healthylivingNT

Data Retention and Destruction Policy

1. Background

Healthy Living NT must comply with the Privacy Act 1988 (Cth), the Australian Privacy Principles (APPs) and any other applicable privacy laws.

Healthy Living NT also has legal obligations to keep certain kinds of data on record for a specified amount of time. The table in Appendix 1 sets out the legally required retention periods for common categories of data.

This policy sets out Healthy Living NT's approach to managing, retaining and destroying records and data (including personal information) we hold, to ensure compliance with the APPs and data retention laws.

The purpose of this Policy is to outline roles, responsibilities and steps Healthy Living NT and staff must take when dealing with record and data retention and destruction. This policy does not cover all circumstances that may arise and is not a comprehensive statement of the relevant law. If you are unsure or have any questions about this policy, or Healthy Living NT's obligations, you should consult your manager or the CEO.

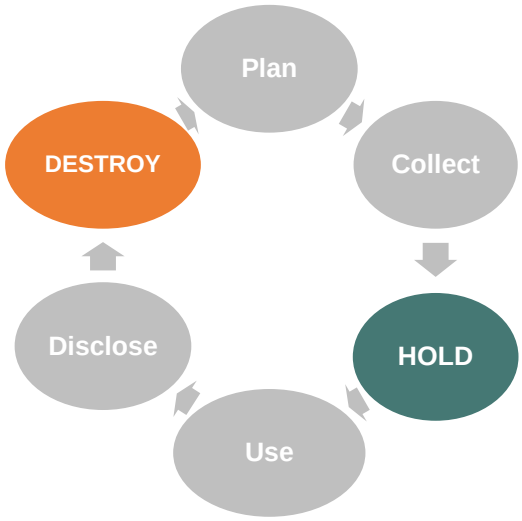
2. Scope

The Privacy Act provides that a *record* can be a paper document or an electronic file. Records may include physical documents, digital scans of documents, databases and electronic files such as text, image, video, or audio files. In essence, any medium that captures and contains information constitutes a 'record'.

In this policy, *data* means any information which is contained in a record, including (but not limited to) personal and sensitive information.

This Policy applies to all employees, including contractors and volunteers who have access to Healthy Living NT records and data or who are involved in the process of collecting, storing or securing Healthy Living NT records and data on behalf of Healthy Living NT (HLNT).

3. Information lifecycle



Policy

Life. Be in it.™

a) The information lifecycle describes each phase of HLNT records and data.

b) This policy focuses on the *Hold* and *Destroy* phases. ***Hold*** refers to how records and data are recorded, stored, secured, backed-up and archived, while ***Destroy*** refers to how records and data are disposed of or put beyond use. For personal information, *Destroy* also covers the de-identification of that information so that it is no longer considered personal or sensitive information.

c) The Privacy Act requires us to delete personal information when no longer required (which includes for any legal purpose), but data retention laws may require us to keep that personal information for certain periods of time. Privacy laws and data retention laws may appear to conflict but it is essential to consider both obligations together.

d) You must consider and apply the guiding principles set out below when managing, retaining and destroying records and data.

4. Guiding principles on managing, retaining and destroying records and data

a) Actively and continuously consider whether retention of data is necessary.

b) Do not destroy records and data that are necessary for HLNT's business functions or legally required to be kept.

c) Do not destroy records and data that may be relevant to ongoing or anticipated disputes, litigation or regulatory investigations. Consult with your direct manager or the CEO if you have doubts about whether certain records or data should be retained for their evidentiary value.

d) **Retain only minimum data necessary.** It is possible to have too much data. Over-collection of data is a significant risk. Only keep what is reasonably necessary for HLNT's business functions or to comply with our legal or clinical obligations.

e) **Consider whether** HLNT has contractual obligations to destroy certain records and data after the expiration of a contractual relationship.

f) **Record data in the most appropriate format and minimise paper records.** Scan physical documents and save the digital scans in HLNT's document management system. Do not use your email inbox as a record filing system.

g) **Take steps to secure your records and data and minimise risk of corruption of data or accidental loss**. Ensure that important data is securely backed-up and archive records when they are not actively being used (but which are not ready to be destroyed).

h) **Ensure data can be easily located and accessed** (even when archived or not in active use).

i) **Ensure paper records are securely destroyed if appropriate**. Use shredders or Confidential Destruct bins to destroy paper records.

