

# Consent and Confidentiality Policy

**Think Community Services (TCS)**

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|             |                  |
|-------------|------------------|
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## Record of Document Control

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| <b>1.0</b> | 20 January 2022 | Think Management Team       | Directors           | Nil, first version                                                                                             | 20 January 2025  |
| <b>1.1</b> | 27 October 2022 | Think Management Team       | Directors           | Minor wording correction – patient replaced with consumer                                                      | 27 October 2025  |
| <b>1.2</b> | 07 August 2024  | Think Management Team       | Directors           | Update Branding                                                                                                | 07 August 2027   |
| <b>1.3</b> | 04 March 2026   | Senior Management Committee | Directors           | Name change, minor wording changes                                                                             | 04 March 2029    |
| <b>2.0</b> | 31 August 2026  | Board of Directors          | Executive Directors | Structure updated. Board added as approval authority. Scope table added per service. Monitoring section added. | 31 August 2029   |

*Think Mental Health acknowledge the Traditional custodians on the land on which we live and work, and of the many different nations across the wider regions from which we all come. In Canberra this is the Ngunnawal people. We pay our respects to the Elders past, present and emerging as the holders of the memories, the traditions, the culture and the spiritual wellbeing of the Aboriginal and Torres Strait Islander peoples across the nation.*

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## 1.0 Purpose

This policy outlines establishes Think Community Services (TCS's) approach to obtaining informed consent and maintaining the confidentiality of consumer health information across all services. This policy sets out the service's approach to obtaining informed consent, as well as the ways in which confidentiality is maintained when recording and storing consumer health information. These issues are important in providing an environment where service users are equal partners in their care, can make informed choices about their treatment, and know who has access to their personal information and for what purpose.

The purpose of this policy is to:

- Define TCS's approach to informed consent including its definition, types, and the approach to obtaining it across all service modalities including face-to-face and telephone
- Establish the principles and standards that govern the confidentiality of consumer health information across all TCS services
- Define the circumstances under which consumer information may be shared without consent, and the obligations that apply
- Establish a verbal consent protocol specific to the ACT Medicare Mental Health Phone Service
- Ensure policies reflect best practice, legislative obligations, and applicable standards and accreditation requirements.

## 2.0 Scope

This policy applies to all Think Community Services staff, contractors, and governing body members involved in policy development, approval, implementation, and review or management of organisational policies. It applies across all services, programs, and operational areas delivered by TCS.

This policy applies to all TCS policy documents, including policies, procedures, guidelines, and protocols. It does not apply to individual consumer support plans, clinical documentation, or operational work instructions that fall outside the policy suite.

## 3.0 Policy Statement

Think Community Services is committed to ensuring the privacy and confidentiality of all service users. Informed consent and confidentiality are fundamental to consumer-centred care, they enable consumers to be equal partners in their care and to make informed choices about their treatment and information. This includes the following rights, as articulated in the Quality and Clinical Governance Framework:

- Privacy and confidentiality — confidentiality and privacy arrangements will be in place in accordance with relevant legislation, whilst ensuring appropriate information sharing is in place between services involved in a care pathway.

- Involvement in care — consumers and carers will be partners in their care. This will include arrangements for informed consent to care delivered at the centre and referrals.

The service model of TCS involves important internal and external team arrangements and shared care, to enable integrated, multidisciplinary assessment and care to be provided. The consent and confidentiality arrangements in this policy are contextualised within these team and partnership arrangements. The arrangements seek to support the best care outcomes for consumers, through a process which respects their right to decision-making about their services and information.

This policy aligns with:

- The principles of recovery, trauma-informed care, and human rights
- The organisation's mission, values, and applicable legislative, regulatory, contractual, and accreditation requirements relevant to the services delivered by TCS
- The Governance Framework and Quality, Safety & Clinical Governance Framework
- The Consumer and Engagement Participation Framework
- The Data Governance and Records Management Policy
- Health Records (Privacy and Access) Act 1997 (ACT)
- Privacy Act 1988 (Cth) and Australian Privacy Principles
- Mental Health Act 2015 (ACT)
- Territory Records Act 2002
- Children and Young People Act 2008 (ACT)
- Australian Commission on Safety and Quality in Health Care — Partnering with Consumers / Informed Consent.

