



Privacy and Confidentiality Policy and Procedure

Document Information	
Document Title:	Privacy and Confidentiality Policy and Procedure
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Approval for use details:	Owner: Chief Executive Officer Approved by: Board Endorsed by: Senior Leadership Team Date approved for use: July 2024 Date due for internal review: July 2027
Purpose:	To ensure that the confidentiality, privacy, and security of information collected about clients is maintained by complying with all relevant legislation and without compromising care.
Related Policies and Procedure/s:	<ol style="list-style-type: none"> 1. Code of Conduct Policy for Staff Members 2. Code of Conduct Policy Board Directors 3. Control of Records Procedure 4. Delegations Schedule 5. Health Centre Waste Management Procedure 6. Media and Public Relations Policy and Procedure 7. My Health Record Security and Access Policy 8. Open Disclosure Policy and Procedure 9. Photo, Video, and Audio Policy and Procedure 10. Release of Information Policy
Related Form / Document:	<ol style="list-style-type: none"> 1. Communicare Acceptable Use Agreement (KWHB Staff) 1. Communicare Acceptable Use Agreement (External Contractors) 2. KWHB Privacy Statement 3. Release of Medical Records Consent Form
Key Word/s:	Confidentiality, privacy, rights, medical records, Communicare



Background

Katherine West Health Board Aboriginal Corporation (KWHB) acknowledges it has responsibilities around individual's rights to privacy and takes great care to uphold those rights, considering relevant privacy and other legislative requirements, and without compromising clinical care.

Confidentiality of client information is essential to quality healthcare service delivery, assisting clients to freely disclose information to healthcare workers about sensitive and personal matters, and facilitating appropriate diagnosis and treatment.

The unlawful disclosure of health information can damage the reputation of KWHB and may result in financial penalties and claims for compensation. Any breach of this policy by staff may result in disciplinary action.

This policy also sets out the procedures that KWHB will use to protect the rights and responsibilities for privacy and confidentiality of clients using its services. The procedures cover what is written or otherwise recorded about clients, what is said about them, the accuracy of information collected, stored, and shared, and the circumstances where the right to confidentiality may be overridden by other considerations.

Scope

This policy, procedure, and related documents apply to all KWHB clients, workers, and Board Directors both within and outside the workplace. The policy applies whether the information is stored and communicated through verbal, written, visual or electronic ways.

Definitions

Term	Definition
Access, use and disclosure	<p>An individual, role, or group</p> <ul style="list-style-type: none"> • has access to information if they have the right or opportunity to use or view information. They act on this access when they use, view, or enter the environment where this information is held. • uses information if they utilise, handle, collect, or communicate information within KWHB or do something with it to do a job or achieve a particular result or effect. • discloses information when they cause the information to appear, allow the information to be seen, make the information known, reveal the information, or lay the information open to view. Disclosure occurs when information is made available to an individual or organisation outside of KWHB. Information sharing is considered a disclosure if an individual allows information to become available to another person who would not normally have access to it.



Term	Definition
Client Privacy Statement	KWHB's publicly available information outlining, in accessible language, KWHB's responsibilities and obligations in relation to client Privacy, including KWHB's intentions about 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	<p>Includes the following:</p> <ul style="list-style-type: none"> • personal, health, and sensitive information or an opinion about an individual which allows an individual to be identified. • any information that the KWHB Board of Directors specifies as confidential. • any information not on the public record and not available upon request that allows an individual, organisation, or community to be identified. • written or electronic records or information conveyed verbally, or that can appear in any form and be recorded on any medium. It may include photographs, video recordings, IP addresses, device identifiers, genomic data, x-rays, or pathology results.
Confidentiality	<p>The ethical principle or legal right that an individual will hold secret all information about a person unless that person gives consent to disclose it. This applies to:</p> <ul style="list-style-type: none"> • Personal and/or sensitive information that staff may become aware of in the course of their work. • Verbal information including but not limited to telephone conversations or other conversations between staff or between staff and clients, and discussions with community members. • Written information of any kind e.g., case notes, pathology results, minutes, procedures, emails, contracts, and internal memos. • Visual information, for example photographs, paintings, diagrams. • Electronic information, for example information stored on computers or USB device.
Consent	When an individual or their representative agrees to an action. Consent may be expressed (spoken or written) or implied (by their action). The consent process should be voluntary, informed, current, specific, clear, and documented.



