Privacy and Confidentiality Policy

Claudia Marshall Occupational Therapy and Consultancy

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Approved by	Claudia Marshall	**Review date**	11 October 2027
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Section 1: Purpose and scope

This policy sets out how Claudia Marshall Occupational Therapy and Consultancy (Claudia Marshall OTC) collects, uses, stores, shares and protects personal information. It explains how to access or correct your personal information, or make a complaint.

Claudia Marshall OTC collects only the information required to provide occupational therapy and consultancy services.

This policy applies to clients, people who support or act for a client, people who make a referral or enquiry, consultancy clients and website visitors. In this policy, "you" means the person the information is about.

A legal decision maker is a person with legal authority to make decisions on another person's behalf, for example a parent or legal guardian of a client under 18, or a guardian appointed by the State Administrative Tribunal. Where a person has a legal decision maker, that person is included wherever this policy refers to consent, sharing, access, correction and complaints.

This policy applies to any subcontractor engaged by Claudia Marshall OTC.

Types of information

- Personal information is information or an opinion about a person who can be identified.
- Sensitive information is personal information such as health information, racial or ethnic origin, or criminal record.

Legal and professional obligations

Claudia Marshall OTC provides a health service and holds health information. The Privacy Act 1988 (Cth) therefore applies. Personal information is handled in line with:

- Privacy Act 1988 (Cth) and the Australian Privacy Principles (APPs), including changes made by the Privacy and Other Legislation Amendment Act 2024 (Cth)
- health records laws that apply where a client is in another state or territory, for example the Health Records and Information Privacy Act 2002 (NSW), the Health Records Act 2001 (Vic) and the Health Records (Privacy and Access) Act 1997 (ACT)
- National Disability Insurance Scheme (NDIS) Code of Conduct, including the obligation to respect the privacy, dignity and confidentiality of people with disability

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- Code of Conduct for occupational therapists published by the Occupational Therapy Board of Australia and the Australian Health Practitioner Regulation Agency (Ahpra), including its requirements for confidentiality and health records
- the privacy terms of any contract under which a service is provided (see section 8).

Related documents

- Claudia Marshall OTC Vision and Values Business Statement
- Consent Procedure
- Service Agreement
- Clinical Records Management and Cybersecurity Policy
- Telehealth Policy
- Risk and Incident Management, Reporting and Safeguarding Policy
- Business Continuity and Continuity of Care Policy
- Scope of Practice, Professional Obligations and Clinical Governance Policy
- Culturally Responsive Practice Framework
- Code of Conduct
- Complaints and Feedback Process

Section 2: Information collected

Claudia Marshall OTC collects personal and sensitive information, including health information, to provide assessments, therapy, reports and consultancy. Sensitive information is collected only with consent from you and/or your legal decision maker, or where the law requires or permits it.

Kinds of information

- **Personal details:** name, date of birth, contact details and address.
- **Health and clinical information:** medical history, diagnoses or disabilities, assessment results, information about your daily functioning and support needs, and supporting documents such as previous assessments or clinical notes.
- **Photos and recordings:** with consent from you and/or your legal decision maker, photos, video or audio recordings may be taken where needed for an assessment. The practitioner will explain what these will be used for and who will see them.
- **Service needs:** the services requested, and any safety or wellbeing risks to you, the practitioner or others, so that services can be planned safely.
- **Cultural and family information:** information you choose to share, such as your cultural identity, language, community and family connections, so that services can be provided in a culturally responsive way. This information is guided by the principles of Indigenous Data Sovereignty (see section 4).
- **Legal circumstances:** where relevant to the service, information such as guardianship or administration orders, court orders or conditions, custody or community supervision status, and the contact details of your lawyer or other legal representative, community corrections officer,

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or staff of the Department of Communities or the Department of Justice who are involved in your care.

- **Funding and referral information:** details needed for your funding pathway, such as your NDIS plan, your Medicare number and GP referral, or your workers' compensation or motor vehicle injury claim and the case manager or insurer managing it. This includes the person or organisation that referred you or contracted the service, and their contact details.
- **Representatives and contacts:** details of the people who support or act for you, such as a nominee, guardian, referrer, legal decision maker, contact person or emergency contact.
- **Billing and payment information:** details needed to invoice and receive payment for services.
- **Consultancy information:** names, roles and contact details of people at the organisations that engage consultancy services.