5. Steps to Manage Data

Step 1: Identify record, data and purpose

Step 1 is to identify:

a) the data that you deal with and the records in which they are contained (i.e. certain data may be in multiple records)

b) the purpose for which the data was collected

c) the purpose for which the data (and record) is currently being held.

The data and records that you deal with in your day-to-day activities will depend on your role. For example, an employee in our finance and administration section may regularly collect and handle employee and contractor for payroll purposes and to comply with our legal obligations including:

- tax file numbers in records relating to employees
- role and salary information
- identification documents (records such as scanned passports and drivers' licences)
- contact information
- health information

An employee in providing or supporting the provision of client education services will regularly collect and handle client information including:

- Address and contact information
- Demographic information
- Health information
- Consent information

To identify the kinds of data you handle, and what possible obligations may attach to them, ask yourself:

- What data do I use to carry out my functions?
- Does that data contain personal information about individuals?

Step 2: Determine whether it is necessary to retain the data (and relevant records) and for how long.

Data is sometimes collected for one-time use, and once the purpose for which it was collected is fulfilled, it is not necessary to retain it. In such circumstances, you should promptly delete or destroy the data (and relevant records), especially if it contains personal information about individuals, to minimise the risk of that data being compromised in the event of a data breach. This is particularly important in relation to government issued identifiers such as passport and drivers' licence numbers.

Certain data (and relevant records) must be retained because they are necessary for HLNT's business functions, or because the law requires that the data be retained for a specific period of time. If you determine that it is necessary to retain the data and record identified in Step 1, determine whether it falls into a category with a specific retention period (see **Appendix 1**) so, you should take reasonable steps to ensure that the data is destroyed after that period has elapsed (see Step 4).

If the data and relevant records do not fall into a specific category, but are required to be retained, best practice is to retain the data (and relevant record):

Type	**Retention Period**
Financial and governance records	Seven (7) years
Personal information about an adult	Seven (7) years
Personal information about a child	Seven (7) years after a child turns 18
Sensitive information, including health information	Fifteen (15) years after the date of last access or forty-five (45) years after the date of birth where the client is a minor, whichever is the latest.

Consult with your manager or the CEO for advice on determining the appropriate retention period for records and data that do not fall into a category set out in **Appendix 1**.

Step 3: Decide how, and in what format, the data should be held.

If the data is recorded in hard copies (i.e. paper records), the general rule is that the document should be scanned and stored electronically and that the physical paper copy should be securely destroyed. An exception applies to original versions of documents which are legally required to be retained (see **Appendix 1**) or which HLNT may be required to produce as evidence in a dispute, legal proceedings or an investigation.

Consider whether the data (and relevant records) will need to be regularly accessed or whether they should be archived. In either case, the data (and relevant records) should be held in a manner which allows them to be easily located, accessed and retrieved when needed. If you decide to archive the data, be sure to record the date the data was created, the date it was archived, and the date after which it should be destroyed.

Data should be stored securely and in a manner that is appropriate to the value and sensitivity of the data, and the physical properties (if applicable) of the record (for example, paper records should be stored in a cool, dry place outside of direct sunlight to avoid degradation).

As a general rule, email inboxes and mailbox folders should not be the primary source of storing records and data, particularly data which consists of personal information or sensitive information. File records with personal information, sensitive information, financial information or government identification numbers in HLNT's document management system, client electronic record system or external portals such as NDSS Central as appropriate.

Step 4: Determine whether and how the data should be destroyed, put beyond use, or de-identified.

In most circumstances, data (and the relevant record) should be destroyed using Confidential Destruction (or equivalent) after its retention period has elapsed and it is no longer required for a business function or to comply with a legal requirement.

