

## **A.3.1 PRIVACY, DIGNITY AND CONFIDENTIALITY**

### **1. OVERVIEW**

#### **1.1. The Privacy Act 1988**

The Privacy Act 1988 (the Privacy Act) regulates how public sector agencies and certain private sector organisations can collect, hold, use and disclose personal information, and how you can access and correct that information. Personal information is information in any form that can identify a living person.

The Privacy Act applies only to information about individuals, not to information about corporate entities such as businesses, firms or trusts.

Detailed information on the Privacy Act is found on the Office of the Australian Information Commissioner ('OAIC') website.

For members with a disability we committed to use simple easy English, and our mode of communication is through the use of pictorials, sign boards, and sitting with the person with a disability and explaining so that they understand. Some equipment that we use are the iPad, TV, videos,

#### **1.2. This policy is applicable to**

- Committee members
- Members with a disability
- Staff
- Contractors
- Volunteers
- Members of the public accessing ELS programs, services and/or website
- Donors
- Suppliers/contractors
- Job applicants
- Referees.

#### **1.3 ELS and privacy**

This Privacy Policy sets out how ELS complies with the Privacy Act. In performing its functions, ELS may collect, hold, use or disclose your personal information. ELS takes privacy seriously and will only collect, hold, use and disclose personal information in accordance with the Privacy Act. If ELS does not receive personal information about you, the Privacy Act will not apply.

#### **1.4. Personal Information**

Is defined by the Privacy Act as "information about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion" which is maintained electronically, on video or in written/printed form; and/or verbal information given to an employee about an individual. Although exempt under the Act, ELS includes employee records under this policy.

Although the Privacy Act only relates to individuals, ELS will apply the same principles to the collection of information about organisations and businesses. Where this policy refers only to individuals it applies equally to organisations/businesses that conduct business with ELS.

**1.5. Sensitive Information** means personal or health information or an opinion about an individual's:

- racial or ethnic origin
- political opinions
- membership of a political association
- religious beliefs or affiliations
- philosophical beliefs
- membership of a professional or trade association
- membership of a trade union
- sexual preferences or practices
- criminal record.

Sensitive information is information about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, members of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record, or health information.

Sensitive information held by ELS will be used and disclosed:

- Only for the purpose for which it was requested and provided, or
- For a directly related secondary purpose by consent, unless otherwise agreed, or
- If the use or disclosure of sensitive information is allowed by law

**1.6. Health Information** means information or opinion about:

- the health or a disability (at any time) of an individual
- an individual's expressed wishes about the future provision of health services to him or her
- a health service provided, or to be provided, to an individual; that is also personal information
- other personal information collected to provide, or in providing, a health-related service
- other personal information about an individual collected in connection with the donation, intended donation, by the individual of his or her body parts, organs or body substances.

**1.4 Remaining anonymous or using a pseudonym**

ELS understands that anonymity is an essential element of privacy, and some members with disabilities, as well as members of the public, may wish to be anonymous when interacting with ELS. ELS also understands that some members of the public may wish to use a pseudonym. Generally, members of the public will have the right to remain anonymous or adopt a pseudonym when dealing with ELS. However, it is not always possible to remain anonymous or adopt a pseudonym, and ELS will inform you when this is the case.

**1.5 Information covered under this Privacy Policy**

This Privacy Policy covers how ELS collects, holds, uses and discloses your personal information, including any financial information you provide to ELS. This Policy applies to all personal information collected by ELS, including personal information collected through our social media websites and from other service providers working together with ELS.

**1.6 Information held by contractors**

Under the Privacy Act, ELS is required to take contractual measures to ensure other service providers (including sub-contractors) comply with the same privacy requirements applicable to ELS.

## **2. ELS's personal information handling practices**

### **2.1 Collection of personal information**

ELS may collect personal information about members with disability, the representative, employees, or a third party. We generally use forms, online portals and other electronic or paper correspondence to collect this information. ELS or people acting on our behalf may collect information directly. ELS may also obtain personal information collected by other Commonwealth agencies, State or Territory government bodies, or other organisations. From time to time, ELS may receive personal information from members of the public without it being requested.

