

Barwon South West Telehealth Website - Terms of Use

This website is established and maintained by The Barwon South West Telehealth Program. These Terms of Use set out the terms and conditions of a contract between you and Barwon South West Telehealth governing your access to, and use of, the Site (defined below). By visiting, registering for, or using, this Site, you agree to be bound by and abide by these Terms of Use.

These Terms of Use, include, and are supplemented by, other terms and conditions contained within the Site that are more specific to the use of particular parts of this Site. In the event of any inconsistency the terms and conditions specific to a part of the Site prevail.

Barwon South West Telehealth reserves the right from time to time to change these Terms of Use without prior notice or your consent. You are responsible for informing yourself of any changes to these Terms of Use and any notices posted on the Site and should read them carefully before you use the Site.

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1. Use of the Site

1.1. You must:

- 1.1.1. comply with these Terms of Use at all times while using the Site;
- 1.1.2. not use, or knowingly permit another person to use, the Site if you (or they) are not eligible to do so;
- 1.1.3. where applicable:
 - 1.1.3.1. ensure that your contact and other details submitted to the Health Service or stored on the Site are current and accurate; and monitor any electronic system or address designated by you for the purpose of receiving communications (Barwon South West Telehealth will not be liable for any delay or failure by you to do so);

- 1.1.4. ensure that all information you submit to the Administrator, upload to the Site or provide to another user of the Site, is true and correct and does not infringe the rights (including intellectual property rights) of any other person. Each time you submit or provide information to the Administrator or another user of the Site, you represent and warrant to the recipient of that information that you have complied with this [clause](#) and are not infringing the rights (including intellectual property rights) of any other person;
 - 1.1.5. not use the Site for any unlawful purpose;
 - 1.1.6. not introduce any Harmful Code into the Site or use it in a manner that could damage, disable or impair Barwon South West Telehealth's services or system;
 - 1.1.7. not use any robot, scraper or other means to access the Site for any purpose;
 - 1.1.8. comply with any of Barwon South West Telehealth's policies or procedures regarding use of the Site as notified to you from time to time by Barwon South West Telehealth;
 - 1.1.9. maintain and safeguard the privacy and security of all personal or confidential information that you obtain access to in relation to the Site;
 - 1.1.10. not access information or perform services relating to any other person (unless expressly permitted by the Health Service or by that other person to do so); and
 - 1.1.11. not send or post any unsolicited messages or any offensive, inflammatory, defamatory, threatening, abusive, hateful, racist, obscene, fraudulent, deceptive or otherwise unlawful information.
- 1.2. You are responsible for, and bear all the costs of, installing and maintaining your own systems and equipment necessary to access and use the Site.
 - 1.3. You are liable for and must compensate Barwon South West Telehealth, and its Related Parties on demand for all losses, costs, expenses (including legal costs on a full indemnity basis), claim or damage suffered or incurred (or agreed to pay by way of settlement or compromise) in connection with or arising out of:
 - 1.3.1. a breach of these Terms of Use (including a representation or warranty);
 - 1.3.2. fraudulent or dishonest conduct of you or any person you have permitted to use this Site on your behalf;
 - 1.3.3. a failure to obtain, maintain, and comply with required consents and applicable laws;
 - 1.3.4. breach of the Terms of Use which leads to personal injury, death or loss of or damage to real or tangible personal property;
 - 1.3.5. breach of the Terms of Use which leads to claims, actions or proceedings by a third party and any investigations by a government body; and
 - 1.3.6. failure to comply with any obligations of confidence or privacy under these Terms of Use, arising out of any of your acts or omissions or any of your related parties whether accidental or not.
 - 1.4. You agree to report any misuse of this Site that you become aware of to Barwon South West Telehealth.

2. Social Media

- 2.1. Parts of this Site have social media functionality. In addition the Barwon South West Telehealth has a number of social media accounts including Facebook, Twitter and YouTube accounts. Any social media site that is provided by a third party (for example Facebook,

Twitter, YouTube, blogs and forums) is subject to the relevant 3rd party provider's terms and conditions (even if you access that site via any link from this Site).