There may be occasions where it is not possible or practicable to irretrievably destroy data (because, for example, the system on which the data is stored does not allow data to be deleted or where the data is part of a larger dataset). These circumstances should be avoided if possible, but if they arise, you should take reasonable steps to

a) **put the data beyond use**. The Office of the Australian Information Commissioner (OAIC) has said this means HLNT:
   - is not able (and will not attempt) to use or disclose that data, and
   - cannot give any other entity access to that data, and
   - surrounds the data with appropriate technical, physical and organisational security. This should include at a minimum, access controls including logs and audit trails, and
   - commits to take reasonable steps to irretrievably destroy the data if, or when, this becomes possible; or

b) **de-identify the data**: If the data contains personal information or sensitive information, consider whether it is possible and practicable to de-identify the data. This means taking steps to remove information that could reasonably identify an individual (for example by redacting scanned documents).

There may be certain circumstances in which the data should be de-identified immediately (such as where it is being used for analytics or research purposes, which does not require individuals to be personally identifiable.

6. Roles and Responsibilities

HLNT management is responsible for:

a) Determining retention periods for the records they hold, having regard to:
   - legally required retention periods (see Appendix 1)

- whether the retention of the record or data is (and continues to be) necessary for one or more of HLNT's functions and activities
- whether the record or data (and the relevant record) may hold evidentiary value in an existing or potential dispute, legal proceeding or regulatory investigation
- the guiding principles set out in section 4.

b) Ensuring that records and data are securely held, and that appropriate roles, responsibilities, practices and processes are put in place to ensure that records and data are destroyed after relevant retention period has ended.

c) Taking reasonable steps to destroy, de-identify or put beyond use records and data once the retention period has elapsed.

d) Seeking external advice where necessary in relation to:

- practices and procedures relating to storage and security of records, and destruction of records and data
- determining appropriate retention periods and confirming whether certain records or data should be destroyed or retained.

e) Communicating and ensuring HLNT complies with its obligations under this policy.

f) Assigning specific roles and responsibilities to team members to carry out the obligations set out in this policy.

g) Providing training on records, retention periods, and destruction practices and procedures to team members.

h) Undertaking periodic reviews of records and data held to ensure that records and data are being destroyed after their retention period has ended.

Employees, contractors and volunteers must:

a) Consider the legal obligations relating to retention and destruction of the records and data they deal with

b) Comply with obligations to:

- retain necessary and important data
- destroy unnecessary records and data
- seek guidance and direction from management where appropriate.

Responsibility for Policy

The Board of Diabetes Association of the NT Inc. is responsible for ensuring this policy is up to date and complied with.

Approval

Original Submission Date: Board Meeting 2/24 of 20 April 2024
Original Approval Date: Board Meeting 2/24 of 20 April 2024

Circulation: All HLNT Board Members and staff.

