



Government of **Western Australia**
Department of **Health**

Chief Health Officer Information Sharing Guidelines

For the purposes of
sections 299 and 300 of
the *Public Health Act 2016*

Classification: Official

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1. Introduction

Section 299 (3) of the *Public Health Act 2016* stipulates that a public health official may disclose relevant information to other public health officials, officers of an enforcement agency or officers of an information sharing agency. In addition, officers of an enforcement agency may disclose relevant information to public health officers, officers on another enforcement agency or officers of an information sharing agency (section 299(4)).

Under section 299 (5), a designated officer may, in accordance with these guidelines, request a range of agencies to disclose relevant information to the designated officer.

Under section 300, the Chief Health Officer (CHO) must issue guidelines as to disclosure and requesting of information under section 299. These guidelines relate to the general sharing of public health information and are separate to the information sharing requirements outlined in Parts 9, 11 and 12.

People and organisations working in accordance with the *Public Health Act 2016* may need to provide and receive information to assist them perform duties required of their roles. While protection of confidentiality and privacy is ideal, this should not compromise the safety and wellbeing of the patient or population, provided the information is shared in good faith. The following guidelines are intended to assist public health officials, enforcement agencies and information sharing agencies understand the obligations of their work.

These guidelines are not intended to be, nor should it be relied upon as, a substitute for legal advice. If legal advice is required, it may be sought from legal sections within respective agencies.

2. Definition of Terms

2.1 Section 4

In accordance with section 4 of the *Public Health Act 2016*, these terms are defined as follows:

Public Authority means –

- a) An agency as defined in the *Public Health Sector Management Act 1994* section 3(1);
or
- b) A body, corporate or unincorporated, that is established or continued for a public purpose by the State, regardless of the way it is established; or
- c) A local government; or
- d) A regional local government, but only in Part 12 and section 299; or
- e) The Police Force of Western Australia; or
- f) A person or body, or a person or body within a class or persons or bodies, prescribed by the regulations for the purposes of this paragraph

Public Health Official means-

- a) a departmental officer; or
- b) a person employed or engaged in a health service provider (as defined in the *Health Services Act 2016* section 6)

2.2 Section 299

In accordance with section 299 (1) of the *Public Health Act 2016*, these terms are defined as follows:

Data generally refers to unprocessed information.

Designate includes, in relation to a person or class of persons who are not departmental officers, appoint.

Designated officer means -

- a) A public health official designated under subsection (2); or
- b) An officer of an enforcement agency (other than the Chief Health Officer) authorised by the agency for the purposes of this section

Furthermore, under section 299 (2);

The Chief Health Officer may designate a public health official as a designated officer for the purposes of these guidelines.

Enforcement Agency means -

- a) The Chief Health Officer; or
- b) A local government; or
- c) A person or body, or a person or body within a class of persons or bodies, prescribed by the regulations for the purposes of this definition.

Information refers to data that has been processed in such a way as to be meaningful to the person who receives it.

Information Sharing Agency means any of these

- a) a public authority
- b) a department or agency (however described) of the government of the Commonwealth, of another State, of a Territory or of another country;
- c) a body, corporate or unincorporated, that is established or continued for a public purpose under a law of the Commonwealth, another State or a Territory;
- d) The World Health Organization.

Officer, of an information sharing agency, means-

- a) An officer or employee in or of the agency; or
- b) If the agency is the Police Force of Western Australia, a member of the Police Force of Western Australia.

Relevant information, means information that is relevant to the administration or enforcement of this Act or that is otherwise relevant to public health;

World Health Organization has the meaning given in the *World Health Organization Act 1947* (Commonwealth)

3. Background

3.13.1 Principles that Underpin Information Sharing Guidelines

- The safety and wellbeing of people are the primary considerations when making information sharing decisions.
- Except where to do so would place the person at risk of serious harm or where it is not practicable to do so, gaining a person's consent for information sharing is the ideal and recommended practice.

- Files, records, emails, faxes, transcripts and notes that are shared must be stored securely according to each agency's or organisation's requirements. Generally, emails should not be used for disclosing personal information, as they are unsecure.
- Information must be shared in a timely manner to prevent or limit serious threats to people's wellbeing or safety. The urgency of the information sharing request must be clearly communicated when the information is required in an emergency.
- Accuracy of information is vital. If up to date information is not available, this must be declared and limitations on the usefulness of historical information must be made clear.
- The information shared needs to be relevant. That is, the information provided needs to meet the objectives of information sharing request and not provide additional information non-relevant to the request.
- The 'need to know' principles underpin all information sharing within the context of public health.

3.1.1 The 'Need to Know' Principle

Information shared by public health officials, officers of an enforcement or information sharing agency, and any designated officers must adhere to the 'need to know' principles. This stipulates that information will only be used by those who need the information to perform the duties of their role.

