



### 3.2.25 PRIVACY AND CONFIDENTIALITY POLICY- PEOPLE SUPPORTED

#### **POLICY**

The privacy of all people supported by Community Living Association for South Simcoe (“CLASS”) is paramount. CLASS recognizes the rights of all people supported to confidentiality in principle and in practice. CLASS is committed to safeguarding all personal information entrusted to us. CLASS will manage a person supported’s information in accordance with applicable privacy legislation. All CLASS Staff have a role to play in maintaining confidentiality and respect for such privacy.

The purpose of this policy is to outline the expectations and responsibilities of CLASS staff to maintain professional and ethical standards with respect to the privacy of people supported, their families, and visitors, as well as observe the strictest confidentiality at all times regarding information acquired by them through their involvement with CLASS subject to legal obligations.

#### **SCOPE**

This policy is applicable to all permanent, probationary and temporary employees, students, contractors, consultants, and other workers including volunteers at CLASS (collectively referred to as “staff”). This policy applies to all Personal Information and Personal Health Information of people supported by CLASS. This policy covers information practices for youth and adults supported by CLASS.

CLASS’ Board of Directors (the “Board”) is also required to comply with this policy.

#### **PRINCIPLES**

CLASS will use the following privacy principles (the “Principles”) as best practice when collecting, using and disclosing the information of people supported. **These Principles also apply to Personal Health Information of people supported that CLASS may have in its custody and control.**

**Principle 1 – Accountability:** CLASS is responsible for all personal information under its control and for maintaining compliance with these Principles.

**Principle 2 – Identifying the Purposes for Collecting Personal Information:** The purposes for which personal information is collected will be identified and documented by CLASS at or before the time the information is collected. Should this use change from that indicated at the time the information was collected, the person whom the information concerns will be notified.

**Principle 3 – Consent:** A person supported’s knowledge and consent (express or implied) are required for the collection, use, or disclosure of personal information by CLASS, except as otherwise required or permitted by law. Consent may be withdrawn at any time.

**Principle 4 – Limits to the Collection of Personal Information:** CLASS will limit the amount



and type of personal information collected to that which is reasonably necessary for its purposes. Personal information will be collected by fair and lawful means.

**Principle 5 – Limits to the Use, Disclosure, and Retention of Personal Information:** CLASS will not use or disclose personal information for purposes other than those for which it was collected, except with the consent of the person supported or as required or permitted by law. Personal Information will be retained only as long as necessary for the fulfillment of those purposes, except as otherwise required by law.

**Principle 6 – Accuracy:** CLASS will keep Personal Information as accurate, complete, and up-to-date as necessary for its purposes.

**Principle 7 – Safety and Security:** CLASS will protect Personal Information with safeguards appropriate to the sensitivity of the information.

**Principle 8 – Openness:** CLASS will be open about its policies and procedures regarding management of Personal Information and will ensure that people supported are reasonably able to acquire information about its policies and procedures in a form that is generally understandable.

**Principle 9 – Individual Access:** A person supported has the right to access their own personal information. Upon written request, CLASS will inform a person supported of the existence, use and disclosure of his or her personal information and will provide access to that information, except where the law requires or permits CLASS to deny access.

**Principle 10 – Handling Inquiries and Challenges:** Inquiries or challenges concerning compliance with these Principles must be in written form and addressed to the Privacy Officer.

## DEFINITIONS

**Confidentiality:** means the obligation of all CLASS staff to keep personal information, personal health information and sensitive information regarding the operations of CLASS (collectively referred to as “**Confidential Information**”) private. Confidentiality arises in the course of a relationship in which Confidential Information is shared and more specifically when Confidential Information is shared in the course of employment. This ethical duty of confidentiality is imposed upon CLASS to ensure that Confidential Information, specifically that belonging to people supported obtained in the course of providing services is kept secure and confidential to the greatest extent possible while ensuring effective and safe provision of services to people supported by CLASS.

**Consent:** means the knowledge and agreement of a person that is required for the collection, use, or disclosure of Personal Information about them. For consent to be valid, it must be informed, knowledgeable, must be freely given, and must specifically relate to the information that will be collected, used, or disclosed. Express consent may be given verbally or in writing. Implied consent may be assumed where information is shared voluntarily and/or when express consent was previously given by a person supported and the person supported was given an opportunity to withhold consent.



**Decision-Making Supporter:** means a trusted family member or friend who assists the person supported with making decisions but it not legally authorized to act independently of the person supported.