How information is collected

Where possible, information is collected directly from you. Where a referral is made on your behalf, information is received from the person who referred you before the first contact with you. When this happens, the practitioner tells you and/or your legal decision maker at the first contact, or as soon as practicable, what information is held and where it came from.

With consent from you and/or your legal decision maker, or where required or authorised by law, information may also be collected from family members, carers, guardians, treating health professionals, support coordinators, legal representatives or justice agencies.

Anonymity

You may deal with Claudia Marshall OTC anonymously or under a pseudonym where that is lawful and practicable, for example when making a general enquiry. For clinical services and funding claims, your identity needs to be verified.

If information is not provided

You and/or your legal decision maker can choose not to provide some or all the information requested. The practitioner will explain how this may affect the services that can be provided.

Section 3: How information is used

Clinical clients

Your information is used only to provide your occupational therapy service, write your reports, and meet legal and professional obligations. In line with the NDIS Code of Conduct, people with disability have the right to make choices and are assumed to have the capacity to make those choices. Where you need support to decide, the practitioner will involve the people you choose, or your legal decision maker.

Information is explained in a way that makes sense to you, including with an interpreter or support person if you want one. Informed consent is obtained from you and/or your legal decision maker, in line with the Consent Procedure, before your information is used for:

- **Therapy and capacity building:** planning and delivering therapy and skill building programs.

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- **Assessment and reporting:** completing Functional Capacity and Support Needs Assessments, Home and Living Assessments, NDIS Access Request Assessments, and functional cognitive, environmental, sensory processing and biopsychosocial-cultural assessments, and writing the reports that describe your support needs.
- **Working with your team:** communicating with the people involved in your care, such as your GP, other health professionals, support coordinator or case manager.
- **Telehealth:** delivering sessions by video or phone (see Telehealth Policy).

Your information is also used for administration to check that services are appropriate for your needs, to manage bookings, billing and payments, and to respond to feedback, incidents and complaints.

Information is used for another purpose only with consent from you and/or your legal decision maker, where you would reasonably expect it and it is directly related to your service, or where the law requires or permits it.

Consultancy clients

Information collected through consultancy is used only to deliver the agreed work, manage the contract, and meet legal and professional obligations. It is used for:

- **Delivering the consultancy:** providing advice, training, service design, reviews and written reports as set out in the contract or engagement letter.
- **Communication:** contacting the people nominated by the organisation about the work.
- **Administration:** managing quotes, contracts, invoicing and payments, and responding to feedback and complaints.

Organisations are asked to provide information that does not identify individuals wherever possible. Where the work requires information that identifies a person, the organisation is responsible for making sure it has the consent or authority to share it. That information is stored and protected in the same way as clinical records and is used only for the agreed work.

Government identifiers

Identifiers such as a Medicare number or NDIS participant number are used and shared only where needed to verify your identity, process a claim or meet the requirements of the funding body. They are not used as a client identifier for any other purpose.

Direct marketing

Claudia Marshall OTC does not use client information for direct marketing, and will not sell, rent or trade personal or health information.

Section 4: Sharing and disclosure

Your information is not shared with anyone else unless:

- you and/or your legal decision maker have given informed consent, for example to share a report with your care team, support coordinator, family or lawyer
- it is needed to process a claim or meet the reporting requirements of your funding body or referring agency, such as the National Disability Insurance Agency (NDIA) or your plan

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manager, Medicare, a workers' compensation insurer, a motor vehicle injury scheme or an organisation that has contracted the service, as explained when services begin

- it is required or authorised by law, for example by a court order or subpoena, a child protection report or a notification to the Australian Health Practitioner Regulation Agency (Ahpra)
- the practitioner reasonably believes it is necessary to lessen or prevent a serious threat to the life, health or safety of you or another person, or to public health or safety, and it is unreasonable or impracticable to get consent. In a custodial setting, this may mean telling facility staff
- it is otherwise permitted by the Privacy Act, for example where it is needed to establish or defend a legal claim.

