



We acknowledge the traditional custodians of this land, the Wurundjeri people, and pay our respects to the elders both past and present.

Resident Privacy and Confidentiality		
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NOTE

Where this Policy mentions residents in relation to expressing preferences, having discussions regarding care, or making decisions, the term 'resident' can be replaced with 'resident representative', 'appointed decision maker', or 'Power of Attorney' in cases where the resident does not have the capacity to be involved in such matters

COMMENCEMENT OF POLICY

This Policy will commence from 25 July 2024. It replaces all other San Carlo Resident Privacy policies (whether written or not).

APPLICATION OF THE POLICY

This Policy applies to all residents and staff (including both volunteers and contracted employees) of San Carlo. This Policy does not form part of any employee's contract or resident's Resident Agreement.

DEFINITIONS

PERSONAL INFORMATION

Information or opinions that explicitly identify an individual or that can be used to identify an individual. Personal Information can range from being confidential to being publicly available.

Personal Information does not have to be disclosed or recorded in a physical form to be protected by our Privacy Policy, as long as the information or opinion can be used to identify the individual it is discussing.

Sensitive Information and Health Information are both types of Personal Information.

SENSITIVE INFORMATION

Includes information or opinions about an individual that could be used against them or subject them to discrimination or differential treatment. This includes information on their racial or ethnic origin, political opinions, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices, and criminal record.

HEALTH INFORMATION

Includes information or opinions about an individual's health status and decisions made regarding their own health care. This can consist of information or opinions about:

- The health or disability of an individual (including past health or disability details)
- An individual's preferences for engaging in health services in the future (including plans for end of life care)
- A health service currently provided, or going to be provided, to an individual;

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- Other personal information collected to provide, or in the process of providing, a health service;
- Other personal information about an individual collected in connection with the donation, or intended donation, of their body parts, organs, or substances
- Genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

UNSOLICITED INFORMATION

Any Personal Information received regarding an individual that we did not actively seek to collect.

POLICY

San Carlo collects Personal Information by lawful and fair means. We only collect Personal Information that is necessary for one or more of our functions or activities. If it is reasonable and practicable to do so, San Carlo only collects Personal Information about a resident from the resident themselves.

Residents can inform staff of their preferences regarding their personal privacy. This includes who can enter their personal room, how they would like to be cared for, and who is allowed access to their information. Staff ask permission before displaying identifying information within the facility, such as resident names on doors or photos in newsletters.

In meeting obligations with respect to the privacy of residents, San Carlo acknowledges that people with vision or hearing impairments and those of culturally and linguistically diverse backgrounds can require special consideration for understanding and protecting their privacy. Staff are mindful of this when documenting the resident's privacy needs.

The disclosure of confidential information to third parties can only be made by the CEO or authorised delegates.

RESPONSIBILITIES

It is the responsibility of all **staff and management** to:

- Keep Issues or information regarding residents confidential;
- Maintain the privacy of all residents;
- Securely document and store any Personal Information collected regarding residents; and
- Follow correct procedures regarding the authorised release of a resident's Personal Information.

COLLECTION OF RESIDENT INFORMATION

Collection of Personal Information can be necessary to:

- Comply with the provisions of State or Commonwealth law;

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- Provide data to Government agencies in compliance with State or Commonwealth law;
- Determine eligibility for entitlements provided under State or Commonwealth law;
- Provide appropriate services and care;
- Enable contact with a nominated person regarding a resident's health status; and/or
- Lawfully communicate with a nominated representative/family member if requested or needed.

The information we request is relevant to providing residents with the care and services they need. Residents have the right to deny San Carlo's request for certain information. However, this can limit the extent of care and services being provided to them, particularly if Health information is not provided. We ask that residents be mindful of this when choosing not to disclose information.

San Carlo collects Personal Information directly from the resident unless:

- We have the consent of the resident to collect the information from someone else;
- We are required or authorised by law to collect the information from someone else; or
- It is unreasonable or impractical to collect directly from the resident.

We do not collect Sensitive Information (including Health Information) unless the collection of the information is reasonably necessary for, or directly related to, one or more of our functions and:

- The resident gives consent to the collection of this information; or
- The collection of the information is required or authorised under an Australian law or a court/tribunal order.

Unsolicited Information

If we receive unsolicited information, we will destroy or de-identify the information as soon as practicable and in accordance with the law.

ACCESS

Requests for access to information can be made in writing and addressed to the CEO or Executive Care Manager (ECM)/Clinical Care Manager (CCM). Each request is responded to within a reasonable time after determining the requester's right to access the information.

Residents, Powers of Attorney, and individuals pre-authorised by the resident are permitted to access a resident's individual information through lodging a formal request. Exceptions to this rule may be required if sharing the information could infringe on the rights of the resident or another individual.

We only grant access to Personal Information if the authorised individual can verify their identity. San Carlo can decline someone access to Personal Information if:

- The access poses a serious threat to the life or health of any individual;

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- The access could affect the privacy of others;
- The request would result in an unreasonable cost of time or expenses for the organisation, particularly for trivial matters;
- The information relates to existing or anticipated legal proceedings; or
- The access would be illegal.