**Personal Health Information:** means personal health information as defined under the *Personal Health Information Act* (“PHIPA”).

**Personal Information:** means information about an identifiable individual. It includes but is not limited to name, home address, telephone numbers, email, age, sex, marital or family status, financial records and information, photographs, videos, and identifying numbers such as social insurance number, drivers licence, race, national or ethnic origin, colour, religious or political beliefs or associations, educational history, medical history, disabilities, blood type, employment history, financial history, criminal history, and name, address and phone number of parent, guardian, spouse or next of kin.

**Privacy:** means the right of the individual to control the collection, use and disclosure of information about the individual, limiting it to that which is necessary. The right to privacy applies to written material and information shared through verbal communication and any other form of communication Privacy includes having the right to determine what information is collected, how it is used, shared, and the ability to access collected information to review its security and accuracy.

**Service Record:** A record of each person receiving services and supports from CLASS which includes information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise.

**Substitute Decision-Maker (“SDM”):** means a person legally authorized to make decisions on behalf of a person supported under the *Substitute Decisions Act* or the *Child, Youth Family Service Act*.

## PRACTICES AND PROCEDURES

### a) Confidentiality Agreements:

All employed CLASS staff shall have confidentiality obligations that constitute part of their employment agreement.

All non-employed Staff shall sign a *Confidentiality Statement* (the “**Statement**”) prior the start of providing services to CLASS. The Statement applies to:

- (a) People supported by CLASS and/or their families, where applicable;
- (b) All other Confidential Information.

### b) CLASS Staff Responsibilities:

CLASS staff shall have the following responsibilities:



1. Employed CLASS staff will comply with the confidentiality obligations within their employment agreement as well as this policy. Non-employed CLASS staff will uphold the Statement and act in accordance with this policy.
2. All CLASS Staff who are granted access to Confidential Information must collect, use, disclose, and protect the information in a manner that is both compliant with Agency policies and procedure and relevant privacy legislation.
3. CLASS staff with access to CLASS Service Records and other Confidential Information belonging to people supported must refer to CLASS' Information Technology and Use of Technology policy, Disclosure of Confidential Information policy, Privacy and Confidentiality-People Supported policy, Code of Conduct, Social Media policy, and Documentation for Confidential Service Records policy,
4. Information will be kept in a physical or electronic file which is considered the property of CLASS. However, the information in the file is the property of the person supported to whom the information relates and remains accessible upon request to the person supported, in accordance with CLASS privacy policies.
5. **CONSENT:** CLASS staff must obtain consent (express or implied) from people supported or someone on their behalf, before collecting, using, or disclosing Personal Information or Personal Health Information about that person supported, except as otherwise required or permitted by law. Specifically, staff must comply with the following:
  - People coming into service will be asked to review and complete consent forms related to their Personal Information and Personal Health Information.
  - CLASS will seek the necessary consents regarding the collection, use and disclosure of Personal Information and Personal Health Information in accordance with section "C."
  - Consent forms will be stored in a person supported's Service Record.
  - In accordance with section "C", a person's capacity to consent may change over time and is decision specific, depending on what type of consent is being sought and for what purpose.
  - Written authorization from the person supported to whom the information relates is required prior to the release of any information to an individual or organization outside CLASS. Consent should be obtained using the applicable Consent to Release Information Form. Where this is not possible, written documentation of the consent obtained should be completed and stored in the person supported's Service Record, in accordance with CLASS' Release of Confidential Information Policy.
  - CLASS staff must recognize and respect that a person supported may withdraw their consent with respect to the collection, use or disclosure of their Personal Information or Personal Health Information at any time.
  - CLASS staff shall ensure that they are familiar with CLASS' consent forms and support individuals to understand CLASS' s privacy policies and consent forms when applicable.
6. CLASS staff shall report any suspected or actual unauthorized collection, use or disclosure of Confidential Information to their Supervisor or Manager immediately.