In each case, only the information needed for the purpose is shared.

Indigenous Data Sovereignty

Claudia Marshall OTC respects the right of Aboriginal and Torres Strait Islander peoples to govern information about themselves, their communities and Country. Information about Aboriginal and Torres Strait Islander people is collected, held and used in a way that is guided by the Maiam nayri Wingara Indigenous Data Sovereignty Principles and the CARE Principles for Indigenous Data Governance (see the Culturally Responsive Practice Framework).

- Cultural knowledge, stories, language, and family or community information you share remain the cultural and intellectual property of you, your family and your community.
- Cultural information is recorded only where it is relevant to the service. It is not shared for any purpose outside this policy, or used for research, training or case examples, without consent from you and/or your legal decision maker.
- Reports do not describe a community only in terms of its deficits.
- You and/or your legal decision maker can ask what cultural information is held, how it is used, and for it to be corrected (see section 10).

Legal decision makers and young people

Where a client has a legal decision maker, information is shared with that person to the extent needed for them to make decisions. Where a young person can understand and make their own decisions about their information, their wishes about what is shared with a parent or guardian are respected, unless the law requires otherwise or there is a serious risk to safety.

Referrals from a third party

If you are referred by a third party, such as a legal representative, a government agency or a custodial service, the practitioner will tell you and/or your legal decision maker before the assessment who will receive the report and what it will be used for.

Supervision

Practitioners take part in clinical and cultural supervision as a professional obligation. Client information is discussed in supervision in a de-identified form.

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Advisers and service providers

Where necessary, limited information may be handled by professional advisers (such as accountants and legal advisers), the professional indemnity insurer of Claudia Marshall OTC, and the IT providers who support its systems. They are bound by confidentiality.

Section 5: Storage and security

Claudia Marshall OTC takes reasonable steps, including technical and organisational measures, to protect your information from misuse, interference, loss, and unauthorised access, modification or disclosure. Records are managed under the Clinical Records Management and Cybersecurity Policy.

- **Storage:** clinical notes and reports are stored in a secure practice management software that stores Australian users' data in Australia. Email and electronic files are kept in secure cloud storage held in Australia.
- **Security:** work systems and devices are protected by passwords, device security measures and two factor authentication.
- **Email:** email is not a fully secure way to send information. Reports are sent as password-protected files. You and/or your legal decision maker can ask for information to be sent or received another way.

Information held outside Australia

- The accounting system holds some billing data on servers outside Australia. This is limited to the details needed for invoicing, such as your name, invoice number, date, service and amount.
- The accounting provider states that it hosts and processes data in Australia, New Zealand and the United States.
- The website platform may store standard visit information outside Australia (see section 13).
- Reasonable steps are taken to make sure that overseas providers handle the information in a way that is consistent with the APPs. Claudia Marshall OTC does not otherwise disclose client information to anyone outside Australia.

Section 6: Retention and destruction

Western Australia does not have a health records law that sets retention periods for private practices. Claudia Marshall OTC follows the Code of Conduct for occupational therapists and the periods set by health records laws in New South Wales, Victoria and the Australian Capital Territory, which are the commonly used as the standard.

- Health records are kept for at least seven years from the date of your last service, or until you turn 25 if you were under 18 at any time during the service, whichever is later.
- Records are kept longer where an insurer, scheme or contract sets its own period, or where a record is relevant to a complaint, claim or legal proceeding (kept until that is finished).
- Records that relate to an allegation or disclosure of child sexual abuse are kept for at least 45 years, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse.

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- When the retention period ends, records are securely destroyed or de-identified.

Section 7: Data breaches

A data breach happens when personal information is lost or is accessed or disclosed without authorisation.

- Any suspected data breach is contained and assessed as quickly as possible, and within 30 days at most.
- If a data breach is likely to result in serious harm, you and/or your legal decision maker and the Office of the Australian Information Commissioner (OAIC) are notified as soon as practicable, in line with the Notifiable Data Breaches scheme. The notice explains what happened, what information was involved and what steps can be taken.
- Immediate steps are taken to reduce any risk of harm.
- Where a service is contracted, the contracting organisation is notified where the contract requires it.
- Data breaches are recorded and managed under the Clinical Records Management and Cybersecurity Policy.

