

Privacy statement

Open Minds respects each individual's legal right to privacy and has implemented a Privacy Policy that sets out how Open Minds manages information in an open and transparent way. It includes information on how Open Minds collects, uses, discloses, keeps secure, and destroys an individual's Personal Information and Sensitive Information. It also covers how Open Minds makes the Personal Information and Sensitive Information it holds available for access to and correction by the individual.

This policy has been drafted having regard to Open Minds' obligations under the Privacy Amendment (Enhancing Privacy Protection) Act 2013 (Cth) (the "Law") and Australian Privacy Principles. (For further information please refer to the Office of the Australian Information Commissioner's website at www.oaic.gov.au)

Open Minds has put in place procedures, including this policy, to ensure that it complies with the Law and the Australian Privacy Principles. Individuals may contact Open Minds about any questions or complaints on compliance with the Law and the Australian Privacy Principles.

1. Glossary

Commonwealth contract is a services agreement between a Commonwealth department and Open Minds that requires Open Minds to disclose information about individuals to that department.

Commonwealth record means a record that is property of the Commonwealth or of a Commonwealth institution or deemed to be a Commonwealth record, e.g. records kept by a Royal Commission, or by a Commission of inquiry.

Consent means express consent or implied consent

Direct Marketing means the marketing of goods or services through means of communication including written, verbal or electronic means and includes informing individuals of Open Minds programs and services in general such as training and employment services, fundraising, and competitions. The goods or services which are marketed may be those of Open Minds or a related entity or those of an independent third party organisation.

Disclosure generally means the release of information outside Open Minds, including under a contract to carry out an "outsourced function".

Health Information means:

(a) Personal Information about:

- (i) the health or a disability (at any time) of an individual; or
- (ii) an individual's expressed wishes about the future provision of health services to him or her; or
- (iii) a health service provided or to be provided to an individual; or

(b) other Personal Information collected to provide or in providing a health service; or

(c) other Personal Information about an individual collected in connection with the donation or intended donation by the individual of his or her body parts or body substances; or

(d) 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.

Examples of Health Information include information or an opinion about an individual's health or disability provided to Open Minds for the purpose of assessing and supporting Open Minds in delivering services to clients, such as Disability Employment Services (DES), Lifestyle Support, Personal Helpers and Mentors Service (PHaMS) and Partners in Recovery (PIR).

Identifier means a government related identifier of an individual

Individual includes Personnel, a person receiving support and/or assistance from any programs of Open Minds, including past clients, persons making general enquiries about our programs, persons who may receive services in the future, and/or person/s appointed as a nominee or authorised advocate.

Opt out means an individual's request not to receive further Direct Marketing

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable from the information or opinion. Personal Information collected by Open Minds in connection with a Commonwealth contract may also be a Commonwealth record and must be dealt with under the Archives Act 1983 (C'th).

Personnel means employees, members, and volunteers of Open Minds and partner organisations involved in providing Open Minds' operational management and services directly or indirectly

Primary Purpose is the dominant or fundamental reason for information being collected in a particular transaction, e.g. Open Minds collects information for primary purposes that include:

- providing various program services such as supported accommodation, Disability Employment Services (DES), Lifestyle Support, Personal Helpers and Mentors service (PHaMS) and Partners in Recovery (PIR), youth service and Your Life Your Choice service planning in preparation for the transition to the National Disability Insurance Scheme (NDIS);
- conducting assessments, reference checks, and police checks for Personnel and some service participants;
- fundraising activities and soliciting donations from the public; and
- sharing personal stories and images for Open Minds' publications and marketing.

Secondary Purpose is, in the case of Personal Information, a purpose that is related to the primary purpose and, in the case of Sensitive Information, a purpose that is directly related to the primary purpose.

Sensitive Information means:

(a) Information or an opinion about an individual's:

- (i) racial or ethnic origin; or
- (ii) political opinions; or
- (iii) membership of a political association; or
- (iv) religious beliefs or affiliations; or
- (v) philosophical beliefs; or
- (vi) membership of a professional or trade association; or
- (vii) membership of a trade union; or
- (viii) sexual preferences or practices; or
- (ix) criminal record;

that is also Personal Information or

(b) Health Information about an individual.

Sensitive Information collected by Open Minds in connection with a Commonwealth contract may also be a Commonwealth record and must be dealt with under the Archives Act 1983 (C'th).

Solicited Information is Personal Information that is solicited by Open Minds.

