

## Privacy and Confidentiality Policy and Procedure

### Policy Statement

Maybanke Association Inc. protects and upholds the privacy and confidentiality of clients and staff.

To protect and uphold privacy we:

- Have processes in place, so no personal information is collected, stored, used or shared with anyone, purposefully or by omission, unless the client provides informed consent, or we are required by law to do so;
- Only collect the information needed to perform services; and
- Store all data securely as per legislation.

To maintain confidentiality, we:

- Uphold all legal and ethical obligations concerning handling confidential information.
- Provide information to clients and staff about their rights regarding confidentiality and the processes used to protect these rights, and where any limits to confidentiality exist.
- Avoid inappropriate verbal and written disclosure of information about clients and staff within and outside of the organisation.
- Only share verbal and written information about a client with agencies and individuals external to Maybanke Association Inc. with the written consent of the client, unless the circumstances are such that limits to confidentiality apply; and
- Take all reasonable steps to protect all information held (including personal information) from misuse, loss, unauthorised access, modification, or disclosure.

### Scope

This policy and procedure applies to Maybanke Association as a whole. This policy and procedure should be read in conjunction with our Records and Information Management Policy and Procedure.

### HSQF Related Standards

Human Services Quality Standards Indicator 1.7

Human Services Quality Standards Indicator 4.1

### Related Legislation

*Human Rights Act 2019*

*Information Privacy Act 2009 (Qld)*

*Information Privacy Principles*

*Right to Information Act 2009 (Qld)*

*Privacy Act 1988 (Cth)*

*Australian Privacy Principles*

*Privacy Amendment (Notifiable Data Breaches) Act 2017*

*Notifiable data breaches - Home (oaic.gov.au)*

*Information Privacy Act 2009: Obligations of Contracted Service Providers (Office of Information Commissioner Queensland)*

*Information Privacy Guide (Department of Children, Youth Justice and Multicultural Affairs)*

*Guide to undertaking privacy impact assessments - Home (oaic.gov.au)*

*Inquiry into the use of electronic monitoring at disability accommodation sites in Queensland |*

*Office of the Public Advocate (justice.qld.gov.au)*

*Service Agreement - Standard Terms, Clause 27 Information Privacy Act 2009 (Qld)*

*Part 5A of the Domestic and Family Violence Protection Act 2012*

*Domestic and Family Violence Information Sharing Guidelines (May 2017)*

*Section 159C of the Child Protection Act 1999*

*Principle 5: Confidentiality – Practice Standards for Working with Women Affected by Domestic and Family Violence*

## Definitions

Privacy and Confidentiality	Confidentiality	Is the protection of personal information, and means keeping someone's information between you and them, and not telling anyone else unless they have given you informed consent to do so.
Privacy and Confidentiality	Personal Information	<p>Can include:</p> <ul style="list-style-type: none"> <li>• name, date and place of birth</li> <li>• race or ethnicity</li> <li>• financial/banking details</li> <li>• health/diagnostic information</li> <li>• employment details</li> <li>• photograph (including CCTV footage)</li> <li>• signature</li> <li>• uniquely identifying number – e.g. driver license number, tax file number, employee number</li> <li>• details of services requested or obtained</li> <li>• unique physical characteristics – e.g. tattoo, birthmark.</li> </ul> <p>Personal information may reveal a person's identity even if their name is not mentioned. Other information may enable their identity to be deduced.</p> <p><a href="https://www.csyw.qld.gov.au/resources/dcsyw/about-us/right-to-information/privacy-guide.pdf">https://www.csyw.qld.gov.au/resources/dcsyw/about-us/right-to-information/privacy-guide.pdf</a></p>
Privacy and Confidentiality	Privacy	Under the Commonwealth Privacy Act, privacy relates to personal information. For Maybanke Association Inc., privacy also relates to physical

		privacy, that is, having a private space for oneself, or to speak about service or other issues.
--	--	--

## Principles

The principles supporting high-quality confidentiality practices at Maybanke Association Inc. are:

