted circumstances include (but are not limited) to the following situations:

- a) where the individual consents;
- b) where we reasonably believe that the recipient of the information is subject to privacy laws that are at least as strong as those which govern our information practices;
- c) transfer is required to give effect to a contractual arrangement, subject to the relevant legislative requirements.

**13. PRINCIPLE 10 – PROCEDURE UPON CLOSURE OF A FACILITY AND TRANSFER TO ANOTHER HEALTH SERVICE**

Where our service is either:

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- a) sold;
- b) closed down; or
- c) otherwise transferred, (including where our service is amalgamated with another organisation's and the successor organisation which is the result of the amalgamation is a private sector organisation);

in circumstances where our facility will not be providing health services in the new practice or business, we will take the steps required by the relevant legislation to notify clients and the general public with a view to making arrangements for the retention or transfer of the relevant health information.

**14. PRINCIPLE 11 – PROCEDURE FOR MAKING WRITTEN INFORMATION AVAILABLE TO ANOTHER HEALTH SERVICE PROVIDER UPON THE INDIVIDUAL'S REQUEST/AUTHORISATION**

For the purposes of this Principle, “**Health Service Provider**” means an organisation that provides a health service in Victoria.

If an individual either:

- (a) asks us to make health information Melba Support Services holds about the individual available to another Health Service Provider, or
- (b) authorises another Health Service Provider to ask Melba Support Services to make such information available to the requesting Health Service Provider,

then we will, upon payment of a fee (which must not exceed the prescribed maximum fee and subject to the regulations, if any) and as soon as practicable, provide a copy or written summary of that health information to that other Health Service Provider.

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