7. CLASS may collect, use, and disclose Personal Information and Personal Information for the following permissible purposes (“**Permissible Purpose**”):
  - Determining appropriate supports and services;
  - Accepting people supported into service;
  - Delivering direct support and services to people supported;
  - Making referrals on behalf of people supported, as requested;
  - Contacting a relative, friend or potential substitute decision-maker of a person supported in the event of an emergency;
  - Providing updates, progress reports and other information related to a person supported’s participation in a CLASS program and/or supports provided;
  - Planning, administering and managing CLASS’ internal operations which may include risk assessments and quality assurance requirements and initiatives;
  - Processing payments for fee-for-service programs and verifying or reimbursing claims for payment;
  - Educating and disseminating information with respect to CLASS’ mandate, programs and services;
  - Communicating regarding fundraising events and opportunities.
  - Complying with legal and regulatory requirements; and fulfilling any other purpose as permitted or required by law.
  
8. **COLLECTION:** CLASS will only collect Personal Information and Personal Health Information that is needed for the Permissible Purposes unless and where otherwise required or permitted by law. If CLASS intends to collect Personal Information or Personal Health Information for other purposes this will be communicated to the person supported and consent will be obtained when necessary, in accordance with CLASS’ legal obligations. Personal information or Personal Health Information of people supported will be collected in accordance with the following:
  - CLASS will only collect information from other service providers with the consent of the person whom the information is about.
  - If a person supported, or someone on their behalf voluntarily provides their information, consent will be implied.
  
9. **USE:** Personal Information and Personal Health Information of people supported will only be used in accordance with the Permissible Purposes for which it was collected and for any other reason required or permitted by law.
  
10. **DISCLOSURE:** The sharing of Personal Information and Personal Health Information between staff at CLASS in the course of providing services is considered a “use” and not a disclosure. CLASS’ responses to third party Information Requests will be made in accordance with CLASS’ **Disclosure of Confidential Information Policy**. For clarity, CLASS may disclose Personal Information and Personal Health Information, on an as needed basis to third party vendors, suppliers, and providers responsible for administering supports and services to the person supported and ensuring their health and safety. Such third parties will be required to have policies in place regarding the collection, and use of Personal Information and Personal Health Information which are consistent with this policy.



11. **ACCESS:** A person supported is entitled to access their personal information contained in their Service Record, subject to any limits permitted or required by law and in accordance with this policy and the consent requirements set out in CLASS' **Disclosure of Confidential Information Policy**. CLASS will assess each access request on a case-by-case basis and may exercise its discretion to deny access to part or all of a person supported's service record where appropriate and applicable. Requests for access may be made in writing to the Privacy Officer. Requests should have sufficient detail to identify and locate the record(s) with reasonable efforts by CLASS. CLASS will respond to access requests within thirty (30) days of receiving the request. CLASS may extend the timeline to respond by an additional 30 days by providing notice to the requestor if it requires additional time to locate records and/or responding in 30 days would interfere with its operations.
12. **ACCURACY:** CLASS will make best efforts to ensure Service Records are accurate and up-to-date. A person supported, their Decision-Making Supporter or SDM can make a request for correction to their Personal Information and/or Personal Health Information to the Privacy Officer. CLASS will review the request and respond within thirty (30) days.
13. **SECURITY:** CLASS is committed to protecting the Personal Information and Personal Health Information it has collected. CLASS will take all reasonable steps to ensure the security of Service Records including protecting Personal Information and Personal Health Information from theft, loss, and unauthorized access, copying modification, use, disclosure and disposal. Disposal of any Service Records will be done in a secure way. Where Personal Information and/or Personal Health Information is being shared or transferred internally, CLASS will ensure this is done in a secure manner that is proportionate to the sensitivity of the information be shared or transferred.
14. **PRIVACY BREACH:** In the event of a potential or actual privacy breach, CLASS will take immediate actions to investigate the potential or actual privacy breach and address the issue and mitigate risk. CLASS will inform and involve the necessary authorities in accordance with its legal and regulatory obligations. CLASS will also inform any person who is impacted by the potential or actual privacy breach.
15. **RETENTION:** CLASS will retain Service Records in accordance with its Record Retention Schedule, attached as **Appendix A** of this policy, and will ensure compliance with legal and regulatory requirements.

**c) Capacity and Legal Decision-Making – Privacy and Confidentiality**

1. CLASS will take direction from people supported whenever possible and honour the presumption of capacity recognized at law.
2. CLASS recognizes that legal capacity is based on the ability to understand information relevant to making a decision and the ability to appreciate the consequences of a decision. CLASS recognizes that legal capacity can change depending on the type of decision being made about a person's Personal Information and Personal Health Information and when the decision is being made.