Unsolicited Information is Personal Information about an individual that Open Minds receives even though it did not solicit the information. Examples include where Open Minds receives misdirected mail, or emails or faxes sent in error.

2. Policy application

- 2.1. This policy applies to all Personnel engaged in providing services directly or indirectly in order for Open Minds to perform one or more of its functions or activities. Open Minds will provide training and guidance to its Personnel to ensure understanding and application of the Privacy Policy.
- 2.2. Open Minds requires Personnel to perform their duties in a manner that is consistent with Open Minds' legal responsibilities in relation to privacy. It is the responsibility of all Personnel to ensure that they comply with this policy. Personnel unsure of their obligations under this policy should direct any queries to their immediate manager or the Training and Development Manager.
- 2.3. Open Minds will take reasonable steps to ensure that its contracts with third parties include requirements for third parties to comply with this Privacy Policy and the Use or Disclosure requirements of the Privacy Act.

3. Collection

- 3.1. Open Minds will only collect Personal Information where the information is necessary for Open Minds to perform one or more of its functions or activities. In this context, "collect" means gather, acquire or obtain by any means, information in circumstances where the individual is identifiable or identified.
- 3.2. Open Minds collects Personal Information primarily to supply Personnel, contractors and members and individuals who obtain Open Minds products and services directly from Open Minds with information and details of its products and services.
- 3.3. Open Minds will take all reasonable steps to notify individuals (including, but not limited to, our clients) of the matters listed below at or before the time of collecting any Personal Information:
 - 3.3.1. our identity and contact details of Open Minds
 - 3.3.2. the primary purpose and secondary purpose (where there is a related purpose) for which Open Minds is collecting the Personal Information

- 3.3.3. how Open Minds collects information, e.g. over the phone, from third parties, electronically (email, referral agency database or websites, etc.)
- 3.3.4. that individuals should contact Open Minds if they wish to access or correct Personal Information collected by us or have any concerns in relation to Personal Information
- 3.3.5. the organisations or types of organisations to which we may Disclose the Personal Information or Sensitive Information
- 3.3.6. whether or not the information will be stored in the Cloud (remote servicing hosts) or if information will be disclosed to organisations located overseas and if known, the countries in which these organisations are located
- 3.3.7. where applicable, any law or a court/tribunal order that requires the Personal Information or Sensitive Information to be collected
- 3.3.8. the consequences (if any) for the individual if all or part of the Personal Information or Sensitive Information is not provided to Open Minds
- 3.4. Where it is impracticable for Open Minds to notify individuals of the matters listed in paragraph 3.3 at the time of collection, Open Minds will notify individuals of such matters as soon as possible after the collection.
- 3.5. If Open Minds collects solicited Personal Information about an individual from a third party, we will comply with the requirements of paragraph 3.3 above and take reasonable steps to notify the individual of the information collected, and how and from whom it was collected.
- 3.6. Within a reasonable period of time of receiving any unsolicited Personal Information about an individual, Open Minds shall decide whether that Personal Information could have been lawfully collected by Open Minds itself, and
 - 3.6.1. If so, the Personal Information will be dealt with in accordance with this privacy policy and we will comply with the requirements of paragraph 3.3; or
 - 3.6.2. If not, and the Personal Information is not contained in a Commonwealth record, Open Minds will, as soon as practicable, and provided it is lawful and reasonable to do so, destroy the information or ensure that the information is de-identified, unless a Commonwealth contract provides that the information must be dealt with under another law.

Open Minds will not collect Sensitive Information from individuals except:

3.6.3. When an individual has provided consent, and only where it is necessary for Open Minds to collect such information for an activity or function; or

3.6.4. Where we are required to or authorised by or under an Australian law or a court/tribunal order; or

3.6.5. Where a permitted situation exists under the Law that allows the use or disclosure of Sensitive Information without consent, such as:

- Where Open Minds reasonably believes the use or disclosure is necessary to provide a health service to the individual, or
- Where Open Minds provide a health service to the individual and reasonably believes the use or disclosure of Health Information is necessary to inform a responsible person for the individual, and
 - (a) the individual is physically or legally incapable of giving consent; and
 - (b) the Personnel providing the health service for Open Minds is satisfied
 - (i) the disclosure is necessary to provide appropriate care or treatment of the individual; or
 - (ii) the disclosure is made for compassionate reasons; and
 - (c) the disclosure is not contrary to any wish:
 - (i) expressed by the individual before the individual became unable to give or communicate consent; and
 - (ii) of which the carer is aware, or of which the carer could reasonably be expected to be aware; and
 - (d) the disclosure is limited to the extent reasonable and necessary for the above purposes.
- Where Open Minds reasonably believes the use or disclosure is necessary to reduce or prevent a serious threat to the life, health or safety of an individual or to public health or safety; or
- For the purposes of internal investigations when Open Minds has reason to suspect an individual may have committed an unlawful activity or engaged in serious misconduct that relates to Open Minds' functions or activities; or
- Where Open Minds reasonably believes that the use or disclosure is reasonably necessary to assist another person to locate a person reported as missing.

