



# KATHERINE WEST HEALTH BOARD

## General Policies and Procedures

Privacy and Confidentiality Policy (Incl. Staff Agreement)

Document Information	
Document Title:	Privacy and Confidentiality Policy (Incl. Staff Agreement)
Document Status:	<b>Authorised by KWHB CEO Aug 2019</b>
Category:	Privacy and Confidentiality
Approval for use details:	<b>Authored by: MIC / Alex Saundry</b>
	<b>Approved by: Board</b>
	<b>Date approved for use: Aug 2019</b>
	<b>Date due for internal review: 2022</b>
Purpose:	<p>Privacy and security of personal information is a serious issue, which all Katherine West Health Board employees, Directors and subcontractors need to be aware of in order to comply with applicable legal obligations under the Privacy Act 1988.</p> <p>All Katherine West Health Board employees, Directors and subcontractors also have a duty of confidentiality to clients, co-workers, the Organisation as a whole and KWHB Communities.</p>
Related Policies and Procedure/s:	Access by Clients to Personal Health Information - Policy
Related Form / Document:	<ol style="list-style-type: none"> <li>1. KWHB Client Privacy Statement (Public Policy)</li> <li>2. Communicare Acceptable Use Agreement (KWHB Staff)</li> <li>3. Communicare Acceptable Use Agreement (External Contractors)</li> <li>4. Release of Medical Records Consent Form</li> </ol>
Key Word/s:	Confidentiality, privacy, rights, medical records, Communicare
External References:	<ol style="list-style-type: none"> <li>1. Commonwealth - Privacy Act 1998 (<a href="#">Link</a>)</li> <li>2. Commonwealth - Australian Privacy Principles, January 2014 (<a href="#">Link</a>)</li> <li>3. NT - Information Act 2002 (<a href="#">Link</a>)</li> <li>4. NT - Health and Community Services Complaints Act - Code of Health and Community Rights and Responsibilities (<a href="#">Link</a>)</li> </ol>
Document Modification History:	1. Drafted 2009
	2. Approved for use 2010
	3. Re-drafted 2013 for review by ICO
	4. Re-drafted following Alex Saundry review, October 2016
	5. Reviewed by Alex Saundry and DCG August 2019 and endorsed by CEO.

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*NOTE: The KWHB Privacy and Confidentiality Agreement Form is attached to the back of this policy document. Upon commencement with KWHB, staff should initial each page of this policy, and sign the Staff Privacy and Confidentiality Agreement Form attached to this policy.*

## 1. Objective

Katherine West Health Board Aboriginal Corporation (KWHB) acknowledges it has responsibilities in relation to individual's rights to privacy and will strive to uphold those rights and in particular clients' rights to privacy and confidentiality, taking into account relevant privacy and other legislative requirements. This policy also sets out the procedures that KWHB will use to protect the rights and responsibilities for privacy and confidentiality of individuals delivering and using its services. The procedures are intended to cover what is written and what is said about individuals; the accuracy of information collected and disseminated, and the circumstances where the right to confidentiality may be overridden by other considerations.

## 2. Client Privacy Statement

*KWHB will strive to uphold the rights of its clients to privacy in the way it collects, stores and uses information about them, their needs and the services that have been provided.*

*KWHB acknowledges that clients have legislated rights to privacy and confidentiality; to accessing and authorising access to and correcting their own records.*

*KWHB will act responsively to client requests for further detail and/or explanation of its procedures for upholding the fore mentioned privacy rights and to those circumstances where the right to confidentiality or privacy may be overridden by legislative considerations.*

*KWHB procedures will be designed to avoid personal information about a client being shared with anyone, on purpose or by omission, unless the client has given their informed consent or in special circumstances where the law requires an exception.*

*KWHB staff are aware of their surroundings and undertake to ensure privacy and confidentiality for our clients in all interactions.*

*KWHB will allocate responsibility for investigation of complaints about staff, Directors or contractors not complying with its privacy policies and procedures at an appropriate level and will give consideration to appropriate disciplinary action when non-compliance is found to have occurred.*

## 3. Scope

This policy and related documents apply to KWHB Directors, employees and subcontractors. The policy is intended to supplement rather than interfere with requirements in cases where the client is a child or youth under the statutory intervention of the Child Protection Act 1999, or a service foster carer or kinship carer.

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Privacy rights and confidentiality in relation to personal and/or sensitive information will apply regardless of whether the information is stored and communicated through verbal, written, visual or electronic means.