3. CLASS will seek to accommodate a person supported in making decisions about their Personal Information and Personal Health Information by exploring supports for decision-making including communication and interpretive supports, visual aids, plain language explanations of policies and procedures and technological assistance.
4. **Children/Youth:** In accordance with the *Child, Youth, Family Services Act*, youth who are 16 years of age and older and capable, may provide consent to CLASS to collect, use, and disclose their Personal Information and Personal Health Information to a third party. A youth between the ages of 16 and 18 who is capable may authorize another person to be their SDM. For youth under the age of 16, CLASS will obtain consent from their parent/guardian or other SDM, as appropriate. CLASS acknowledges that a decision of a youth under the age of 16 to give, withdraw or withhold consent will prevail over a conflicting decision made by the youth's SDM. Where a youth who is between the ages of 16 and 18 years of age and is not capable of making decisions related to the collection, use and disclosure of their information, CLASS will follow the hierarchy of SDMs as set out in the *Personal Health Information Protection Act* ("PHIPA"):
  - Guardian of the person, if the guardian has authority to give or refuse consent to the treatment.
  - Attorney for personal care, if the power of attorney confers authority to give or refuse consent to the treatment.
  - A representative appointed by the Consent and Capacity Board, if the representative has authority to give or refuse consent to the treatment.
  - Spouse or partner.
  - A child or parent of the incapable person, or a children's aid society or other person who is lawfully entitled to give or refuse consent to the treatment in the place of the parent. This paragraph does not include a parent who has only a right of access. If a children's aid society or other person is lawfully entitled to give or refuse consent to the treatment in the place of the parent, this paragraph does not include the parent.
  - A parent who has only a right of access.
  - A brother or sister.
  - Any other relative.
5. **Adults:** CLASS will obtain consent directly from a person supported who is 18 years of age or older who is considered capable of making their own decisions related to their Personal Information. Where an adult may not independently have the ability to understand the information that is relevant to deciding whether to consent to the collection, use, and/or disclosure of their Personal Information and Personal Health Information, and does not have the ability to appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing the consent, CLASS staff will provide or access to the necessary supports for the person supported to participate in decision-making and to communicate their wishes, including recognizing a Decision-Making Supporter where a person supported does not have someone who is legally authorized to make decisions on their behalf. Where a person is not capable of making decisions regarding their Personal Information and Personal Health Information and they have an SDM, CLASS will seek consent from the individual's SDM.



6. Staff will not assist people supported with signing documents, including consent forms, unless it is physical accommodation and there are no concerns regarding the capacity of the person supported.

**d) Exceptions to Consent Requirements**

1. CLASS may **collect and/or use** Personal Information and Personal Health Information of people supported without consent when:
  - it is in the person’s best interest and consent cannot be obtained in a timely manner.
  - there is a risk to the life, health, or safety of a person or group of people.
  - information is legally required for the purposes of law enforcement.
  - When otherwise permissible by law.
  
2. CLASS may **disclose** Personal Information and Personal Health Information of people supported contained in their Service Record without consent when:
  - there is a risk to the life, health, and safety of a person or group of people, including an emergency where the person supported requires immediate medical attention;
  - information is required for the purposes of law enforcement, including but not limited to complying with a court order or other decision-making body or government entity with the appropriate jurisdiction;
  - information is being disclosed to the CLASS’ legal counsel for the purpose of obtaining legal advice as part of a confidential solicitor-client relationship;
  - to contact an SDM, or relative, member of extended family, or friend where a person supported is injured, incapacitated or otherwise not capable.
  - When otherwise permissible by law.
  
3. In addition to the purposes outlined in this policy, CLASS may also exercise its discretion under the *Child Youth Family Services Act* to **collect and disclose** Personal Information about a person supported who is a child or youth without consent where permitted or necessary.
  
4. CLASS may also seek advice from legal counsel where there are any questions or concerns regarding consent and capacity and/or any exceptions to consent requirements.

**e) NON-COMPLIANCE**

Non-compliance with this policy may result in disciplinary action up to and including termination of employment of paid employees or corrective action up to and including termination of engagement of non-paid staff providing services to or on behalf of CLASS.

Internal Use – To Be Completed By Community Living Association For South Simcoe		
Current Date	Review/Amendment/Comments	Approved By
August 2014		Vito Facciolo
September 2019	Reviewed by QA	
November 2020	Reviewed by Management	Andrew Walker
May 2024	Reviewed and Amended	Privacy Officers
July 2025	Reviewed, no changes	Lara Macdonald July 2025