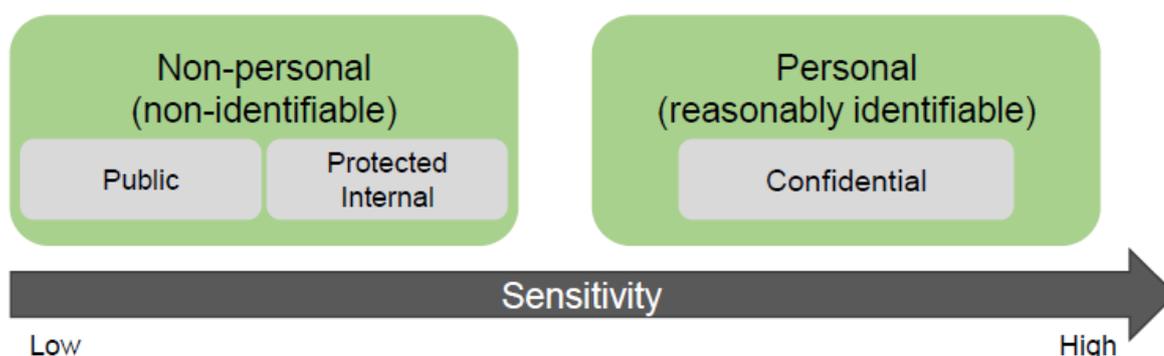
3.2 Use and Disclosure of Information

When sharing information, public health officials, officials of an enforcement agency, and officers of an information sharing agency, will share information within legal and ethical parameters that ensures the confidentiality and sensitivity of information, particularly personal health information, is respected.

Personal Health Information generally pertains to all health information where the identity of a person is apparent or can reasonably be ascertained from the information itself. Information is also personal information if it is reasonably possible for the person receiving the information to identify the individual by using other information that they already hold.

It is essential to consider the sensitivity of information before using or disclosing it. Figure 1 below categorises different types of information that may need to be utilised in a serious public health incident or emergency, and the level of sensitivity associated with the information.

Figure 1: WA Health information broadly classified by type and sensitivity



The Information Use and Disclosure Policy MP 15/16, describes nine further principles for the use and disclosure of information.

4. Administrative procedure

4.1 Suitability

Information disclosure must be by disclosing officer of suitable seniority;

- For the purposes of section 299 (3), any public health official that discloses information to another public health official, an officer of an enforcement agency (other than the Chief Health Officer), or to another information sharing agency, should be in a position of seniority of Tier 4 or above, as outlined within the *Department of Health Authorisations and Delegations Schedule*.
- In relation to section 299 (4), enforcement agencies should ensure that their officers are of appropriate seniority to disclose information to a public health official, to an officer of an enforcement agency (other than the CHO), or to an officer of an information sharing agency.

4.2 Information Disclosure

For the purposes of the Act, a public health official or an officer of an enforcement agency may be required to disclose information. In this setting, a number of considerations must be made about the sensitivity of information, as well as the legal owner of the information.

For transparency and accountability, all requests and approvals for information to be disclosed must be recorded in writing and clearly state.

1. The purpose for the request of disclosure.
2. The name and position of the public health official, officer of an enforcement agency, or officer of an information sharing agency, requesting the information.
3. The name of the public health or enforcement agency officer who has approved the release of the relevant information.
4. The date and time of request.

If a request for information has been received and approved verbally, this must be followed up in writing as soon as practicable.

4.3 Request of Information

As outlined in the introduction, a designated officer may request information be disclosed from any of the following agencies:

- a) An enforcement agency;
- b) A public authority;
- c) A department agency (however described) of the government of the Commonwealth, of another State, of a Territory or of another country;
- d) A body, corporate or unincorporated, that is established or continued for a public purpose under a law of the Commonwealth, another State or a Territory;
- e) The World Health Organization.

For the purposes of section 299 (5), the designated officer should be in a position of seniority Tier 2B or above within the *Department of Health Authorisations and Delegations Schedule* (2017).

Similar to the information disclosure, a request for information from a designated officer must be recorded in writing, and clearly state;

1. The purpose of the request.
2. The name and position of the designated officer requesting the information.
3. The agency, authority, body or organization to which the request is directed.

4. The date and time of the request.

If a request for disclosure of information has been received and approved verbally, this must be followed up in writing as soon as practicable.

4.4 Cross-border disclosure of WA Health information

There are occasions where public health officers, officers of an enforcement agency, or officers of an information sharing agency, may need to disclose information interstate and overseas.

Cross-border disclosure must comply with requirements under the Information Management Policy Framework, *Health Services Act 2016*, *Public Health Act 2016*, Health Services (Information Sharing) Regulations and other legislation. Overseas disclosure must also comply with Australian Privacy Principle 8 – Cross-border disclosure of personal information (APP8).

In the instance of identification of a public health emergency of international concern, WHO must be notified of timely, accurate and sufficiently detailed public health information. Information should include, where possible, case definitions, laboratory results, source and type of risk, number of cases and deaths, conditions affecting the spread of the disease and the health measure employed; and report, when necessary, the difficulties faced, and support needed in responding to the potential public health risk.

Legal advice may need to be sought, especially for requests involving the disclosure of information to overseas users.

4.5 Disclosure to the media

In accordance with Operational Directive (OD) 0327/11, WA Health staff are not permitted to speak with, or disclose information to, journalists and or media representatives, unless authorised by the Director General or Chief Executive of a Health Service Provider.

Any request for information from a journalist and or media representative must be referred to the organisation's authorised media officer for management and processing.

5. Relevant Legislation

Children and Community Services Act 2004

Commonwealth Privacy Act 1988 (Australian Privacy Principles)

Coroners Act 1996

Corruption, Crime and Misconduct Act 2003

Criminal Code Act Compilation Act 1913

Financial Management Act 2006

Freedom of Information Act 1992

Freedom of Information Regulations 1993

Health Act 1911

Health Services Act 2016

Human Reproductive Technology Act 1991

International Health Regulations, 2005

Mental Health Act 2014

National Health and Medical Research Council Act 1992

Public Health Act 2016

State Records Act 2000

6. Associated Policies and Guidelines

Data Stewardship and Custodianship Policy OD 0321/11

Guidelines for the Release of Data

Information Use and Disclosure Policy MP 0015/16

Department of Health Authorisations and Delegations Schedule (for Director General of the Department of Health) May 2017

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