

Bethany Care Ltd

Privacy, & Confidentiality

Policy & Procedure 38

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Contents

1. Object & Field of Application.....	3
2. References	3
3. Definitions.....	3
4. Legislation	3
5. Purpose	3
6. Policy Statement: Our Commitment.....	4
Procedures	4
7. Data Collection.....	4
8. Data Usage.....	4
9. The Use of Advocates and Representatives.....	5
10. Data Disclosure.....	5
13. Data Amendment.....	6
14. Information Sources.....	7
15. Storage & Security.....	7
16. Disposal.....	7
17. Complaints.....	8
18. How to Access the Information Held by Disability Services	8
19. Mandatory Reporting Requirements	8
20. Other related policies and documents.....	9
Appendix 1: Information Access Flowchart – Client.....	10
Appendix 2: Information Access Flowchart – Advocate / Representative.....	11

1. Object & Field of Application

1.1 This policy guides how Bethany protects the privacy of its clients.

2. References

2.1 The 11 Information Privacy Principles (IPPS) (Information Privacy Act 2009 obligations of contracted service providers)

2.2 Australian Government – Department of Family & Community Services

2.3 Australian Government – ACT Territory Privacy Principles Privacy Fact Sheet 42 (Sept 2014) - The Territory Privacy Principles (TPPs)

2.4 Privacy fact sheet 17: Australian Privacy Principles

3. Definitions

3.1 **Personal Information** - Information from which your identity is apparent or can be reasonably ascertained.

3.2 **Confidentiality** - The ethical principle that Bethany will discreetly hold all information relating to a client, unless the client gives consent permitting disclosure.

3.3 **Privacy** – the right to be free of unsanctioned intrusion

3.4 **Dignity** - the quality of being worthy of esteem or respect

4. Legislation

4.1 Information Privacy Act 2009

4.2 Right to Information Act 2009 (Qld)

4.3 Qld Disability Services Act (2006)

4.4 Privacy Act 1988

5. Purpose

5.1 To provide an effective and high-quality service and to maintain appropriate accountability, Bethany must collect, store and sometimes share relevant personal information about our clients. It is important that we are consistent and careful in the way we manage what is written and said about a client and how we decide who can see or hear this information.

5.2 Our clients have legislated rights to privacy. It is essential that we protect and uphold these rights, and also that we act correctly in those circumstances where the right to privacy may be overridden by other considerations.

5.3 To uphold the rights of clients to privacy, each staff and management member needs an appropriate level of understanding about how we meet our legal obligations.

6. Policy Statement: Our Commitment

6.1 Bethany Care is committed to protecting and upholding the rights of our clients to privacy in the way we collect, store and use information about them, their needs and the services we provide to them. We want our clients to have confidence that we take these responsibilities seriously.

6.2 Specifically, we will:

1. Bethany will only collect information relevant to our business functions,
2. take reasonable steps to ensure information is accurate, complete and up to date,
3. help clients engage the services of advocates to help you access their information,
4. not disclose client information to third parties without prior client or advocate consent, unless required by law
5. Support its client's rights to amend the data held about them if they feel it is incorrect.
6. Take all reasonable steps to protect the security of the personal information from, loss, unauthorized access, use, modification or disclosure; and any other misuse
7. Take all reasonable steps to dispose of client information when appropriate
8. Support your right to complain if you are unhappy with how your private information is being handled

Procedures

7. Data Collection

7.1 Bethany will only collect information relevant to its business functions. It will not collect irrelevant, or more information than is necessary.

7.2 Personal address details are recorded to keep in contact with clients and their advocates. Name and address details will not be disclosed to third parties without the client's prior consent, unless required by law.

7.3 Bethany is aware that there are limitations to the collection of certain types of personal information (such as tax file numbers)

7.4 If we ask for any other personal information we will tell the client how Bethany will intend to use it. If at any time the client believes we have not adhered to the principles referred to in this policy, or has any other comments on these principles, the client is encouraged to contact us for an explanation.