2.2. Barwon South West Telehealth encourages you to participate in any social media. If you do participate in any social media, you do so under these terms. Without limiting any other provision in these terms you must:

2.2.1. act responsibly and be respectful of other users;

2.2.2. not submit any content

2.2.2.1. advertising or endorsing any products or services of any other organisation;

2.2.2.2. that personally identifies any other person without their express consent; and

2.2.2.3. Barwon South West Telehealth could reasonable consider as inappropriate.

2.3. Barwon South West Telehealth may remove any content submitted by you which Barwon South West Telehealth (in its absolute discretion) considers in breach of these terms. While Barwon South West Telehealth will monitor the content submitted on any of its social media sites, it may not monitor all content at all times. Accordingly, you should notify Barwon South West Telehealth of any inappropriate content and you should ignore any content that may be offensive to you until it is removed by the Barwon South West Telehealth.

2.4. Without limiting any other provision in these terms, Barwon South West Telehealth disclaims all liability, is not responsible for, and does not endorse any content submitted by any user on a social media site (even if Barwon South West Telehealth does not remove that content). In addition, any content submitted by Barwon South West Telehealth or any of its personnel is subject to any disclaimers in these terms (including under [clause 9](#)) and is not intended to be a substitute for professional medical advice, diagnosis or treatment provided by an appropriately qualified health care professional.

3. Electronic communications

3.1. As a condition of your use of this Site, you may receive electronic communications which relate to your use, and the administration, of the Site.

3.2. You may request that your access to secure areas of this Site be disabled (or re-enabled). Please contact Barwon South West Telehealth to request any changes to access.

4. Security

4.1. Security of this Site generally

4.2. While Barwon South West Telehealth uses its best endeavours to implement security controls and prevent unauthorised access to, or use of, the Site, you acknowledge that the internet is an insecure public network where there is a risk that your use of, and interactions with, this Site may be viewed, intercepted or modified by third parties and that this Site and any information on this Site may contain harmful code.

4.3. To the extent permitted by law, Barwon South West Telehealth does not guarantee that there will not be, or accept any liability for, any Harmful Code on the Site or a breach of security by a third party or any interference with or damage to your computer system, software or data occurring in connection with or relating to this Site.

4.4. Basic online security – your obligations

4.5. While you are ultimately responsible for your own online security, Barwon South West Telehealth recommends that you:

- 4.5.1. ensure that you are using the most recent version of your operating system and software (including web browser) with the latest patches and updates applied;
- 4.5.2. when using secure areas of the Site, check that you are using a secure site by making sure the site address starts with "https" and looking for the padlock icon in your browser window;
- 4.5.3. ensure that you have anti-virus software installed and working on your computer, that its definitions are up to date and that it is configured to scan inbound and outbound emails and files;
- 4.5.4. ensure your browser is configured to minimise the likelihood of your computer or privacy being affected by Harmful Code;
- 4.5.5. if you are using a public or shared computer, ensure that you log out properly and close the browser window when you have finished;
- 4.5.6. be suspicious of strange emails, attachments or hyperlinks; and
- 4.5.7. if you suspect your computer has been affected by harmful code you should contact your IT service provider or anti-virus vendor.

5. Intellectual Property

5.1. Ownership of data and other Intellectual Property

- 5.1.1. The Site and any content made available on it (including without limitation the software on which it is based, any documentation regarding its use, text, graphics, video, audio, information, data and the design and layout of the Site) are owned by Barwon South West Telehealth or its third party licensors, and are protected by Australian and international copyright and other intellectual property laws.

5.2. Intellectual Property Licences

- 5.2.1. You may access and download the material on the Site where available. To the extent permitted by law, you may not, subject to a use for the purposes of private study, research, criticism or review as permitted under the [Copyright Act 1968 \(Cth\)](#):
 - 5.2.1.1. otherwise download, modify, copy, reproduce, republish, store, frame, upload, post, transmit, sell, lease, rent, sub-licence or disclose or distribute any part of this Site (or any content on it) in any way, except as otherwise expressly stated on the Site or with Barwon South West Telehealth's prior written consent;
 - 5.2.1.2. tamper with any copyright notice, or tamper with or commercially use any trade mark, logo or names (including business names and domain names) appearing on the Site or in materials accessed via the Site (You must include Barwon South West Telehealth's copyright notice in any copies of the information obtained from the Site); or
 - 5.2.1.3. re-engineer, create derive works from, reverse engineer, disassemble, or decompile any part of the Site,
 - 5.2.1.4. and to the extent any right for you to do so is preserved by law, then only in strict accordance with the provisions or terms under that law.
- 5.2.2. Barwon South West Telehealth reserves the right to access, maintain, delete or destroy all communications or information uploaded or stored within the Site at any time.