ELS collects and holds a broad range of personal information in records relating to:

- employment and personnel matters for ELS staff and contractors (including security assessments)
- the performance of ELS's legislative and administrative functions
- individuals participating in the National Disability Insurance Scheme (NDIS)
- other registered NDIS providers
- employees
- individuals participating in any ELS funded programs and initiatives
- the management of contracts and funding agreements
- the management of fraud and compliance investigations
- the management of audits (both internal and external)
- correspondence from members of the public to ELS
- complaints (including privacy complaints) made and feedback provided to ELS
- requests made to ELS under the [Freedom of Information Act 1982](#) (Cth)
- the provision of legal advice by internal and external lawyers.

ELS will not ask people for any personal information which we do not need. The Privacy Act requires that we collect information for a purpose that is reasonably necessary for, or directly related to, a function or activity of ELS.

When ELS collects personal information, we are required by the Privacy Act to notify you of a number of matters. These include: -

- the purposes for which we collect the information,
- whether the collection is required or authorised by law and any person or body to whom we usually disclose the information.

ELS generally provides this notification by having Privacy Notices on our paper-based forms and online portals.

### **2.2 The NDIS Act also protects personal information**

The secrecy provisions in the NDIS Act also protects personal information collected by the ELS. These provisions set out rules for the collection, use and disclosure of this information. These rules operate together with the rules in the Privacy Act.

### **2.3 Kinds of personal information collected and held**

In performing our function, ELS collects and holds the following kinds of personal information (which will vary depending on the context of the collection):

- name, address and contact details (e.g. phone, email and fax)

- photographs, video recordings and audio recordings of you
- information about your personal circumstances (e.g. marital status, age, gender, occupation, accommodation and relevant information about your partner or children)
- information about your financial affairs (e.g. payment details, bank account details and information about business and financial interests)
- information about your identity (e.g. date of birth, country of birth, passport details, visa details, drivers licence, birth certificates, ATM cards)
- information about your employment (e.g. work history, referee comments, remuneration)
- information about your background (e.g. educational qualifications, the languages you speak and your English proficiency)
- government identifiers (e.g. Centrelink Reference Number or Tax File Number) and
- information about assistance provided to you under the NDIS.

On occasions, ELS may collect or hold some sensitive information about members with a disability, employees including information about:

- your racial or ethnic origin;
- your health (including information about your medical history and any disability or injury you may have);
- Information about the supports or services you receive, including supports or services you receive or have received under the NDIS and information about the people who provide those supports or services to you; and any criminal record you may have.

## 2.4 How ELS collects and holds personal information

ELS collects personal information through a variety of different methods including:

- paper-based forms
- electronic forms (including online forms)
- face to face meetings
- telephone communications
- email communications
- communications by fax
- ELS 's website; and
- ELS 's social media websites and accounts.

ELS holds personal information in a range of paper-based and electronic records. Storage of personal information (and the disposal of information when no longer required) is managed in accordance with the Australian Government records management regime, including the [Archives Act 1983](#), Records Authorities and General Disposal Authorities. This ensures that we hold your personal information securely.

## 2.5 Purposes for which personal information is collected, held, used and disclosed

ELS collects and holds personal information for a variety of different purposes relating to its functions and activities including:

- performing its employment and personnel functions in relation to its staff and contractors
- performing its legislative and administrative functions
- policy development, research and evaluation
- complaints handling
- contract management and
- management of correspondence with the public.

ELS uses and discloses personal information for the primary purposes for which it is collected. We will give you information about the primary purpose of collection at the time the information is collected. ELS will only use your personal information for secondary purposes where it is able to do so in accordance with the Privacy Act.

The collection and storage of unnecessary information of individuals/organisations is considered a breach in privacy and is inappropriate.

The formation of, or expression of a professional assessment/opinion must be recorded with care.

Sensitive information will only be recorded with the individual/organisations consent unless:

- the collection is required by law
- the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual, where the individual whom the information concerns:
- is physically or legally incapable of giving consent to the collection
- physically cannot communicate consent to the collection.