Term	Definition
Health information	Information or opinions about a person's <ul style="list-style-type: none"> • physical and mental health e.g., diagnosis, symptoms, test results, medications • health preferences including future provision of health services • use of health services e.g., appointments • bodily donations e.g., blood, organs • genetics.
Identifiable / deidentified information	Personal information about an individual who can be, or can reasonably be, recognised, named, or identified. Personal information is de-identified if any recognisable features or information that may reveal the individual's identity is removed. This includes facial features, distinguishing tattoos or birthmarks, their home or work address, and any documents that may contain client information.
Individual	A person; includes clients, visitors, staff, Board Directors, students, volunteers, and external contractors.
Personal information	Information about an identified or reasonably identifiable person e.g., name, address, contact details, gender, date of birth, sexuality, race. Sensitive and health information are subcategories of personal information that require special treatment.
Privacy	To protect the interests of the individual, and the individual's right to control how their personal information is used, and for what purposes.
Sensitive information	A special category of personal information that is subject to stricter legal requirements for collection, storage, use and disclosure. Includes health, genetic and biometric information about an individual, as well as information or opinion about the individual's racial or ethnic origin, religious beliefs, political memberships, sexual orientation or practices, and criminal record.
Staff/ Worker	Anyone who carries out work for an employer or business, including full-time, part-time, and casual workers, workers on probation, contract-based workers, self-employed workers, interns, apprentices, students, and volunteers. It does not include Board Members or Directors.
Unsolicited personal information	Personal information that has been received by KWHB without actively requesting or collecting it e.g., IP addresses, misdirected mail, photos, and videos taken without consent.



Principles

1. Only information necessary to provide health care, manage human resources, or for business management purposes will be collected.
2. Systems will protect and uphold the rights of individuals to privacy and confidentiality.
3. Confidential information will be protected from misuse, interference, loss, unauthorised access, modification, or disclosure.
4. Staff will be as open as practicable with clients about the information collected and what happens to this information.
5. KWHB will promote a culture that encourages and maximises information sharing to support client safety, quality of care, and care coordination, but discourages unauthorised or informal communication about personal information.

Responsibilities

The organisation (KWHB) will

- Strive to protect and uphold the rights of individuals to privacy in the way it collects, stores, accesses, uses, and discloses information about them, their needs, and the services that have been provided.
- Acknowledge that individuals have legislated rights to privacy and confidentiality including accessing, authorising access to, and correcting their own records.
- Have a written plan that sets out how KWHB will respond in the case of a breach or suspected breach of privacy.
- Provide information about privacy and confidentiality to clients in an easily accessible, plain English format.

The CEO and managers will

- Respond to individual requests for further detail and/or explanation of its policies and procedures for upholding their privacy rights and to those circumstances where the right to confidentiality or privacy may be overridden by legislative considerations.
- Design procedures to avoid confidential information about an individual being shared with anyone, on purpose or by omission, unless the individual has given their informed consent or in special circumstances where the law requires an exception.
- Recruit and select employees with appropriate qualifications, registration, police checks, and references.
- Induct and train all employees on confidentiality, privacy, and record keeping policies and procedures.
- Conduct regular audits on all aspects of record keeping.
- Investigate complaints about staff who do not comply with these privacy policies and procedures and take appropriate disciplinary action if required.



