

Barnardos Australia Privacy Policy

**This policy is written for
children, young people and
families using our services,
and for carers, volunteers
and our workers**



**Barnardos
Australia**

Overview

Barnardos Australia is committed to preserving your privacy and treating information confidentially. We aim to comply with the Federal Privacy Act 1988 and the Australian Privacy Principles (http://www.austlii.edu.au/au/legis/cth/consol_act/pa1988108/).

For children, young people and families using our services, this Act acknowledges that Barnardos Australia must always fulfil our responsibilities to protect children under the *Children and Young Persons (Care and Protection) Act 1998* in NSW and the *Children and Young People Act 2008* in ACT and other relevant child welfare legislation such as NSW Ombudsman, Children's Guardian and Commissioner for Children. Adoption laws may also affect people's rights to access files. This policy provides a general guide to how information is collected, used and stored by Barnardos Australia in the light of these obligations and is referred to in the brochure 'What you need to know about Barnardos Australia' which is distributed to you when contact with Barnardos Australia began. We recognise the trust that families, children and young people place in Barnardos Australia and understand the sensitive nature of the information we collect. All workers are trained to understand the legal responsibilities to protect confidentiality and will be evaluated through supervision.

Carers and volunteers of Barnardos Australia play an essential role in caring for children and young people, in our care, and their rights to privacy is affected by the child protection laws that we work under.

Worker files are not covered in the Privacy Act or any other legislation, Barnardos Australia treat information collected about workers with the same respect and diligence as all other private information.

Detail of Policy

We follow the following principles:

1. Transparent Management

Every person about whom information is collected should be aware of Barnardos Australia Privacy Policy. Service users should be given 'What you need to know about Barnardos Australia' brochure when they first use the agency. This Privacy Policy is to be displayed on a publically accessible website and made available to any person who requests it.

2. Anonymity

Generally we need to know the details of anybody using our services, employed or caring for us because of our obligations to care for and protect children. In an emergency, family members and young people do not need to give us full details about themselves. Families and young people should discuss with their worker any information that they do not wish to give.

3. Collection of Personal Information

We collect information about a person if it is necessary for us to help them or, in the case of carers, volunteers and workers, to ensure that they are able to promote children's welfare.

Children, young people and families using our services

Information about people using our services is generally collected in the electronic MyStory or e-SCARF systems. All questions are 'standard' and have been developed by child welfare experts as it is important to fully understand a child or young persons' situation

For those using a service, caring or employed by us, Barnardos Australia does obtain information from sources other than the person directly involved. ***In ACT***, children in out of home care have information sent on from other agencies to us automatically. ***In NSW*** Barnardos Australia can collect information gathered in the interests of child protection under [Chapter 16A](#) of the *NSW Children and Young Persons (Care and Protection) Regulation 2000*. There may also be situations where we are required to obtain information from a secondary 'entity;' an example may be where a court order is in place for a child and, in order to provide safe and appropriate service, this information is required. Where this has occurred the following will be recorded on the child, young person or family file:

- The nature of the information
- Why the agency requires the information
- Who provided the information (name and agency)
- Date information was received

Carers, volunteers and workers/employees

Information may also be received about carers, volunteers, and workers relating to a Working with Children Check (NSW) or Working with Vulnerable Persons (ACT). This may mean that, the Government agency supplying the information and Barnardos Australia, may examine criminal or juvenile justice offences from the past. Barnardos Australia will do our best to protect your privacy but we are unable to restrict this and you should discuss any concerns as early as possible with your Barnardos Australia worker. Information on carers, volunteers and workers is required prior to starting to work with Barnardos Australia.

4. Use of Personal Information

Children, young people and families using our services

For children, young people and families using our services, Barnardos Australia uses the information collected to help and protect children and young people. We have some obligations to disclose information outside the agency and these are described below. If disclosure is necessary the program manager will make a written note of such a disclosure on the file. We also use information for research and accountability purposes.