## **2.6. Storage, Retention and Retrieval**

- ELS will take reasonable steps to protect the personal information held, from misuse and loss, and from unauthorized access, modification or disclosure. This includes appropriate measures to protect electronic materials and materials stored and generated in hard copy. This is facilitated by ensuring
- All paper based Personal Files will be stored in a lockable cabinet or cupboard in a secure area. Paper based identifiable information will be kept securely locked away when not in use. The minimum requirement is that, outside normal working hours, the information must be stored in locked drawers or cabinets. Particular care will be taken regarding the print out and photocopying of paper based information. Authorised users with approved purposes must be prepared to collect personal information from printers, photocopiers and fax machines as soon as possible. Identifiable information will not be copied, electronically transmitted or removed from any ELS premises without specific approval from the ELS Chairperson.
- Computer and networks will be secured by user account and password protection and automatic screen shutdown will be in place on all PCs. Procedures which limit access to personal information by authorized persons for approved purposes will be communicated to people with disability and staff.
- Staff will be made aware of their privileged access to information. This will be communicated in staff recruitment, selection, induction, training and supervision procedures.
- Staff who directly or indirectly have access to personal information, will be required to sign a Confidentiality Agreement as part of their induction into ELS.
- ELS does not normally contract out data storage or processing functions. If ELS does contract out reasonable measures will be taken to protect the information by ensuring contracts reflect obligations under the Privacy Amendment (Private Sector) Act 2000.
- Storage and access to Files at ELS are specifically dealt with in B6.2b Staff Files.

## **2.7. How to seek access to and correction of personal information?**

- You have a right under the Privacy Act to access personal information held about you. You also have a right under the Privacy Act to request corrections to any personal information that ELS holds about you if you think the information is inaccurate, out-of-date, incomplete, irrelevant, or misleading. However, the Privacy Act sets out circumstances in which ELS may decline access to or correction of personal information (e.g. where access is unlawful under a secrecy provision in portfolio legislation, or where the personal information held is an opinion and not an objective fact).

- To access or seek correction of personal information we hold about you, please write to us in an email and send it to- [admin@elsaustralia.org](mailto:admin@elsaustralia.org).  
It is also possible to access and correct documents held by ELS under the [Freedom of Information Act 1982](#) (the FOI Act). For information on this, please visit our [FOI page](#).
- ELS will provide access to this information within thirty (30) days and any costs related to access to the information will be borne by ELS.  
Where confidential information is to be provided to third parties, the written consent of the individual/organisation must be obtained or it must be identified as a requirement in the organisation's contract with ELS.
- The release of non-identifying information must be checked prior to release to ensure the information is truly non-identifying.  
Wherever it is lawful and practicable, individuals must have the option of not providing particular information. Consequences of not providing the information must be explained to the individual for their decision-making purposes.
- ELS regards having the confidence of individuals/organisations as a privilege.  
Individual/organisations access to information about them is a right.
- All individuals/organisations have the right to be informed on who has access to their information  
Individuals have a right to challenge the accuracy of personal information recorded about them
- At, or before, the time (or, if that is not practicable, as soon as practicable after) it is reasonable to expect that individuals/organisations will be made aware of the:
  - nature of the contents of the information
  - identity of ELS and how to make contact
  - individuals/organisations right to make reasonable requests to access that information
  - purpose for which the information is collected
  - period of time for which the information is kept
  - organisations (or type of organisations) to which ELS usually discloses information of that kind
  - any law that requires the particular information to be collected
  - main consequences (if any) for the individual if all or part of the information is not provided.

## 2.8 Accidental or unauthorised disclosure of personal information

ELS will take seriously and deal promptly with any accidental or unauthorised disclosure of personal information. ELS follows the OAIC's [Data breach notification — A guide to handling personal information security breaches](#) when handling accidental or unauthorised disclosures of personal information. Legislative or administrative sanctions, including criminal sanctions, may apply to unauthorised disclosures of personal information.

## 2.9 Data security

Access to personal information held within ELS is restricted to authorised persons who are ELS staff or contractors. Electronic and paper records containing personal information are protected in accordance with Australian Government security policies. ELS regularly conducts audits to ensure we adhere to our protective and computer security policies.