## 4.0 Guiding Principles

This policy is guided by the following principles:

**Table 1** – *Guiding principles of this policy*

| Principle                      | Description                                                                                                                                                                                                                                             |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Consumer Participation</b>  | Consumers and carers are partners in their care. They have the right to make informed decisions about their treatment and information. Consent and confidentiality arrangements support genuine partnership and shared decision-making                  |
| <b>Safety and Quality</b>      | Appropriate information sharing with consent supports safe, integrated, and coordinated care for consumers across services. Consent and confidentiality arrangements are designed to facilitate the best care outcomes while protecting consumer rights |
| <b>Evidence-Informed</b>       | Policies are based on current research, practice guidelines, and legal frameworks                                                                                                                                                                       |
| <b>Cultural Responsiveness</b> | Consent processes consider the personal circumstances, beliefs, priorities, cultural and linguistic backgrounds, and any special needs of the individual. Information is provided in accessible ways to support genuine informed decision-making        |

|                               |                                                                                                                                                      |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Continuous Improvement</b> | Breaches and consent issues are identified, managed, and reported through the TCS governance system. Learnings inform quality improvement activities |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|

## 5.0 Responsibilities

**Table 2 – Responsibilities of specific roles in TCS**

| <b>Role</b>                                           | <b>Responsibility</b>                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Board of Directors</b>                             | <ul style="list-style-type: none"> <li>• Hold ultimate accountability for this policy</li> <li>• Approve this policy as a high-risk consumer rights policy</li> <li>• Receive compliance reports</li> </ul>                                                                                                                                                                                                               |
| <b>Executive Directors — Think Community Services</b> | <ul style="list-style-type: none"> <li>• Hold ultimate executive accountability for the policy suite and its alignment with governance obligations, accreditation standards, and legislative requirements</li> </ul>                                                                                                                                                                                                      |
| <b>Senior Management Committee (SMC)</b>              | <ul style="list-style-type: none"> <li>• Approve this policy within delegated authority</li> <li>• Monitor implementation and compliance</li> <li>• Receive breach reports and oversee corrective action</li> </ul>                                                                                                                                                                                                       |
| <b>Quality Improvement Committee (QIC)</b>            | <ul style="list-style-type: none"> <li>• Approve this policy within delegated authority</li> <li>• Monitor implementation and compliance</li> <li>• Receive breach reports and oversee corrective action</li> </ul>                                                                                                                                                                                                       |
| <b>Consumer Advisory Group (CAG)</b>                  | <ul style="list-style-type: none"> <li>• Contribute consumer perspectives to the development and review of this policy</li> <li>• Review consumer-facing consent materials and associated plain-language summaries</li> </ul>                                                                                                                                                                                             |
| <b>People and Administrative Services Manager</b>     | <ul style="list-style-type: none"> <li>• Ensure relevant confidentiality requirements are incorporated into employment documentation, induction and workforce processes</li> <li>• Support the management and escalation of suspected or actual breaches of confidentiality involving staff, in accordance with relevant organisational policies and procedures</li> </ul>                                                |
| <b>Systems and Performance Lead</b>                   | <ul style="list-style-type: none"> <li>• Maintain the Document Register, including review dates, version history, and document status</li> <li>• Send alerts when policies are approaching their review date</li> </ul>                                                                                                                                                                                                   |
| <b>Policy Owner</b>                                   | <ul style="list-style-type: none"> <li>• Draft, consult, and review policies within their area of responsibility</li> <li>• Ensure the policy uses the standard TCS template and record of document control</li> <li>• Coordinate consultation with relevant stakeholders including staff, consumers, and external advisors as appropriate</li> <li>• Submit the completed draft to the QIC for quality review</li> </ul> |
| <b>Service Managers</b>                               | <ul style="list-style-type: none"> <li>• Communicate policy changes to all affected staff through team meetings and internal communication systems</li> <li>• Ensure staff implement consent procedures correctly and consistently</li> <li>• Monitor compliance with confidentiality obligations</li> <li>• Respond to breaches</li> </ul>                                                                               |

|                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>All Staff, Students, and Contractors</b> | <ul style="list-style-type: none"> <li>• Obtain and document informed consent in accordance with this policy</li> <li>• Maintain confidentiality of all consumer information</li> <li>• Report any concerns about consent or confidentiality breaches to their line manager immediately</li> </ul>                                                                                                                              |
| <b>Consumers and Carers</b>                 | <ul style="list-style-type: none"> <li>• Provide input into consent and confidentiality practices through the CAG and other consultation processes</li> <li>• Raise any concerns through the complaints process or the ACT Human Rights Commission</li> <li>• Participate in decisions about their information, provide or withdraw consent where appropriate, and raise concerns through the TCS complaints process</li> </ul> |