7.5 Bethany collects personal client data from various forms and assessment sheets. Data may also be recorded from telephone calls, face to face conversations and staff observations. Information will only be collected from lawful and fair means. Bethany will not use trickery, deception or misleading conduct to obtain any data.

7.6 Information regarding (1) the nature and relative severity of disabilities, and (2) future vision and goals (3) religious, cultural, and linguistic information (4) social skills (5) safety issues may also be recorded.

8. Data Usage

8.1 Before Bethany uses personal information, it will take reasonable steps to ensure that the information is accurate, complete and up to date.

8.2 When Bethany proposes to use a document containing personal information for a particular purpose, it will only use those parts of the personal information which are directly relevant to fulfilling that particular purpose.

8.3 Bethany collects information for the purposes of identifying the needs and expectations of its clients and directly related business functions and activities.

- 8.4 This helps Bethany assess the health and well-being of clients, and to be responsive to unique needs, initiate appropriate referrals, and for funding and statistical purposes.
- 8.5 Information such as the nature and relative severity of disabilities is sought to ascertain how best we can tailor our services to provide appropriate care.
- 8.6 Future vision and goals data is collected and used to appraise clients' progress while using Bethany services.
- 8.7 Bethany will not use personal information for a purpose other than that for which it was obtained. However, alternative use is permitted in circumstances where:
- the secondary purpose is directly related to the primary purpose
 - the individual has expressly or impliedly agreed to the use for the secondary purpose
 - the use is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare
 - the use is authorised or required under law
 - the use is necessary for law enforcement purposes; or
 - the use is necessary for research or statistical purposes.
- 8.8 The Bethany Care contact list, including personal phone numbers and email addresses is provided to all staff to facilitate the support of our clients and for communication within Bethany Care. It is not to be used for any other purpose.
- 8.9 The personal details of staff members are not to be shared with third parties without consent.

9. The Use of Advocates and Representatives

- 9.1 Bethany Care will assist clients and their families to engage the services of advocates if required and to liaise with the chosen representative.
- 9.2 Representatives / Advocates must provide documentary evidence of their identity (for example, a certified copy of a driver's license or birth certificate). This should accompany the "Information Request Amendment Form" - Z:\Admin Office\Quality Assurance\PART 1 - HSQF\Standard 4 - Safety, well being & rights\Information Request Amendment Form.doc

10. Data Disclosure

- 10.1 Bethany supports the right of clients to see what personal information, including health information, is held about them. Generally, clients and advocates can gain access of the personal information held by Bethany upon request.
- 10.2 The collected information is shared with staff members of the Bethany team on a 'need to know' basis.
- 10.3 Collected information will not be disclosed to third parties without prior client or advocate consent, unless required by law.
- 10.4 Requests to access to personal information must be made in writing and directed to the Bethany Office using the "Information Request Amendment Form" - Z:\Admin Office\Quality Assurance\PART 1 - HSQF\Standard 4 - Safety, well being & rights\Information Request Amendment Form.doc
- 10.5 Representatives / Advocates - Documentary evidence of identity should be supplied with requests (for example, a copy of a driver's license or birth certificate).
- 10.6 An acknowledgement of the request is to be forwarded within 14 days of receipt of the "Information Request Amendment Form" - Z:\Admin Office\Quality Assurance\PART 1 - HSQF\Standard 4 - Safety, well being & rights\Information Request Amendment Form.doc.
- 10.7 If requested information is cleared for access, the information will be provided within 30 days.

