



ACT
Mental Health
Consumer Network

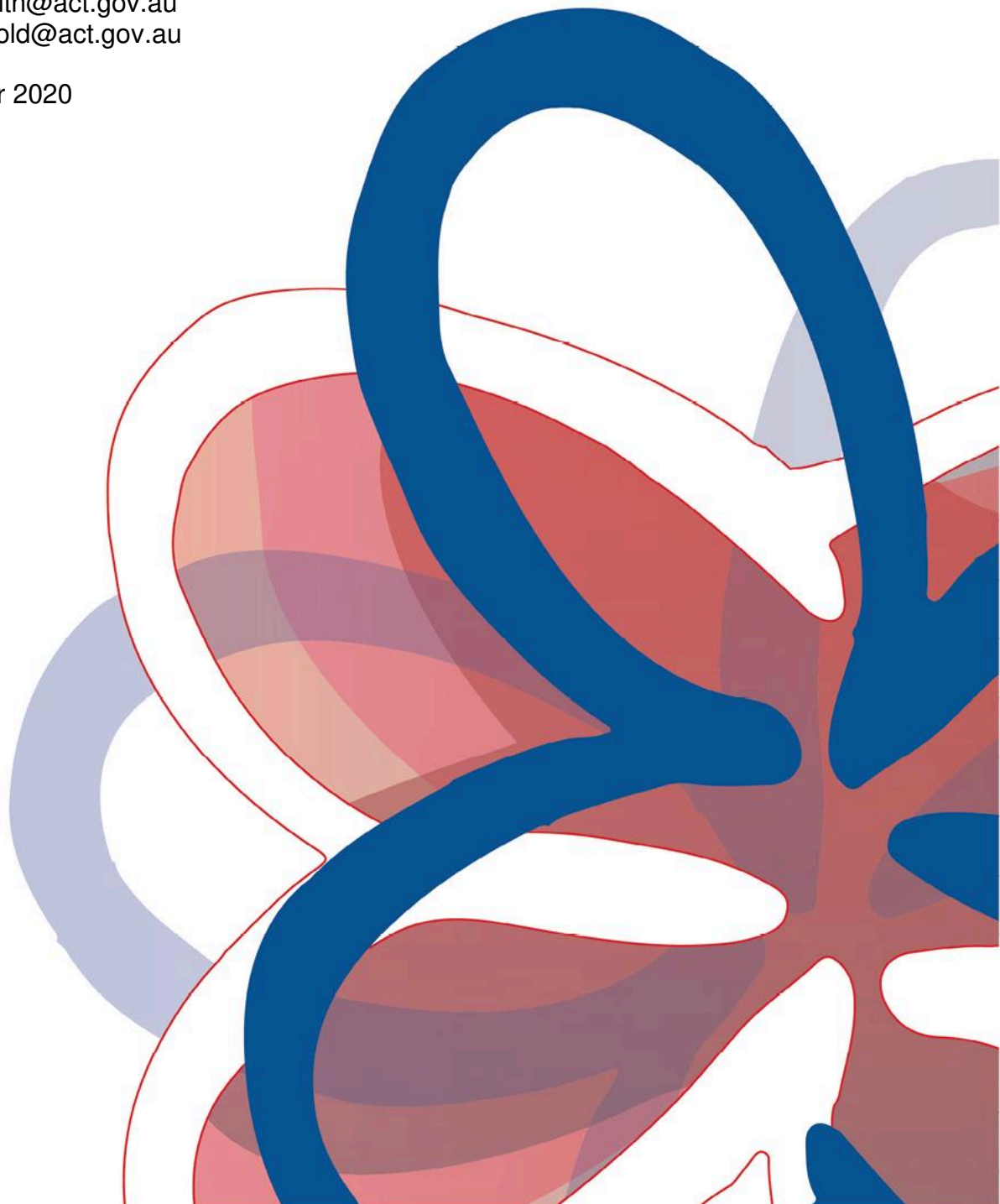
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Submission:

Canberra Health Services Consumer Privacy Policy

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Submission: Canberra Health Services Consumer Privacy Policy

This submission has been prepared by the ACT Mental Health Consumer Network in response to the invitation from Canberra Health Services (CHS).

