



PURPOSE

The purpose of this policy is to clarify Daniel Morcombe Foundation's decisions and position relating to privacy practices within the organisation. The Daniel Morcombe Foundation is bound by the Privacy Act 1988 (Cth) and the thirteen Australian Privacy Principles set out in schedule one of the Privacy Amendment (Enhancing Privacy Protection) Act 2012.

Privacy law is regulated by the Australian Information Commissioner. Further information about privacy legislation can be obtained from the Office of the Australian Information Commissioner website at: www.oaic.gov.au

SCOPE

This privacy policy sets out how The Daniel Morcombe Foundation complies with its obligations under the Privacy Act regarding the collection, use, disclosure, storage and security of personal and sensitive information pertaining to clients, donors, members, volunteers, students, job applicants and staff.

POLICY STATEMENT

The Daniel Morcombe Foundation believes good privacy practice is important for more than just ensuring compliance with our obligations under the Privacy Act. Mishandled or compromised information has the potential to cause a loss of trust and considerable harm to reputation, and depending on the nature of the breach, may seriously impact on business operations and capacity, or have detrimental consequences for the individuals concerned.

The Daniel Morcombe Foundation is strongly committed to protecting the privacy of the individuals who entrust us with their personal and sensitive information. We demonstrate this commitment by providing a framework that ensures our privacy practices uphold the confidentiality of individuals and the security of the information we manage.

All Daniel Morcombe Foundation staff share a personal responsibility in protecting the information they are privy to. Staff are expected to conduct themselves in an ethical and professional manner ensuring information is only collected via lawful and fair means, and managed in accordance with applicable The Daniel Morcombe Foundation Policy and obligations under the Privacy Act.

Types of Information We Collect

The Daniel Morcombe Foundation only collects necessary personal and sensitive information about individuals that will enable us to:

- Provide requested supports and services
- Carry out our functions and activities
- Meet our statutory or legal obligations

The information we collect about individuals varies and is dependent on the circumstances of their engagement with the Daniel Morcombe Foundation. For example, information collected about an individual engaged in our Victim of Crime program will greatly differ to that of a Daniel Morcombe Foundation donor.



The Privacy Act now provides a definition for information categorised as ‘Personal’ and ‘Sensitive’; as we collect both it’s important to understand the difference as privacy obligations differ depending on the type of information being collected, used or disclosed.

Personal information is defined as: information or an opinion, whether true or not, and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable.

Common examples are an individual’s name, signature, address, telephone or mobile number, email, date of birth, medical records, bank account or credit card details, photos, video’s, case notes and commentary or opinion about a person (e.g. reference checks).

Sensitive information is now defined as a type of personal information which includes:

- an individual’s racial or ethnic origin
- health information
- political opinions
- membership of a political association, professional or trade association or trade union
- religious beliefs or affiliations
- philosophical beliefs
- sexual orientation or practices
- criminal record

Collection of Solicited Information

The Daniel Morcombe Foundation is permitted to collect **Personal information** about an individual provided the information is reasonably necessary for, or directly related to one or more of our functions or activities. Where it is reasonable and practical to do so, we will only collect personal information about an individual from the individual concerned.

We are further permitted to collect **Sensitive information** about an individual provided:

- The individual consents to the collection of that information (unless an exemption applies), and
- the information is reasonably necessary for one or more of our functions or activities; or
 - the collection of information is required or authorised by or under Australia law; or
 - a permitted health or general situation exists; or
 - the information relates to our activities, and the information relates solely to members or individuals who have regular contact with the Daniel Morcombe Foundation in connection to our activities.
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To meet our obligations under the Privacy Act; the Daniel Morcombe Foundation has two Privacy Statements for external use:

- Sponsor Privacy Policy (Marketing and Fundraising clients)
- Client Privacy Statement (Daniel Morcombe Foundation Program clients)

These statements ensure individuals are informed of the reasons why we require their information, the types of information we collect and how we will use it, their privacy rights, complaint mechanisms and how we will manage their information and protect their privacy.



Unsolicited Information

If the Daniel Morcombe Foundation receives information about an individual that we have not requested, staff members are required to make assessment to determine whether or not;

- the information is necessary to our functions or activities; and
- the information would have been provided to us had we requested it

If the information is not relevant to our functions or activities, or we would not have been able to obtain it via lawful and fair means; we are required by law to destroy or de-identify the information as soon as practicable provided the information is not contained within a Commonwealth record and it is lawful and reasonable to do so.

