

1. Purpose

Relationships Australia Victoria (RAV) has a legal obligation to maintain the privacy of individuals' personal information and takes this obligation very seriously. RAV expects all staff, students, interns, contractors and volunteers to respect the privacy of personal information and to take all reasonable care to manage that information in accordance with relevant privacy legislation.

This policy applies to all RAV staff and clients.

2. Policy

This section is for general core content of the policy that is not procedural. Paragraphing style below is encouraged to assist with referencing content. Additional numbering and section breaks may apply. Numbering uses the following format, using the 'Heading 4' style located under the 'Home' tab on the top Word toolbar.

2.1 General Principles

- a) With client consent, RAV collects personal information reasonably necessary for the purpose of implementing its programs, including (but not limited to) information required for assessment of the appropriateness of service delivery, service delivery, training, research and evaluation, administration and statistical reporting required for government-funded service delivery.
- b) RAV holds personal information in both 'hard copy' files in secure filing cabinets and electronically via secure databases located in Australia.
- c) RAV will only collect personal information about a person from him/her, unless RAV is authorised, permitted or required by law, or Court/Tribunal Order, to collect it from another source. If RAV receives an individual's personal information unsolicited, it will manage that information in accordance with the relevant Privacy Principles and, if RAV could not have collected the information for one or more of its functions or activities, the information will be destroyed if it is lawful and reasonable to do so.
- d) Disclosure of a client's personal information may occur in the following circumstances:
 - (i) with the client's consent;
 - (ii) where the RAV staff member reasonably believes that disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of any person or to public health or safety, and it is unreasonable or impracticable to obtain consent to the disclosure;
 - (iii) under the Family Law Act 1975 (Commonwealth), where it is necessary:
 - to report child abuse, or risk of child abuse, to the child welfare authority (Department of Health and Human Services – Child Protection);
 - to lessen or prevent the threat of physical or psychological harm to a child, or the threat of serious and imminent harm to any person, or the threat of damage to property;
 - to report a crime of violence or prevent the likely commission of a crime of violence;
 - to assist an Independent Children's Lawyer to properly represent a child's interests in Court.
 - (iv) where RAV receives a Subpoena or Witness Summons for information in legal proceedings and the information may be admissible evidence;

- (v) in accordance with RAV's obligations as an Information Sharing Entity under the Family Violence and Child Information Sharing Schemes;
 - (vi) for Men's Behaviour Change programs, in accordance with disclosure conditions in a written participation agreement;
 - (vii) as otherwise required or authorized by law.
- e) A person's relevant personal information (obtained from previous or current service delivery) may be shared within RAV (e.g. between RAV practitioners and/or RAV Centres), as set out in the Client Information Sheet received by each client and consented to, before service delivery begins.
- f) If a staff member has any doubt or concern about the proposed collection, use or disclosure of a client's personal information, they must consult their Manager before taking any action. Disclosure of a client's personal information in response to a Subpoena/Witness Summons, or preparation of any proposed written report/summary at the client's request must not occur without the approval of the Centre Manager.
- g) A client's personal information will be held securely by RAV, and then destroyed, in accordance with applicable legal privacy principles. It is RAV policy that personal information be retained for a period of 7 years from the date of the last service delivery, or, where the client is a child, until the child turns 25 years of age. Data containing personal information collected for the purpose of research and/or evaluation is destroyed or de-identified when it is no longer needed for the purpose for which it was collected.

2.2 Anonymity and Pseudonymity

- a) A person has the option of not identifying himself/herself, or of using a pseudonym, but this does not apply if:
- (i) RAV is required or authorized by law or a Court/Tribunal Order to deal with a person who has identified themselves; or
 - (ii) it is impracticable for RAV to deal with a person who wishes to remain anonymous or use a pseudonym.

2.3 Access to personal information

- a) A client may request access to his/her personal information either orally or in writing. Although an appropriate mode of access may be suggested to the client, access must be provided in the manner requested if it is reasonable and practicable to do so, except for the situations listed under (c) and (d) (below).
- b) All requests for access to personal information must be referred to the Manager of the Centre that has provided the service delivery. The approval of that Manager (or, in their absence, the Senior Manager Centre Operations) is required before any personal information can be released. When in doubt, Managers should consult the Privacy Officer.
- c) A client is not entitled to access information/file notes relating to joint or group service delivery, except to the extent that such access would not have an unreasonable impact on the privacy of other individuals.
- d) Under privacy legislation, a client may be refused access to some or all of their personal information in specific circumstances, including, relevantly for RAV, where:
- (i) RAV considers that access to the information would pose a serious threat to the client's life, health (physical or psychological) or safety, or the life, health or safety of another person or other persons; or

- (ii) providing access would have an unreasonable impact on the privacy of another person or other persons; or
- (iii) denying access is required or authorized under an Australian law or a Court/Tribunal Order.
- e) It may, or may not, be appropriate or necessary to redact a client's personal information to protect the privacy of another person or other persons; advice should be sought from the Privacy Officer.
- f) If access to some or all personal information is refused, or access in the manner requested by the client is refused, the client must be advised in writing of the reasons for refusal (except to the extent that it would be unreasonable to do so), and the mechanism to complain about the refusal.
- g) RAV's formal response to a request for access to personal information (apart from an acknowledgement of the request) must be made within a reasonable time in all the circumstances. In the case of State-funded programs, the response must be made as soon as practicable but no later than 45 days after receiving the request.