#### 4. Definitions

“Staff” in this policy is intended to include KWHB’s employees, Directors and subcontractors.

“CEO” means the Chief Executive Officer, or the person delegated with the CEO’s authority during the absence of the CEO,

“Client Privacy Statement” refers to KWHB’s publicly published Privacy policy that summarises its intentions in relation to client information and data; storage of personal information; how clients can access this information and lawful disclosure of personal information by KWHB in the provision of services.

“Confidential information” means:

- personal information or an opinion about an individual which allows an individual to be identified; or
- any information that the Katherine West Health Board of Directors specifies as confidential; or
- any information not on the public record and not available upon request that allows an individual, organisation or community to be identified.

Confidential information is not limited to written or electronic records or information conveyed verbally. It can appear in any form and be recorded on any medium. It may include such things as photographs, video recordings, x-rays or pathology results.

Confidentiality applies to:

1. Cultural information that staff may become aware of in the course of their work; such information may be highly sensitive.
2. Verbal information (including but not limited to telephone conversations or other conversations between staff or between staff and clients, discussions with community members).
3. Written information of any kind (including but not limited to case notes, pathology results, administration files, internal memos etc).
4. Visual information, for example photographs, paintings, diagrams
5. Electronic information, for example information stored on computers or data sticks.

#### 5. Procedures

##### 5.1 Client Privacy and Confidentiality

To provide an effective and high-quality service and to maintain appropriate accountability, KWHB must collect, store and sometimes share relevant personal information about our clients.

In order to uphold the rights of clients to privacy and confidentiality and to comply with the law and KWHB’s policy and procedures, it is important that all KWHB employees, Directors and subcontractors are consistent and careful in the way they manage what is written and said about a client and how they decide who can see or hear this information.

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## **5.2 Collection of Personal Information**

In addition to information of an administrative nature, KWHB needs to collect personal information that may relate to a client's past, current and future medical condition. This information may also include known medical history of other family or household members. Relevant medical information will be collected in accordance with Communicare requirements.

KWHB staff must ensure that information provided by individuals is collected with consent in a fair, legal and transparent way, and that individuals are informed of why personal information is collected and what it is used for. When staff visit clients, they will interview clients in a private area if a confidential and/or sensitive interview is to take place.

KWHB staff will use discretion and sensitivity in both verbal and written communications with other service providers especially when such communication is likely to be overheard by other employees, the general public or other unauthorised personnel.

Staff must obtain consent from the client to access information from another service, using the appropriate Client Consent Form.

Care should be taken that individuals cannot see computer screens showing information about other individuals.

Staff must not disclose passwords to unauthorised persons.

## **5.3 Record Keeping**

Confidential staff and client information collected by staff will be kept in personal files that are only accessible by authorised persons.

Unsolicited personal information will not be kept unless it is considered accurate, up to date and relevant to the purpose for use.

Personal information will not be left in open areas where it can be seen by unauthorised persons or staff not directly involved in service provision to clients.

Electronic records will be handled securely. This includes locking computers when information is not being used, closing client files immediately after use, and logging off terminals when finished.

All personal files will be moved in a secure manner when it is necessary for them to be referred to away from KWHB premises.

## **5.4 Use of Information in Records**

In the normal course of service delivery, KWHB and its staff will only use the personal information collected for the purposes for which it was collected. Prior agreement of the individual will be obtained when KWHB considers that it is necessary to use information for other purposes.

KWHB may be required to use information for other purposes to comply with legislation. If this is the case, KWHB will advise the individual concerned of that legal requirement.

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### **5.5 Disclosure of Information**

Confidential information concerning individuals will not be made available to unauthorised persons, whether they are staff, volunteers, or members of the public.

No unauthorised person will be given access to any client's personal information unless the client has provided informed consent on the appropriate Client Consent Form, and there is a legitimate need or when compelling moral and ethical reasons exist, e.g. when duty of care principles apply.

KWHB staff may be only be required to disclose client data under the following circumstances:

- where required by law,
- with the individual's consent,
- where permitted by law.

### **5.6 Client access to personal records**

KWHB is committed to facilitating reasonable access for individuals to review information that has been collected and held by KWHB in their personal records.

Clients can access personal records by completing a Consent for Release of Medical Records Form. All requests must be approved by the CEO.

KWHB will aim to ensure access:

- is convenient, and
- does not involve unreasonable delay, and
- is, wherever practicable, without cost.