Personal information may be used by a number of people within Barnardos Australia on a 'need to know basis'. Given the twenty four (24) hour nature of much of

Barnardos Australia's work and the multiple carers, volunteers and workers that can be supporting an individual at any one time, information needs to be exchanged between people on a 'need to know basis'. This may occur when:

- More than one worker or carer is involved with a service user. This reduces the likelihood of the service users having to retell their story, and assist carers, volunteers and workers involved to be more coordinated in providing services to the service users, this will lead to improved outcomes.
- The carers, volunteers and workers involved need support or assistance from other worker or supervisors. This will assist the carers, volunteers and workers to provide a better service, as they may need new ideas, information and/or feedback on intended strategies.
- A family member's behaviour is affecting other service users, carers, volunteers or workers or there is significant risk. This may include violent behaviour, self-harm, suicide potential, other mental health concerns or substance abuse.

In NSW, Barnardos Australia also has legal obligations to provide information to other 'prescribed bodies' (usually other welfare agencies) which request information in order to help deliver services and support which promote the safety, welfare and wellbeing of children and young people.

In ACT, records management means any information on an out of home care file must go to any other agency involved directly with a child. We may also have to make information available to the State or Territory Government if the child or young person is under parental responsibility of the Minister. These files are available to the Minister and their delegate and any other body required by law. Requests from these sources are rare, however when they do occur, consideration should be given to ensuring that only relevant information is provided.

When asked to submit information to a Court, Barnardos Australia will only do so when issued with a subpoena or with the permission of the person involved. Note that it is possible to challenge the amount of information required in a subpoena and this should be discussed by welfare workers in supervision.

Sometimes information on people using our services is used for research purposes, to improve the situation for other children and young people; this must be approved by the Chief Executive Officer. The identity of the person whose information is part of the research is never made public. The presentation of case studies for educational purposes must not include any identifying information about a service user. Case studies must not be distributed where other agencies or individuals or representatives may be able to identify the people involved.

Information may also be required by funding bodies such as Government Departments. In these situations the Department is responsible for de-identifying the information. (The Federal Department which funds some of our services for example has de-identification policies).

At no time is a child or young person in care to be identified in any written or pictorial information in the public arena including social media. Where a child or young person is before the Court they CANNOT be identified which means that any information that may lead to them being identified including the name or any photo or identifying information of a child or young person before the Court cannot be given.

For service users, carers, volunteers or workers, any personal information that Barnardos Australia holds may not be used or passed on to be used by a third party for direct marketing purposes unless the individual provides consent for their information to be used in this manner.

Carers

For carers in NSW, the Children (Care and Protection) Act 1998 outlines what information can be disclosed about foster carers to birth parents. Since the introduction of these guidelines it is anticipated that Barnardos Australia will continue to recruit carers comfortable in allowing their names and addresses to be used, unless there is reason for concern. However, we will now require a specific consent in relation to each child. Workers and carers are reminded that children also provide information about names and addresses to their parents. Carers should discuss the level of information that we propose telling birth parents with their caseworker See <http://www.kidsguardian.nsw.gov.au/example-folder-5/Accreditation/Guidelines/Discl Plcmt Info Res v1.pdf> for further information.

5. Cross-Border Disclosure

No worker will disclose any information about any individual outside Australian borders.

The only exceptions to this are:

- Where the individual gives consent **or**
- The issue of child protection overrides all other concerns **or**
- It is legally mandated and the Senior Manager approves its transmission
- A secure method of transferring the information is identified

Information kept electronically for example in MyStory is secured in the Cloud and can only be accessed with a secure password and subject to Microsoft's Privacy Policy which can be found here, <http://www.windowsazure.com/en-us/support/legal/privacy-statement/>.

6. Government Related Identifiers

Individuals must not be identified by any Government related identifier (an example being an individual's Medicare number) except where the agency is required to do so by law. Workers/ will routinely collect information about individuals that includes Government identifiers, for example drivers licence numbers, Medicare numbers, and health care card numbers as part of our work with children, young people and families. This information must not at any time be used as an identifier for the

individual, e.g. family files must not be labeled and filed using any of these as naming conventions.

7. Accuracy and Correction of Personal Information

Any worker who collects personal information from an individual is required to make sure that the information remains current, accurate and complete while ever that person is using agency services. If a person requests a correction to file information, and a worker believes that the corrections being requested are not accurate, or that the corrections should not be made, they will discuss the circumstances with their manager or the senior manager **before** making the decision to decline the request for correction. Where the agency refuses to make a correction to an individual's personal information, the individual must be provided with a written explanation of why the agency is refusing the correction (except where that would be unreasonable) along with the complaints process should the individual want to make a complaint about the decision.

