

<b>No. Version.</b>	P.006.1.H	<b>Effective Date</b>	2 January 2021
<b>Drafted By</b>	J Wong	<b>Review Date</b>	2 January 2022

## Policy Summary

HenderCare is committed to the importance of safeguarding the right to privacy and confidentiality. This policy is in line with the Privacy Act 1988 (cth) and regulates how HenderCare must manage personal information and provides a right for individuals to apply for access and amendment of their personal information. HenderCare is subject to the NDIS Quality & Safeguards Commission and is required to comply with the Privacy Principles outlined in the Act, in the Australian Privacy Principles (APPs). These privacy principles include rules about the collection, use, quality, security and disclosure of personal information. They also provide conditions under which personal information may be transferred outside of Australia and rules regarding contracted service providers.

## Purpose

HenderCare has a responsibility to manage and ensure that information collected about service recipients and staff remains private and is only used for the purpose that it is collected. The purpose of this policy is to ensure staff and service recipients are aware of the type of personal information HenderCare holds and for what purposes, as well as how HenderCare collects, holds, uses and discloses personal information.

## Scope

This policy is the responsibility of all employees of HenderCare (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of HenderCare (for example contractors, subcontractors, agents, consultants, and temporary staff) working with HenderCare service recipients. Compliance with this policy is a condition of employment for all HenderCare staff.

## Definitions

Term	Definition
CEO	Chief Executive Officer
COO	Chief Operating Officer
Privacy Officer	<ul style="list-style-type: none"> <li>■ To act as a first point of contact/liaison with IPC for all matters related to privacy and personal information.</li> <li>■ To act as first point of contact for members of the public for all matters related to privacy and personal information.</li> </ul>
Personal Information	<ul style="list-style-type: none"> <li>■ Personal information is any information or an opinion (whether true or not) about you, as defined in the Act. It may range from private (e.g. medical history or condition) to the everyday (e.g. address and phone number).</li> </ul>
Health Information	<ul style="list-style-type: none"> <li>■ Information or an opinion about:                     <ul style="list-style-type: none"> <li>• The health or a disability (at any time) of an individual;</li> <li>• The health service provided or to be provided to an individual; or</li> <li>• Other personal information collected to provide, or in providing a health service.</li> </ul> </li> </ul>
Sensitive Information	<ul style="list-style-type: none"> <li>■ The Privacy Act distinguishes health information (i.e. details or assessment of mental health problems) and sensitive information (i.e. such as discussions</li> </ul>

	<p>about sexual orientation or disclosure of criminal records) as being types of personal information that require particular consideration and protection.</p> <ul style="list-style-type: none"> <li>■ Sensitive information can include:                     <ul style="list-style-type: none"> <li>• racial or ethnic origin;</li> <li>• political opinions;</li> <li>• membership of a political association;</li> <li>• religious beliefs or affiliations;</li> <li>• membership of trade union;</li> <li>• sexual preferences or practices;</li> <li>• criminal records;</li> <li>• health information about an individual; or</li> <li>• genetic information about an individual that is not health information.</li> </ul> </li> </ul>
Implied Consent	<ul style="list-style-type: none"> <li>■ Implied Consent is:                     <ul style="list-style-type: none"> <li>• demonstrated in the actions of a person;</li> <li>• assumed because it would be reasonable to expect that the client would have consented if he/she had been asked in advance; or</li> <li>• where the client's action may clearly indicate their wishes.</li> </ul> </li> </ul>
Verbal Consent	<ul style="list-style-type: none"> <li>■ A client who clearly states their consent for a procedure. For example, saying "Yes you can take blood from me".</li> </ul>
Written Consent	<ul style="list-style-type: none"> <li>■ A signed and dated consent form.</li> </ul>
Informed Consent	<ul style="list-style-type: none"> <li>■ When a person is given full information on the item/treatment that is proposed, and they formally acknowledge their consent through verbal agreement and /or a signature.</li> </ul>
De-identified Consent	<ul style="list-style-type: none"> <li>■ A consent form where personal information has been actively removed.</li> </ul>
Hender Group	<ul style="list-style-type: none"> <li>■ HenderCare Foundation, Hender Consulting, Hender Contracting, Entrée Recruitment and Hender Careers.</li> </ul>