- Ensure that when KWHB and staff send or receive private information with shared electronic health repositories (SEHR), it is done in a way that conforms with legislated requirements. These processes must be monitored by appropriate management staff and reported to the Board and KWHB governing bodies. Examples of SEHRs are the My Health Record (MHR), My eHealth Record (MeHR), the National Cancer Screening Register (NCSR), and the Australian Immunisation Register Portal (AIR).

Staff members will

- Be consistent and careful in the way they manage what is written and said about an individual and how they decide who can see or hear this information.
- Be aware of their surroundings and ensure privacy and confidentiality for clients in all interactions.
- Understand that criminal penalties apply for a breach of confidentiality and that KWHB may report a breach to a relevant authority.
- Follow relevant Territory and Commonwealth laws and KWHB policies and procedures for the confidentiality, privacy, and security of information.
- Report any breaches of privacy information to their manager, including any approaches made to them to solicit unauthorised information.

Legal Considerations

The *Privacy Act 1998* and *Australian Privacy Principles (APP)* are legal obligations under federal privacy laws that apply to Australian organisations, including KWHB. Failing to comply with privacy obligations can have serious consequences, both legally and for the reputation of the organisation.

The Act allows for collection, use, or disclosure of personal information, including sensitive and health information, in special permitted circumstances e.g., serious threat to life, health, or safety, unlawful activity or serious misconduct, locating a missing person, use or disclosure of genetic information for the benefit of a family member, and research.

Federal health legislation operates alongside and supports state privacy legislation i.e., the *Northern Territory Information Act 2002*. The *Information Act 2002* combines privacy, freedom of information, and archives provisions and sets out 10 Information Privacy Principles in Schedule 2. It covers personal information for everyone including within the first five years after an individual dies and allows for authorised representatives to make decisions on their behalf.

KWHB participates in the My Health Record system and must comply with the *My Health Records Act 2012 (Cth)* (MHR Act) and the *Healthcare Identifiers Act 2010 (Cth)* (HI Act). The MHR Act limits when and how health information included in a person's My Health Record can be collected, used, and disclosed.



Procedures

The procedures for ensuring privacy, confidentiality and security of client information include the collection of information, use of information, and management of any breaches of privacy and/or confidentiality.

Collection of personal information

1. Collect personal information about a client directly from the client where possible. Inform the client if you collect the information from a third party.
2. Ensure all information collected is accurate, complete, up to date, and relevant to the service being provided.
3. Collect sensitive and health information in accordance with Communicare requirements and with informed consent i.e., tell a client why the information is being collected, what it is used for, what will happen if it is not collected, any other person or entity the information may be disclosed to, and any situations where disclosure is required.
6. Obtain consent from the client to access confidential information from or provide confidential information to another service, using the appropriate Consent for Release of Information form.
7. Consent may be verbal or written and should be documented in Communicare and/or with the central Primary Health Care Operations coordinator. Refusal of consent should also be documented.
4. Inform individuals about how to withdraw consent and/or remove their personal information.
5. Ensure a public facing, plain English Client Privacy Statement is accessible to all clients, and they are informed about any updates.
6. Interview individuals in a private area, and in culturally secure ways, especially if confidential and/or sensitive information is being shared.
7. Use discretion and sensitivity in both verbal and written communications with other service providers, especially when this communication is likely to be overheard.
8. Unsolicited personal information received by KWHB should be destroyed, deleted, deidentified, or secured as soon as possible. Examples include misdirected mail received by KWHB, client's IP addresses, or photos and videos obtained without consent. Do not keep unsolicited personal information unless it is considered accurate, up to date and relevant to the purpose for use.
9. Clients, their families, and friends may photograph, film, or record for personal use when it is safe and appropriate to do so. Permission of all staff members involved must be obtained before filming and staff may direct the person to stop at any time. Taking photographs, filming, or recording is not permitted if it affects the care of clients, breaches the privacy of other clients or visitors, or breaches the privacy of staff.

Record keeping

8. Assign unique record numbers to each client to ensure information is kept safe, confidential, accurate, and relevant to the individual.



