

Policy number: 2.3	Date adopted: 17 November, 2012	
Authorised by: Chief Executive Officer (CEO)		
Date last reviewed: June 2016	Reviewed by: Deputy Chief Executive Officer (DCEO)	Date of next review: June 2018

Policy context:	
Disability Advocacy Standards	4
National Home Care Standards	3.3
National Aged care Advocacy Standards	3
National Mental Health Services Standards	1
Other standards	
Legislation or other requirements	Privacy Act 1988 (Cth), Australian Privacy Principles, Personal Information and Protection Act (Tas) 2004

1. Purpose

In carrying out both individual and systemic advocacy activities Advocacy Tasmania Inc. (ATI) collects a considerable amount of personal and sensitive information about its service users. It is vital that service users and other parties have confidence that ATI treats such information with confidentiality and sensitivity. This document describes how ATI approaches management of personal and sensitive information.

2. Scope

All ATI employees, volunteers, Board members and sub-contractors who have access to service user's personal and/or sensitive information.

3. Policy Statement

With regard to the collection, storage, release and destruction of service user information, Advocacy Tasmania Inc. (ATI) upholds strict privacy and confidentiality in accordance with the Personal Information Privacy Principles in the *Personal Information Protection Act 2004* (Tas) and in the event of inconsistency or omission, with the Australian Privacy Principles (APP) in the Privacy Act 1988 (Cth).

4. Collection, Storage, Release and Destruction of Information

- ATI collects personal and sensitive information that is relevant to the issue identified by the service user and is reasonably necessary for ATI employees to undertake advocacy work on behalf of the service user.

- Any information obtained by ATI about service users, both past and present will be regarded as confidential and must not be used for any purpose other than that for which it is given.
- The types of personal information ATI collects includes but is not limited to:
 - Names
 - Dates of Birth
 - Addresses
 - Telephone Numbers
 - Personal History
- The types of sensitive information ATI collects may include but is not limited to:
 - Racial and Ethnic origin
 - Criminal History
 - Health Information
- ATI employees will only collect personal and sensitive information directly from the service user, unless the service user has provided express and current consent for ATI to collect such information from a third party or other source.
- ATI will also collect non-identifying information as required by funding bodies.
- All personal and sensitive information is kept electronically on a password protected database and password protected computers that can only be accessed by individuals who have been screened by ATI and signed the ATI Privacy and Confidentiality Agreement. Any personal or sensitive information in hard copy form is kept in locked filing cabinets.
- ATI employees will ensure, to the best of their ability, that any records containing personal and/or sensitive information only contain reasonable and necessary factual information and do not contain anything that could be interpreted as an unsubstantiated opinion of the employee.
- ATI will only disclose a service user's personal and/or sensitive information with express and current consent from the service user, with the exception of:
 - Duty of Care – ATI has a duty of care to its service users and will disclose information to relevant third parties if it can be reasonably assumed the service user is at significant and immediate risk of harming themselves or someone else.
 - Subpoena - If a service user's file is ordered by a subpoena, the service user will be notified as soon as possible. Only information ordered by subpoena will be released. In this instance, the information may be photocopied.
 - Any other legal requirements.
- If ATI is required to disclose a service user's information without their consent this will be clearly noted on the service user's file.
- Identifying information in a service user's file must not be used for the purpose of research without written consent from the service user.
- ATI holds all records for a period of seven years following the closure of an issue. This is to ensure relevant history with the organisation is available should a service user re access the service with a similar or related issue at a later date. It also provides necessary information should a service user wish to lodge a complaint or grievance with ATI following the conclusion of an issue. Records will be reviewed annually and if ATI determines that a file due for destruction contains personal or sensitive information that may be of value to the service user, such as original copies of doctor's reports, ATI will make all reasonable effort to contact the service user and advise them of that fact. The service user will have 28 days to reply and advise whether they wish the information to be mailed to them in a secure manner or destroyed. In the event that ATI does not hear from the service user within 28 days the file will be destroyed.
- Information may be kept for longer than seven years if it is deemed by ATI to be reasonable and necessary to do so.

- ATI employees will undertake appropriate and regular training to ensure that they are aware of their current legal and procedural obligations in accordance with the relevant legislation and ATI's privacy and confidentiality policy and procedures.

5. Anonymity

- Service users can choose to interact with ATI anonymously via email or by contacting the intake line on 1800 005 131 or The Elder Abuse Helpline on 1800 44 11 69 for information or referrals.
- ATI respects the service users' right to control which information they disclose, however, choosing not to disclose some personal and/or sensitive information may result in limiting the level of service ATI is able to provide. If this occurs ATI will explain this clearly to the service user.

6. Unsolicited Information

From time to time ATI will receive unsolicited personal and/or sensitive information about past and present service users. ATI views this as a breach of the service user's privacy and will destroy any unsolicited information immediately. Where practical, ATI will advise the sender of the information that it has been destroyed.