### 5.1 Policy Development or Review

This policy is reviewed on a three-year cycle, consistent with the Document Review Alert System. A review is also triggered by:

- Changes to legislative obligations, applicable standards, accreditation requirements, or organisational needs.
- Incidents, complaints, or audit findings that identify a gap in or non-compliance with this policy
- Consumer feedback, complaints, or audit findings
- Strategic or operational priorities identified by the Board, Executive Directors, SMC, or QIC
- Significant organisational change affecting the scope or application of this policy.

Reviews are managed in accordance with the Policy Development Policy. The next scheduled review date is recorded in the Document Register.

## 6.0 Policy Requirements

### 6.1 Definition and Types of Informed Consent

Informed consent is defined by the Australian Commission on Safety and Quality in Health Care as:

*"A person's decision, given voluntarily, to agree to a healthcare treatment, procedure or other intervention that is made:  
 — Following the provision of accurate and relevant information about the healthcare intervention and alternative options available; and  
 — With adequate knowledge and understanding of the benefits and material risks of the proposed intervention relevant to the person who would be having the treatment, procedure or other intervention."*

At TCS, we are committed to providing the opportunity for informed consent to:

- Receiving a service from TCS
- Storing and sharing information with relevant team members and service providers
- Being contacted for participation in Experience of Service surveys, or for other service-related matters

- Sharing of information with internal and external teams is necessary to deliver quality multidisciplinary care outcomes
- Sharing de-identified data with the Commonwealth Department of Health and Aged Care, state and territory health departments, and other agencies to allow for research, evaluation, and improvement of mental health services in Australia.

### *6.2 Principles of Informed Consent*

Gaining informed consent requires communicating the benefits and risks of the care proposed by the service, and the need for sharing of service delivery information so that service users can make an informed decision.

At TCS, there are four very important aspects to this:

- The capacity of the person to make decisions about their treatment must be considered in the approach to informed consent
- Consent provided must be free and voluntary
- Information provided must cover the procedures to be undertaken, and the alternative treatment or procedures that may be available
- Consent processes should also seek the agreement of the service user to the sharing of information within internal and external teams necessary to deliver quality multidisciplinary care outcomes.

In the informed consent process, staff will be expected to consider the personal circumstances, beliefs, and priorities of the individual and any special needs they may have. This includes consideration of:

- cultural and linguistic diversity
- cultural safety
- accessibility and communication needs
- health literacy and level of understanding
- other social, psychological, or non-health factors that may influence decision-making.

#### *6.2.1 Capacity and Substitute Decision-Making*

Where a service user is unable to provide informed consent due to impaired decision-making capacity, staff must act in accordance with relevant legislation, organisational requirements, and any applicable substitute decision-making arrangements.

Where a substitute decision-maker has been formally appointed, staff will liaise with the authorised representative regarding consent for treatment, care, support, and information sharing.

Where informed consent cannot be obtained, services will not proceed unless otherwise authorised or required by law.

### *6.3 Types of Consent*

Consent must be documented in the consumer record. Depending on the nature and complexity of the service, consent may be obtained in the following forms:

- Verbal consent

- Written consent
- Implied consent, where appropriate and consistent with legislative and organisational requirements.

### *6.3.1 Verbal Consent*

- Verbal consent is obtained at the commencement of each phone service interaction, the staff follows the approved verbal consent script. Consumers are informed verbally of the nature, scope, and limitations of the phone interaction; their right to decline or stop the service at any time; how their information will be used and stored; and their right to provide feedback or make a complaint.
- Verbal consent is documented in the consumer's clinical record by the staff member following the call.
- All other consent and confidentiality obligations in this policy apply equally to phone service interactions.

### *6.4 Approach to Confidentiality of Consumer Information*

In order to provide a service to individuals, we need to collect and record personal information. Consumers may interact with TCS anonymously or using a pseudonym where practicable and where identification is not required by law or necessary for TCS to provide the relevant service safely and effectively. Confidentiality at TCS is supported by ensuring all staff and service users respect and understand processes and protections that limit access to this information and ensure secure storage and sharing arrangements in line with the ACT Health Records (Privacy and Access) Act 1997.