## Policy Statements

### 1. Confidentiality

- 1.1. HenderCare respects the rights of service recipients, volunteers and staff to privacy and confidentiality of their information, including responsible use of information collected during the delivery of client services. Privacy of personal information must therefore be considered in the collection, storage, access, use and disclosure of all client and staff records.
- 1.2. All service recipients are informed of their right to privacy and confidentiality during onboarding and the limitations of this right before receiving a service.
- 1.3. HenderCare confidentiality holds except in instances where maintaining confidentiality may lead to threat to life, health and safety for service recipient or other individuals, or where legal proceedings (if applicable) require HenderCare to disclose records, or where sharing of information is consented to in writing by the person or persons concerned.
- 1.4. HenderCare is governed by Fair Work Act when it comes to maintaining privacy for staff and volunteers. A personnel file and payroll records will be created for each employee. Staff personnel and payroll records are considered confidential and can only be accessed by persons authorised by the Chief Executive Officer.

### 2. Service Recipient Personal Information Collection

- 2.1. HenderCare collects personal information that is necessary for our functions and activities. Generally, we try to collect personal information directly from service recipients. However, there are certain situations in which we may collect personal information from someone else.
- 2.2. In either case, we are obliged to take reasonable steps to ensure that service recipients are aware of the purposes for which the information is collected. In certain circumstances we have collected sensitive information such as health information. We will only collect this information when it is provided voluntarily, we have consent to collecting it or as otherwise authorised by law.
- 2.3. HenderCare staff are responsible for collecting informed consent from service recipients consent to store personal information without unfair pressure or influence from others.
- 2.4. The Service Agreement signed with service recipients collects consent for/understanding of sharing information under the Privacy Act 1988 with:
  - Local doctor and / or treating specialist
  - Other health care agencies
  - Stakeholders
  - HenderCare coordinators and field workers
  - Using de-identified information for quality monitoring, reporting and evaluation purposes
  - Personal images / experiences used in HenderCare material
- 2.5. Personal information may be disclosed to the following:
  - Other divisions of Hender Group
  - Our insurers
  - A worker's compensation body
  - A parent, guardian, holder or an enduring power of attorney (or like authority) or next of kin whom we may contact in any case in which consent is required or notification is to be given and where it is not practicable to obtain it from or give it directly to you
  - Government departments
  - A funding body
  - Any person with a lawful entitlement to obtain the information

### **3. Service Recipient Personal Information Use and Disclosure**

- 3.1. Service recipient personal information is shared with HenderCare staff, contractors and volunteers to allow for appropriate service delivery to occur in line with the service agreement.
- 3.2. HenderCare may use and disclose service recipient personal information in circumstances where we have a signed Consent to Exchange Information Form, service recipient verbal consent, service recipient implied consent or we are otherwise authorised by law. The reasons for this may include the following:
  - Formulating a treatment plan to address substance abuse
  - Providing counselling
  - Arranging a referral to another treatment service, medical practitioner, psychiatric or psychological service or community service organisation
  - Keeping family members or guardians informed of your welfare
  - Purpose relating to any third-party acquisition of an interest in us or our assets; or
  - Any other purposes outlined at the time you provided the information.
- 3.3. Who may your personal information be disclosed to:
  - A potential and actual end users and service recipients of HenderCare

- Other divisions of the Hender Group
- Our insurers
- A professional association or registration body that has a proper interest in the disclosure of your personal information
- Health service providers where appropriate to your healthcare
- Other external agencies such as corrections officers, solicitors or financial counsellors
- Our contractors and supplies – e.g. our archival, auditing, accounting, legal, banking, website, information technology services, contractors, database designers, payroll, superannuation, insurance and WorkCover providers
- A parent, guardian, holder or an enduring power of attorney (or like authority) or next of kin whom we may contact in any case in which consent is required or notification is to be given and where it is not practicable to obtain it from or give it directly to you
- Government departments
- Any person with a lawful entitlement to obtain the information.