- Confidentiality – confidentiality practices are applied consistently across the organisation and are accessible for clients.
- Privacy - only information necessary for the delivery of high-quality services is collected and stored by Maybanke Association Inc.
- Dignity – Maybanke Association Inc. respects and protects client’s dignity and right to privacy.
- Consent - information is only shared externally with consent or where required by law; and
- Experienced – the team is appropriately skilled and qualified to oversee and manage our organisation's Privacy and Confidentiality Policy.
- Access – service users have a right to access/amend their personal information held by the Department under the Right to Information Act 2009

## Procedure

### Commitment to privacy legislation

- Maybanke Association Inc. processes for the collection, storage, use and disclosure of personal information comply with the obligations of the *Privacy Act 1988*, in accordance with the Information Privacy Principles (*Right to Information Act 2009 {QLD}*), and the *Human Rights Act 2019 (QLD)*. These obligations are:
  - Telling individuals of their right to know why information is collected, how it is protected, how it is stored, how long it is kept, how it is disposed of, how they can access their personal information.
  - Seeking consent from individuals for the collection, storage, use and disclosure of personal data.
  - Only collecting information that is appropriate and relevant to the provision of services or for its primary function.
  - Ensuring individuals can make corrections to their personal information, where necessary unless access is refused by law; and
  - Taking all reasonable steps to store personal information securely and protect it from misuse, loss, unauthorised access, modification, or disclosure.
  - As a government funded organisation, we comply with all reporting requirements of the Department of Justice and Attorney-General

### Privacy protection

- Maybanke Association Inc. has controls in place to protect the security and privacy of the information we hold for clients, Maybanke Association Management Committee members, management, staff and volunteers.
- All Maybanke Association Management Committee members, management, staff and volunteers sign a confidentiality agreement and Code of Ethics when they commence at our organisation.
- All Maybanke Association Management Committee members, management, staff and volunteers are trained on our legal obligations for privacy and confidentiality.
- Maybanke Association Inc. seeks consent from individuals for the collection, storage, use and disclosure of personal data.
- Maybanke Association Inc. informs clients about the requirement to provide informed consent to accept support, including information sharing with other providers or consent-based engagement when working with the Department and Maybanke Association during the induction process. The consent agreement is included in the Welcome documentation.
- When meeting with clients we ensure privacy through meeting in a closed private meeting room; and
- The Client Support Worker explains the client's right to withdraw their consent at any time.

## Collection of Personal Information

- Maybanke Association Inc. only collect information that is necessary for effective service provision, including assessments
- Maybanke Association Inc. staff tell our clients:
  - What information is collected.
  - Why it is collected.
  - How we use their information.
  - When information may need to be released or disclosed.
  - Their right to decline to provide information.
  - When we can release their information without their consent.
  - Their right to make a complaint about privacy and confidentiality at any time.
  - How to make a complaint; and
  - What they can do if the information we hold is incorrect.
- Staff use professional and appropriate language in client records and are unbiased and non-judgmental in comments and assessments they record
- Information is kept up-to-date and accurate.

## Sharing of Personal Information

Personal information is only shared verbally or in writing with the clients' written consent unless the circumstances are such that limits to confidentiality apply.

### Key Principles for Information Sharing Without Consent

The Domestic and Family Violence Protection Act 2012 (the Act) (part 1 s4) states that “ safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount.” The Act (part 5A div 1 s169B) identifies the following key principles

specific to information sharing: a) whenever safe, possible and practical, a person's consent should be obtained before— i. providing, or planning to provide, a service to the person ii. disclosing personal information about the person to someone else b) because the safety, protection and wellbeing of people who fear or experience domestic violence are paramount, their safety and protection takes precedence over the principle mentioned in Paragraph (a) c) before sharing information about a person with someone else, an entity should consider whether disclosing the information is likely to adversely affect the safety of the person or another person. The above principles mean that the safety and protection of victims takes precedence over gaining a perpetrator's consent to share relevant personal information.

## Disclosure of Personal Information

The *Information Privacy Act 2009* (Qld) (**IP Act**) explicitly regulates the transfer of personal information outside of Australia.

Once personal information has left an agency and passed into the possession of someone who is not subject to the IP Act, the protections under that Act are lost. Transfer outside of Australia must only be done in accordance with section 33.