5.3. Use of Barwon South West Telehealth or Health Service trademarks and related IP

5.3.1. You agree not to use the name, trade name, service marks, trademarks, trade dress or logo of Barwon South West Telehealth (or its related parties, suppliers or licensors) (**Branding**) in publicity releases, advertising, promotional materials, direct mail, seminars, on your web site, or in other communications without the express prior written consent of Barwon South West Telehealth. All uses of Branding will be to the benefit of the owner of such logos, trademarks, trade names and/or other branding devices.

5.4. Linking to this Site

5.4.1. Barwon South West Telehealth encourages links to the Site. If you do create or maintain a link to the Site you agree to these Terms of Use and you:

- 5.4.1.1. are encouraged to link to www.bswtelehealth.org.au (and not other parts of this site) as pages and content may be updated or moved;
- 5.4.1.2. may only link to, and not replicate, content or pages on the Site;
- 5.4.1.3. must link to www.bswtelehealth.org.au rather than listing Barwon South West Telehealth's telephone or email or office details;
- 5.4.1.4. must ensure that any links are presented in a way that fairly represents Barwon South West Telehealth and the Site;
- 5.4.1.5. may not use Barwon South West Telehealth's logo or trademarks and must not give the impression that you or your site is endorsed or sponsored by Barwon South West Telehealth; and
- 5.4.1.6. comply with the intellectual property conditions set out in [clause 5](#) of these Terms of Use (including not framing, reformatting or altering any files or information without Barwon South West Telehealth's consent).

5.4.2. Barwon South West Telehealth may in its absolute discretion require you to remove, and not create any further, links to the Site or any content that is in breach of these Terms of Use.

6. Confidentiality

6.1. You agree:

- 6.1.1. to maintain any information that is confidential or proprietary in nature or is designated as such (including without limitation the software, source code, technology, tools, processes, functional specifications and technical materials on which the Site is based) which you access via the Site in strict confidence at all times; and
- 6.1.2. not to disclose, use, transmit, inform or make available to any person any of that information except as necessary to perform your obligations or exercise your rights under these Terms of Use.

6.2. [Clause 7](#) does not apply to any confidential information which you can demonstrate:

- 6.2.1. is or becomes known to the public through no breach of these Terms of Use;
- 6.2.2. was previously known by you, or subsequently provided to you, without any obligation to hold it in confidence;
- 6.2.3. is independently developed by you without the use of confidential information; or
- 6.2.4. is approved for release by written authorisation of Barwon South West Telehealth, but only to the extent of such authorisation.

7. Privacy

7.1. Barwon South West Telehealth will treat any personal information provided by you or collected in relation to in accordance with its privacy policy which is available at: http://bswtelehealth.org.au/images/BSW_Telehealth_privacy_policy_FINAL.pdf

8. Disclaimers and exclusion of liability

8.1. Disclaimer

- 8.1.1. The Site (including material on the Site) is made available to you on an "as is" and "as available" basis and at your own risk. To the maximum extent permitted by law, Barwon South West Telehealth makes no representation, provides no express warranty or guarantee, and excludes all liability and any implied warranties (whether implied by statute or otherwise) in connection with:
- 8.1.1.1. the provision and availability of the Site by Barwon South West Telehealth or your use of the Site or any other linked website;
 - 8.1.1.2. the functionality, features and performance of the Site (Barwon South West Telehealth may withdraw, suspend or discontinue any functionality or feature at any time);
 - 8.1.1.3. legality or suitability of the Site or any services provided through it;
 - 8.1.1.4. title and non-infringement of third party rights;
 - 8.1.1.5. the security of the Site or any linked site, or the safety of any file or software associated with them (such as safety from any virus or defects including those which could damage or interfere with your data, hardware or software);
 - 8.1.1.6. merchantability, fitness for a particular purpose and non-infringement of the Site;
 - 8.1.1.7. the Site being provided error-free or without interruption (including without limitation the availability of internet connections or other telecommunications systems); or
 - 8.1.1.8. the accessibility, accuracy, quality, currency or reliability of Site or any linked site, or of any Barwon South West Telehealth or third party materials, information, products or services promoted or accessed via the Site or any linked site.
- 8.1.2. Despite any provision in these Terms of Use to the contrary, Barwon South West Telehealth, and partnering Health Services shall not be liable for any consequential, special, incidental, indirect or punitive losses, costs, expenses or damages, whether in contract, tort or otherwise (including negligence) arising out of or in connection with the Site or Barwon South West Telehealth performance or non-performance of its obligations under these Terms of Use, even if Barwon South West Telehealth has been advised of the possibility of that damage.
- 8.1.3. To the extent permitted by law, in the event of any problem with the Site, any goods or services provided in connection with the Site or any dealings between you and Barwon South West Telehealth or any other user of the Site, you agree that:
- 8.1.3.1. your sole remedy is to cease using the Site or any information, materials, goods or services provided to, or accessed by, you in connection with the Site;
 - 8.1.3.2. you release Barwon South West Telehealth and hold Barwon South West Telehealth harmless from any and all claims, demands, and damages of every

kind and nature (including, without limitation, actual, special, incidental and consequential), known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with your use of the Site; and