Use and Disclosure

Relevant to the primary purpose under which an individual's information is collected; the Daniel Morcombe Foundation typically uses and/or discloses information about individuals in a manner that enables us to:

- Identify individuals
- Recruit and employ staff
- Recruit and engage volunteers and students
- Work collaboratively with other stakeholders
- Provide requested supports and services
- Conduct fundraising and marketing activities
- Meet our statutory and legal obligations
- Report internally
- Conduct research and program evaluations

Unless exempt or required by law, the Daniel Morcombe Foundation will not use an individual's information for any secondary purpose nor disclose their information to any third party without first obtaining their consent. As an exception to the rule, the Daniel Morcombe Foundation is permitted to use or disclose an individual's information for a secondary purpose provided that:

- Obtaining the individuals consent is unreasonable or impracticable; and
- The individual concerned would reasonably expect us to use their information for that purpose; and
- The secondary purpose is directly related to the primary purpose under which their information was collected

Exemptions

The Daniel Morcombe Foundation is exempt from the mandated rulings pertaining to the collection, use or disclosure of an individual's information (both personal and sensitive) when:

1. It is required or authorised by or under an Australian law or a court/tribunal order; or
2. A permitted general situation exists; or
3. A permitted health situation exists; or



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4. We believe the information is necessary for enforcement related activities conducted by, or on behalf of, an enforcement body.

A **Permitted General Situation** exists when:

- It is unreasonable or impracticable to obtain the individual's consent and we reasonably believe that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health (physical or mental health and safety) or safety of any individual or to public health or safety.
- We believe the collection, use or disclosure will assist in locating a person who has been reported as missing.
- We suspect that unlawful, or misconduct of a serious nature that relates to our functions or activities has been, is being, or may be engaged in and we reasonably believe that the collection, use or disclosure is necessary in order to take appropriate action.
- The collection, use or disclosure is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim.
- The collection, use or disclosure is reasonably necessary for a confidential alternative dispute resolution process.

A **Permitted Health Situation** exists when:

- The collection of health information is necessary to provide a health service to the individual and either:
 - The collection is required or authorised by or under Australian law, or
 - The information is collected in accordance with the rules established by competent health or medical bodies that deal with obligations of professional confidentiality which bind the Daniel Morcombe Foundation
- Additional health situations apply for the purposes of conducting research, compiling or analysing statistics, management, funding or monitoring of a health service. Please refer to 16B of the Privacy Act.

On each occasion when an individual's information is collected, used or disclosed in accordance with one or more of the above exemptions; we are required by law to record the circumstances related to the event.

Consent from the Daniel Morcombe Foundation service related clients

Unless required, permitted or exempt by law, the Daniel Morcombe Foundation will not collect, use or disclose personal or sensitive information about a client without first obtaining their written consent.

Where permitted by consent; information will be gathered directly from the client concerned in addition to the nominated third parties the client believes is important in providing them with ongoing supports and services and/or will enable the Daniel Morcombe Foundation to better assist them and their family.



Prior to engaging our services, staff must ensure clients have a thorough understanding of:

- The relevant Daniel Morcombe Foundation Program
- The Client Privacy Statement
- What is being acknowledged and agreed to by signing the Consent Form
- The voluntary nature of our Program and the consequences of declining to divulge necessary information we request and/or provide required third party consent

Throughout their engagement with the Daniel Morcombe Foundation, clients must be kept informed about the types of information we collect about them and their family, and how it will be used.

Reporting

To protect the Privacy of individuals, information used for internal reporting, research and program evaluations must be de-identified prior to use or disclosure. This means ensuring the information used or disclosed does not contain information that could identify, or is likely to identify an individual or their family.

Identifiers

An identifier is defined by the Privacy Act as a number, letter or symbol, or a combination of any or all of those things, that is used to identify an individual or to verify the identity of an individual.

Some relevant examples would be:

- Child Safety Blue Card, Drivers Licence or Medicare Card registration number
- Tax File Number
- Superannuation or Union Membership Number

The Daniel Morcombe Foundation will not adopt, use or disclose a government or organisation related identifier of an individual as its own identifier of the individual.

Information Integrity

All staff have a personal responsibility of ensuring that the information we collect, use or disclose is accurate, up to date, complete and relevant to the purpose of the use or disclosure.