11. Information Will Not Be Disclosed Where:

- 11.1 The release of such information would pose a threat to life or health of any individual
- 11.2 Bethany reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety
- 11.3 giving access would have an unreasonable impact on the privacy of other individuals
- 11.4 the request for access is frivolous or vexatious
- 11.5 the information relates to existing or anticipated legal proceedings between Bethany Care and the individual, and would not be accessible by the process of discovery in those proceedings
- 11.6 giving access would reveal the intentions of Bethany Care in relation to negotiations with the individual in such a way as to prejudice those negotiations
- 11.7 giving access would be unlawful

12. Information Disclosure to Third Parties

- 12.1 Bethany will ensure that if it is necessary to disclose a document to a third party, we will take all reasonable steps to prevent unauthorised use or disclosure by that third party.
- 12.2 Bethany will not disclose personal information to a third party, unless:
 - the disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or to public health, safety or welfare e.g. where clients have been involved in accidents or other hazardous situations, and have been rendered incapable of giving or communicating consent. In these cases, Bethany Care will disclose client information provided it is necessary for the provision of care and treatment.
 - the disclosure is authorised or required under law e.g. , for example, the reporting of assault, abuse, neglect, or where court or tribunal orders are issued.
 - the disclosure is necessary for law enforcement purposes; or
 - the disclosure is necessary for research or statistical purposes
- 12.3 The information disclosed will be limited to content deemed reasonable and necessary, by the Service Manager. In these cases Bethany's "duty of care" towards clients takes precedence over information disclosure protocols.

13. Data Amendment

- 13.1 Bethany will take all reasonable steps to assure the quality and accuracy of personal information prior to using it. However, there may be some situations where clients and advocates may wish to amend the data held about them if they feel it is incorrect.
- 13.2 The formal administrative method for amending data using the "Information Request Amendment Form" - Z:\Admin Office\Quality Assurance\PART 1 - HSQF\Standard 4 - Safety, well being & rights\Information Request Amendment Form.doc
- 13.3 This form will capture (1) why the information is to be amended and (2) a description of the information to be amended.

14. Information Sources

- 14.1 Bethany will collect personal information directly from the client, carer, guardian, or advocate, wherever reasonable and practicable to do so, in a lawful, fair, and least intrusive manner. In some cases Bethany may receive personal information from service providers who have provided, or are providing services, with client/carer consent.
- 14.2 Bethany may collect information without consent when the collection is necessary to provide a health service, or as required by law, for example notifiable diseases.
- 14.3 Additionally, in situations where there may be a serious and imminent threat to the life or health of any person, staff members can collect the information necessary to lessen or remove the threat, without consent, where a person is unable to provide or communicate their consent. E.g. the person is unconscious, confused, distressed, or experiencing an acute psychiatric emergency.

15. Storage & Security

- 15.1 Bethany will take all reasonable steps to protect the security of the personal information from:
 - a. Loss
 - b. unauthorised access, use, modification or disclosure; and
 - c. any other misuse
- 15.2 The level of storage and security at Bethany will depend upon the nature of the personal information in the document and the risk of a security breach occurring, for example, if a document contains extremely sensitive information, such as health or criminal records, Bethany will take maximum care in protecting the information.
- 15.3 If it is necessary for Bethany to disclose a document to a third party, all reasonable steps will be taken to prevent unauthorised use or disclosure by that third party.
- 15.4 This includes appropriate measures to protect electronic materials and materials stored and generated in hard copy.
- 15.5 Client sensitive information and files should be stored away in locked cabinets, no files left on desks.
- 15.6 The Bethany office should be securely locked whenever the area is vacant, to prevent unauthorised access to sensitive documents.
- 15.7 Client sensitive data stored in Bethany computers or in the cloud must be password protected.
- 15.8 The use of portable or external hard drives to store client information is to be avoided due to the high associated security risks. Client information should be transferred to fixed desktop hard drives or secure cloud based data storage appropriately.
- 15.9 To prevent critical information being lost or destroyed in a fire or other incident, Bethany data is backed up at least once a month and kept offsite.

