

Privacy Policy and Guidelines

Purpose and Scope of Policy

The purpose of this document is to outline ABC Company's policy in respect of our obligations under the Privacy Act 2020 and Health Information Privacy Code 2020.

This document:

- sets out ABC Company's policy framework for managing personal information and protecting individuals' privacy;
- applies to all ABC Company employees, contractors, subsidiaries, and Pharmacy Equity Partners (except where excluded per below);
- applies to all personal information held by ABC Company, including information pertaining to both employees and service users;
- specifies who ABC Company's Privacy Officer is and their role in that regard;
- confirms ABC Company's approach to privacy issues arising (including requests to access information, disclosures and complaints); and
- provides an appropriate framework to ensure possible privacy breaches are investigated appropriately in a fair, equitable, timely and consistent manner.

Exclusions

- ABC Company provides general guidance to Pharmacy Licensees in respect of privacy management (separate guidelines have been developed for this purpose). Pharmacy Licensees are expected to implement their own Privacy Policy with an associated Privacy Officer, ensuring compliance with the Privacy Act and Health Information Privacy Code.
- All subsidiaries of ABC Company each have an independent Privacy Policy which is aligned to this Policy. ABC Company's Privacy Officer will maintain an overall supervisory role in respect of these subsidiaries.

Guidelines

This document has been developed to provide general guidelines on privacy matters and has been developed and adapted from the Office of the Privacy Commissioner's resources, including *"On the Record – A Practical Guide to Health Information Privacy"*.

All references to 'personal information' include 'health information' in this document. All references to 'information' generally in this document refer to both personal and health information for the purposes of the Privacy Act 2020 and the Health Information Privacy Code 2020.

The Privacy Officer's contact details are:

Direct telephone: 09 462 2635

Email: privacy@abccompany.co.nz

The Privacy Officer function may be delegated from time to time.

The Privacy Officer's duties include:

- responsibility for this Policy;

- maintaining a Privacy Register outlining privacy matters for the organisation (including a record of complaints, education and advice provided);
- maintaining oversight of, and acting as liaison with, subsidiaries and their related privacy officers (including pharmacies, medical centres, and Access Community Health) in relation to ongoing privacy management;
- managing the process for handling requests to Head Office for access to personal information;
- managing complaints in respect of ABC Company regarding personal information and the

Privacy Act or Health Information Privacy Code;

- managing privacy disclosures/breaches and related privacy inquiries in relation to ABC Company;
- managing ABC Company's relationship with the Office of the Privacy Commissioner (including all communications with this office); and
- oversight of training and education of employees and subsidiaries in relation to this Policy and privacy-related matters; and
- ensuring ABC Company's compliance with the Privacy Act and Health Information Privacy Code.

Each Pharmacy Equity Partner and Access will have their own Privacy Officer appointed and that person will have the same duties as listed above in relation to their organisation. Those Privacy Officers will consult with the ABC Company Privacy Officer without delay in relation to serious complaints or inadvertent disclosures/breaches and any other serious privacy matters arising.

Compliance with the Act and Code

The organisation will comply with the Act and Code, and in particular the Information Privacy Principles. These principles are summarised below, and then explored further in the following sections.

Principle 1

Personal information must only be collected when:

- The collection is for a lawful purpose, connected with what ABC Company does, and
- It is necessary to collect the information for that purpose.

Principle 2

Personal information must usually be collected from the person the information is about. But sometimes it is all right to collect information from other people instead - for instance, when:

- Getting it from the person concerned would undermine the purpose of the collection
- It's necessary so a public sector body can uphold or enforce the law
- The person concerned authorises collection from someone else.

Principle 3

When ABC Company collects personal information from the person the information is about, it has to take reasonable steps to make sure that person knows things like:

- Why it is being collected
- Who will get the information
- Whether the person has to give the information or whether this is voluntary

- What will happen if the information isn't provided.

Sometimes there are good reasons for not letting a person know about the collection, for example, if it would undermine the purpose of the collection, or it's just not possible to tell the person.

Principle 4

Personal information must not be collected by unlawful means or by means that are unfair or unreasonably intrusive in the circumstances.

Principle 5

It's impossible to stop all mistakes. But ABC Company must ensure that there are reasonable safeguards in place to prevent loss, misuse or disclosure of personal information.

Principle 6

People have a right to ask for access to personal information that identifies them.

