

# Privacy, Confidentiality & Duty of Care

## Current Version

<b>Service Area</b>	Disability, Mental health, Aged Care	<b>Version</b>	1.2
<b>Process Owner</b>	Governance Lead   Clinical Team	<b>Date of Issue</b>	Feb 2024
<b>Approved by</b>	Chief Executive Officer	<b>Review</b>	Feb 2026

## Modification History

Version	Date	Author	Approved by	Description of change
1.0	11/2016	Natashia	Employsure	
1.1	03/2020	Natashia	Employsure	Relationships at Work included Declaring conflicts register included
1.2	1/2023	Natashia	CEO	Formatting change
1.3	2/2024	Natashia	CEO	Review. Nil change.

Further to additional Policy Guidelines:

- Complaints and Feedback
- Documentation and Record Keeping
- Emergency Management
- Employment Roles and Responsibilities
- Fraud and Corruption
- Incident Reporting
- Infection Control
- Lines of Reporting
- Risk Management
- Training Performance and Development

# Duty of Care

## **POLICY STATEMENT:**

National is committed to maintaining and protecting the rights, dignity and interests of client/participants, whilst providing a high standard of quality care. This also extends to employees of National.

## **PURPOSE:**

There are ethical and legal obligations imposed upon both National and Employees concerning duty of care. The purpose of this policy is to ensure all parties are reminded of their obligations

## **SCOPE:**

This policy applies to all employees of National

## **POLICY:**

Duty of Care refers to the legal obligation to take responsible care to avoid injury to a client/participant whom, it can be reasonably foreseen, might be injured by an act or omission. A duty of care exists when someone's actions could reasonably be expected to affect other people. Failure to exercise care in that situation may lead to foreseeable injury and liability against the employee.

## **National and Employee are responsible for the following:**

- Conducting self responsibly by complying with all policies and procedures.
- All National employees have a duty and a responsibility to act in an inclusive and respectful manner towards all employees and client/participants this includes, people from different cultures, religious backgrounds, people whom are LGBTI+ and Aboriginal / Torres Strait islanders.
- All employees are to respect each other and client/participants legal right to human rights and act as an advocate to safeguard client/participants human rights.
- All employees are to ensure client/participants who are capable to make decisions regarding their health and wellbeing are supported and encouraged to make informed decisions, in their best interest and safeguard their wellbeing and safety.
- Inform National of any client/participant changes. This can include but is not limited to the following: The timeframe allocated for service is not substantial, the client/participant has incurred an injury or illness prior to your arrival or during the time-of-service delivery, medication mishaps, if the client/participant is out of character, if the client/participant or employees are at risk whether it be environmentally, physically, mentally.
- Always be mindful to involve the client/participant and significant others in the decision-making process and to document the action you decide to take, either in case notes or in the form of a report, if appropriate. You are accountable, as a professional worker, for the decisions that you make.
- Documentation is required for all care, to fulfil legal and professional practice requirements it is to be clear and accurate, stating the facts, the date and time, employee signature and designation. E.g. Jane Doe, AIN (or CSW – Community Support Worker/ DSW- Disability Support Worker / RN registered nurse / CC – Clinical Coordinator etc)

- Employees must understand documentation is a permanent record on the interaction between client/participant and carer, this aids in communication between client/participant and families, other service providers, case managers etc and that the employee can be held accountable in a court of law.
- Employees must understand the mandatory reporting requirements they required to adhere to.

#### **Relevant Legislation and References:**

Freedom of Information Act 1989	Discrimination Act 1991
Health Records (Privacy and Access) Act 1997	Fair Work Act 2009
Working with Vulnerable People Act 2011	Work Health & Safety Act 2011
Human Rights Act 2004	Disability Services Act 1991
Health Professionals Act 2004	Official Visitor Act 2012
Human Rights Commission Act 2005	Territory Records Act 2002
National Disability Insurance Scheme Act 2013	Information Privacy Act 2014

# Privacy & Confidentiality Policy

*(also see Documents and Record Keeping Policy)*

## **POLICY STATEMENT**

National is committed to providing quality; person centred health care in an environment that is respectful of the individual's right to privacy and confidentiality. National respects the privacy of employees and the privacy of patients.

## **SCOPE**

This policy applies to all employees of National and recipients of care.