We maintain strict confidentiality regarding resident files. Handovers are conducted in a private and confidential manner. Details of a resident are not provided over the phone, unless we are able to verify the identity of the authorised person requesting the information.

At admission, the resident can identify any parties from whom they do not wish Personal Information to be collected and/or to whom they do not wish Personal Information be provided. This is recorded in the resident's file and complied with to the extent permitted by law.

DISCLOSURE

All records are only used for their intended purpose, unless the resident consents to the alternative use.

We do not use or disclose Personal Information for a purpose other than the primary purpose of collection, unless:

- The secondary purpose is directly related to the primary purpose and the individual would reasonably expect disclosure of the Information for the secondary purpose;
- The individual has consented to the further use/disclosure;
- The collection, use, or disclosure of the Information is necessary for research and the compilation or analysis of statistics;
- The Information is relevant to public health or public safety and it is impractical to obtain consent;
- The use or disclosure of the Information is in line with the *Privacy Principles* and privacy guidelines, and we reasonably believe that the recipient will not further disclose the Information to any other parties;
- We believe, on reasonable grounds, that disclosure is necessary to prevent or lessen a serious and imminent threat to an individual's life, health, or safety or a serious threat to public health or safety;
- We have reason to suspect unlawful activity and must use or disclose the Personal Information as part of our investigation into the matter or in reporting our concerns to relevant persons or authorities;

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- We reasonably believe that the use or disclosure is necessary to allow an enforcement body to enforce laws, protect the public revenue, prevent seriously improper conduct, or prepare/conduct legal proceedings; or
- The use or disclosure is otherwise required or authorised by law.

We can disclose **Health Information** about an individual to a hospital or to a person who is responsible for the individual if:

- The individual is incapable of giving consent or communicating consent; or
- The CEO and/or CCM/ECM is satisfied that the disclosure is necessary to provide appropriate care or treatment or is made for compassionate reasons, and is limited to the information relevant to this purpose; or
- The disclosure is necessary for the purposes of undertaking a quality review of our services (and the disclosure is limited to the extent reasonable and necessary for this purpose); or
- The disclosure does not go against any wish previously expressed by the individual (whether written or not) that the organisation is aware of or could reasonably be expected to be aware of.

The person responsible for the individual must be at least 18 years of age to have Health Information disclosed to them under the above conditions. Such a person could be the individual's:

- Parent;
- Child;
- Sibling;
- Spouse;
- Close relative;
- Cohabitant;
- Guardian;
- Enduring Power of Attorney;
- Intimate partner; or
- Nominated emergency contact.

Cross-Border Disclosure

In general, we do not disclose an individual's Personal Information to any overseas recipient. If it is necessary to do so, we take all reasonable steps to ensure that the overseas recipient does not breach the Australian Privacy Principles, unless:

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- The overseas recipient is subject to laws similar to the Australian Privacy Principles and the individual has mechanisms to take action against the overseas recipient if these Principles are breached;
- We reasonably believe the disclosure is necessary or authorised by Australian Law; or
- The individual has provided express consent to the disclosure.

SECURITY OF INFORMATION

San Carlo stores Personal and Health Information in both paper and electronic form. The security of Personal and Health Information is important to us and we take reasonable steps to protect it from misuse, interference, loss, and unauthorised access, modification, or disclosure.

Some of the ways we do this include:

- Requiring our staff to maintain confidentiality;
- Implementing document storage security;
- Imposing security measures for access to our computer systems;
- Providing a discreet environment for confidential discussions; and
- Allowing access to Personal and Health Information only where the individual seeking access to the information has satisfied our identification requirements.

Further details on how we maintain the security of resident information can be found in our Policy 8.4 Information Management.

Staff Commitment to Confidentiality

Staff are discrete with their comments, protecting and respecting the privacy, dignity, and confidentiality of all residents. Staff are not allowed to make any statement about the condition or treatment of a resident to any person not involved in the care, except to the resident's nominated representative, Power of Attorney, or an approved member of the resident's immediate family.

CORRECTING INFORMATION

If information we hold about a resident is found to be out of date or incorrect, we make every effort to correct it. For details on how to request a correction or update of information held by San Carlo, see Policy 8.4 Information Management.

PROCEDURE

COLLECTING INFORMATION

Information is generally collected throughout the process of providing care to a resident. For example, assessment forms and admission papers can provide important information that is used to tailor the resident's care to their unique needs.

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Personal Information and Sensitive Information (including Health Information), can be collected from any of the following:

- A resident;
- Any person or organisation that assesses health status or care requirements (e.g. The Aged Care Assessment Team);
- The resident's health practitioner;
- Other health providers or facilities;
- Relatives or representatives of a resident; and/or
- A resident's legal advisor.

The resident's consent must always be obtained before collecting Personal and Sensitive Information. Written consent is not always necessary (e.g. during clinical assessments), but it is important that the resident is made aware of and understands the following:

- Why the information is being collected; and
- The purposes for which the information will be used.