8. Protection of Personal Information

Personal information must be protected at all times from misuse, loss, unauthorised access, modification or disclosure. Workers/ are required to keep **all** personal information (including children, young people and family, carer, volunteer and worker files) locked in secure cabinets in secure locations with access limited to those who require access in order to fulfill their roles with the individual. Specifically:

- Filing cabinets containing personal and sensitive information need to be locked when not in use, and keys to these filing cabinets held only by relevant authorised employees.
- Files containing personal information should be filed away when not in use, and should never be left on desks or in areas where other people can read or access it.
- Computers that store, or can access other computers that store personal information should have password access.
- Each computer user and access to MyStory and e-SCARF should have a password.
- Offices and rooms with personal and sensitive information should be locked when not in use.
- Practices of security will be monitored in biennial audits to ensure compliance with policies.
- Electronic systems will be password protected.

9. Access to Personal Information

Depending on the welfare program accessed by a child, young person or family, carer or volunteer or the type of file used to record their information, personal information may not be kept or stored by Barnardos Australia. For example information is offered to families and subsequently destroyed in family support programs. However, information is kept indefinitely for children and young people who have been in out of home care, files involving an allegation or complaint and carers, volunteers and workers, files.

Some files are also kept by the government. ***In the ACT***, files for children who have lived with a Barnardos Australia carer are the property of the ACT Government and as such are returned to them when Barnardos Australia closes the file. Barnardos Australia will advise you how you can obtain access to these files. ***In NSW***, some files are held at the Bay Street Ultimo Office and some in the State Government archives.

Where Barnardos Australia holds information, the person named on the child, young person or family, carer or volunteer file has the right to access that information. That person has rights to the information regardless of their age, as long as they can demonstrate an understanding of the concepts of consent, personal information and privacy. A parent does not necessarily have access to their child's file and where there is a separate child file, the Senior Manager must decide who has access.

Children, young people, relevant family members, carers or volunteers can request access to their file at any time and the agency will provide that access at no cost.

Children, young people and families using our services

The manager of the relevant program will make a time with that individual to access their information. When an individual makes a request, an acknowledgment must be provided within five (5) working days. The acknowledgment can simply be to let the individual know that they will receive a response within the next ten (10) working days or it can be to set a time for the person to access their information. In determining which initial response, the Program Manager must determine whether there is a possibility that the agency may need to refuse access, which will then require a longer period to review the circumstances. If access is unproblematic, the manager will arrange a time when they have capacity to be present with the individual to ensure that appropriate support is provided to the individual as well as ensuring the integrity of the information. In some circumstances the manager may delegate this to a staff member who has a developed relationship particularly in the case of children and young people and carers. ***In NSW***, it may take some time to obtain the files from State Archives. No papers can be removed from a file.

The agency has the right to refuse access to an individual's information only in the following circumstances:

- To do so would create serious risk of harm to the individual or another person
- Denying access is required by law
- There would be an unreasonable impact on the privacy of another individual
- The request is frivolous or vexatious
- In the event of legal proceedings the information in the file would not be accessible in the process of discovery
- The agency suspects that unlawful activity or serious misconduct related to the agency's work is being engaged in
- Providing access would reveal something related to a commercially sensitive decision making process

Any worker believing that a request for information may fall into one of these categories must discuss the circumstances with their manager or the senior manager

before responding to the individual. Where the agency determines that it will refuse access to the personal information the individual must be provided, in writing, the rationale as to the agency's decision (except where it would be unreasonable to do so) along with the complaints mechanism if the individual is unhappy about the refusal.

The following files have some restrictions on access:

Files of people who have been adopted: Barnardos Australia is restricted by State laws on the amount of information available to an adopted person. Appropriate advice on the law must be sought before access to files can be granted.

The family of deceased person who used a service in the past: Where a child or ex-client adult has died, the next of kin may, in certain circumstances, be given permission to see some information about their relative. Next of kin, on proof of identity, can have access to medical information about a deceased person. Discuss access with the Aftercare Senior Manager.

Files of people who are mentally ill: Access to a file will only be refused if a service user has been scheduled. However, the ban will last only the length of that order. Worker's judgement as to the timing of access to a file may be used during temporary periods of acute distress, in consultation with Centre Senior Managers.

Files begun prior to 1989: Access to information placed on a file before the introduction of guidelines about the open files policy in 1989 may be poorly written or judgemental. This may be overcome by letters of explanation being placed on the file and careful briefing of service users.