The complete list of permitted situations is outlined in the Law. In such cases, Open Minds will comply with the Australian Privacy Principles and guidelines from OAIC regarding use or disclosure of such information.

4. Use or disclosure

- 4.1. Open Minds may use Personal Information collected from an individual for a primary purpose advised to that individual.
- 4.2. Open Minds may only use Sensitive Information for a primary purpose or a directly related purpose where express consent has been provided by the individual.
- 4.3. Open Minds may disclose information, regardless of whether or not an individual has consented to the use or disclosure, where Open Minds has an obligation to disclose the information to the Commonwealth agency to comply with funding requirements of a Commonwealth contract.
- 4.4. Open Minds may use or disclose Personal Information about an individual for a secondary purpose in limited circumstances. Open Minds will, wherever reasonably practicable, seek consent from individuals before using their Personal Information for a secondary purpose.
- 4.5. Open Minds may use information about an individual for a secondary purpose if Open Minds has consent from the individual to the use or disclosure.
- 4.6. Open Minds may use information about an individual for a secondary purpose if the individual would reasonably expect Open Minds to use or disclose:
 - 4.6.1. Sensitive Information directly related to the primary purpose; or
 - 4.6.2. Personal Information related to the primary purpose; or
 - 4.6.3. Information as required to or authorised by or under an Australian law or a court/tribunal order; or
 - 4.6.4. Where a permitted situation exists under the Law that allows the use or disclosure of Sensitive Information without consent, such as:
 - Open Minds reasonably believes that the use or disclosure is reasonably necessary to assist an enforcement body's enforcement related activities; or
 - Those listed in subparagraph 3.7.3 above.

In such cases, Open Minds will make a written note of the use or disclosure and will comply with the Australian Privacy Principles and guidelines from OAIC regarding

use or disclosure of such information. The complete list of these permitted situations is contained in the Law.

5. Direct marketing

- 5.1. Open Minds will not use Sensitive Information for Direct Marketing unless the individual has provided consent to the use or disclosure of the information for that purpose.
- 5.2. Open Minds may use Personal Information about an individual for Direct Marketing if it collected the information from the individual and:
 - 5.2.1. The individual would reasonably expect Open Minds to use or disclose the information for Direct Marketing; and
 - 5.2.2. Open Minds has provided a simple means for the individual to 'opt out'; and
 - 5.2.3. The individual has not made a request to Open Minds to 'opt out'.
- 5.3. Open Minds may use Personal Information about an individual for Direct Marketing if Open Minds collected the information from someone other than the individual and:
 - 5.3.1. The individual has consented to the use or disclosure for the purpose, or it is impracticable to obtain the individual's consent; and
 - 5.3.2. Open Minds has provided a simple means for the individual to 'opt out'; and
 - 5.3.3. In each Direct Marketing, Open Minds includes a prominent statement or otherwise draws the individual's attention to the fact that the individual can 'opt out'; and
 - 5.3.4. The individual has not made a request to Open Minds to 'opt out'.
- 5.4. Open Minds may use Personal Information about an individual for Direct Marketing where:
 - 5.4.1. Open Minds is a contracted service provider for a Commonwealth contract; and
 - 5.4.2. Open Minds collected the information for the purpose of meeting (directly or indirectly) an obligation under the contract; and
 - 5.4.3. Use or disclosure is necessary to meet (directly or indirectly) such an obligation.
- 5.5. If Open Minds uses or discloses Personal Information about an individual for Direct Marketing, the individual may ask Open Minds to stop sending Direct Marketing with their Personal Information and Open Minds must stop within a reasonable time of the request being made.

- 5.6. Where a third party uses or discloses Personal Information about an individual for Direct Marketing on behalf of Open Minds, an individual may request Open Minds not to use or disclose such information to the third party and Open Minds must act on that request and Open Minds must stop within a reasonable time of the request being made.
- 5.7. Where Open Minds receives information for an individual from a third party, the individual may request details of where their Personal Information came from and Open Minds must provide the details within a reasonable time of the request being made.
- 5.8. Open Minds does not generally share its client lists on a commercial basis with third parties but if it were to, it would only do so with prior individual consent.
- 5.9. Open Minds will take reasonable steps to ensure that individuals on Direct Marketing lists are or have been notified of the information as outlined at 3.3.