#### **4. Staff Personal Information Collection**

- 4.1. Personal and sensitive information may be collected from you during the recruitment and selection process in that discussion and information will only flow between those parties involved in the selection process. The following principles may apply:
  - 4.1.1. Applicants applying for positions or expressing an interest to work for HenderCare will be treated with the utmost confidentiality.
  - 4.1.2. Applications for positions and selection documentation will be kept confidential
  - 4.1.3. Where appropriate applicants will be advised of how their application compared with other applications following the completion of the selection process.
  - 4.1.4. Applicants are advised that a police check is necessary before a work contract can be agreed to.
- 4.2. Personal and sensitive information may be collected from you when you or a third party submits any information in connection with your application to us for employment or in the course of your employment.
- 4.3. Staff personal information can include
  - the opinions of others about your work performance;
  - your work experience and qualifications;
  - aptitude test results;
  - other information obtained by us in connection with your possible work placements;
  - sensitive information (e.g. medical or criminal history);
  - credit information;
  - employee record information; and
  - tax file information.
- 4.4. Personal information may be collected in the following non-exhaustive circumstances:
  - You attend an interview with one of our staff or are interviewed by other means by one of our staff;
  - During telephone conversations with HenderCare (please note that some calls to and from HenderCare may be recorded for training, quality and verification purposes);
  - We receive any reference about you;
  - We receive results of inquiries that we might make of your former employers, work colleagues, professional associations or registration body;
  - We receive the results of any competency or medical test;

- We receive performance feedback (whether positive or negative);
  - We receive any complaint from or about you in the workplace or from service recipient;
  - We receive any information about a workplace accident or incident in which you are involved in;
  - We receive any information about any insurance investigation, litigation, registration or professional disciplinary matter, criminal matter, inquest or inquiry in which you are involved in;
  - We receive a response from a job advertisement either written, verbal or email;
  - We receive the outcomes of a psychological or medical assessment;
  - We receive the outcome from a Criminal History Record Check, Working with Children Check or any clearances which HenderCare directs you to obtain; or
  - When you provide us with any additional information about yourself including banking, taxation, superannuation or other information need to be employed by HenderCare.
- 4.5. If we reasonably believe that your being in or remaining in a position might present a risk to your health and safety or that of others for whose health and safety we are responsible for, we may collect relevant information that will allow us to manage that risk.
- 4.6. HenderCare does not collect or use personal information for the purpose of unlawful discrimination.

## **5. Staff Personal Information Use and Disclosure**

- 5.1. Personal information may be used in connection with:
- Your actual or possible work placement
  - Payment for work completed on a temporary/contract assignment
  - Your performance appraisals
  - Our assessment of your ongoing performance and prospects
  - Any test or assessment (including medical test and assessments)
  - Our identification of your training needs
  - Any workplace rehabilitation
  - Our management of any complain, investigation or inquiry in which you are involved in
  - Any insurance claim that we may give concerning your work
  - Our statutory compliance obligations.

## **6. Service Recipient and Staff Personal Information Access**

- 6.1. Service recipient and staff personal information will be collected by HenderCare for its own use and on behalf of any other division of the Hender Group that might require access to your personal information. Access by other divisions requires authorisation by the Chief Executive Officer.
- 6.2. Sensitive information will be collected by HenderCare for its own use and will not be shared with other members of the Hender Group.
- 6.3. Service recipient and staff personal information may be held by HenderCare at its office or storage facilities in Adelaide, Melbourne, Sydney and Perth. Some of your personal information may be held on portable devices such as mobile phones, laptops or in diaries operated and held by staff members.
- 6.4. Staff members who access service recipient information whilst working offsite or at home are required to obtain permission from their manager and fill in a Working from Home Agreement prior to doing so.

## **7. Release of Client and Staff Information**

- 7.1. A service recipient or staff may request to access their personal information by submitting the Consent to Release Information form to the manager of disability services. In certain situations, HenderCare may not be required by law to provide access to service recipient's personal information. In these cases, a service recipient will be asked for their consent through a Consent to Release Information form.
- 7.2. HenderCare understands that creating a trusting relationship with staff is integral to achieving a happy and productive workplace and will not distribute staff personal information unless required or authorised.
- 7.3. HenderCare will only confirm employment dates, position and salary when contacted by financial institutions that are already in possession of this information provided by an employee.
- 7.4. Access may be granted to a third party only where:
  - Written permission has been provided; or
  - There is legal requirement; or
  - An emergency exists.
- 7.5. Request for information under Freedom of Information Act need to be assessed individually on its own facts and in line with the access provisions of the Freedom of Information Act.