Sign off by: Chair of the Board

Signature: Ron O'Brien

Supporting Policies, Procedures and Documents

HLNT Ethical Practice Guide

HLNT Values

HLNT Privacy Policy

HLNT Employee and Contractor Privacy Policy

HLNT Privacy Breach Policy and Procedure

HLNT Cybersecurity Policy

HLNT Data Governance Policy

HLNT Clinical Governance Policy

HLNT Research Participation Policy

Appendix 1: Data Retention Requirements

Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
A. Governance and financial records				
Written financial records that: • correctly record and explain HLNT's transactions, financial position and performance; and • enable true and fair financial statements to be prepared and audited.	• invoices, receipts, cheques etc • documents of 'prime entry' (receipts and payment journals) • working papers and other documents used to explain the methods by which financial statements are made up • delivery dockets • invoices and statements issued • petty cash book • bank deposit book	*ACNC Act 2012 (Cth)* *Associations Act 2003 (NT)*	Seven years after the transaction covered by the records is completed.	Destroy after retention requirement.
Books	• Books containing the minutes or proceedings of any general meeting, or meeting of the directors	*ACNC Act 2012 (Cth)* *Associations Act 2003 (NT)*	Permanently while the organisation operates. For five years after the organisation is wound up. Books must be maintained for five years from date of deregistration.	
Registers	Register of members	*ACNC Act 2012 (Cth)* *Associations Act 2003 (NT)*	Permanently	Do not destroy.
Documents relevant to income and expenditure	An organisation carrying on a business must keep records that show and explain all transactions and other acts that are relevant for ascertaining the income and expenditure.	*Income Tax Assessment Act 1936* (Cth) s 262A *Income Tax Assessment Act 1997* (Cth) s 121–25 *Taxation Determination* TD 2007/2	Five years after records prepared or obtained, or five years after the completion of the transactions or act to which the records related, whichever is later (subject to limited exceptions). CGT records must be retained for five years after it becomes certain that no CGT event can happen for which those records could reasonably be expected to be relevant to working out a capital gain or loss.	Destroy after retention requirement.

Appendix 1: Data Retention Requirements

Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
Payroll tax	Records to demonstrate and accurately calculate liability for payroll tax	*Payroll Tax Act 2009* (NT) s 74 & *Taxation Administration Act 2008* (NT) s 79	At least five years after the payment was made or obtained, or the date of completion of the transaction or act to which it relates, whichever is later.	Destroy after retention requirement.
Stamp duty and duties	Records, books, documents and working papers relating to: • transfer of property • mortgages and other security documents • leases • transfer of motor vehicles • insurance	*Stamp Duty Act 1978* (NT) & *Taxation Administration Act 2007* (NT) s79	At least five years after the date payment was made or obtained, or the date of completion of the transaction or act to which it relates, whichever is later.	Destroy after retention requirement.
Goods and services tax	Records relevant to taxable supply, taxable importation or creditable acquisitions and importations.	*Taxation Administration Act 1953* (Cth) ss 385-5	At least five years after the completion of the transaction or acts to which they relate.	Destroy after retention requirement.
Personal property security documents	Any security agreement or contract that provides for the security interest.	*Personal Property Security Act 2009* (Cth) ss 275–277	The security agreement or contract which creates the security must be retained for the term of the security. An interested person may ask a secured party who holds a security interest to send or make available to the interested person, or any other person, a copy of the security agreement that provides for the security interest, a statement setting out the amount or obligation that is secured pay the security interest and the terms of payment or performance.	Destroy after retention requirement.

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Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
Documents required as evidence in legal proceedings	The types of document that could be captured are broad. State and Territory-based legislation imposes offences in relation to the destruction of documents that a person knows are reasonably likely to be required as evidence in a legal proceeding. For example, where there has been a workplace injury or death, the reports regarding this may be required if it is criminally investigated or if the individual initiates a civil action.	Criminal Code Act 1983 (NT)	Necessary to determine on a case by case basis. Where litigation is on foot, or is reasonably anticipated, relevant documents must not be destroyed (even if this results in their retention for periods in excess of the time limits imposed by taxation, corporation or other legislation).	HLNT must take steps as are reasonable in the circumstances not to destroy documentation that could be required as part of a legal proceeding.
B. Information about individuals				
Personal information	Any document which records information or an opinion about an identified individual or an individual who is reasonably identifiable. For example, personal information may include: • name, date of birth, postal address or email address of an individual • a government issued identifier (Medicare, passport or concession card number) • feedback provided in relation to an unsuccessful applicant's job interview • professional qualifications held by an individual. Documents such as:	*Privacy Act 1988* (Cth) APP 11	Retain until the personal information is no longer required for any purpose and the organisation is not legally required to retain the information.	HLNT must take steps as are reasonable in the circumstances to destroy the personal information or to ensure that the personal information is de-identified when it is no longer needed and retention is not required.