6. Information quality

- 6.1. Open Minds will take all reasonable steps to ensure that the information it collects is accurate, complete, up to date and relevant, having regard to the purposes of the use or disclosure of the information.
- 6.2. Open Minds will review, on a regular and ongoing basis, its collection and storage practices to ascertain how improvements to accuracy can be achieved.

7. Information security and handling

- 7.1. Open Minds will take all reasonable steps to protect the Personal Information it holds from misuse, interference (including measures to protect against computer attacks), loss and unauthorised access, modification or disclosure. Open Minds will take all reasonable steps to ensure that information is stored securely and only accessible by Personnel, contractors and members of Open Minds on a need to know basis.
- 7.2. Open Minds will review security and handling practices on a regular and ongoing basis to ensure information is secured and handled as required under the Law. Open Minds will also continue to provide training and guidance to its Personnel, contractors and members as required for any changes to the Privacy Policy.
- 7.3. Open Minds will take all reasonable steps to destroy or de-identify Personal Information after as short a time as possible and after a maximum of seven years, unless the Law, Court/tribunal order, or Commonwealth contract requires otherwise.

7.4. Open Minds will not attempt to match de-identified or anonymous data collected through surveys or such online devices as "cookies", with information identifying an individual, without the consent of the relevant individual, where reasonably practicable.

8. Access and correction

8.1. Open Minds will allow individuals to access their records containing Personal Information other than when the following Privacy Act exceptions exist:

8.1.1. Open Minds reasonably believes that giving access would

- pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
- have an unreasonable impact upon the privacy of other individuals; or

8.1.2. The request for access is frivolous or vexatious; or

8.1.3. The information relates to existing or anticipated legal proceedings between Open Minds and the individual, and the information would not be accessible in discovery of those proceedings; or

8.1.4. Providing access would

- reveal the intentions of Open Minds in relation to negotiations with the individual in such a way as to prejudice those negotiations; or
- be unlawful (i.e. contravene an Australian law or a court/tribunal order); or

8.1.5. Open Minds has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to Open Minds' functions or activities has been or is being or may be engaged in; and giving access would:

- be likely to prejudice the taking of appropriate action in relation to the matter; or
- be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body; or
- reveal evaluative information generated within Open Minds in connection with a commercially sensitive decision-making process.

8.2. The Law provides an individual with the right to request the correction of records if they believe their Personal Information is incorrect, incomplete, out of date or misleading. Individuals wishing to lodge a request to access and/or correct their Personal Information should do so by contacting Open Minds directly or through a mutually agreed intermediary.

8.3. Upon receiving such a request to access and/or correct Personal Information, Open Minds will respond to the request within a reasonable time and where the request is

approved, provide access to and/or correct information as soon as practically possible to ensure that the information is correct. Where Open Minds identifies that its records contain incorrect information, it will correct the information to ensure that its records are correct.

- 8.4. Where Open Minds has disclosed Personal Information about an individual to a third party subject to the Australian Privacy Principles, the individual may request Open Minds notify the third party of corrections made to their Personal Information. Open Minds will take all reasonable steps to notify the third party of such corrections unless it is impracticable or unlawful to do so.

9. Anonymous transactions

- 9.1. Open Minds will not make it mandatory for visitors to its web sites to provide Personal Information unless such Personal Information is required to answer an inquiry or provide a service. Open Minds may however request visitors to provide Personal Information voluntarily to Open Minds (for example, as part of a competition or questionnaire).
- 9.2. Open Minds will allow its customers to transact with it anonymously, or via a pseudonym or nickname, wherever that is lawful, reasonable and practicable.

10. Government related identifier (Identifier)

- 10.1. Open Minds will not use an Identifier to identify the individual unless the use of the Identifier is required or authorised by law or a court/tribunal order.
- 10.2. Open Minds will not use or disclose an Identifier unless:
- 10.2.1. its use or disclosure is reasonably necessary for Open Minds to verify the identity of the individual for the purposes of Open Minds' activities or functions; or
 - 10.2.2. its use or disclosure is reasonably necessary for Open Minds to fulfil its obligations to an agency or a State or Territory authority; or
 - 10.2.3. its use or disclosure is required or authorised by or under an Australian law or a court/tribunal order; or
 - 10.2.4. Where a permitted situation exists under the Law that allows the use or disclosure of an Identifier, such as:
 - Open Minds reasonably believes that the use or disclosure is reasonably necessary to assist an enforcement body's enforcement related activities;or

- Those listed in subparagraph 3.7.3 above.