The information collected includes details about the topics discussed and actions taken during service sessions. This information will be accessible to members of TCS's service delivery team and, if appropriate, may be available to partner agencies that are supporting service users through care pathways.

There are a number of key principles which underpin our approach to achieving the right balance between service user privacy and sharing data to facilitate multidisciplinary care:

- Service users should have confidence that TCS respects the importance of keeping consumer information secure
- Service user information is only shared with consumer consent and where necessary for good care
- Service users should not have to tell their story twice, sharing of information on referral, with consent, will help to minimise this.

At TCS, we work in a team environment and as such, case discussions and reviews occur regularly, to ensure consumers get the best possible service. All consumer files are stored electronically. Any paper-based notes will be kept in a secure area and destroyed once transferred to our electronic database. Consumer information may be transferred by mail, facsimile, or via email from time to time.

When a consumer is no longer receiving a service from TCS, all information will be archived but maintained within the database for the required period of time. All health data is stored for a minimum of seven years after last contact. If the service user is under 18 years of age, all records will be stored until the individual reaches 18 years and then for an additional seven years, as per legislative requirements (Health Records (Privacy and Access) Act 1997).

Where the service user gives their consent, anonymous de-identified data, without any personal details, will be made available to the confidential database held by the Department of Health, Disability and Ageing. This will assist with overall monitoring and review of mental health service delivery and inform future services.

In line with the Code of Conduct and the Data Governance and Records Management Policy, staff are not to access any confidential information that is not directly required to perform their duties. Any breaches will be considered a violation of the Code of Conduct.

### *6.5 Circumstances for Sharing Consumer Information*

TCS takes confidentiality and security of personal information seriously and will only share information with other parties in the following circumstances:

- If permission is given to share information with another person or organisation (third party)
- If a request for release of information is received from a third-party service, even if this includes consumer consent. TCS will endeavour to inform the consumer prior to releasing their information, in order to confirm consent is current
- If concerns are held for someone's safety, TCS has a duty of care to act to protect individuals
- To meet legal requirements relating to:
  - Mandatory reporting of recent and/or historical child abuse and neglect
  - A legally mandated request for information
  - In line with best practice, TCS will always endeavour to inform a consumer of any pending release of information for legal purposes.

### *6.6 Breach of Confidentiality*

Any actual or suspected unauthorised access, use, loss or disclosure of consumer information must be reported promptly in accordance with the TCS incident management, privacy and data breach response requirements. Suspected breaches will be assessed and managed according to their nature and severity. Where a breach involves staff conduct, relevant workforce or disciplinary processes may also apply.

If a consumer of our service is dissatisfied with the conduct of one or more staff members regarding privacy and confidentiality of information, the participant is encouraged to have their concern addressed using the Consumer Participation and Feedback Policy.

Should the individual not be satisfied with complaint management, they can report their concern to the ACT Human Rights Commission, which handles complaints about the provision of health services in the ACT and complaints about access to

and integrity of health records under the ACT Health Records (Privacy and Access) Act 1997.

## 7.0 Implementation

This policy is implemented and communicated in accordance with the Policy Development Process. Implementation is the responsibility of the Policy Owner, systems and Performance Lead and Service Managers.

**Table 3 – Implementation mechanisms for this policy**

| Mechanism                               | Description                                                                                                                                                                                          | Responsible                                                        |
|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| <b>Induction and mandatory training</b> | This policy is included in all-staff induction and relevant mandatory training, ensuring new and existing staff are aware of their obligations                                                       | People and Administrative Services Manager and Administrative Team |
| <b>Staff communication</b>              | This policy is tabled at relevant staff meetings following approval or revision. Changes are communicated via internal systems                                                                       | Service Manager                                                    |
| <b>Document Register</b>                | This policy is uploaded to the Document Register and accessible to all staff via internal systems                                                                                                    | Systems & Performance Lead                                         |
| <b>Consent documentation</b>            | Written consent forms are obtained at intake for all consumers receiving face-to-face services. Verbal consent is documented at the commencement of all phone interactions using the approved script | All staff                                                          |

## 8.0 Compliance Monitoring

Compliance with this policy is monitored through the following indicators. Results are reported to the QIC and, where required, escalated to the SMC.