- 8.1.3.3. you waive the provisions of any law limiting or prohibiting a limitation and release as set out in this [clause](#).
- 8.1.4. If, despite these Terms of Use, a court determines that Barwon South West Telehealth, or a partnering Health Service is responsible for loss or damage arising from your access to or use of this Site, to the extent permitted by law, Barwon South West Telehealth's liability is limited in any event to resupplying the relevant part of the Site or the reasonable cost of having it resupplied, and Barwon South West Telehealth reserves its options at law as to how it may discharge Barwon South West Telehealth's obligations in relation to liability that cannot be lawfully excluded under these terms.

8.2. Reference material

- 8.2.1. The materials on this Site have been provided for general information only. While Barwon South West Telehealth has used reasonable endeavours to ensure the quality of the information:
 - 8.2.1.1. it is provided "as is" and Barwon South West Telehealth does not warrant that it is accurate, complete, reliable, current, of a particular quality or suitable for your particular circumstances;
 - 8.2.1.2. it is not intended to be a substitute for professional medical advice, diagnosis or treatment provided by an appropriately qualified health care professional (you always consult a medical professional and obtain appropriate medical advice including interpretation of these materials);
 - 8.2.1.3. some of the information has been provided or made available by third parties (or derived from that information) and does not necessarily reflect any policies, procedures, standard or guidelines of the Health Service, any other users of this Site or any Government or association;
 - 8.2.1.4. you use it at your own risk, should not act (or fail to act) on the basis of the materials on this Site and you are solely responsible for all acts or omissions carried out in connection with, or in reliance on, the materials;
 - 8.2.1.5. to the extent permitted by law Barwon South West Telehealth accepts no responsibility and disclaims all liability in relation to use of those materials.
- 8.2.2. While Barwon South West Telehealth may do so, Barwon South West Telehealth has no obligation to review the information on the Site neither to ensure it is current nor, to correct any error, omission or inaccuracy on the Site.

8.3. Links to 3rd party sites

- 8.3.1. This Site contains links to other 3rd party services and sites which are not under the control of Barwon South West Telehealth. Those links are only provided for your convenience and:
 - 8.3.2. Barwon South West Telehealth does not warrant:
 - 8.3.2.1. the accuracy of any hypertext links provided on the Site or the suitability, accuracy completeness, currency, merchantability, fitness for purpose or any other aspect of any content located at those links;

- 8.3.2.2. that the linked site does not infringe the intellectual property or other rights of any person;
 - 8.3.2.3. the physical location at which that site is hosted (or the location of any person accessing or controlling that site);
 - 8.3.2.4. the confidentiality and privacy practices of that site; and
 - 8.3.2.5. the security and safety of that site or any file on it (including the existence of harmful code);
- 8.3.3. unless specifically stated otherwise, do not constitute any association of Barwon South West Telehealth with, or any endorsement or approval by Barwon South West Telehealth of, those other websites, their content, or the people who run or contribute to them; and
- 8.3.4. any omission of links to any site or organisation does not constitute any non-endorsement or disapproval of those sites or organisations.
- 8.3.5. Your use of the links, and use or reliance on the content on any linked site, is at your own risk and to the extent permitted by law, Barwon South West Telehealth disclaims any liability in relation to those links or sites. Barwon South West Telehealth recommends you take care when accessing and using third party sites and that you read the terms and conditions and privacy policy of any third party site as they may be different to Barwon South West Telehealth's terms and policies.

8.4. Changes to this Site

- 8.4.1. Barwon South West Telehealth may, in its absolute discretion, make changes to any part of this Site or any content on it (subject to express right set out in these terms) without your consent or providing notice to you.

8.5. Medicare, Private Health Insurance and other benefits

- 8.5.1. Barwon South West Telehealth makes no representations or warranties regarding any benefits, compensation or reimbursements which you may be entitled to in relation to utilisation of this Site and any goods or services provided in connection with, or referred to in, this Site (including without limitation any private health insurance or Medicare benefits you may be entitled to). You should seek independent advice regarding any benefits or entitlements you may be entitled to from a qualified third party or directly from the provider of those benefits or entitlements.