16. Disposal

- 16.1 Documents or personnel files pertaining to both internal and external clients (i.e. clients and / or staff) are kept as “active” for the duration of the client’s ‘active’ involvement with the organization.
- 16.2 Archived documentation and material (e.g. inactive and outdated client files, surplus file notes, cheque books, wages information) will be stored at Hope Cottage in the padlock secured storage shed. Items will be kept in securely fastened protective plastic boxes and stored for a minimum period of 7 years.
- 16.3 The archived files of residents in supported accommodation will be located in securely locked rooms at those particular residences.
- 16.4 After 7 seven years, Bethany will take reasonable steps to destroy the information or to ensure that information is de-identified.

17. Complaints

17.1 If there is a complaint about our privacy practices it will be handled in accordance with the “Bethany Complaints and Disputes Procedure” - Policy 9.

18. How to Access the Information Held by Disability Services

- 18.1 The Right to Information Act 2009 (the RTI Act) and the Information Privacy Act 2009 (the IP Act) give a right of access to information held by government, unless, on balance it would be contrary to the public interest to release the information.
- 18.2 Before making a formal application, clients should contact the relevant agency (<https://www.qld.gov.au/about/how-government-works/government-structure/>) as information may be already available online, for purchase or by request. Queensland Government agencies release information administratively and proactively wherever possible.
- 18.3 If clients wish to make a formal application, they can apply here, <https://www.smartservice.qld.gov.au/services/information-requests/home.action> for access under the RTI Act or IP Act to information held by Queensland Government departments and Ministers.
- 18.4 Alternatively, clients can contact the Department directly on 5658 5000, download the relevant application form, or request it via post PO Box 8338 GCMC 9726, fax, email or in person. If possible Bethany will try to provide computer access for this purpose, if the client lacks sufficient computer skills or facilities.
- 18.5 It would help if clients provide as much information as possible about the information they are seeking. If the title, subject matter, agency reference number, type of document or the date it was produced are known, these details should be specified in the application.