ABC Company may refuse to give access to information in some circumstances, for instance because giving the information would:

- endanger a person's safety
- prevent detection and investigation of criminal offences
- involve an unwarranted breach of someone else's privacy.

Principle 7

People have a right to ask ABC Company to correct information about themselves, if they think it is wrong.

If ABC Company does not want to correct the information, it does not usually have to. But people can ask us to add their views about what the correct information is (and hold it on file).

Principle 8

Before ABC Company uses or discloses personal information, we must take reasonable steps to check that information is accurate, complete, relevant, up to date and not misleading.

Principle 9

ABC Company must not keep personal information for longer than is necessary for the purposes for which the information may be lawfully used.

Principle 10

ABC Company must use personal information for the same purpose for which we collected that information.

Other uses are occasionally permitted (for example because this is necessary to enforce the law, or the use is directly related to the purpose for which we got the information originally).

Principle 11

ABC Company can only disclose personal information to other parties in limited circumstances. One example is where another law requires us to disclose the information. Also, ABC Company may disclose information if we reasonably believe, for example, that:

- disclosure is one of the purposes for which we got the information in the first place;
- disclosure is necessary to uphold or enforce the law;
- disclosure is necessary for court proceedings;
- the person concerned authorised the disclosure;
- the information is going to be used in a form that does not identify the person concerned.

Principle 12

An agency may only send personal information to another country if that country has similar levels of privacy protection to New Zealand, or the person concerned is fully informed and gives their permission.

Principle 13

Some agencies give people a “unique identifier” instead of using their name. Examples are NHI numbers in the health sector, a driver’s licence number, a student ID number, or an IRD number. People should not be required to disclose their unique identifier unless this is one of the purposes for which the unique identifier was set up (or directly related to those purposes).

1. Collection of Personal Information

ABC Company will only collect personal information that is connected with ABC Company’s business.

When information is collected, the purposes for collection and proposed use of that information will be explained to the person whose information it relates to.

Consent

It is important that individuals are aware that we are collecting their personal information and they must provide their consent in that regard. They are also entitled to withhold consent to such collection. In these circumstances, further advice should be sought from the Privacy Officer.

Consent for a third party to access personal information

At the point of collection of personal information, sometimes an individual will provide consent for someone else to access their personal information (eg next of kin). That consent must be recorded in writing.

Employment Induction

All new employees will be informed that their personal information is being collected for employment purposes, and who will access and use that information.

Service User Agreements

All service user agreements (or similar documentation) will contain a clause stating that personal information may be shared with other health agencies and health practitioners for the purpose of delivering appropriate support and ensuring the health and safety of the service user. This clause cannot be varied by a service user without the Privacy Officer’s review and approval.

Pharmacy services/online applications

All service users will be informed at the time of information being collected that their personal information may be used in conjunction with future online or digital services offered by the organisation. They will always have the option to opt out of any such services at any time.

2. Source of Personal Information Collected

Where possible, ABC Company will collect personal information about employees and service users directly from those individuals.

In some limited circumstances, ABC Company may collect information about a person from someone other than the person it relates to. Some examples include:

- when a service user has authorised collection from someone else (e.g. a family member or friend).
- referral information from a funder (including from a NASC).
- in some circumstances, collecting information directly from service users may prejudice their interests or the purpose of collection (such as treatment), or it may prejudice the safety of another person – in this type of case, ABC Company may collect the required information from a third party. If the service user cannot be found or contacted, or does not know the information sought, ABC Company may seek the information elsewhere.
- when another person's perspective on a person's health conditions and the effect of particular medication or treatment may be required.
- if it is believed on reasonable grounds that a service user might not be telling the truth or (in rare circumstances) may have refused to provide the information and this information is considered necessary.

Where information is collected from someone other than the person the information relates to, ABC Company will check the accuracy of the information collected with the individual concerned where possible (and appropriate) and record this in writing.

2.1. Other Health Providers

ABC Company may need to collect personal information about a service user from other health agencies. Other health agencies may also seek to collect personal information from ABC Company regarding our service users.

Section 22F of the Health Act 1956 requires health information to be provided to a health agency that is providing, or is to provide, services to that individual, on request from the agency, except in some limited circumstances (see below). If it is not passed on when it should be, a complaint can be made to the Privacy Commissioner.