With the nature of our functions and activities; data integrity is a fundamental and critical factor to ensuring the Daniel Morcombe Foundation remains operational and compliant with our statutory and legal obligations.

For example, the information you record about individuals may be used to:

- Comply with a judicial proceeding, court order or legal process
- Provide appropriate and ongoing supports and services to individuals
- Generate statistics and reports to meet our statutory and legal obligations
- Support funding requests and/or variation requests
- Validate workforce needs, development and growth
- Validate service requirements within our regions
- Evaluate the effectiveness of our programs and services based off data input into SRS, etc.
- Perform in house training using case studies/client records



- Conduct research

Staff can ensure the reliability of the information they manage by following information management procedures and practices implemented within their team, participating in training opportunities to develop or maintain competency in using information management systems and promptly correcting or notifying others of any noted discrepancies within existing records.

Managers are responsible for overseeing the integrity of data captured within their region or team. Managers are to ensure staff are appropriately trained prior to accessing information management systems and records, and to further ensure the reliability of recorded data through auditing and monitoring.

Access to Information

Individuals have the right to access their information held by the Daniel Morcombe Foundation and are not required to justify their request. When an individual enquires about accessing their information, staff will inform them of our decision making process and response timeframe, and instruct them to formalise and submit their request in writing specifying what information they want access to.

Prior to permitting or declining a request; staff will make an assessment based on the individual's circumstances and the following permitted exemptions under which we can decline:

- we believe granting access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety
- we believe granting access would have an unreasonable impact on the privacy of other individuals
- the request for access is frivolous or vexatious
- the information relates to existing or anticipated legal proceedings between the Daniel Morcombe Foundation and the individual
- providing access to the information may prejudice the Daniel Morcombe Foundation's negotiations with the individual
- giving access would be unlawful
- denying access is required or authorised by or under an Australian law or a court/tribunal order
- providing access would prejudice an investigation of possible unlawful activity
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Where it is likely that a request will be permitted, prior to providing notification of the outcome or allowing access; the individual's requested information must be thoroughly reviewed to ensure that if there is information recorded about another person, we:

- Obtain written consent from the person to disclose their information; and/or
- Redact all or requested information pertaining to the other person to protect their privacy

When access is permitted

Individuals will be notified within ten (10) working days of the outcome of their request from when the request was made.

With consideration to the nature of the information requested and our obligations to protect the privacy of individuals, the Daniel Morcombe Foundation will enable individuals to access their information in a



setting and/or manner that is reasonable in the circumstances and will employ appropriate measures to verify the identity of the individual prior to granting access.

Program Clients Only

As a preference, clients will be requested to visit a nominated The Daniel Morcombe Foundation office to access their information. Accompanied by a suitably qualified staff member, clients will be given use of a private space within the Daniel Morcombe Foundation office to view and/or discuss their information.

If the client is unable to visit a Daniel Morcombe Foundation office; staff must consider alternative mutually agreeable arrangements (as are reasonable in the circumstances) to enable access. Given the nature of the information we collect from clients, providing information via registered post or email should be considered as a last resort if the content is of a sensitive nature.

When access is declined

Prior to declining access; as part of the decision making process, staff must consider mutually agreeable solutions (as are reasonable in the circumstances) to provide sufficient access in a way that will meet the needs of the individual and the Daniel Morcombe Foundation.

If a mutually agreeable outcome cannot be found; staff will notify the individual in writing within ten (10) working days from when the request was made. The letter must outline;

- the reasons or grounds for the refusal (where reasonable to do so); and
- mechanisms available to the individual to complain about the refusal; and
- any other matter prescribed by the regulations

Correction of Information

The Daniel Morcombe Foundation is required to take reasonable steps to ensure the information we hold about individuals is accurate, up to date, complete, relevant and not misleading. If practical, lawful and requested by the client; the Daniel Morcombe Foundation is required to notify the entities we previously disclosed the individual's information to about any corrections we have since made to that information.

If an individual believes that the information the Daniel Morcombe Foundation holds about them is inaccurate, incomplete or not up-to-date; they have the right to request that we correct their information. Upon enquiry, staff will inform them of our decision making process and response timeframe, and instruct them to formalise and submit their request in writing specifying what information they believe is incorrect and the proposed correction/s.