10. Record confidential information in files that are only accessible by authorised individuals requiring passwords with different levels of access i.e., a staff member's personal OneDrive, a client's Communicare record, or libraries and folders in KWHB SharePoint.
11. Do not leave confidential information in open areas where it can be seen by unauthorised individuals, and anyone not directly involved in service provision to clients. This includes when working from home or in vehicles.
9. Lock computers when unattended or when information is not being used. Close client files immediately after use and log off terminals when finished.
12. Do not save confidential information on personal devices, including mobile phones and USB devices. Transfer any data to the KWHB secure drive for storage within one week and delete from all personal devices.
10. Limit the use of portable storage devices, including personal laptops and USB device. Use KWHB systems and devices e.g., Communicare, SharePoint, One-Drive, for secure document storage and management.

Use of information in records

11. Only access confidential information when required for direct clinical care, for the benefit of the client, or to conduct KWHB operations in line with your role in the organisation.
13. Comply with KWHB policies when accessing record keeping systems in use by KWHB staff (e.g., Communicare, MHR, MeHR, NCSR, and AIR records).
 - a. Use passwords with sufficient complexity.
 - b. Do not share passwords or system access with other staff.
14. Do not access parts of the internet that may potentially compromise KWHB systems.
 - c. Do not download or open suspicious email attachments.
15. Report when a suspected virus has entered KWHB systems.
16. Only use confidential information for the primary purposes for which it was collected.
12. Obtain consent from a client before using their confidential information for purposes other than the primary purpose for which the information was collected, or to comply with legislation e.g., research, auditing. Advise the client of any legal requirement for using their confidential information.

Disclosure of information

13. Only disclose confidential information under the following circumstances:
 - a. where required by law
 - b. with the individual's consent and/or
 - c. where permitted by law.
14. Do not disclose confidential information about individuals to any unauthorised persons.
15. Individual consent to disclose confidential information requirements, in specific situations, are summarised in Table 1.



Table 1 Requirements for individual consent

Consent is required when	Consent is NOT required when
<ul style="list-style-type: none"> a. The information is personal information. b. Disclosure is unrelated to the use for which the information was initially collected e.g., for research, media. c. The disclosure of that information is not required, permitted, or authorised by law. 	<ul style="list-style-type: none"> a. The information is for ongoing treatment of a current condition where consent was previously provided. b. Information that is identifiable or reasonably identifiable, i.e., contains no identifying information or is not able to be re-identified. c. Information is aggregated or statistical information e.g., for planning or reporting. d. The information access, use, or disclosure is required, permitted, or authorised by law e.g., notifiable disease, subpoena, <i>Mental Health and Related Services Act 1988</i> (NT).

25. When it is unreasonable or impracticable to obtain consent e.g., serious threat to life, health or safety, or the client is incapacitated, a discussion should only be held with nominated or authorised contacts and their consent is required to share information.

17. Confidential information sent outside the KWHB network via email must be via secure, password-protected email software. Use the BCC field for group emails so recipients can't see other recipients' names or email addresses. The secure transfer of confidential information is the responsibility of the sender.

26. Photocopy or print confidential information only for transfer to another healthcare facility, to comply with the *Freedom of Information Act* or other legislation, or for internal management. Destroy copies after use and/or de-identify documents.

27. Make a record in the client's Communicare record when confidential information is disclosed about a client.

28. Requests for information by phone must have the caller identified as an authorised person.

18. Information about any illegal activity must not be kept in confidence and must be reported to the CEO who will forward information to police and/or other relevant authorities. Tell the client(s) of your obligation to report illegal activity if they ask you to treat something that may be illegal as being in confidence. Even when illegal activities are involved, confidential information about the health status of a client cannot be disclosed without client consent or unless lawfully permitted in special circumstances.

19. Police and other legally authorised parties can apply to have client information provided under the *Freedom of Information Act* or by subpoena. Refer to Appendix 1 for a summary of recommended actions for different types of requests and to the Release of Information Policy.