Right 4(5) of the Code of Health and Disability Services Consumers' Rights gives service users the right to cooperation among providers to ensure quality and continuity of services. Co-operation would include sharing appropriate information with other providers, and this sort of information sharing will often be one of the purposes for which information is collected. If information is not passed on when it should be, consumers can complain to the Health and Disability Commissioner.

In these types of cases, it can be a difficult decision when trying to choose whether or not to disclose certain information – employees, pharmacies and subsidiaries are encouraged to consult with the Privacy Officer in these circumstances.

2.2. Family Members and Employers Providing Information

ABC Company may receive information about service users from family members or employers, on the basis that the information (and who provided it) will be kept secret. However, a promise of confidentiality to someone (such as a family member) who has

provided information about a service user will not necessarily be recognised as a withholding ground if the service user later requests access to the information. Because of this, such promises of secrecy regarding information collection should not be made.

3. Collecting Personal Information from the Individual Concerned

Where ABC Company collects personal information directly from individuals, we will ensure the individual is aware of:

- the fact information is being collected;
- the purpose of collection (e.g. for care and treatment and related administrative purposes);
- the intended recipients of the information (e.g. ABC Company employees, the relevant funding provider such as a DHB, Ministry of Health or ACC, the person's GP, and the person's family members and other carers if that is acceptable to the service user);
- the consequences of not supplying the information (i.e. there may be problems if the service user does not provide full or accurate information. For instance, a particular treatment may not be able to continue effectively without complete and accurate information. Or if the service user has applied for a subsidy or benefit, it may not be possible to process the claim without complete and accurate information); and
- the service user's rights of access and to seek correction.

3.1. Exceptions to Collection from the Individual Directly

In some limited circumstances, ABC Company may not need to explain to a service user the details around information collection (outlined above). For example, where:

- compliance with this rule by ABC Company would prejudice the interests of the service user or prejudice the purposes of collection (e.g. if a fully informed service user would be likely to behave in a way that prevents their condition being effectively assessed, or in a way that is against their own interests); or
- compliance is not reasonably practicable in the particular circumstances. For instance, where:
 - an explanation would unreasonably delay the provision of necessary emergency treatment;
 - the service user is not able to take in an explanation when it is offered because of their mental or physical state; or
 - the explanation might cause a violent reaction.

If ABC Company cannot give the necessary explanation when the information is collected, this should be done as soon as possible afterwards (where appropriate). However, repeat explanations are not necessary, assuming the purpose for collection is unchanged.

3.2. Photographs and recordings

Any photograph or recording taken of a service user or employee is personal (and likely health) information, and is subject to the same privacy and confidentiality principles as other personal and health information. When collecting and/or sharing photographs or recordings, as with all other personal and health information, there are legal, professional, and ethical responsibilities to be met.

The collection, use, storage, retention, and disclosure of photographs and recordings about an identifiable individual is governed by the Act and the Code, in the same way as all other personal and health information.

In respect of employees, the relevant manager must ensure that the employee is aware that their photo is being taken, or that they are being recorded, and what the intended use is going to be. They

must be aware and have a chance to say whether or not they are comfortable with that. If an employee indicates that they do not wish to be photographed or recorded as proposed, their choice must be respected.

In respect of service users, consent from the individual (or their legal representative) must be obtained on the Consent to Photographs and Recordings form.

A photograph or recording must only be taken for appropriate purposes which the service user has been informed of, and agrees to, and:

- must only be used for the purpose for which it was obtained or a directly related purpose;
- can only be used for another purpose if the service user consents to the use, or the use is permitted

by the Act, the Code, or any other statutory provision;

- must be stored securely against unauthorised access or use (e.g. if kept on a USB stick encrypted, stored securely i.e. in a locked cabinet).

ABC Company does not permit service user photography or recordings to be taken on personal devices, including smart phones. Only approved organisation devices (and apps) must be used. Where exceptional circumstances arise in which it may be necessary to take a photo or recording on a personal device, this should be discussed with the relevant manager first.

If a photograph or recording is to be used for anything other than clinical care and maintaining a record in the clinical record the service user must have given explicit consent for the additional use. This includes uses such as training and education, publication, promotion, and research. The service user's consent must be recorded in their clinical record.

If a photograph or recording is to be used for education or research the photograph or recording should be de-identified where possible and must comply with relevant research or ethical guidelines.

4. Manner of Collection of Personal Information

ABC Company will ensure that personal information will be collected using methods that are lawful, fair and do not intrude to an unreasonable extent on the affairs of the individual concerned.