7. Access

- The service user owns the information but ATI owns the file. ATI retains the right to make policies and procedures in line with State and Commonwealth legislation, around how the organisation will collect, store, release and destroy the service user's filed information.
- All individuals with access to personal and/or sensitive information will be required to sign ATI's Confidentiality Agreement.
- ATI employees may discuss service user cases with managers and/or colleagues where necessary, to enable provision of effective advocacy. Wherever possible this will be done in a de identified manner.
- On occasions, external contractors will be required to access client files in the course of carrying out work for ATI. This is primarily IT providers and QIP Peer Assessors. Contractors are required to sign a confidentiality agreement prior to the commencement of work.
- As part of the formal requirements of some funding agreements, ATI will undergo external standards auditing/quality assessments; e.g. NDAP Disability Advocacy Standards, Home Care Standards Quality Review and Tasmanian Government Quality and Safety Standards Review. As part of such audits, auditors will require access to client files. ATI will only provide client information which identifies the client with the permission of the client or appropriate substitute decision maker. Where feasible, de-identified client information will be provided.
- ATI can be required by the courts, or under the provisions of section 50 of the Tasmanian Disability Services Act 2011, to provide information about clients without requiring the client's permission.
- ATI does not provide service user's information to overseas recipients unless specifically requested to do so by the service user or if required by law.
- ATI provides full disclosure of its privacy and confidentiality policy and procedures to service users at the earliest opportunity in a way that is accessible to the individual service user, with respect to their cultural and linguistic needs as well as any communicative barriers they may experience.

- ATI provides copies of the Privacy and Confidentiality Policy on request as well as publishing it on the organisation website.
- All ATI privacy and confidentiality policy information is also provided to service users in a general, easy to understand way e.g. Privacy & Complaints Brochure outlining key aspects of our practices.
- ATI will provide service users with copies of their information held at ATI upon request.
- ATI supports service users to access information on their file and if necessary, to correct information.

8. Complaints

ATI welcomes complaints as an opportunity to improve the experiences of our service users. Complaints can be made verbally by contacting 1800 005 131 or in writing to PO Box 426 Sandy Bay, TAS, 7006 or advocacy@advocacytasmania.org.au

All complaints will be handled in accordance with ATI's Complaints Policy.

9. Procedures

- All service users will be advised of ATIs Privacy and Confidentiality Policy, including the right to complain, at Intake.
- If requested, a copy will be posted or emailed to the service user or any other party.
- All Advocates will reiterate the Privacy and Confidentiality Policy with service users, including the right to complain, at the earliest possible opportunity after being allocated an issue.
- All advocates will document in Ivo that the service user has been made aware of the Privacy and Confidentiality Policy in a way that is easy to understand.
- All advocates will advise service users that if they wish, a brochure outlining our privacy practices and their rights or a full version of our Privacy and Confidentiality policy and procedures will be provided to them.
- All advocates will support service users to understand the oral and written privacy and confidentiality policy and procedural information provided.
- All advocates will obtain a signed Letter of Authority from the service user before taking any action on their behalf.
- In circumstances where the service user is unable or unwilling to sign a Letter of Authority all advocates will clearly note why on the client file as well as clearly noting the service user's verbal consent and what actions this consent specifically relates to prior to taking any action.

10. Definitions

NOTE: The Australian Privacy Principles (APP) are the base line privacy standards required by the Privacy Act 1988. It is a condition of the current NDAP funding agreement, and a requirement of Standard 4 of the Disability Advocacy Standards, that NDAP funded disability advocacy agencies must comply with the APPs contained within the Privacy Act 1988.

Personal Information and Sensitive Information:

'Personal Information' is defined as any 'information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not; and
- whether the information or opinion is recorded in a material form or not'

'Sensitive Information' is a subset of personal information and is defined as:

- Information or an opinion (that is also personal information) about an individual's:
 - racial or ethnic origin
 - political opinions
 - membership of a political association
 - religious beliefs or affiliations
 - philosophical beliefs
 - membership of a professional or trade association
 - membership of a trade union
 - sexual preferences or practices, or
 - criminal record
- health information about an individual
- genetic information (that is not otherwise health information)
- biometric information that is to be used for the purpose of automated biometric verification or biometric identification, or
- biometric templates

11. Consent

The following conditions must be present for consent to be valid:

- The individual is adequately informed before giving consent.
- The individual gives consent voluntarily.
- Consent is current and specific.
- The individual has the capacity to understand and communicate their consent.

An absence of instruction is NOT considered implied consent.

12. Other Related Policies and Procedures

Documents related to this policy: Information Privacy Principles	
Related policies	Code of Conduct Individual Advocacy Policy
Forms or other organisational documents	Letter of Authority Confidentiality Declaration Individual Advocacy Procedures

13. Review Processes

Policy review frequency: 2 yearly	Responsibility for review: Deputy CEO
Review process: CEO will oversee the process	

Documentation and communication:

All board and staff to be consulted