



## **PRIVACY AND CONFIDENTIALITY POLICY**

### **Policy Statement**

Tiny Tackers Therapy acknowledges and respects the privacy and confidentiality of every individual and is committed to complying with all applicable privacy provisions.

Tiny Tackers Therapy provides services in accordance with:

- Tiny Tackers Therapy Employees Code of Conduct (includes volunteers and students on placement)
- The Information Privacy Act 2010
- Australian Privacy Principles (2014)
- Privacy and Data Protection Act 2014
- Victorian Health Records Act 2001
- Freedom of Information Act 1982
- Fair Work Act 2009
- Occupational Health & Safety Act 2004
- NDIS Act 2013

and, where applicable:

- The Disability Act (2006)
- Department of Human Services Standards
- National Standards for Disability Services
- Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) privacy requirements
- Department of Social Services requirements
- Child Safe Standards (Victoria)
- NDIS Operational Guideline – Information Handling – Collecting, Accessing and Recording Protected Information (Dec 2013)

### **Scope & Purpose**

The purpose of this policy is to protect personal, sensitive and health information of Tiny Tackers Therapy service users, families and friends, employees, potential employees, volunteers, students and the community, whilst ensuring the delivery of a quality service.

The policy outlines the following information:

1. The kinds of personal information that Tiny Tackers Therapy collects and holds
2. How Tiny Tackers Therapy collects and holds personal information
3. The purpose for which Tiny Tackers Therapy collects, holds uses and discloses personal information
4. How an individual may access personal information about the individual that is held by Tiny Tackers Therapy and seek correction of such information
5. How an individual may complain about a breach of the Australian Privacy Principles, or registered APP code (if any), that binds Tiny Tackers Therapy and how Tiny Tackers Therapy deals with enquiries or complaints from individuals about Tiny Tackers Therapy compliance with the Australian Privacy Principles.
6. Whether Tiny Tackers Therapy is likely to disclose personal information to overseas recipients.

Tiny Tackers Therapy will collect only information that is reasonably necessary for one or more of its functions/activities or services/programs or if this is required by Australian law or a court/tribunal order.

Tiny Tackers Therapy Privacy and Confidentiality policy is available on the Tiny Tackers Therapy website and in hard copy format on request from any therapist. A privacy and confidentiality clause are included in all service agreements signed by clients/participants.

### **Definitions**

**Individual:** Tiny Tackers Therapy service users, families and friends, employees, potential employees, volunteers, students and the community.

**Employee Records consists of Personal Information** contained in any records, documents, files and reports that relate to a Tiny Tackers Therapy **employee, potential employee, volunteer or student, such as:**

- Personal and emergency contacts and next of kin details.
- Financial affairs, superannuation details, taxation and banking information.
- Hours of work, salary and wages.
- Training, development and performance records.
- Disciplining, resignation or termination.
- Contracts, agreements, terms and conditions of employment.
- Correspondence.
- Photographs.
- Computer files and email.

Records/files can take many forms besides those often considered as formal.

For example, diary entries, a verbal recollection, comments and notes made in communication books or meeting minutes can all be classified as records.

**Employee Sensitive and Health Information** consists of any records, documents, files and reports that relate to a Tiny Tackers Therapy **employee, potential employee, volunteer or student, such as:**

- Racial or ethnic origin.
- Political opinions or membership of a political association.
- Membership of a professional or trade association or trade union.
- Religious or philosophical beliefs or affiliations.
- Sexual preferences or practices.
- Criminal records and information, note that these documents may be destroyed, following assessment, in accordance with the relevant Program Funding Body requirements.
- Information regarding their health or disability.
- Their expressed wishes about their future provisions of health services.
- A health service provided, or to be provided or information provided about health services.

Any of the above information may be recorded in Medical Certificates, Workcover Documents, Professional Development and Support Session notes, Education Background Information or Resume Affiliations and must be protected under the Victorian Health Records Act 2001.

**Service user records** consist of all documents, files and reports that relate to a Tiny Tackers Therapy service user. This includes:

- Personal and emergency contacts and next of kin details.
- Racial or ethnic origin
- Religious or philosophical beliefs
- Case notes
- Video recordings
- Computer files and e-mail
- Photographs

- Financial details
- Health Care Plans and other health information
- Behaviour and Active Support Plans
- Incident reports
- And other written records

All service user records must be protected under the Victorian Health Records Act 2001 and record management is consistent with the Public Records Act 1973. For details regarding Tiny Tackers Therapy's record management see Appendix 4 '*Records Management*'.