**Table 4 – Compliance monitoring for this policy**

| Indicator                                                                                                         | How Monitored               | Frequency | Reported To |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------|-------------|
| <b>% of consumer files with completed and documented consent forms recorded in the respective EHP</b>             | Service Compliance Register | Quarterly | QIC / SMC   |
| <b>Number of confidentiality breaches identified and managed (including Code of Conduct disciplinary actions)</b> | Incident Register           | Quarterly | SMC / Board |

|                                                                                                     |                                  |           |           |
|-----------------------------------------------------------------------------------------------------|----------------------------------|-----------|-----------|
| <b>Number of complaints received relating to consent or confidentiality of consumer information</b> | Complaints and Feedback Register | Quarterly | QIC / SMC |
|-----------------------------------------------------------------------------------------------------|----------------------------------|-----------|-----------|

## 9.0 Related Documents

The following documents should be read in conjunction with this policy.

**Table 5 – Related internal documents**

| Doc ID                                    | Document Title                                  | Type      | Relationship to this Policy                                                                                                                       |
|-------------------------------------------|-------------------------------------------------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Parent governance documents</b>        |                                                 |           |                                                                                                                                                   |
| <b>GOV-FRM-01</b>                         | Governance Framework                            | Framework | Overarching governance structure and accountability model                                                                                         |
| <b>GOV-FRM-02</b>                         | Quality, Safety & Clinical Governance Framework | Framework | Safety and quality system this policy must support                                                                                                |
| <b>GOV-POL-01</b>                         | Policy Development Policy                       | Policy    | Governs the development, approval and review of this policy                                                                                       |
| <b>Related framework</b>                  |                                                 |           |                                                                                                                                                   |
| <b>GOV-FRM-06</b>                         | Consumer and Engagement Participation Framework | Framework | Consumer rights are a core element of this framework — consent underpins genuine participation                                                    |
| <b>Supporting policies and guidelines</b> |                                                 |           |                                                                                                                                                   |
| <b>DAT-POL-01</b>                         | Data Governance and Records Management Policy   | Policy    | Governs data storage, access, and records management                                                                                              |
| <b>DAT-POL-02</b>                         | Privacy Policy                                  | Policy    | Privacy Act obligations apply to all consumer information — referenced throughout this policy                                                     |
| <b>RSK-POL-04</b>                         | Incident Management Policy & Procedure          | Policy    | Confidentiality breaches are reported and managed as incidents under this policy                                                                  |
| <b>CON-POL-02</b>                         | Consumer Participation and Feedback Policy      | Policy    | Consumers who are dissatisfied with consent or confidentiality management use this complaints process                                             |
| <b>GOV-POL-02</b>                         | Code of Conduct                                 | Policy    | Breach of confidentiality is a Code of Conduct violation                                                                                          |
| <b>Registers and records</b>              |                                                 |           |                                                                                                                                                   |
| <b>QLT-REG-01</b>                         | Document Register                               | Register  | This policy is listed and tracked in the Document Register                                                                                        |
| <b>QLT-REG-03</b>                         | Service Compliance Audit Register               | Register  | Records audit activities, findings, and compliance monitoring relating to consent, confidentiality, privacy, and clinical documentation practices |

|                   |                                  |          |                                                                                                                                          |
|-------------------|----------------------------------|----------|------------------------------------------------------------------------------------------------------------------------------------------|
| <b>RSK-REG-01</b> | Incident Register                | Register | Records incidents, breaches, or risks relating to confidentiality, privacy, information handling, and consent processes                  |
| <b>CON-REG-01</b> | Complaints and Feedback Register | Register | Records complaints, feedback, or concerns relating to consent, confidentiality, privacy, communication, or information sharing practices |

## 10.0 References and Legislation

This policy should be read in conjunction with applicable legislation, regulatory requirements, organisational frameworks, and relevant standards that support governance, quality, safety, and service delivery across TCS:

- Privacy Act 1988 (Cth) and the Australian Privacy Principles.
- Health Records (Privacy and Access) Act 1997
- Mental Health Act 2015 (ACT)
- Children and Young People Act 2008 (ACT)
- Applicable national standards and accreditation requirements relevant to TCS services
- Applicable contractual, regulatory, quality, and safety requirements
- ACT Government – Health and Community Services Directorate. Regulation, Assurance and Quality (2025).
- ACT Human Rights Commission – Health Services Commissioner complaints information
- Australian Commission on Safety and Quality in Health Care — Partnering with Consumers / Informed Consent (<https://www.safetyandquality.gov.au/our-work/partnering-consumers/informed-consent>).