### **5.7 Changing confidential/personal records**

KWHB does not allow individuals to change their own records. However, client records can be updated by KWHB staff, and clients may request to have a note added to their records in order that information held is accurate, up to date, complete, relevant and not misleading. When KWHB staff have concerns about particular notations, they may ask and assist the individual to put the request in a signed, written request for referral to the CEO for approval. The CEO will put any refusal for notation in writing for consideration by the individual and/or their representative.

### **5.8 Refusal to access confidential information**

KWHB may refuse a request to access to or to amend personal information or confidential records if it conflicts with personal privacy, is in breach of privacy laws or is in conflict with other legal obligations.

The client has the right to lodge a complaint about the refusal of their request. Complaints must be put in writing, be signed by the complainant and referred to the CEO for determination. If the complaint is dismissed, the CEO will put reasons for dismissal in writing for consideration by the complainant(s) and/or their representative(s).

## **6. Policy Revision**

This document will be reviewed in line with the Policy Management Policy. If any changes are made, supporting documentation must be updated.

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## 7. Auditing and Review

Staff access to Communicare will be audited on a monthly basis by random audit of location that records are accessed from, and by which staff member accesses them. This is completed by the Manager of Primary Health Care and findings of the audit are documented and sent to the CEO for review.

The Audit is completed by selecting on Communicare: *Reports / Audit Logs / Patients Record Access by User*

These audits are completed to ensure no inappropriate access of client records occur by staff.

In conjunction with Communicare audits, a random selection of all personal files will be reviewed to ensure that information held is accurate, up to date, complete and relevant with regard to the purpose of use.

The schedule and review of these audits is done via our Internal Audit Register and Management Review Committee.

## 8. Exceptions

### 8.1 Information concerning illegal activities

Information concerning illegal activities must not be kept in confidence and must be reported to the CEO who will forward information to police. Clients or staff making such requests must be made aware of this obligation, if they ask you to treat something that may be illegal as being in confidence.

Even when illegal activities are involved, information regarding the health status of a client cannot be disclosed.

### 8.2 Application by Police and other relevant parties

Police and other legally authorised parties can apply to have information provided, under the Freedom of Information Act, or by subpoena. These applications are to be referred to the CEO or Senior Medical Officer and not to be dealt with by the staff on duty at the time.

## 9. Breaches of Privacy and/or Confidentiality

Breaches of the Privacy Act are unlawful. Breaches of confidentiality are a serious breach of professional obligations and can involve legal action. Breaches of privacy and/or confidentiality are considered to be significant misconduct that, according to the seriousness of the breach, may involve consideration of termination of employment as appropriate disciplinary action.

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## Staff Privacy and Confidentiality Agreement

I, (print name) \_\_\_\_\_

have read and initialed each page of the Katherine West Health Board Privacy and Confidentiality Policy dated September 2019 (attached) and agree to the following:

1.	I will respect the privacy and dignity of clients, co-workers and communities, by not discussing any information about them with people in the wider community.
2.	I will seek out and comply with the laws, regulations, procedures and policies of KWHB relating to privacy and confidentiality.
3.	I will only access records and files that I have a professional responsibility to access.
4.	I will only disclose personal or confidential information with any third party according to KWHB policies and procedures.
5.	I will not attempt to access any official information in KWHB records for personal interest, benefit or advantage for myself or any other person.
6.	I will not remove any confidential files, test results, forms or other confidential documents from KWHB premises without prior written permission from the CEO.
7.	I will always take care to ensure that information for which I am responsible, including official documents, are kept complete and secure, and only make them available to authorised staff.
8.	I will always keep passwords and pin numbers, that I have been given, confidential. I understand that disclosure of a password to other staff or unauthorised persons is strictly prohibited.
9.	I understand that I must obtain prior written permission from the CEO in order to publish or copy any information or KWHB documents.
10.	I will not make any public comment to the media, legal representatives, clients or their family representatives without seeking the approval of the CEO first.
11.	I understand that my obligations under this Agreement continue to have full force and effect when I am no longer an employee of KWHB.
12.	I also understand that in addition to disciplinary action by KWHB for non-compliance with the KWHB Privacy and Confidentiality Policy, I may be liable for prosecution and fines for breach of the Privacy Act 1988 and/or other associated legal proceedings.

**SIGNED** by \_\_\_\_\_

\_\_\_\_\_ (Date)