### **Responsibilities**

Even though records and files may be created about an individual associated with Tiny Tackers Therapy, such as a service user, employee, volunteer or student etc., their records and the company legally own files. Tiny Tackers Therapy recognises that, with this ownership, comes responsibility for the handling, treatment and access entitlements of the information.

Tiny Tackers Therapy acknowledges its responsibilities in protecting any personal information it has collected and, or has in its keeping, from misuse, modification, loss or unauthorised access and will take all reasonable steps to do so. At such time that files, records or information are no longer required, Tiny Tackers Therapy take all reasonable steps to destroy or de-identify them.

Employees are required to sign-off that they will read and abide by this policy.

When employees, volunteers and students support service users with their personal care needs they will protect their dignity. Employees, volunteers and students must respect the confidentiality of service users at all times. Service user files and any information relating to service users, must be stored in a lockable cabinet at all times and must not be removed from the workplace, where it is stored, without authorisation from Julia Wishart. When service user files have been authorised for removal from the workplace, they should be de-identified if at all possible and kept in the locked boot of a vehicle, whenever possible.

Employees, volunteers and students must not access/view service user files of family members (incl. children, parents or siblings), e.g. protected participants (NDIS definition) as there needs to be a separation between service delivery and the family.

The last employee to leave the service area each day must lock filing cabinets.

Tiny Tackers Therapy volunteers and placement students are also required to comply with Tiny Tackers Therapy Privacy and Confidentiality Policy. They receive this information and discuss its relevance to their role during their induction. Julia Wishart is responsible for ensuring that employees, volunteers, students and service users who have exited their programs have their records and files archived and stored in a lockable location.

Employees leaving Tiny Tackers Therapy are responsible for complying with the Privacy Act and Australian Privacy Principles for deleting; disposing off or returning any service user information and records they may have in their possession. This includes their photos or information in their personal mobile phones, computers etc. They are also responsible for returning anything that may belong to Tiny Tackers Therapy, such as keys, I.D. Photos etc.

### **Procedures**

Tiny Tackers Therapy will only collect personal information by lawful and fair means.

#### **1. Service user information**

### Collection of Service user Information

Tiny Tackers Therapy collects service user information only where it is necessary for:

- the delivery of effective and efficient service provision to the service user (and his/her family where applicable).
- the mandatory data requirements required by the funding body.

Information will be collected in accordance with service policy and procedures documents and will only be used for the primary purpose intended. If Tiny Tackers Therapy wishes to use or disclose the information for another purpose (secondary purpose) the individual needs to give consent for this.

Tiny Tackers Therapy will request information from the service user or, with the knowledge of the service user, from their authorised representative. Service user consent will be obtained and documented prior to another source being contacted for relevant information.

Tiny Tackers Therapy will ensure that records can be accessed not only for administrative and service user management purposes but also as required under applicable legislation such as the Information Privacy Act 2000, the Health Records Act 2001 and the Freedom of Information Act 1982.

### Access to Service user Information

Therapy service users are provided with copies of assessments and reports produced by employees. Requests to view a service user's individual file are to be made through the Director. If the director does not approve the release of information, the reasons for this will be provided to the person requesting information and the service user and/or family/advocate/carer have the right to use the agency grievance procedure to have the decision reviewed.

If an NDIA delegate (i.e. an NDIA employee) requires a Tiny Tackers Therapy employee / the organisation to provide information under section 55 of the NDIS Act, the delegate must issue a written notice which specifies:

- The nature of the information or document that is required to be given or produced
- How the person is to give the information or produce the document
- The period within which the person is to give the information or produce the document to the NDIA
- The officer to whom the information is to be given or the document is to be produced, and
- That the notice is given under s.55 of the NDIS Act.

The period specified in the notice must be at least 14 days beginning on the day on which the notice is given. The notice may require the person to give the information by appearing before a specified officer to answer questions. If the notice requires the person to appear before an officer, the notice must specify a time and place at which the person is to appear. The time must be at least 14 days after the notice is given (see NDIS Operational Guideline – Information Handling – Collecting, Accessing and Recording Protected Information (Dec 2013)).

### Obtaining Consent to access service user, employee, and student and volunteer Files and Records for an Audit Process

Tiny Tackers Therapy will ensure all service users; employees, students and volunteers are informed of forthcoming audits. If an individual does not want their files accessed during an audit process they can inform Julia Wishart verbally or in writing. It is Julia Wishart's responsibility to ensure that 'non-consent to access files' is attached to the individual's files.