The Daniel Morcombe Foundation is permitted to refuse the request if we disagree with the individual about the accuracy, completeness and currency of their information. If we decline the request, individuals will be notified of our refusal via letter which must outline;

- the reasons for the refusal (where reasonable to do so); and
- mechanisms available to the individual to complain about the refusal; and
- any other matter prescribed by the regulations

Individuals are permitted to request that a statement be attached to their Daniel Morcombe Foundation record stating that their information is inaccurate, out-of-date, incomplete, irrelevant or misleading. The



statement associated with the individual's record must be attached in such a way that it is apparent to all users of the information.

Anonymity and Pseudonymity

Where lawful and practical; individuals must have the option of not identifying themselves, or of using a pseudonym when dealing with the Daniel Morcombe Foundation in relation to a particular matter.

The Daniel Morcombe Foundation's position is that when an individual contacts us for general information or to lodge a complaint, we respect their right to exercise anonymity by not providing us with their personal details'. However, given the nature of the services we provide, we are unable to accommodate this practice with active Daniel Morcombe Foundation program clients and donors.

Information Security

Mishandled information can cause a loss of trust and considerable harm to our reputation: additionally, if information is lost or altered, it can have a serious impact on our capacity to perform our functions or activities. The Daniel Morcombe Foundation has security obligations under The Privacy Act to take reasonable steps to protect information from misuse, interference, loss and unauthorised access, modification and disclosure.

We employ a number of measures to minimise security risks and prevent a breach of privacy and security. The below points briefly outline the core areas that are further detailed in the relevant Daniel Morcombe Foundation Policies and Procedures.

- Staff are expected to conduct themselves in a professional and ethical manner in accordance with the Daniel Morcombe Foundation Code of Conduct Policy and Confidentiality Statement and where applicable, relevant health or medical professional confidentiality and record keeping obligations
- Physical and electronic information is stored and accessed in a controlled and secure manner in accordance with the Records Management Policy, Computer and Internet Use Policy and other relevant policies and procedures
- Information is collected, used and disclosed in accordance with this Privacy Policy, the Privacy Act 1988 and other relevant Acts and legislation.
- The security, retention and destruction of information are managed in accordance with the Daniel Morcombe Foundation Records Management Policy, Privacy Act 1988 and health or medical professional record obligations.

Direct Marketing

The Daniel Morcombe Foundation is permitted to use or disclose personal information about an individual provided we:

- collected the information from the individual
- the individual would expect that their personal information would be used or disclosed for direct marketing



- we provide a simple means by which the individual can request not to receive direct marketing, and
- the individual has not made such a request.
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In circumstances where the individual would not expect the Daniel Morcombe Foundation to use their personal information for direct marketing or we have collected their information from a third party; we are only permitted to use or disclose their personal information for the purpose of direct marketing provided;

- the individual has consented to the use or disclosure for this purpose, or it is impracticable to seek this consent
- we provide a simple means by which the individual can opt out of direct marketing and the individual has not opted out, and
- each direct marketing communication sent by the Daniel Morcombe Foundation includes a prominent statement telling the individual that he or she may request to no longer receive direct marketing, and no request is made.

Use or disclosure of an individual's sensitive information for the purpose of direct marketing is only permitted when written consent has been provided by the individual.

Under the Privacy Act, the Daniel Morcombe Foundation marketing and fundraising recipients have the right to:

- request that they do not receive direct marketing communications from the Daniel Morcombe Foundation or any third party we disclose their information to for the purpose of facilitating direct marketing on our behalf, or
- request that we do not disclose their information to any third party for the purpose of direct marketing, or
- request that the Daniel Morcombe Foundation provide the source where we collected their personal information from

The above is subject to the operation of other direct marketing legislation, including the *Do Not Call Register Act 2006* and the *Spam Act 2003*.

Privacy Complaints

Complainants should be informed of complaint mechanisms available to them; however we will ask them to first allow the Daniel Morcombe Foundation the opportunity to resolve their complaint prior to contacting the Office of the Australian Information Commissioner.

All complaints must be brought to the attention of the appropriate Director whom at his/her discretion may escalate the issue or make it known to the Executive team. All privacy complaints must be registered on the the Daniel Morcombe Foundation Complaints register which is located on Google Drive.

POLICIES, PROCEDURES, RECORDS & FORMS

- *Computer and Internet Use Policy*
- *Code of Conduct*



LEGISLATION, STANDARDS AND GOVERNING BODIES

- *Privacy Act 1988*
- *Privacy Amendment (Enhancing Privacy Protection) Act 2012*
- *Child Protection Act 1999*
- *Child Safety Services Standards*