Where verbal consent is given, this must be recorded in the resident's progress notes.

Staff should aim to only collect information that is relevant to the resident's care and that the resident is comfortable disclosing.

PERMISSIONS

Residents must be asked for consent before their information is shared. Depending on the circumstances, verbal consent may be sufficient. For example, verbal consent is acceptable when making a referral to an external service provider.

If verbal consent is given, this must be recorded in the resident's progress notes. Follow up consent can be directed to the nominated person responsible in the case of restraint management or risk indemnity- where the resident is unable to give informed consent.

Where written consent is needed, this must be recorded on the appropriate form and then in the resident's progress notes (and Care Plan, if the permission is ongoing).

For example, permission to display the resident's photo/information in the San Carlo newsletter is recorded on the 'Leisure and Lifestyle Resident Consent Form' (available on the M: Drive) that is provided to the resident at admission. This consent is then recorded in the 'Social, Family/Friends, Cultural & Spiritual Care' domain in the resident's Care Plan.

REQUESTING ACCESS TO INFORMATION

Individuals who are authorised to access a resident's record can request access either verbally or in writing. This is managed using the Freedom of Information Request form.

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All other requesting parties must complete a 'Freedom of Information' form (available on the M: drive and printable on request) outlining their request. This must be approved by the Privacy officer for issuing a hard or soft copy of any document related to, or relevant to a resident. All staff identifiers will be removed before a copy is issued to the family.

Residents and Representatives

The resident and their nominated representative are generally free to view the resident's Care Plan and can speak to the Nurse in Charge directly to request access to this information. However, the CCM should be consulted if the resident/representative wishes to access other sections of the record that contains Sensitive Information or discloses Personal Information about another individual.

External Services

External services requesting access to a resident's information must provide a written request on their organisation's letterhead outlining the following:

- The authority they have to access the information (e.g. resident's signed consent, legal authority);
- The purposes for which the information is required;
- The information that is being requested; and
- The form in which they would like to receive the information.

MAINTAINING CONFIDENTIALITY

Staff must ensure that they do not disclose residents' information to any unauthorised individuals. Below are some general rules to be followed:

- An individual who calls requesting information should be asked to provide their request in writing so that their identity can be verified.
- Details of a resident's personal care should only be discussed in a private area where the conversation cannot be overheard by others.
- Any physical documents that contain personal information should be kept in a secure area (e.g. locked in the nurses' station or at reception) and destroyed in line with record-keeping requirements/legislation.
- Computers must be locked/signed out when not in use to ensure digital files are secured.

COMPLAINTS

Persons wishing to make a complaint about the way we have managed Personal Information can make that complaint verbally or in writing to any of the following:

- CEO:

Phone: 03 9404 1490

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Fax: 03 9404 4390

Email: rhonda@sancarlo.com.au

- Senior Management:
Phone: 03 9404 1490
Fax: 03 9404 4390
Email: sancarlo@sancarlo.com.au
- Can be raised via the app or QR Code, or feedback foem.

While it is preferred that complaints are raised with the organisation first, complaints about our handling of Personal Information can also be made to an external body as set out below:

- Office of the Australian Information Commissioner
Online: <https://www.oaic.gov.au/individuals/how-do-i-make-a-privacy-complaint>
Phone: 1300 363 992
Fax: 02 9284 9666
Mail: GPO Box 5218, Sydney NSW 2001
- Aged Care Quality and Safety Commission (interpreter & relay services available – see website link)
Online: <https://www.agedcarequality.gov.au/making-complaint/lodge-complaint>
Phone: 1800 951 822.
Mail: GPO Box 9819, Melbourne VIC 3000

Complaints made directly to San Carlo are investigated in accordance with Policy 6.1 Resident and Visitor Feedback.

Complainants are actively included in the investigation and resolution process. Advocacy services can be accessed by residents/representatives when making complaints and throughout the resolution process. See Policy 6.2 Advocacy and Accessibility.

RELATED POLICIES AND LEGISLATION

POLICIES AND PROCEDURES

- 1.1 Resident Dignity and Respect
- 1.5 Accessibility of Information for Residents
- 4.4 External Referrals
- 6.1 Resident and Visitor Feedback
- 6.2 Advocacy and Accessibility
- 8.4 Information Management
- 7.7 Employee & External Privacy
- 7.7.1 Data Breaches

LEGISLATION

- *Aged Care Act 1997* (Cth) and associated principles
- *Australian Privacy Principles 2014* (Cth)

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- *The Privacy and Data Protection Act 2014 (Vic)*
- *The Health Records Act 2001 (Vic)*

DOCUMENT VERSION CONTROL AND REVIEW HISTORY

Version	Date	Sections Modified	Author	Approved By	Next Review
1.0	01-07-2019	All	San Carlo	Rhonda Joiner	July 2020
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2.1	07-06-2022	All	San Carlo	Rhonda Joiner	May 2024
3.0	11-07-2024	All	San Carlo	Rhonda Joiner	May 2027

AUTHORITY

This policy is authorised under delegation by:

Rhonda Joiner
Chief Executive Officer