Appendix 1: Data Retention Requirements

Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
	• job applications, reference letters • those created for, or collected through, disciplinary hearings and practice audits.			
Sensitive information, including health information	'Sensitive information' is a subset of 'personal information' and includes information about a person's: • racial or ethnic origin • religious beliefs or affiliations • sexual preferences or practices • criminal record • health • political opinions • membership of a political, professional or trade association or trade union. Documents that might contain sensitive personal information include: • records that include the criminal history of a client, contractor or job applicant, and	*Privacy Act 1988* (Cth) APP 11	Retain until the sensitive information is no longer required for any purpose for which it may be used or disclosed under the Privacy Act and the organisation is not legally required to retain the information. If the sensitive information is health information and it was collected while the person was a child, it must be retained until they reach the age of 25, or in any case seven years after the last occasion on which a health service was provided to the individual by the provider, whichever is the later. If HLNT was not the health service provider in respect of that health information, it must be destroyed or de-identified if it is no longer needed for the purpose for which it was collected.	As above, HLNT must take steps that are reasonable in the circumstances to destroy the documents containing sensitive information or to ensure that the documents containing sensitive information are de-identified when they are no longer needed and retention is not required. Where sensitive information is involved, the reasonable steps required to destroy the information under Australian Privacy Principle 11.2 by HLNT may be more onerous.
Sensitive information, including health information	• records that include medical or health information about an individual.	**NT Department of Health *Records Disposal Schedule: Patient and Medical Records***	**Fifteen (15) years after the date of last access or forty-five (45) years after the date of birth where the client is a minor, whichever is the latest.**	Destroy after retention requirement.

Appendix 1: Data Retention Requirements

Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
Government related identifiers	Tax file number	*Privacy Act 1988* (Cth) ss 17 & 18 *Privacy (Tax File Number) Rule 2015 r 11*	Reasonable steps must be taken to protect the TFN information from misuse, loss, unauthorised access, modification or disclosure. Access to such documents must be restricted to individuals who need to handle the information for taxation law, personal assistance or superannuation law purposes.	A TFN recipient must take reasonable steps to securely destroy or permanently de-identify TFN information of an individual where it is no longer: • required by law to be retained • necessary for a purpose under taxation law or superannuation law.
	Documents that fall within the concept of personal information where the identity of the individual is reasonably identifiable, including: • Medicare number • driver's licence number • passport number • Centrelink number	*Privacy Act 1988* (Cth) APP 9 & 11	See above as for Personal Information	See above as for Personal Information.
C. Employee records				
Records of employee information prescribed by Fair Work legislation	Must keep records containing prescribed information, including: • employee's name, employer's name, employee status (full-time/part-time; permanent/casual; date employment began) • records relating to pay, bonuses, allowances etc • records relating to leave • records relating to overtime	*Fair Work Act 2009* (Cth) s 535, Ch 3, Part 3-6, Division 3 *Fair Work Regulations 2009* (Cth)	Seven years after termination of employment	Destroy after retention requirement.

Appendix 1: Data Retention Requirements

Document type	Examples (non-exhaustive)	Source of obligation	Retention requirement	Destruction requirement
	• records relating to averaging of hours • records relating to superannuation contributions • records relating to termination and how employment was terminated • records relating to individual flexibility arrangements and guarantees of annual earnings.			
Records of transactions and other acts for the purpose of ascertaining an employer's liability for fringe benefits tax	Documents such as: • invoices, receipts, logbooks etc • employee declarations	*Fringe Benefits Tax Assessment Act 1986* (Cth) s 132	Five years after the completion of the transactions or acts to which the records relate.	Destroy after retention requirement.
Records which record and explain all transactions and other acts engaged in by an employer, or required to be engaged in by an employer, for the purposes of superannuation guarantee	Documents such as: • superannuation guarantee calculations; • superannuation guarantee contributions; and • choice of superannuation fund forms/nomination forms.	*Superannuation Guarantee (Administration) Act 1992* (Cth) s 79	Five years after the records were prepared or obtained, or the transactions or acts to which those records relate, whichever is later.	Destroy after retention requirement.
Record of a notifiable incident involving an employee	Records of deaths, serious injuries or illness and dangerous incidents.	*Work Health and Safety (National Uniform Legislation) Act 2011* (NT) s 38	Five years from the day notice of the incident is given to the regulator.	Destroy after retention requirement.