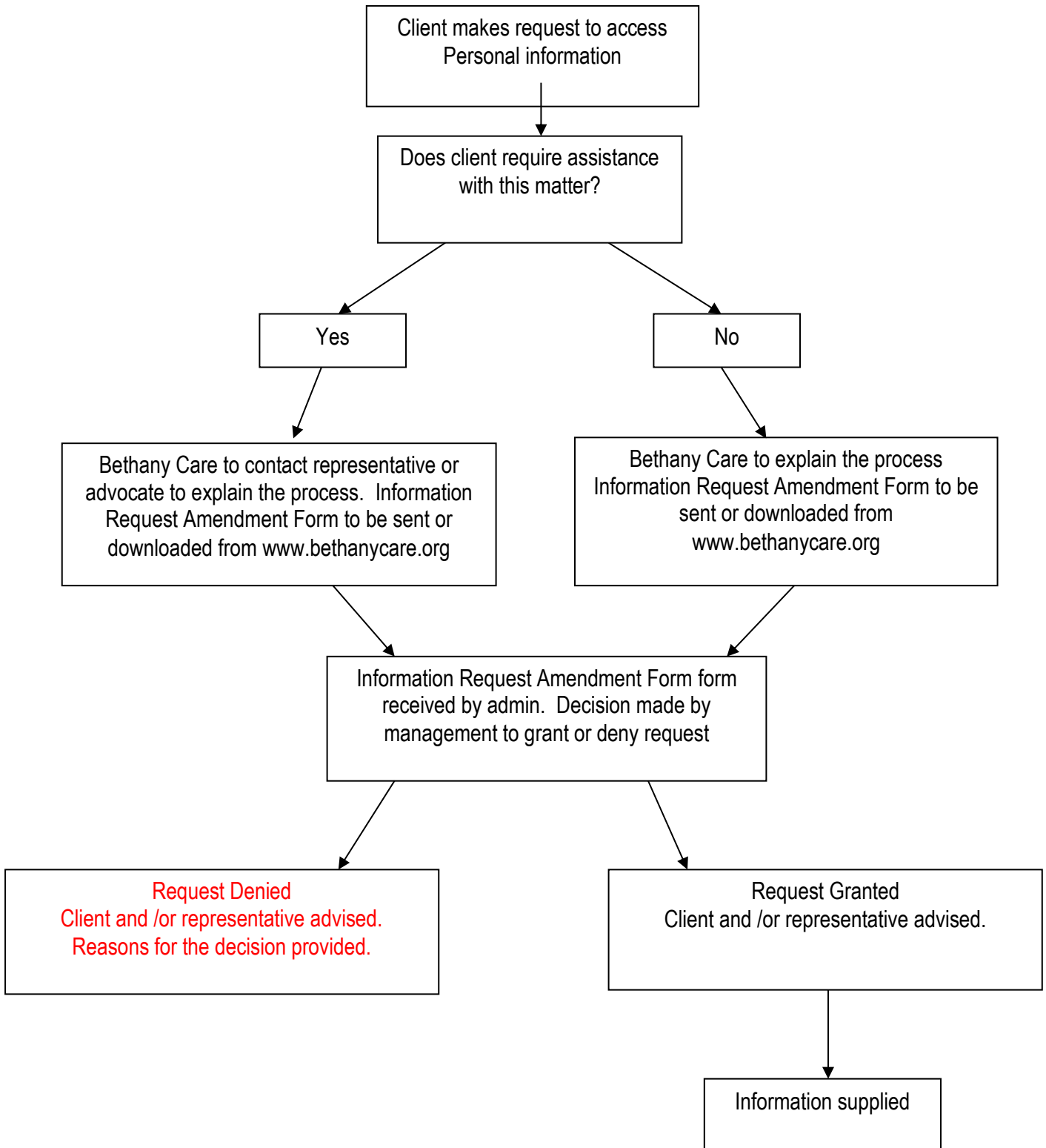
19. Mandatory Reporting Requirements

- 19.1. From 22 February 2018, there is mandatory reporting of ‘eligible data breaches’ via the Notifiable Data Breaches scheme.
- 19.2. **Bethany Care is required to report all eligible data breaches as follows:**
- Where there has been unauthorised access to or disclosure of personal information, or a loss of personal information that Bethany holds.
 - Where the unauthorised access or disclosure is likely to result in serious harm to one or more individuals, and
 - Where Bethany has not been able to prevent the likely risk of serious harm with remedial action.
- 19.1. Bethany will assess any potential eligible data breaches by the Management team as soon as practicable.
- 19.2. **Actions following an eligible data breach has taken place;**
- The incident will be notified to the Office of the Information Commissioner Queensland (telephone: (07) 3234 7373, email: enquiries@oic.qld.gov.au), and
 - The incident will be notified to any individuals potentially impacted by the breach.
- 19.3. The obvious aim is to prevent any privacy breaches and to ensure that Bethany’s personal and confidential information and that of our clients is completely secure.
- 19.4. **Staff Responsibilities:** If any Staff members become aware of any potential breaches, it is essential that they contact the Service Manager immediately so the situation can be assessed and proper reporting takes place. All formal reporting in this area should use current RIF documentation. Bethany will work with staff to evaluate what has occurred and agree on any steps required to resolve issues where relevant.
- 19.5. **Penalties for non-compliance:** Fines for breaches of the Act can be significant. Failure to comply with the requirement to notify will be deemed to be a serious interference with the privacy of an individual for the purposes of section 13G of the Privacy Act. The penalties for seriously interfering with the privacy of an individual are fines:
- Up to \$420,000 for an individual
 - Up to \$2.1 million for a body corporate

20. Other related policies and documents

- Document Review POP
- Information Management POP
- Quality Assurance POP

Appendix 1: Information Access Flowchart – Client



Appendix 2: Information Access Flowchart – Advocate / Representative

