

# Privacy and confidentiality

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## Introduction

This policy ensures Thorndale Foundation will protect and handle personal information in accordance with the NDIS and relevant privacy legislation. We acknowledge an individual's right to privacy while recognising that personal information is required to be collected, maintained and administered in order to provide a safe working environment and a high standard of quality.

The information we collect is used to provide services to participants in a safe and healthy environment with individual requirements, to meet duty of care obligations, to initiate appropriate referrals, and to conduct business activities to support those services.

## Applicability

### When

- applies to all personal information and sensitive personal information including the personal information of employees and participants
- applies to all company confidential information - that is any information not publicly available.





### Who

- applies to all representatives including key management personnel, directors, full time workers, part time workers, casual workers, contractors and volunteers.

### Edit Note: Adding docs to this policy.

Before finalising this policy review and approve Thorndale's Staff Code of Conduct and Thorndale's Complaints and Disputes Policy (as this was referenced in the existing Thorndale Privacy policy)

### Governing regulations for this policy

-  NDIS (Provider Registration and Practice Standards) Rules 2018 (Cth)
-  NDIS (Quality Indicators) Guidelines 2018 (Cth)
-  Privacy Act 1988 (Cth)
-  Privacy Amendment (Notifiable Data Breaches) Act 2017 (Cth)

### Documents relevant to this policy

-  Privacy and confidentiality (easy read - Word version)

## 1.0 Outcomes

Each service user and employee accesses supports that respect and protect their dignity and right to privacy.

**To achieve this outcome, the following indicators should be demonstrated:**

- consistent processes and practices are in place that respect and protect the personal privacy and dignity of each participant.
- each participant is advised of confidentiality policies using the language, mode of communication and terms that the participant is most likely to understand.
- each participant understands and agrees to what personal information will be collected and why, including recorded material in audio and/or visual format.

## 2.0 Privacy and confidentiality guidelines

To support the privacy and confidentiality of individuals:

- Thorndale is committed to comply with the privacy requirements of the Privacy Act, the Australian Privacy Principles and for Privacy Amendment (Notifiable Data Breaches) as required by organisations providing disability services
- Thorndale is fully committed to comply with the consent requirements of the NDIS Quality and Safeguarding Framework and relevant state or territory requirements
- each individual has the right to opt out of consenting to and providing their personal details if they wish
- where reasonable and practicable, we will collect your personal information only from you, however, in some circumstances we may be provided with information by third parties. In such a case we will take reasonable steps to ensure that you are made aware of the information, provided to us by the third party
- personal information will only be used by us and will not be shared outside the organisation without your permission unless required by law (e.g. reporting assault, abuse, neglect, or where a court order is issued)
- where we are required to report to government funding bodies, information provided is non-identifiable and related to services and support hours provided, age, disability, language, and nationality
- images or video footage of participants will not be used without their consent
- participants have the option of being involved in external NDIS audits if they wish

*Specific to Employees*

- under the Privacy Act, the APPs do not apply to employee records. As a result, this Privacy Policy does not apply to Thorndale's treatment of an employee record
- when collecting personal information of job applicants, staff members and contractors Thorndale's primary purpose of collection is to assess, and (if successful) engage the applicant, staff member or contractor, as the case may be. Where Thorndale receives unsolicited job applications these will be dealt with in accordance with unsolicited personal information requirements of the Privacy Act.
- Thorndale obtains personal information about volunteers who assist the organisation at events, courses and associated activities. This information is obtained in good faith allowing Thorndale and volunteers to work together.

## 3.0 Thorndale Practices

- the organisation will only collect information about a participant which is directly relevant to the provision of service
- any written information about the participant will be kept in the participants file or computer drive which will be kept secure
- when information is exchanged, transported, faxed, emailed or copied, staff will be aware of potential privacy risks and take adequate precautions

- anything that is written or spoken about a participant will be accurate, convey respect for the person and uphold their dignity
- meetings or interviews where the participant is discussed will be conducted in an appropriately private area
- when a participant leaves the service, documents in their file will be archived in accordance to the relevant statutory requirements depending upon the information

#### Accommodation Services

- wherever possible, participants will be given as much privacy as required when they receive visitors. This includes the opportunity to use their own room
- mail will be given to participants and a support person made available to assist the participant process the contents, when required.

## 4.0 Consent

The following activities require informed participant consent:

- when a participant provides us sensitive personal information
- if we intend to share a participant's personal information with a third party
- when images or video of the participant is to be used in public documents or for promotional purposes
- when providing supports and services to participants
- before a participant begins a planned activity
- when creating or reviewing plans for participants
- before a participant undertakes a health assessment
- when supporting participants to have medical or dental treatment
- when supporting participants to take medicine
- before planning the use of any of the participant's funds
- before commencing a restrictive practice as part of a behaviour support plan
- when a forensic procedure is required for a police investigation.