8.6. Barwon South West Telehealth's related parties, personnel, suppliers and contractors

- 8.6.1. Each disclaimer is given on behalf of, and each indemnity, waiver, exclusion or limitation of liability is held for the benefit of, Barwon South West Telehealth, participating Health Services, Barwon South West Telehealth's or Health Service licensors and contractors (and each of their officers, employees, agents and contractors).

9. General

- 9.1. In these terms of use, unless specified otherwise:

- 9.1.1. **Harmful Code** means any computer code or routine that is harmful, destructive, disabling or which assists in or enables theft, alteration, denial of service, unauthorised disclosure or destruction or corruption of data, including viruses, worms, spyware, adware, key loggers, trojans and any new types of programmed threats that may be

classified, but excluding passwords, software keys and like features that are security features or intended elements of software used to prevent unauthorised access and use; and

- 9.1.2. **Site** means the website at www.bswtelehealth.org.au and any related sites owned or maintained by, or on behalf of, the Barwon South West Telehealth. Each reference to Site includes a reference to all information and content on these sites.
- 9.1.3. **Health Service** means any of the Barwon South West Regional Strengthening Health Services members including:
- 9.1.3.1. Balmoral Bush Nursing Centre
 - 9.1.3.2. Barwon Health
 - 9.1.3.3. Bellarine Community Health Service
 - 9.1.3.4. Casterton Memorial Hospital
 - 9.1.3.5. Cobden & District Health Service
 - 9.1.3.6. Colac Area Health Service
 - 9.1.3.7. Dartmoor & District Bush Nursing
 - 9.1.3.8. Hesse Rural Health Service
 - 9.1.3.9. Heywood Rural Health
 - 9.1.3.10. Lorne Community Hospital
 - 9.1.3.11. Lyndoch Aged Care Warrnambool
 - 9.1.3.12. Moyne Health Services
 - 9.1.3.13. Otway Health & Community Services
 - 9.1.3.14. Portland District Health Services
 - 9.1.3.15. South West Healthcare
 - 9.1.3.16. Terang & Mortlake Health Service
 - 9.1.3.17. Timboon & District Healthcare Service
 - 9.1.3.18. Western District Health Services
- 9.1.4. These terms and conditions are governed by the laws in force in the State of Victoria, Australia. By visiting and using the Site you unconditionally submit to the jurisdiction of the courts of that State and all courts with jurisdiction to hear appeals from those courts.
- 9.1.5. Barwon South West Telehealth may seek urgent injunctive relief in order to protect the confidentiality of its information or prevent the misuse of its Intellectual Property.
- 9.1.6. The failure or delay of Barwon South West Telehealth to exercise any right or remedy under these Terms of Use will not operate as further waiver of such right or remedy in the future or any other right or remedy. No waiver of any default, condition or breach of these Terms of Use shall be deemed to imply or constitute a waiver of any other default, condition or breach of these Terms of Use, whether of a similar nature or otherwise.
- 9.1.7. If any one or more of the provisions of these Terms of Use are invalid or otherwise unenforceable, to the extent possible the provision should be read down to reflect the intent of the parties and the enforceability of remaining provisions shall be unimpaired.

- 9.1.8. Barwon South West Telehealth shall not be liable for any non-performance in connection with the Site or under these Terms of Use if it is prevented from performing that obligation by a circumstance beyond its reasonable control.
- 9.1.9. You may not assign any of your rights or obligations without the prior written consent of Barwon South West Telehealth.
- 9.1.10. All rights and obligations under:
- 9.1.10.1. any provision regarding privacy, confidentiality, intellectual property, waivers, indemnities, representations and warranties (including without limitation clauses [7](#), [8](#), [9](#) and [10](#));
 - 9.1.10.2. accrued rights or obligations existing at the time of termination or expiry; and
 - 9.1.10.3. any indemnities and any representations and warranties, survive termination or expiry. Any other provisions necessary or desirable to give effect to those rights and obligations survive expiry or termination of these Terms of use.
- 9.1.11. These Terms of Use (including any supplementary terms within the Site) set out the entire agreement between the parties and supersedes all previous and contemporaneous agreements, understandings and arrangements with respect to their subject matter.

10. Questions

- 10.1. If you have any questions about this Site, please visit www.bswtelehealth.org.au