## 2.10. Our website



Our website is managed internally by our Office team personnel. If you visit our website to read or download information, third parties may capture and store your personal information outside Australia. These third parties include (but are not limited to) Facebook, YouTube, MailChimp, SurveyMonkey, Twitter, Microsoft and Google and may not be subject to the Privacy Act. ELS is not responsible for the privacy practices of these third parties and encourages you to examine each website's privacy policies and make your own decisions regarding their reliability. ELS encourages you to examine each website's privacy policies and make your own decisions regarding the reliability of material and information found.

### **2.11 Cookies**

Cookies are used to maintain contact with a user through a website session. A cookie is a small file supplied by the ELS and stored by your web browser software on your computer when you access the ELS website. Cookies allow the ELS to recognise an individual web user, as they browse the ELS website.

### **2.12 Electronic communication**

There are inherent risks associated with the transmission of information over the Internet, including via email. You should be aware of this when sending personal information to us by email or by using the ELS website. If this concerns you, you may prefer to use other methods of communication with ELS, such as post, fax, or phone (although these methods have associated risks). ELS only records email addresses when a person sends a message or subscribes to a mailing list. Any personal information provided, including email addresses, will only be used or disclosed for the purpose for which it was provided.

### **2.13. Disclosure of personal information overseas**

Where consent has been given for ELS to disclose personal information to recipients who are overseas. Then ELS is otherwise legally able to provide this information;

The situations in which ELS may transfer personal information overseas include:

- the provision of personal information to overseas researchers or consultants (the provision of personal information to recipients using a web-based email account where data is stored on an overseas server; and
- the provision of personal information to foreign governments and law enforcement agencies (in limited circumstances and where authorised by law).

It is not practicable to list every country to which the ELS may provide personal information as this will vary depending on the circumstances. However, you may contact the ELS office to find out which countries, if any, your information has been given to.

## **3. Complaints**

### **3.1 How to make a complaint**

If you think ELS may have breached your privacy of information rights, you may contact us via email submission to [contact@elsaustralia.org](mailto:contact@elsaustralia.org).

### **3.2 The ELS 's process for handling complaints**

We will respond to your complaint or request promptly if you provide your contact details. We are committed to the quick and fair resolution of any complaints and will ensure your complaint is taken seriously. You will not suffer negative treatment if you make a complaint.

### **3.3 How to complain to the Office of the Australian Information Commissioner (OAIC)**

You also have the option of contacting the OAIC if you wish to make a privacy complaint against the ELS, or if you are not satisfied with how we have handled a complaint made to us in the first instance. The [OAIC website](#) contains information on how to make a privacy complaint. If you

make a complaint directly to the OAIC rather than to the ELS, the OAIC may recommend you try to resolve the complaint directly with the ELS in the first instance.

#### **4. Privacy Policy updates**

We will review this Privacy Policy regularly and update it as required.

#### **5. How to contact us**

##### **5.1 General enquiries and requests to access or correct personal information**

If you wish to:

- query how your personal information is collected, held, used or disclosed
- ask questions about this Privacy Policy
- obtain access to or seek correction of your personal information

Please contact the ELS - using the following contact details:

- **email:** [admin@elsaustralia.org](mailto:admin@elsaustralia.org)
- **telephone:** 1300 323 399
- **Online Form:** Available from our website [www.elsaustralia.org](http://www.elsaustralia.org)

##### **5.2 Contact details for privacy complaints**

If you wish to make a complaint about a breach of your privacy, please contact the ELS using the following contact details:

- **email:** [admin@elsaustralia.org](mailto:admin@elsaustralia.org)
- **telephone:** 1300 323 399
- **Online Form:** Available from our website [www.elsaustralia.org](http://www.elsaustralia.org)

##### **5.3 Availability of this Policy**

If you wish to access this Policy in an alternative format (e.g. hard copy), please contact ELS admin using the contact details. This Policy is available free of charge.

#### **Related Policies**

Privacy and Confidentiality  
Privacy and dignity and confidentiality  
Capacity and Consent  
Privacy and confidentiality of personal Information  
Quality Assurance  
Complaints, Grievances and Resolutions  
Staff Files

#### **3. Forms and Checklists**

Request for Access to Personal Information  
Confidentiality Agreement