Worker files

Where a potential employer requests information for a reference, we will only indicate whether or not we would reemploy the worker.

Carer files

Only carers and Barnardos Australia workers/ (on a *need to know* basis) have the right of access to a carer's file. Carers may give permission for children or young people, who have been in their care, to have access. Carers can only look at some information on a file (i.e. that which ultimately will be archived, see below) and cannot look at children's information (which should be removed from the file). A request from a carer for a copy of 'archivable' information must be considered by the Chief Executive on a case by case basis.

A summary of information acceptable to the carer and the agency is to be placed separately on the child or young person's file. Information on unacceptable carers, who have had children in care through Barnardos Australia, should be maintained (to ensure that reassessments are not undertaken).

10. Storage and Archiving of Information when Contact with the Agency Ceases

When Barnardos Australia keeps files or sends them to be archived, the following applies:

- Archive areas must be secured
- Proper records of where files are archived must be held

Service user files

Files of children and young people who have been in statutory and supported out of home care and who have had an abuse allegation investigated. The file is to be kept at the centre for seven (7) years after closure. Centres should then merge the service user file with the carer or worker file, and then send the merged file to State Archives without a copy being kept. Kin care files should go straight to State archives. Note that the allegations file will be maintained at the Bay Street, Ultimo Office.

Files of children and young people who have been in statutory and supported out of home care without an abuse allegation. The file is to be kept at the centre for seven (7) years after closure and then send the file to State Archives without a copy being kept. Find a Family NSW will keep all original files at the Bay Street, Ultimo Office.

Files for children and young people who have been in voluntary out of home care and who have had an abuse allegation investigated. The file is to be kept at the centre for seven (7) years after closure. Centres should then merge the service user file with the Centre allegation file and then send the merged file to the Bay Street, Ultimo Office to be archived indefinitely.

Files for children and young people who have been in voluntary out of home care without an abuse allegation. The file is to be kept at the centre for seven (7) years after closure and then offer to the service user if still in contact. If not able to be offered, or not accepted by the service user, then shred at the centre.

Files for children, young people and families who have not been in out of home care but who have had an abuse allegation investigated. Keep the service user file at the centre for seven (7) years after closure. Centres should then send the file to Bay Street, Ultimo Office to be archived indefinitely.

Files for children who have been in childcare. The file is to be kept at the centre until the child's 24th birthday then offer to the service user if still in contact. If not able to be offered, or not accepted by the service user, then shred at the centre.

Aftercare files where the original out of home care file has been retrieved from archives. Archive at the Bay Street, Ultimo Office indefinitely.

Aftercare files where the original out of home care file has not been retrieved from archives but there is a possibility of future legal action. Archive at the Bay Street, Ultimo Office indefinitely.

Out of home care files in the ACT

In the ACT out of home care records are managed in line with the [Territory Records Act 2002](#) and returned to the Directorate when the child or young person ceases with the service.

Worker Files

All files are returned to the Bay Street, Ultimo Office by the workers centre when the employee leaves the agency. Files should have supervision records removed before returning to the Bay Street Ultimo Office (any performance issues should remain on the file), these records should be shredded. Managers must ensure that where required relevant supervision records are copied into the relevant service user file.

Carer Files

When a carer leaves the agency, their file is sent to the Bay Street, Ultimo Office for archiving within 2 weeks of them ceasing to be a carer with the agency. Canberra Centre keeps complete carers file.

Carer's files will contain, as a minimum, the following information:

- Names of children cared for and the dates of care, address of care
- Names of other household members and copies of WWCC / WWVP checks
- A summary of information or reference to the carers file
- Reference to file where an allegations has been made
- Screening assessment including WWCC etc
- Annual reviews of carers

Note: All children related information (e.g. LAC and MyStory records and file notes on allegations) should be removed from carer's files

Volunteer Files

Volunteer files will be kept at the Bay Street, Ultimo Office and will be archived in the same manner as workers files.

WWCC/WWVP Check references and contact details should be maintained.

Complaints Procedure

Barnardos Australia's operational policy documents must be authorised by the Chief Executive Officer (CEO). The CEO is responsible for ensuring this policy is reviewed every three (3) years.

Complaints about privacy should be made to:

Complaints Officer

Penny Hood

60-64 Bay St

ULTIMO NSW 2007

Email: complaints@barnardos.org.au