Client access to personal records

32. Requests for access to confidential information held by KWHB will be processed in accordance with the *Freedom of Information Act, 1982*. Refer to the Release of Information Policy for more information on client access to their own records and access by third parties including parents and carers.
33. KWHB will ensure a request to access a personal record is convenient, does not involve unreasonable delay and is, wherever practicable, without cost.

Changing personal records

34. Personal information should be regularly reviewed with clients to ensure it is up to date.
20. Clients may request a change to their personal information if it is inaccurate, out of date, incomplete, irrelevant, or misleading.
35. Client records can be updated by KWHB staff, and clients may request to have a note added to their records.
36. If there is disagreement or concern about the request, staff may assist the individual to put the request in a signed, written request to the CEO for approval.

Refusal to access confidential information

39. KWHB may refuse a request to access or to amend client information or confidential records if it conflicts with personal privacy, is in breach of privacy laws, is frivolous or vexatious, or conflicts with other legal obligations. This includes the reasonable belief that granting access may endanger the life, health, or safety of any individual or endanger public health or safety.
40. The CEO will notify the client in writing of any refusal to access or amend client information. The notification must note the client information that is the subject of the request for access or amendment. The notification must also provide information about how to make a complaint about the refusal.
41. The client has the right to make a complaint about the refusal of their request. Complaints must be in writing, 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 and/or their representative.

Retention and disposal of confidential information

42. All client information must be retained in accordance with the relevant disposal schedule for the type of information. Refer to the Control of Records Policy and Procedure.
43. Confidential information should be permanently de-identified or destroyed by a secure means when consent is withdrawn, or the information is no longer needed for any purpose. Refer to the Waste Management Procedure for suitable methods of disposal.
44. Information from personal and portable electronic storage devices should be deleted when no longer required, when an electronic copy has been loaded to a KWHB system, or on ceasing employment with KWHB.



Audit and review

45. Staff access to Communicare will be audited regularly by a random audit of the location that records are accessed from, and the staff member who accesses them. This is completed by the Senior Primary Health Care Advisor and Clinical Quality Improvement Coordinator, and findings of the audit are documented and sent to the CEO for review.
46. A random selection of client files will be audited and reviewed to ensure that information held is accurate, up to date, complete, and relevant to the purpose of use.
47. The schedule and review of these audits is completed via the Internal Audit Register and Management Review Committee.
48. Staff access to the My Health Record will also be audited monthly from reports within Communicare by the MHR Organisational Maintenance Officer. These reports are provided to the Health Leadership Team.

Breaches of privacy and/or confidentiality

49. KWHB must comply with privacy obligations to avoid legal, financial, and reputational risk to the organisation.
21. If any breach of this policy is witnessed or suspected this should be immediately reported to the relevant manager.
50. Breaches of the *Privacy Act* are unlawful, a serious breach of professional obligations, and can involve legal action. Breaches of privacy or confidentiality are significant misconduct that, according to the seriousness of the breach, may involve consideration of termination of employment as appropriate disciplinary action.
51. Complaints about breaches of privacy or confidentiality are initially referred to the CEO.
52. KWHB has procedures in place to deal with actual or suspected breaches, to minimise harm, make an efficient assessment, and make mandatory notification as required.
53. The Office of the Australian Information Commissioner (OAIC) provides guidance on responding to a privacy breach in its guide to data breach preparation and response, setting out a 4-step process for an organisation to follow when a breach of privacy occurs. Under the *Privacy Act* (Notifiable Data Breach Scheme) KWHB must notify the OAIC and people whose personal information is involved, if an actual or suspected data breach occurs that is likely to result in serious harm.

Privacy and Confidentiality acknowledgement

22. Upon commencement with KWHB, staff are required to acknowledge this Policy and Procedure and Appendix 2 Staff Privacy and Confidentiality Agreement through the Employment Hero portal. A record of this acknowledgment will be stored on their personnel file.