The ACT Mental Health Consumer Network is a consumer-led peak organisation representing the interests of mental health consumers in the ACT in policy and decision-making forums. The Network is committed to social justice and the inclusion of people with experience of mental illness. Run by consumers for consumers, our aim is to advocate for services and supports for mental health consumers which better enable them to live fuller, healthier and more valued lives in the community.

The Network held a consumer forum and additionally sought feedback via email from consumers in relation to the CHS Consumer Privacy Policy draft document. This submission incorporates the feedback we received from these processes.

General comments

The Network welcomes this opportunity to contribute to the CHS Consumer Privacy Policy draft document. Consumer feedback supports a Consumer Privacy Policy for CHS employees and asks that the policy also be accessible by consumers. Feedback includes that this policy should ideally be written in plain language and that the final draft includes relevant links to parts of the legislative documents referred to.

Overall, feedback from consumers is that further detail is needed in the policy and that it requires expanding or to be included as part of a more comprehensive, broader policy. Discussion acknowledged that this may be due to the absence of information that previously related to the Patient Journey Boards, but the removal of detailed information leaves the draft policy 'light in detail'.

This submission outlines recommended adjustments to the draft document and highlights areas considered to need key links to legislative documents such as the *Mental Health Act 2015 (ACT)*. Recommendations are included below and suggested edits to the draft document in its current form are also included.

Language, document layout and accessibility

Recommendation 1: The use of plain English throughout the policy

Consumers appreciate this policy may be written as an internal policy document but

emphasise that it should be written in plain writing to ensure ease of understanding for all staff.

Recommendation 2: Appropriate references to legislation and inclusion of citations to the exact point of legislation referred to

It is important that all references to legislation within the procedure document be consistently written as required under the *Australian Guide to Legal Citation*¹. For example, *Mental Health Act 2015 (ACT)*. It is also recommended that where the draft policy includes a reference to legislation, the relevant section or part should be included as a citation to enable easy access to the relevant part of the legislation.

Recommendation 3: Inclusion of a Table of Contents

Consumers commented that due to the number of references to legislation and other procedure and policy documents a Table of Contents would enhance ease of use.

Recommendation 4: The final policy be made accessible by consumers

Feedback includes that the final policy should be made available to consumers. This is particularly relevant as there may be cases when a consumer decides to raise a complaint regarding privacy.

Inclusion of Mental Health Alerts related to the *Mental Health Act 2015 (ACT)* and policies and procedures

Recommendation 5: Inclusion of Mental Health Alerts related to the *Mental Health Act 2015 (ACT)* to the *Alerts Section* of the draft policy

- Nominated Person
- Advanced Consent Direction
- Advance Agreement

Consumer feedback in relation to page 1, Alerts section, should include reference to Advance Agreements, Advance Consent Directions and Nominated Persons. This is considered essential by consumers. It is recommended that Nominated Person be added, in line with Section 19 of the *Mental Health Act 2015 (ACT)*. Explicit inclusion of *My Rights, My Decisions* as the endorsed mechanism for lodging these legislative instruments is also strongly recommended.

Recommendation 6: Include reference to the CHS Alert Management Procedure

Include the *CHS Alert Management Procedure* on page 6 in the Related Policies, Procedures, Guidelines and Legislation section.

¹ <https://law.unimelb.edu.au/mulr/aglc/about>

Document improvements to support usability

Recommendation 7: Inclusion of a flow chart or images

Consumers consider the inclusion of flow charts and other visual tools, such as case example boxes with graphical examples, will support CHS staff and consumers accessing the policy. This was also highlighted to support enhanced understanding particularly with plain language within the Policy as it refers to many legislative documents.

Changes to the current text of the draft document

Recommendation 8: Removal of paragraph 2, page 1, Policy Statement section

This paragraph appears to lack relevance to the policy statement and could be removed:

In this document people accessing care at CHS are referred to as a consumer. To identify a consumer when care, medicine, therapy and other services are provided please refer to the *Patient Identification and Procedure Matching Procedure*.