When collecting health information (or any information of a sensitive nature), ABC Company will ensure that an individual has physical privacy to provide that information, where possible. (For service users, physical privacy is protected by right 1(2) of the Code for Health and Disability Services Consumers Rights.) For example, employees and/or service users should not be asked to provide or clarify personal information when standing in a reception or other public area where other people may hear the discussion.

5. Storage and Security of Personal Information

ABC Company will take reasonable security safeguards with personal information against its:

- loss
- access, use, modification, or disclosure without ABC Company's authority; and/or
- other misuse.

Where ABC Company gives personal information (or access to personal information) to a third party (for example, an IT contractor), it will ensure a non-disclosure or confidentiality agreement is signed to prevent unauthorised use or disclosure of information by that person or organisation.

ABC Company's approach to security of information is as follows:

1. All locations containing information in hard copy will be secure with lock, keypad or swipe card access.
2. All filing cabinets and unattended rooms (containing information) will be secure/locked at all times and associated keys stored appropriately.
3. Computer screens will be positioned so they cannot be seen or accessed by unauthorised personnel.
4. Screen savers and security screens will be used so computer terminals cannot be seen by visitors or unauthorised personnel, and will be required when employees leave their desk unattended for any period of time.
5. A "clear desk" approach will be taken by all employees working in an 'open' office space so that no work-related documents are left unattended and open to perusal by other people who may not be authorised.
6. Personal information disclosed to funders or other health agencies will be transferred via a secure communication and marked as "strictly confidential".
7. Any personal information transported by employees outside of the office in hard copy or via laptop or other device (eg phone or tablet) will be secure at all times (eg in a secure bag or folder kept out of sight in a locked vehicle). It is the preference of ABC Company that hard copy documentation should only be transported outside of the office if absolutely necessary.
8. No personal information is to be stored at any time on employees' personal/home computers or devices (eg phone or tablet).

Refer separate ICT policy regarding further details on ABC Company's general security safeguards.

6. Retention of Personal Health (Retention of Health Information) Regulations 1996

The Health (Retention of Health Information) Regulations require all health information held by a services

provider to be kept for at least ten years from the last date services were provided to the individual. These Regulations apply to health information held by ABC Company.

These Regulations allow information to be transferred to another provider in this time period, so if a service user moves to another town the records can be forwarded to a new doctor or health provider.

The Regulations also allow agencies to transfer information to the service user or (where the service user has died) to the executor of their estate.

7. Accuracy of Personal Information

Before using personal information collected from service users or employees, ABC Company must take reasonable steps to check that it is up-to-date, complete, relevant and not misleading. This will often depend on how long it has been since the information was collected originally.

What is 'reasonable' depends on the proposed use for the information and its impact on the service user. The more important or sensitive the use which is to be made of the information, the more careful we need to be to make sure it is accurate and make any necessary additions or changes.

The People and Capability team will ensure employee information is checked for accuracy at least every two years.

Service user information will be checked for accuracy on an ongoing basis by employees when maintaining a service user database or service user's Service Plan (and this will occur on at least an annual basis).

8. Using Personal Information

ABC Company will only use personal information for the purpose/s that it was obtained. This includes uses that are directly related to the purpose for obtaining the personal information. For example, information obtained for care and treatment may also be used for administrative purposes related to that care and treatment.

Payroll information may be provided to third parties for the purposes of supporting rostering tools, workforce efficiency and paying people. Such third parties will keep confidential all data and information that comes into their possession pursuant to or in the performance of the third-party agreement and shall comply at all times with the Privacy Act 2020 and those third parties will confirm that they have a privacy policy in place.

In limited circumstances, personal information may be used in a way which was not anticipated when it was obtained. For example, relevant personal information may always be used for another purpose where necessary to prevent or lessen a serious threat to public health or public safety, or somebody's life or health. Information may also be used if it is necessary to avoid prejudice to the maintenance of the law by a public sector agency (e.g. Police) or for the conduct of proceedings.

Information

ABC Company will not retain personal information for longer than is required for the purposes for which it may lawfully be used.

When all purposes for holding the personal information have expired, including the obligatory retention period under the Health (Retention of Health Information) Regulations set out below, the information will be securely destroyed (or returned to the service user if requested to do so).

If the relevant time period is not stated on a particular document, the default retention period will be 10 years.