### Limits on the Disclosure of Service user Information

Service users or their family requiring access to their own personal information on file or in storage, must contact Julia Wishart to make access arrangements. Tiny Tackers Therapy may impose a charge upon the individual to cover the cost of verifying a request for information and locating, retrieving and reviewing any material requested.

All requests will be responded to within 30 days of receipt. Tiny Tackers Therapy may request Photo Identification prior to access.

If service user information is required to be collected from other parties, Tiny Tackers Therapy will act to ensure the service user, and or family, is, or has been, made aware of the requirement to do so, and their written consent or documented verbal consent is obtained prior to releasing any information.

Tiny Tackers Therapy is not permitted to release:

- Medical letters, as these are the property of the treating doctor, or
- Incident Reports as these are a reporting requirement to DHHS and access must occur through the Freedom of Information Act.

Principles governing the use and disclosure of health information are set out in the Privacy Act under National Privacy Principle 2 which states that an organisation must not use or disclose personal information about an individual for a purpose other than the primary purpose of collection except for a number of situations, including where an organisation reasonably believes that the use or disclosure is necessary to lessen or prevent a serious and imminent threat to an individual's life, health or safety, or a serious threat to public health or public safety.

In short Tiny Tackers Therapy staff must not disclose a person's health information e.g. Hep B and C status or HIV status without consent as universal infection control precautions should provide protection for staff. An exception may occur in a very limited number of circumstances such as: - cases of needle-stick injury where a professional is aware of a patient's HIV positive status and a health care worker has been exposed in circumstances where there is a real risk of transmission and it is not possible to conceal the identity of the source patient who has refused to consent to disclosure, - provision of medical services in a particular instance of care where there is a need to know the infection status for treatment purposes of benefit to the patient (e.g. in an emergency or if the patient is unconscious). This should not, however, detract from the observance of standard infection-control precautions.

#### Service use Publicity Participation

If service users are participating in any promotional material or included in any media releases of whatever form, permission must be obtained in writing from the service user or parents of the service user concerned. Julia Wishart must also approve the use of service users in such publicity.

## **2. Employee, volunteer and student information**

### Recruitment

Information provided by candidates in recruitment and selection is voluntary.

However, if some of the requested information, such as information required to obtain a Criminal Check, is not provided, Tiny Tackers Therapy may not be able to assess an application for employment. At present Tiny Tackers Therapy does not recruit employees.

### Obtaining Consent to Access Employee, Volunteer and Student Files Information for an Audit Process

Tiny Tackers Therapy will ensure all employees; volunteers and students are informed of forthcoming audits. Employees, Volunteers and students who do not want their information accessed during an audit process can record this with the HR Manager to be entered into a "non-consent to access files" database. The HR Manager will ensure the non-consent is in the persons file.

### Limits on the Disclosure of Employee, Volunteer or Student Personal Information

If personal information is required to be collected from other parties, Tiny Tackers Therapy will act to ensure the employee, volunteer or student is, or has been, made aware of the requirement to do so.

Employees, volunteers or students requiring access to their own personal information, must contact Julia Wishart to make access arrangements. Tiny Tackers Therapy may impose a charge upon the individual to cover the cost of verifying a request for information and locating, retrieving and reviewing any material requested. All

requests will be responded to within 30 days of receipt. Tiny Tackers Therapy will not provide copies of personal information once collected. Access will be granted by viewing the information on the premises of Tiny Tackers Therapy. The personal Information may not be removed from the premises. Tiny Tackers Therapy may request Photo Identification prior to access.

#### Tiny Tackers Therapy Employee Records kept by other Groups

Permission must be obtained, in writing, if employees, volunteers or students are to be used in any promotional material or included in any media releases of any form.

Under no circumstances are Tiny Tackers Therapy Employees, Volunteers or Students to make comment to the media in relation to Tiny Tackers Therapy, service users or programs without prior authorisation from Julia Wishart.

### **3. Release of information**

#### Non-Release of Information

Tiny Tackers Therapy is legally entitled to deny the release of information.

The basis for such a decision would be that:

- The organisation 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
- Providing access would have an unreasonable impact on the privacy of other individuals;
- The request for access is frivolous or vexatious;
- the information relates to anticipated or existing legal proceedings and would not be discoverable in those proceedings;
- Providing access would reveal the intentions of Tiny Tackers Therapy in relation to negotiations with the individual in such a way as to prejudice those negotiations;
- Providing access would be unlawful.

#### Exceptions for Release of Information Restrictions

Information may be provided to statutory authorities in circumstances deemed necessary to safeguard the interests of the person concerned.