## **8. Breaches**

- 8.1. If a service recipient, staff, volunteer or anyone who has supplied personal information to HenderCare is concerned about the management of their personal information they should report this immediately.
- 8.2. The Privacy Officer will investigate the complaint and attempt to resolve the matter as quickly as possible through conciliation.
- 8.3. A breach of this policy will result in disciplinary action. Depending upon the severity of the case, consequences may include training, transfer, demotion, or other forms of disciplinary action deemed appropriate.

## **9. Legal requirements for personal information**

- 9.1. Some laws such as taxation law, immigration law, laws regulating employment agencies, laws relating to national securities, laws relating to professional or trade registration and laws for the protection of certain classes of people (such as children, people with a disability or the elderly) may require that we collect certain types of information (including criminal history and evidence of your right to work) from you that is relevant to the position(s) for which you may be applying.
- 9.2. There may be cases where our duties require us to obtain and disclose certain types of personal information relevant to specific jobs. When requesting information of this type from you we will endeavour to tell you whether the supply of that information by you is mandatory or voluntary.

## **Responsibilities**

Role	Responsibility
CEO	<ul style="list-style-type: none"> <li>■ Drive a culture that supports this policy.</li> <li>■ Report significant risks and incidents to the board.</li> </ul>
Executive Team	<ul style="list-style-type: none"> <li>■ Ensure this policy is consistently applied.</li> <li>■ Report significant risks and incidents to the Chief Executive.</li> </ul>
Managers	<ul style="list-style-type: none"> <li>■ Ensure awareness of this policy.</li> </ul>

	<ul style="list-style-type: none"> <li>■ Manage and take corrective and preventative action in relation to this policy.</li> <li>■ Provide guidance, identify risks and report breaches of this policy.</li> </ul>
HR	<ul style="list-style-type: none"> <li>■ Support managers and provide training as required.</li> </ul>
Legal	<ul style="list-style-type: none"> <li>■ To act as Privacy Officer for HenderCare.</li> <li>■ Investigate breaches.</li> </ul>
Quality	<ul style="list-style-type: none"> <li>■ Maintain this policy and related procedures.</li> <li>■ Responsible for ensuring HenderCare is compliant.</li> </ul>
All Staff	<ul style="list-style-type: none"> <li>■ Abide by this policy and related procedures.</li> <li>■ Seek clarification if unsure.</li> <li>■ Report any breach.</li> </ul>

## References

### 1. Internal Documents

- 1.1. P.014.1 HenderCare Service Recipient Handbook
- 1.2. P.017.1 HenderCare Team Member Handbook
- 1.3. P.109 Information Management Policy
- 1.4. P.115 Continuous Improvement Policy

### 2. Standards

- 2.1. [NDIS Practice Standards 2019](#)
- 2.2. ISO 9001:2015
- 2.3. Attendant Care Industry Standards 2013
- 2.4. Information Sharing Guidelines

### 3. Legislation

- 3.1. [Privacy Act 1988](#)
- 3.2. [Privacy Amendment \(Enhancing Privacy Protection\) Act 2012](#)
- 3.3. [Privacy Amendment \(Private Sector\) Act 2000](#)
- 3.4. [Freedom of Information Act 1991](#)
- 3.5. [Fair Work Act 2009](#)
- 3.6. [National Disability Insurance Scheme Act 2013](#)
- 3.7. [NDIS Quality and Safeguards Commission Rules](#)
- 3.8. [Aged Care Act 2019](#)
- 3.9. [Children and Young People \(Safety\) Act 2017](#)

## Approval



Amanda Blight



## Privacy and Confidentiality Policy

1300 764 433

[quality@hendercare.com.au](mailto:quality@hendercare.com.au)

Chief Executive Officer, HenderCare

2 January 2021

Vers.	Effective Date	Author	Comments	Next Review
A	1 July 2014		Confidentiality Policy	1 July 2015
B	1 July 2015		Confidentiality Policy	1 July 2016
C	1 July 2016		Confidentiality Policy	1 July 2017
D	1 July 2017		Confidentiality Policy	1 July 2018
E	21 Sept 2017		Confidentiality Policy	1 July 2018
F	June 2019		Privacy and Confidentiality Policy	July 2020
G	2 March 2020	D Chen	Privacy and Confidentiality Policy	2 March 2021
H	2 January 2021	J Wong	Privacy and Confidentiality Policy	2 January 2022