#### Accommodation Service:

- the informed permission of the participant will be necessary to gain entry to their room and for the use or removal of their possessions by residential staff or other participant, unless the well-being of that participant, any other participants or a staff person is threatened.

## 5.0 Security of information

Thorndale's staff are required to respect the confidentiality of personal information and the privacy of individuals.

To keep information secure:

- we ensure personal information is accessible to the participant and is able for use only by relevant workers
- we ensure security for personal information includes password protection for IT systems, locked filing cabinets and physical access restrictions with only authorised personnel permitted access
- we ensure personal information no longer required is securely destroyed or de-identified
- codes which identify an individual and are assigned by another agency will not be adopted for any information held by Thorndale
- when your personal information is no longer required for the purpose it was obtained, Thorndale will take reasonable steps to destroy or permanently de-identify your personal information
- Thorndale has in place steps to protect the personal information it holds from misuse, loss, unauthorised access, modification, interference or disclosure by use of various methods including locked storage of paper records and password access rights to computerised records

- when you use Thorndale's website, having your cookies enabled will allow us to maintain the continuity of your browsing session and remember your details when you return. We may also use web beacons, Flash, local stored objects and JavaScript. If you adjust your browser settings to block, reject or delete these functions, the webpage may not function in an optimal manner. We may also collect information about your IP address, although this may not identify you.

## 6.0 Data breaches

As part of information security responsibilities:

- we will take reasonable steps to reduce the likelihood of a data breach occurring including storing personal information securely and accessible only by relevant workers
- if we know or suspect your personal information has been accessed by unauthorised parties, and we think this could cause you harm, we will take reasonable steps to reduce the chance of harm and advise you of the breach, and if necessary the Office of the Australian Information Commissioner & Quality Safeguards Commission (if necessary)

## 7.0 Breach of privacy and confidentiality

A breach of privacy and confidentiality is an incident:

- follow the Manage incident internally process to resolve
- may require an investigation
- an intentional breach will result in disciplinary action up to and including termination of employment.

A breach of this policy will be considered a serious matter. It will be dealt swiftly and in accordance with the **ΔCounselling, Discipline & Dismissal** policy.

Possible outcomes for a staff member who has breached the policy may be:

- counselling
- performance improvement plans
- formal disciplinary actions
- referral to the relevant registration or membership board
- referral to the police in cases of suspected possibility criminal activity
- termination of employment.

## 8.0 Privacy Complaints & Enquiries

If you have any concerns, complaints or you think there has been a breach of privacy, please contact the Privacy Officer.

Complaints brought to the attention of the Privacy Officer will, in the first instance, follow Thorndale's **Complaints and Dispute Policy and Process**.

If, after following Thorndale's Complaints and Dispute Policy and Procedure, you are not satisfied with the response to your complaint, you can then refer your complaints to the Office of the Australian Information Commissioner via: Phone: 1300 363 992 Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) Mail: GPO Box 5218 Sydney NSW 2001.

**The Privacy Officer:**

The Privacy Officer is the first point of contact for advice on privacy matters within Thorndale and their role involves assisting with and coordinating a range of functions to help Thorndale comply with the APPs. However, it is ultimately Thorndale and its employees who are responsible for complying with the APPs.

The Privacy Officer functions include:

- providing privacy advice internally, for example, giving advice to colleagues on:
  - the development of new initiatives that have a potential privacy impact
  - the general application of privacy law to the Office of the Australian Information Commissioner activities
  - what safeguards to apply to mitigate any risks to the privacy of individuals
- liaising with the OAIC where necessary
- coordinating the handling of internal and external privacy enquiries, privacy complaints and requests for access to, and correction of, personal information
- monitoring Thorndale's performance against its Privacy Policy.

## 9.0 Access and Maintaining your personal information

We provide all individuals with access to information about the privacy of their personal information. Individuals have the right to request access to their personal records by requesting this with their contact person/manager.

**Access:** If you wish to access your personal information, please contact us in writing ([info@thorndale.com.au](mailto:info@thorndale.com.au)). In order for Thorndale to continue to protect your information we may require identification from you before releasing the requested information.

**Maintaining:** It is important to Thorndale that your personal information is up to date. If you find the information we have is not up to date or is inaccurate, please advise us as soon as possible so we can update our records. You may, at any time, remove your details from our mailing / marketing lists at any time by contacting us in writing ([info@thorndale.com.au](mailto:info@thorndale.com.au)).

## 10.0 Examples of documentary evidence to support practice

- Service agreements
- Privacy and consent policy and procedures
- Participant files
- System privacy controls
- Staff orientation, induction, training records and code of conduct
- Participant feedback
- Policies and procedures on Participant Support Provision and Privacy