## Transfer outside Australia

Section 33 of the IP Act sets out when an agency may transfer personal information outside of Australia. There are four circumstances in which such a transfer may occur:

- 33(a) – the individual has agreed
- 33(b) – the transfer is authorised or required under a law
- 33(c) – the agency is satisfied on reasonable grounds that the transfer is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of any individual, or to public health, safety and welfare.
- 33(d) – if two or more of the criteria in 33(d) apply (see below).
  - (i) the agency reasonably believes that the recipient of the personal information is subject to a law, binding scheme or contract that effectively upholds principles for the fair handling of personal information that are substantially similar to the IPPs or, if the agency is a health agency, the NPPs;
  - (ii) the transfer is necessary for the performance of the agency's functions in relation to the individual;
  - (iii) the transfer is for the benefit of the individual but it is not practicable to seek the agreement of the individual, and if it were practicable to seek the agreement of the individual, the individual would be likely to give the agreement;
  - (iv) the agency has taken reasonable steps to ensure that the personal information it transfers will not be held, used or disclosed by the recipient of the information in a way that is inconsistent with the IPPs or, if the agency is a health agency, the NPPs.
- All personal information is protected. It is only released internally or externally with the individuals' written consent, except where legally obliged to disclose information
- Legal obligations for disclosure are:
  - Where disclosure would protect the client or others.

- Where necessary for best service practice; and
- Where obligated by law.
- Maybanke Association Inc. complies with the privacy and confidentiality requirements of Part 5A of the *Domestic and Family Violence Protection Act 2012*, *Domestic and Family Violence Information Sharing Guidelines* (May 2017), and Section 159C of the *Child Protection Act 1999*.
- Maybanke Association Inc. is committed to the safety and wellbeing of the children and young people involved in our services. There may be times when, acting in the best interests of the child/young person, we share information with the Department of Children, Youth Justice and Multicultural Affairs.
- See also
  - Records and Information Management Policy and Procedure for how we keep records secure; and
  - Confidentiality of the Practice Standards for Working with Women Affected by Domestic and Family Violence.

## Maybanke Crisis Accommodation

- Maybanke Crisis Accommodation has electronic surveillance cameras installed on our property. We:
  - Inform clients that for safety reasons MACCS properties are covered by CCTV 24 hours per day seven days per week.
  - the footage is accessible only to MACCS staff except in a crisis situation where Queensland Police may request access; and
  - the control console for the system is held in a locked office.

## Storage

Records containing personal information are documented in the records register and stored in a protected environment

The records register identifies where each type of confidential record is stored, who is responsible for it, what protections are in place, and the legislated timeframe the files are archived before being destroyed

## Protocol for accessing information

- Clients and their legal representatives have a right to access their personal information held by Maybanke Association Inc. We treat all access requests with respect and courtesy
- Requests to access personal information are made to the Manager, MACSS or to the President, Maybanke Association Inc.
- The Manager, MACSS notifies the client of the anticipated length of time required before they can access their personal file.



## Managing privacy breaches

- Under the State and Federal privacy legislation, Maybanke Association Inc. is required to report when a data breach is likely to result in serious harm to the people whose information is involved in the breach to:
  - Affected individuals.
  - The Department of Justice and Attorney-General; and
  - The Office of the Australian Information Commissioner
- Maybanke Association Inc. manages and reports privacy breaches to the Department of Justice and Attorney-General by:
  - The Manager, MACSS will advise the department of a breach either by email or verbally as soon as possible after the breach occurred or within a maximum of twenty-four hours.

## Privacy and confidentiality complaints

- Anyone can make a complaint or raise a concern about Maybanke Association Inc. privacy and confidentiality practices e.g. the Maybanke Association Management Committee or the Department of Justice and Attorney-General
- To report actual or alleged privacy breaches or complaints:
  - When a complaint is made to the Maybanke Association Management Committee it will be investigated by an appropriate person nominated by the Committee. If made to the department Maybanke Association Inc. will liaise with the department as to the investigation and management of the complaint
- Complaints can also be made to the Office of the Information Commissioner:  
<https://www.oic.qld.gov.au/about/privacy/privacy-complaint-form>

Maybanke Association Inc. is committed to protecting and upholding the rights of our clients, staff and volunteers to confidentiality. This means that we make sure no personal information about a client, staff person or volunteer is shared with anyone, on purpose or by omission, unless we have their informed consent or in special circumstances where the law allows or dictates an exception.