2.4 Correction of personal information

- a) RAV will take all reasonable steps to ensure that personal information collected, used or disclosed is accurate, up-to-date, complete and relevant. If RAV is satisfied that personal information is inaccurate, out-of-date, incomplete, irrelevant or misleading, or a person requests that RAV correct their information for these reasons and RAV agrees, RAV will take such steps as are reasonable in the circumstances to correct the information.
- b) If RAV does not agree to correct the information, it will provide written reasons for the refusal within a reasonable time after the request is made (unless it would be unreasonable to do so) and will provide a complaints mechanism. The person can request that a statement be associated with the information, and RAV will take such steps as are reasonable in the circumstances to associate the statement so that the person's statement is apparent to users of the information.

2.5 Complaints

- a) If a person wishes to make a complaint about breach of privacy, they should first complain, either orally or in writing, to the Manager of the Centre that has provided the service delivery. If the complaint is not resolved, the person will be directed to make the complaint in writing to the RAV Complaints Officer, whose role it is to investigate and respond to the complaint. If still unresolved, the complaint will be referred to RAV's Chief Executive Officer for final attempted resolution within RAV. Unless there are unusual circumstances, this process should take no more than 30 days.
- b) If the complaint remains unresolved, the person should then immediately be referred to the Office of the Australian Information Commissioner (OAIC) in the case of an alleged breach of an APP, or, as applicable, to the Victorian Information Commissioner or Health Complaints Commissioner. In all cases, the complaint must be put in writing on the form provided on the website, then emailed or posted. Contact details of the relevant Commissioner are as follows:

Office of the Australian Information Commissioner (OAIC):
(for privacy complaints generally)

Website: www.oaic.gov.au/privacy/privacy-complaints/
Email: enquiries@oaic.gov.au
Post: GPO Box 5218
Sydney
NSW 2001
Enquiries: 1300 363 992

Office of the Victorian Information Commissioner (OVIC)

(for privacy complaints in relation to specific RAV programs funded by the State Government e.g. family violence prevention)

Website: www.ovic.vic.gov.au/privacy/for-the-public/complaints

Email: enquiries@ovic.vic.gov.au

Post: P.O. Box 24274

Melbourne

Vic 3001

Enquiries: 1300 006 842

Health Complaints Commissioner (HCC)

(for privacy complaints in relation to specific RAV therapeutic services focussed on the improvement or maintenance of (mental) health, e.g. counselling)

Website: www.hcc.vic.gov.au/make-complaint

Email: hcc@hcc.vic.gov.au

Enquiries: 1300 582 113

c) Disclosure outside Australia

- (i) Since RAV's activities are confined to Australia, it is unlikely that RAV would need to disclose personal information to an overseas recipient. Any such would occur in accordance with the principles outlined in this Policy.

2.6 Evidence of Compliance

- a) All client information collected by RAV is managed, archived and destroyed in accordance with relevant privacy legislation and RAV's Client File Management Procedure.
- b) Regular internal case file audits will be undertaken, as determined by the RAV Quality Management Committee, to ensure continued compliance with RAV's legal and organisational obligations.

3. Definitions

- **"Personal Information"**: Under the *Privacy Act (1988) (Commonwealth)* and in this policy, means:
 - "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."
- **Disclosure**: the communication of a client's personal information to a person, organization or authority outside RAV
- **Access**: providing a client with his/her personal information held by RAV, following a request from the client
- **Australian Privacy Principles (APPs)**: 13 principles set out in Schedule 1 *Privacy Act (1988)* which outline how organisations must collect, use and manage the personal information of individuals.

- **Information Privacy Principles (IPPs):** 10 principles set out in Schedule 1 *Privacy and Data Protection Act 2014 (Vic)*.
- **Health Privacy Principles (HPPs):** 11 principles set out in Schedule 1 *Health Records Act 2001 (Vic)*
- **NB:** The APPs apply to all RAV programs, but RAV programs funded under State contracts must also comply with the IPPs. RAV must also comply with the HPPs in the case of therapeutic services relevant to the maintenance or improvement of (mental) health e.g. counselling.
- **Consent:** The four key elements of consent are:
 - (i) The individual is adequately informed before giving consent
 - (ii) The individual gives consent voluntarily
 - (iii) The consent is current and specific, and
 - (iv) The individual has the capacity to understand and communicate their consent.

Consent may be express or implied. Implied consent may arise where consent may reasonably be inferred in the circumstances from the conduct of the individual and RAV. When there is any doubt whether consent has been provided, the client's express consent must be obtained.

As a general principle, an individual under the age of 18 has capacity to consent when they have sufficient understanding and maturity to understand what is being proposed. In some circumstances, a parent or guardian will be required to provide consent e.g. if the child is young or lacks sufficient maturity or understanding.
- If it is not practicable or reasonable for RAV to assess the capacity of a child or young person under the age of 18 on a case-by-case basis (e.g. in a group), RAV may presume that young persons aged 15 or over have capacity to consent, unless there is something to suggest otherwise. A child or young person aged under 15 is presumed not to have capacity to consent.

4. Authorisation

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Custodian	• General Manager Clinical Services