Section 8: Contracted services

Some services are contracted by an organisation. Privacy and record keeping arrangements for contracted services may vary. They are discussed and put in writing at the time of the contract.

A contract with a government agency may require Claudia Marshall OTC to follow the privacy law that applies to that agency.

Where a clinical record is made in, or held by the contracting organisation, a request to access that record may need to be made to that organisation. The practitioner will explain who to contact.

Section 9: Records if the practice closes

If Claudia Marshall OTC closes, or the practitioner dies or is no longer able to practise:

- current clients are told as early as possible and are supported to transfer to another provider
- with consent from you and/or your legal decision maker, a copy of your record is transferred to your new provider
- records that are not transferred continue to be stored securely for the periods in section 6, and are then securely destroyed
- a records custodian (TBC) is responsible for the records and for responding to requests for access
- closure is managed under the Business Continuity and Continuity of Care Policy.

Section 10: Access and correction

Under Australian privacy law you and/or your legal decision maker have the right to:

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- **Access:** ask for a copy of the personal information Claudia Marshall OTC holds about you.
- **Correct:** ask for information you believe is inaccurate, incomplete, out of date, irrelevant or misleading to be corrected.

Requests can be made by you and/or your legal decision maker using the contact details in section 14.

Access and correction requests are answered within 30 days. Identity, and the authority of a legal decision maker or other person acting for you, may need to be confirmed before records are released.

- There is no charge for making a request. A reasonable administrative fee may apply for providing a copy of your information, and the fee is advised beforehand.
- Access may be refused, in full or in part, only where the law allows. Examples are where access would pose a serious threat to the life, health or safety of any person, would have an unreasonable impact on the privacy of another person, or relates to existing or anticipated legal proceedings.
- If a correction is not agreed to, you and/or your legal decision maker can ask for a statement to be attached to your record saying that the information is believed to be incorrect.
- If access or correction is refused, the reasons are given in writing to you and/or your legal decision maker, with information on how to complain.

Section 11: Complaints

If you and/or your legal decision maker believe your privacy has been breached, contact Claudia Marshall OTC using the contact details in section 14. A support person, advocate or interpreter can help with making a complaint. Complaints are acknowledged within 5 business days and responded to within 30 days. Complaints are managed under the Complaints and Feedback Process.

If the concern is not resolved, you and/or your legal decision maker can contact:

- the Office of the Australian Information Commissioner (OAIC) at oaic.gov.au
- the NDIS Quality and Safeguards Commission, if your matter relates to NDIS funded supports
- the Health and Disability Services Complaints Office (HaDSCO) in Western Australia, or the health complaints body in your state or territory.

Section 12: Enquiries and contact forms

If you email, phone or send a referral through an online form, Claudia Marshall OTC keeps your contact details and your message to respond to you. This information is protected in the same way as all other personal information held. You do not need to include detailed health information in a first enquiry.

Section 13: Website and cookies

The Claudia Marshall OTC website is hosted by a third-party website platform and is used only to present information. It has no enquiry forms, and no client information is stored on it. Online forms are provided through a secure practice management software that stores Australian users' data in Australia.

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A cookie is a small file that a website stores on your device. The Claudia Marshall OTC website uses cookies that are needed for the site to work and stay secure. The website platform may also record standard visit information, such as your IP address, browser type and the pages you view, to provide general visitor statistics. Claudia Marshall OTC does not use this information to identify you, and the platform may store it on servers outside Australia.

You can block or delete cookies in your browser settings. If you do, some parts of the website may not work properly.

Section 14: Contact details and review

To talk about how your information is managed, ask for access to your records or raise a privacy concern, please contact:

Claudia Marshall, Occupational Therapist

Claudia Marshall Occupational Therapy and Consultancy

- **Email:** contact@claudiamarshallotc.com.au
- **Phone:** 0482 958 189
- **Post:** PO Box 97, Scarborough WA 6019
- **Web:** www.claudiamarshalloccupationaltherapy.com.au

This policy is available free of charge on the website. A copy can be provided in another format on request.

This policy is reviewed annually, and earlier if the law or the practice changes. Current clients are told directly about any significant changes.

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