## **POLICY**

National requires employees to sign a confidentiality clause as a condition of employment, to ensure understanding of and commitment to National's obligation to protect the rights of patients and National's own confidential information.

All client/participant service agreements hold a similar clause to ensure understanding of and commitment of the client/participants obligation to protect the rights of own and National's confidential information.

### ***Employee Responsibilities***

- National employees sign employment contracts acknowledging their legal obligation to upholding privacy and confidentiality at all times. This is extended beyond employment.
- Employees understand the legal consequences in event employee breaches privacy and confidentiality
- Employee will be required to attend an disciplinary meeting to discuss alleged breaches
- Employees are to report any instances where they feel a breach may be occurring by another employee.

### ***Participant Confidentiality***

National is committed to safeguarding the privacy and confidentiality of client/participant information. Employees are required to comply with their obligations under the [Health Records \(Privacy and Access\) Act 1997 \(ACT\)](#). (See *Privacy and Confidentiality Policy*)

This obligation includes:

- only obtaining information about patients and their health with the patient's consent
- keeping patient health information secure
- not disclosing patient information without the patient's consent
- allowing the patient to withdraw consent at any stage
- ensuring a process for working with the Office of the Privacy Commissioner to resolve any complaints that cannot be resolved directly with the patient.

National and all employees of National are bound by law, by this policy and by National Code of Conduct to maintain the privacy and confidentiality of patient information. Failure to comply with this policy could result in disciplinary action, up to and including termination. Relevant Legislation and Information. [Health Records \(Privacy and Access\) Act 1997 \(ACT\)](#). [National Privacy Principles](#)

Client/Participant information is only shared with approved client/participant consent across relevant parties which can include plan managers, POA, guardians, coordinators, allied health professions and/or in the event National are obliged by mandatory reporting requirements as outlined in this policy under “use & disclosure” and in addition, within the Mandatory Reporting Policy.

## ***Use and Disclosure***

National will not disclose personal information without the express consent of the employee’s and care recipients unless otherwise authorised by law. Personal information collected by National which is no longer required by National and which need not be retained by law will be destroyed.

Personal information will not be disclosed to another party except

- to those the person would reasonably expect the information to be disclosed to AND if a secondary purpose is related to the primary purpose of collection
- if the information is relevant to public health or public safety or for the compilation of statistics
- To those government or regulatory authorities and other organisations, as required or authorised by law including any reportable incident
- to health care settings such as primary responders (Ambulance personnel) and to local Hospitals, to facilitate treatment in such circumstances where personal and health information is required.
- Lastly, If reporting information is necessary to prevent or lessen a serious threat to an individual's life, health or safety, the NDIA will carefully consider the matter and proceed with the urgency required by the circumstances.

A serious threat to life, health or safety could arise when a person is subject to, or at risk of, harm, abuse, neglect or exploitation. Such threats could be physical or emotional, such that the person has suffered or is likely to suffer physical or psychological injury that jeopardises, or is detrimental to their wellbeing.

Whether a serious threat exists, and whether there are reasonable grounds to believe that the disclosure is necessary to prevent or lessen the threat to an individual's health, life or safety are questions of fact to be determined in the individual circumstances of each case. Careful consideration and judgement by National is required

## ***Data Quality***

National will take all reasonable steps to ensure that personal information it collects uses or discloses is accurate, complete and up to date.

## ***Data Security***

National will take all reasonable steps to ensure that the personal information it collects uses or discloses, from misuse, and loss and from unauthorised access, modification, or disclosure. This includes the implementation of a Cyber Security Policy and appropriate on-shore cyber storage. *(See Documents and Record Keeping Policy)*

National will take reasonable steps to destroy or de-identify personal information if it is no longer needed for any purpose. De-identified personal information is shredded and disposed of to safeguard confidentiality.

## ***Openness***

This policy document will be made available to all employees and care recipients on request.

National will take reasonable steps to disclose to any individual on request what personal information it holds, for what purposes and how it collects, holds and uses that information.

## ***Access and Correction***

National will provide employees and care recipients with access to their information on reasonable request and will provide opportunity to amend information that is not accurate or correct. This includes any participant transitions between service providers to ensure a smooth and successful transition for the participant and providers involved.