KATHERINE WEST HEALTH BOARD

Aboriginal Corporation

Policy and Procedure

Unit 10, 38 First Street, Katherine NT 0851 . PO Box 147, Katherine NT 0851
Phone (08) 8971 9300 Fax (08) 8971 9340

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<p>External References:</p>	<ol style="list-style-type: none"> 1. Privacy Act 1998 (Cth) and associated Australian Privacy Principles 2. Freedom of Information Act 1982 (Cth) 3. My Health Records Act 2012 (Cth) 4. National Disability Insurance Scheme Act 2013 (Cth) 5. NDIS Amendment (Quality and Safeguards Commission and Other Measures) ACT 2017 (Cth) 6. Information Act 2002 (NT) and associated Information Privacy Principles in Schedule 2 7. Health and Community Services Complaints Act - Code of Health and Community Rights and Responsibilities (NT) 8. Australian Charter of Healthcare Rights 9. Care and Protection of Children Act 2007 (NT) 10. Government Coroners Act 1993 (NT) 11. Mental Health and Related Services Act 1988 (NT) 12. Domestic and Family Violence Act 2007 (NT) 13. Public and Environmental Health Act 2011 (NT)
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Appendix 1

Action summary for different request types

REQUEST FROM	ACTION
Medical / nursing / Allied health staff involved in treating the client	The treating clinician makes the decision about releasing information. Other staff may assist with preparing the information.
Client	Dates of service can be given if the client presents in person and provides identification e.g. driver's licence. If the client cannot present in person, proof of identification is still required. A copy of identification can be sent, and the requested information sent to them via post, email, or hand-delivery. Requested information must not be provided over the telephone unless urgent. If further information is required, staff can assist the client with information provided in the Release of Information Policy.
Police	Information must not be released except with written consent from the client (i.e., signed and dated) or when police have a subpoena or search warrant. <i>Note: For an urgent request that does not meet the above requirements, direct the police to the CEO.</i>
Health insurance funds	Client admission and discharge dates can be given. The diagnostic code for a condition treated can be given.
Solicitors	Solicitors acting on behalf of their client may have access if they provide the client's written consent. If the Solicitor requires copies of a confidential record, they are to be referred to phc.ops@kwhb.com.au If the Solicitor is preparing a case against the client, they must obtain a court order i.e., subpoena.
Workcover or Department of Veterans Affairs	Date of incident can be given. If medical information is required, the request is to be put in writing. Client consent is required to disclose information.
Aged Care Department/ Social welfare agents	Information can be given with written consent from the client.



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REQUEST FROM	ACTION
National Disability Insurance Agency	Information can be given with written consent from the client.
Doctor's rooms	Dates of service can be given over the telephone. A copy of a discharge summary can be forwarded. When requested to read a report over the telephone, transfer this request to phc.ops@kwhb.com.au.
Hospitals and other health institutions	In most cases a copy of the discharge summary is sufficient. In an emergency, information can be faxed.
Press or media	No information is to be given to the media.
KWHB staff	No access is permitted to other staff member's records. Staff may request access to their own information. See information for Client above.
Employers	No information can be provided unless the client has given consent in writing. If consent has been obtained, only information relating to the accident/condition for which the employer is financially or legally responsible should be given.
Friends and relatives	No client information can be provided without written consent. Suggest the friend or relative contact the client's family directly if they require more information.
Funeral directors	Dates and location of the death, as recorded on a death certificate, can be given.
Landlords	No information can be provided.
Finance, Communicare, and Medicare Officers staff	These staff may have access to service dates, account classification, and diagnostic codes.
Management / administrative staff	Information may be given for any internal review of an FOI request, medico-legal case, or investigation of complaint.



Appendix 2

Staff Privacy and Confidentiality Agreement

I acknowledge that I have read the current published Katherine West Health Board Privacy and Confidentiality Policy and Procedure 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 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.

This digital acknowledgment will be placed on my Employment Hero personnel file.