In such cases, Open Minds will make a written note of the use or disclosure and will comply with the Australian Privacy Principles and guidelines from OAIC regarding use or disclosure of such information.

The complete list of these permitted situations is contained in the Law.

11. Cross-border data flow

11.1. Open Minds generally does not send information overseas.

11.2. If Personal Information is required to be sent overseas, Open Minds will take reasonable steps to enter into a contract to ensure that third parties comply with the Australian Privacy Principles and the use or disclosure requirements of the Privacy Act. Open Minds will also take reasonable steps to:

11.2.1. Identify third parties that operate in a jurisdiction that has privacy rules substantially (similar to the Australian Privacy Principles) with mechanisms that the individual can access to take action to enforce the protection provided under those rules, or

11.2.2. Where it is not practicable to confirm that the foreign jurisdiction has similar privacy rules, and there is no third party contract, fully disclose these matters to an individual prior to obtaining their consent for cross-border information transfer; or

11.2.3. Confirm that the cross-border information transfer is:

- required or authorised by or under an Australian law or a court/tribunal order, or
- allowed as a permitted situation set out in the Law. In such cases, Open Minds will comply with the Australian Privacy Principles and guidelines from OAIC regarding the cross-border information transfer.

11.3. Open Minds may store Personal Information and Sensitive Information in the Cloud (remote servicing hosts).

12. Site security

When purchasing from the Open Minds website, financial details are passed through a secure server using the latest 128-bit SSL (secure sockets layer) encryption technology. 128-bit SSL encryption is approximated to take at least one trillion years to break, and is the industry standard.

13. Contacting Open Minds

13.1. All privacy queries and requests for access and/or corrections may be directed in writing to the Privacy Officer at the location where services are provided or via the head office:

Open Minds
66 Annerley Road (PO Box 8142)
Woolloongabba Qld 4102

Fax: 07 3896 4200

Email: privacy@openminds.org.au

13.2. Should Open Minds refuse to:

- 13.2.1. (a) give an individual access to Personal Information under subparagraph 8.1 above or in the manner requested by the individual, or
- (b) correct Personal Information when requested to do so by an individual,

Open Minds will issue a written notice that:

- 13.2.2. (a) details the reasons for the refusal (except to the extent that it would be unreasonable to do so);
- (b) complies with the regulations to the Law; and
- (c) includes information on how to lodge a complaint should the individual wish to do so.

13.3. Should Open Minds refuse to correct Personal Information for an individual under subparagraph 8.2 above, the individual may request Open Minds to attach a statement to their Personal Information stating that the Personal Information is inaccurate, out of date, incomplete, irrelevant or misleading, and Open Minds shall take reasonable steps to ensure the statement is apparent to information users.

13.4. Open Minds will not charge a fee in relation to making any requests available to an individual under this Privacy Policy and will not normally charge a fee for providing access to the Personal Information unless such access is complex or resource intensive. Open Minds will also not charge a fee to correct Personal Information or attach a statement with correct Personal Information.

13.5. Any formal privacy related complaints regarding a decision by Open Minds to refuse access to Personal Information requested by the individual, or not correct an individual's Personal Information, should be directed in writing to:

Privacy Officer
Open Minds
PO Box 8142
Woolloongabba Qld 4102

Or email: privacy@openminds.org.au

13.6. Open Minds will endeavour to manage any privacy related complaint efficiently and respond, by phone or in writing, within a reasonable time after the complaint is received.

13.7. An individual may lodge a complaint about how Open Minds handles their Personal Information and queries with the Office of the Australian Information Commissioner (OAIC) by calling 1300 363 992. More information is available on the OAIC website: <http://www.oaic.gov.au/privacy/privacy-complaints>

13.8. Open Minds' websites will include a privacy statement and access to the Open Minds **Privacy Policy**. If requested, Open Minds will take such steps as are reasonable in the circumstances to provide a copy of the Privacy Policy in a particular form. Open Minds will not normally charge a fee for providing a copy of the Privacy Policy in another form unless the request is complex or is resource intensive.

13.9. The Privacy Policy will be reviewed annually and updated as required to reflect any changes to the Law.