These exceptions for release of information restrictions, are consistent with The Privacy Act, and, include:

- reporting child abuse to the relevant authority
- the provision of Category 1 and some specified Category 2 Incident Reports to DHHS or DET where a significant incident affecting a service user or members of the public has occurred.
- action which prevents or lessens a serious threat to the life or health of the person concerned.
- where information is ordered to be provided by a court of law.
- Tiny Tackers Therapy has reason to suspect that unlawful activity has been, or may be engaged in, and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities; or
- the use or disclosure is required or authorised by or under law; or
- Tiny Tackers Therapy reasonably believes that the use or disclosure is reasonably necessary for a specified purpose by or on behalf of an enforcement body.

### **4. Correction and accuracy of information**

Tiny Tackers Therapy is committed to ensuring that all records are accurate, up to date, complete and not misleading and will take all reasonable steps to ensure this. Employees, volunteers, students and service users may request the correction of information or have their dissent regarding any of their personal information recorded.



## **5. Retention and disposal of personal information**

Any information relating to service users, employees, volunteers or students, such as correspondence or reports, that are not required to be filed, must be destroyed via paper shredding.

When an employee, volunteer, student or most service users exit or complete their service provision with Tiny Tackers Therapy, their file and records will be closed and archived for a period of at least 7 years or until the child turns 25 years of age. After this time the file and records may be shredded or securely destroyed. In line with DHHS requirements, records for out of home care clients are kept indefinitely at Tiny Tackers Therapy office, 74 Park St, Inverleigh VIC 3214. For details see Appendix 4 'Records Management'.

## **6. Respecting community privacy**

Tiny Tackers Therapy ensures that members of the community give consent for the use of any photos taken by Tiny Tackers Therapy Support Services in promotional materials or media releases. This information is included in service agreements signed by all clients.

## **7. Tiny Tackers Therapy privacy statement**

Tiny Tackers Therapy ensures that information about privacy and confidentiality is included on each service agreement and the Tiny Tackers Therapy website.

## **8. Requirements for employees leaving Tiny Tackers Therapy**

In order to comply with the Privacy Act, Employees leaving Tiny Tackers Therapy are required to return, destroy or delete any Tiny Tackers Therapy information they may have in their possession. This includes information stored on their phones and emails etc.

## **9. Sending information by fax or email**

There are risks to privacy in sending information by fax. These include misdialling the number, people other than the intended recipient reading the information, the information not being authentic, or the transmission not being authorised. Tiny Tackers Therapy does not send information via fax.

There are also risks to privacy sending information by email. These include misdirection due to error in typing the address and the ease of copying, forwarding, amending or disclosure of the information. If the information is being emailed care should always be taken with the list of addressees. Tiny Tackers Therapy emails contain a privacy statement including the need to contact Tiny Tackers Therapy and immediately delete an email received in error. See 4.11.3 *Disclaimer and confidentiality footer*

## **10. Complaints & notification**

Complaints by any individual about a breach of the Australian Privacy Principles, or a registered APP code (if any) that binds Tiny Tackers Therapy are dealt with through the Tiny Tackers Therapy Feedback Compliments and Complaints Policy (see Appendix 11). DHHS and NDIS privacy breaches/incidents need to be submitted to DHHS using the web-based Privacy Incident Report eform. For information: <https://dhhs.vic.gov.au/publications/privacy-policy>

**The Notifiable Data Breaches (NDB) scheme** requires Tiny Tackers Therapy to notify the Australian Information Commissioner (the Commissioner) about 'eligible data breaches'. A data breach is eligible if it is likely to result in serious harm to any of the individuals to whom the information relates. For details see <https://www.oaic.gov.au/privacy-law/privacy-act/notifiable-data-breaches-scheme>

## **References**

- The Information Privacy Act 2010
- Privacy and Data Protection Act 2014
- The Privacy Act 1998
- The Notifiable Data Breaches (NDB) scheme under Part IIIC of the Privacy Act 1988 (Privacy Act)

- The Victorian Health Records Act 2001
- The Disability Act 2006
- The OH&S Act 2004
- Fair Work Act 2009
- Australian Privacy Principles 2014
- Freedom of Information Act 1982
- Child Wellbeing and Safety Act 2005
- Disability Act 2006
- NDIS Act 2013
- Victorian Reportable Conduct Scheme
- Specialist Children's Services Standards
- Child Safe Standards
- NDIS Operational Guideline – Information Handling – Collecting, Accessing and Recording Protected Information (Dec 2013)

Approved by: Julia Wishart

A handwritten signature in black ink, appearing to read 'Julia Wishart', with a circular flourish above the 'i'.

Director and Occupational Therapist  
23/10/2020  
Review Date: 31/1/2021