Recommendation 9: Change order of paragraphs, page 1, Background section, last sentence paragraph 1

Replace this sentence:

For more information on the management of personal information at CHS please refer to *Personal information Privacy Policy*.

with the last sentence from the scope section, which makes the distinction clearer:
For more information on the management of personal information at CHS please refer to Personal information Privacy Policy.

Replace with last sentence from the Scope Section:

This policy does not cover the management of personal information such as information about employees, volunteers, students, contractors or information collected during the consultation process. Please see Personal Information Privacy Policy.

Delete the last sentence from the scope section if moved to page 1, Background.

Recommendation 10: Paragraph 1-2, Background section

Consumers report inconsistency between paragraphs one and two in the Background section.

Paragraph 1:

In the ACT, legislation relating to consumer privacy include the Health Records (Privacy and Access) Act 1997 which regulates personal health privacy and Information Privacy Act 2014 which regulates personal information. *This policy does not cover the management of personal information such as information about employees, volunteers, students, contractors or information collected during the consultation process. Please see Personal Information Privacy Policy.*

Paragraph 2:

All consumer information, including identifying information such as name, date of birth and address, is considered personal health information and is covered by the Health Records (Privacy and Access) Act 1997. The Act has 12 privacy principles (PP) or rules for the management of personal health information which CHS adhere to. See Attachment 1 for a summary of the privacy principles.

Paragraph 2 refers to two pieces of relevant legislation while paragraph two implies that only the Health Records (*Privacy and Access*) Act 1997 (ACT) is relevant. It is recommended that more information is provided about what consumer information would be covered by the *Information Privacy Act 2014* (ACT) or that references to it be removed from the Policy.

Recommendation 11: Dot point one, page 3, What Consumers have a right to expect section

Consumers suggest that the first dot point on page 3 be changed as follows:

‘personal health information will **not** be given to another person **only if this is unless....**’

Recommendation 12: Page 3, Consumer Personal Health Information at CHS

Consumers raised the question of who will decide what is ‘obvious’ in this section, copied below.

Under dot point two

- Consumers will be informed before personal health information is collected, or as

soon as practicable after collection, about:

- why the information is being collected, unless the purpose is obvious.

It is recommended to delete 'unless the purpose is obvious' as it is highly subjective and open for interpretation.

Recommendation 14: Page 6, Procedures section

In addition to adding the CHS Alert Management Procedure, add Advance Consent Direction, Advance Agreement and Nominated Person procedures to the Procedures section.

Recommendation 15: Page 6, Legislation section

Include the *Mental Health Act 2015* (ACT).

Conclusion and recommendations

The above recommendations are based on consumer feedback to enhance the draft document. Specific citations to sections of legislation are highly recommended to support navigation of legislative documents given their volume can make it very difficult to locate specific pieces of information.

The recommendations outlined in this submission are included in short form below. Page numbers refer to position in this submission for ease of locating the relevant text.

1. The use of plain English throughout the policy
2. Appropriate references to legislation and inclusion of citations to exact point referred to throughout the document
3. Inclusion of a Table of Contents
4. The final policy be made publicly available to consumers.
5. Include Mental Health Alerts related to the *Mental Health Act 2015* (ACT) to the Alerts Section of the draft policy (p. 1).
 - a. Nominated Person
 - b. Advanced Consent Direction
 - c. Advance Agreementincluding explicit reference to My Rights, My Decision
6. Include the CHS Alert Management Procedure (p. 6).
7. Inclusion of flow charts or images throughout document
8. Remove paragraph 2, Policy Statement section (p. 1).
9. Change order of paragraphs, Background section. (p. 2).

10. Paragraph 2, Background section inconsistency between paragraphs 1 and 2. Provide more information about what consumer information would be covered by the *Information Privacy Act 2014* (ACT) or remove references to it (p. 1).
11. What consumers have a right to expect section, re-write text (p. 3).
12. Consumer Personal Health Information at CHS, clarity required (p. 3).
13. In addition to adding the *CHS Alert Management Procedure* to the Procedures Section, add Advance Consent Direction, Advance Agreement and Nominated Person procedures to the Procedures section (p. 6).
14. Legislation section, Include the *Mental Health Act 2015* (ACT) (p. 6).

The Network welcomes the opportunity to provide further input to future drafts and assist with any guidance for system changes and subsequent procedure development.