We protect the privacy and confidentiality of our clients, staff, and volunteers by:

- No discussion of a client's personal information outside of Case Discussion Meetings or any other meetings without the consent of the woman, except on the direction or approval of the Manager, MACSS.
- Clear explanation to the client of the Support Worker's intended plan of action in terms of assisting the woman to meet her goals.
  - Not proceeding with actions until the woman has agreed to these actions.
  - Not making a decision that significantly affects the woman or her family without consulting her; and
  - Informing the woman of any circumstances where action is taken on her behalf for the purpose of achieving her case goals.
- Store all client records in a locked filing cabinet and are not to leave the office; and

- Client records stored electronically must be password protected and only accessed by relevant staff. Clients are to be advised at intake that their files will be kept for seven years. Shredding of any material is only to occur in a planned manner and with the knowledge and approval of the Manager, MACSS

In protecting the privacy of our clients, we ensure they are well informed about their rights and that we take our responsibilities seriously. At intake, staff must ensure clients are provided with the following:

- what information is required, why it is being collected, and how we will use their information.
- when information may need to be released or shared and with whom and when.
- their right to decline providing information.
- their rights in terms of providing, accessing, updating and using personal information, and giving and withdrawing consent.
- their right to make a complaint about privacy and confidentiality at any time; and
- what may occur if all or part of the information required is not provided.

All staff and volunteers are required to sign a confidentiality agreement and our Code of Conduct when they commence at our organisation.

## Confidentiality principles

Maybanke Association Inc. is committed to and trains staff and volunteers in the following:

- providing clients with information about our privacy and confidentiality policy and procedure.
- collecting and recording information only if it is necessary for effective service provision, including assessments.
- being professional and appropriate in the language used in client records.
- being unbiased and non-judgmental in comments and assessments that are recorded.
- keeping client, staff and volunteer personal information secure and making sure that only those who are authorised to do so can gain access.
- making sure information is up to date and accurate before it is used.
- having written consent from a client prior to information sharing with other agencies.
- the specific circumstances where we can share information without consent; and
- disposing of records safely, or transferring them to a more appropriate agency, when they are no longer required by our service.

Maybanke Association Inc. will not disclose personal information except in the following circumstances:

- where disclosure would protect the client and/or others.
- where necessary for best service practice; and/or
- where obligated by law.

If the above circumstances are met, Maybanke Association Inc. may disclose clients' personal information to other people, organisations or service providers, including:

- medical or health professionals who assist with the services we provide to clients.



- an authorised or personal representative if the client is unable to give or communicate consent e.g. power of attorney, next of kin, carer, or guardian.
- Maybanke's professional advisers, e.g. lawyers, accountants, auditors.
- government and regulatory authorities, e.g. Centrelink, government departments, the Australian Taxation Office; and
- organisations undertaking research where information is relevant to public health or public safety.

## Domestic and Family Violence

Maybanke Association Inc. acknowledges our requirement to comply with the privacy and confidentiality requirements of Principle 5: Confidentiality of the Practice Standards for Working with Women Affected by Domestic and Family Violence. See also the Records and Information Management Policy and Procedure for how we keep records secure.

Women will be advised of MACSS procedures on keeping women's information safe as well as circumstances where confidentiality cannot be guaranteed.

Circumstances where confidentiality is not guaranteed include:

- Suspected child abuse and neglect; or
- If the Police and/or Centrelink inquire as to the woman's whereabouts; or
- Self-harm determination.

Support Workers will:

- Not discuss the client's personal information outside of Case Discussion Meetings or any other meetings without the consent of the woman, except on the direction or approval of the Manager, MACSS.
- Clearly explain to the client the Support Worker's intended plan of action in terms of assisting the woman in meeting her goals.
- Not proceed with any actions until the woman has agreed to these actions.
- Only provide information about the woman that is relevant to the achievement of the woman's identified goals.
- Not make a decision that significantly affects the woman or her family without consulting her.
- Inform the woman of any circumstances where you act on her behalf for the purpose of achieving her case goals; and
- Maintain confidential storage of client information

Maybanke Association Inc. is committed to the safety and wellbeing of the children and young people that are involved in our services. There may be times when - acting in the best interests of the child/young person, and only as necessary - we share information with the Department of Children, Youth Justice and Multicultural Affairs/Queensland Police Service. The following outlines our process for this:

- Reporting a Disclosure or suspicion of harm. This involves a 3-step process
  - Considering whether the disclosure or suspicion needs to be reported to the Queensland Police Service e.g. where a child is at imminent risk of harm or has been the victim of a criminal offence. If it is believed the child is in immediate danger or in a life-threatening situation contact should be made with the Queensland Police Service by dialling 000
  - Considering whether the disclosure or suspicion needs to be reported to the Department of Children, Youth Justice and Multicultural Affairs. Child protection is everybody's responsibility, and every person **SHOULD** report to the Department of Children, Youth Justice and Multicultural Affairs if that person forms a reasonable suspicion that a child (including an unborn child) has suffered, is suffering or is at unacceptable risk of suffering significant harm **AND** does not have a parent able and willing to protect the child from harm
  - Considering whether referral is required to other support services including Family and Child Connect.

## **Maybanke Accommodation and Crisis Support Service (MACSS – Security Cameras**

Electronic surveillance cameras have been installed on our properties to assist us in providing a safe and secure environment for our clients whilst still respecting client privacy obligations in the *Information Privacy Act 2009 (Qld)*. The nature of the service provided by MACSS carries some inherent risk and having security cameras on site can mitigate this risk. New clients are informed of their use, and their use is included in our Women's Information Kit, that is given to all clients during intake. The cameras cover the perimeter of the area, and the safety of clients and staff is paramount in the placement of these cameras.

The footage is only reviewed when circumstances suggest, and staff have reason to suspect that a breach or an unauthorised entry has occurred. The camera surveillance footage can only be accessed by MACSS staff from the server which is password protected. The computer to access the footage is in the office of the Manager, MACSS and locked after hours. The footage is only available for 30 days and then recorded over.

The footage of the CCTV will only be disclosed to a third party for law enforcement purposes or to prevent risks to health and safety.

Any person whose image has been recorded has a right to be given a copy of the information provided that:

- The image has not already been deleted; and
- An exemption or prohibition does not apply to the release. If the recorded information identifies another individual those images may only be released where they can be redacted so that the other person cannot be identified.

If a person requests footage the request must be in writing, and each will be assessed on a case by case basis. A record of the request must be kept as well as a copy of the footage.

Notification at the entrance to the office building alerts visitors and residents that there is CCTV footage filming 24 hours a day. All clients sign a security agreement on intake acknowledging this agreement that there are CCTV cameras on the site for their safety.

## Managing privacy breaches

Under the state and federal privacy legislation, Maybanke Association Inc. is required to report to affected individuals, the department, and the Office of the Australian Information Commissioner when a data breach has occurred that is likely to result in serious harm to the people whose information is involved in the breach. Information on the Notifiable Data Breaches Scheme can be found here: <https://www.oaic.gov.au/privacy-law/privacy-act/notifiable-data-breaches-scheme>

Maybanke Association Inc. will manage and report privacy breaches to the Department as follows:

- The breach comes to the attention of the Manager, MACSS.
- The Manager, MACSS will advise the Maybanke Association Management Committee; and
- The Manager, MACSS will report to the Department of Justice and Attorney-General immediately

In the case of a breach of privacy Maybanke Association Inc. has an obligation to notify the Department of Justice and Attorney-General immediately upon becoming aware of any breach to privacy obligations including the disclosure of personal information in relation to any child subjected to the *Child Protection Act 1999* or the *Youth Justice Act 1992* is made or may be required by law

## Privacy and confidentiality complaints

Anyone can make a complaint or raise a concern about Maybanke Association Inc's privacy and confidentiality practices and processes by:

- The Manager, MACSS
- Maybanke Association Management Committee.
- The Office for Women and Violence Prevention, Department of Justice and Attorney-General
- The Queensland Police Service if it is a criminal offence

If the breach appears to involve theft or other criminal activity it would generally be appropriate to notify the Queensland Police Service immediately

Complaints can also be raised to the Office of the Information Commissioner:

<https://www.oic.qld.gov.au/about/privacy/privacy-complaint-form>

## **Related Policies and Procedures**

Records and Information Management Policy and Procedure

## **Supporting Documents**

Security Camera Register

## **Review**

This document was last reviewed on 05.06.2024