



# Information Access, Use and Disclosure Policy

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## 1. Purpose

The purpose of the Information Access, Use and Disclosure Policy is to facilitate lawful and appropriate information access, use and disclosure.

This Policy is a mandatory requirement under the *Information Management Policy Framework* pursuant to section 26(2)(k) of the *Health Services Act 2016*.

This Policy applies to all information generated, collected, accessed, used, managed, stored and disclosed by the WA health system including, but not limited to, information collected under the *Health Services Act 2016*, *Mental Health Act 2014*, *Private Hospital and Health Services Act 1927*, *Health (Miscellaneous Provisions) Act 1911* and *Public Health Act 2016*.

Information held in the WA health system is an operational and strategic asset. It should be leveraged to support organisational improvements, efficiencies and effective service provision. Information should be made available and shared appropriately to:

- support the realisation of the WA health system's vision to deliver a safe, high quality, sustainable health system for all Western Australians
- achieve the System Manager and Health Service Provider functions in accordance with the *Health Services Act 2016* and other written laws
- facilitate improvements in effectiveness and efficiency of service delivery such as in safety and quality
- improve transparency and accountability
- enable audit and compliance activities
- allow better and more informed decision making.

## 2. Applicability

This Policy is applicable to all Health Service Provider employees whether permanent, fixed-term, contract or casual.

To the extent that requirements contained within this Policy are applicable to the services purchased from contracted health entities, Health Service Providers must ensure these requirements are accurately reflected in the relevant contract and managed accordingly.

### 3. Policy requirements

Health Service Providers are required to:

- understand when information is authorised to be accessed, used or disclosed
- access, use, disclose and share information when it is lawful to do so and through a governance model approved by the delegated officers
- access, use, disclose and share information in a manner that protects the privacy of patients including sensitive, confidential and appropriately classified information
- promote a culture that encourages and maximises information sharing to support patient safety, quality of care and care coordination
- protect information from misuse and inappropriate access and disclosure
- establish internal controls and/or audits to ensure policy compliance
- maintain policies, processes and/or procedures which are applicable to volunteers and which are consistent with the relevant requirements in this Policy.

An Information Access, Use and Disclosure Policy Resource Compendium has been developed as a supporting document to assist stakeholders to comply with the mandated requirements in this Policy.

#### 3.1. Information Access, Use and Disclosure

Health Service Provider local policy, processes and procedures must reflect the meaning of information access, use and disclosure described below:

- An individual, role or group has **access** to information if they have the right or opportunity to use or view information. An individual enacts this access when they use, view or enter the environment in which this information is held.
- An individual, role or group **uses** information if they utilise, handle, collect or communicate information within the WA health system or employ information for a purpose.
- An individual, role or group **discloses** information in that 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. With regard to the WA health system, disclosure occurs when information is made available to a person or organisation outside of the WA health system. Within the WA health system, information sharing is considered a disclosure if a person allows information to become available to another person who would not normally have access to it.

##### 3.1.1. Access, Use and Disclosure when it is required or permitted by law

Access, use and disclosure of information is lawful if legislation either **requires** or **permits** it.

Health Service Providers are required to:

- ensure local policies, processes and procedures support lawful and appropriate information access, use and disclosure.

- ensure local policies, processes and procedures maximise access, use and disclosure of information to perform the legal purposes stipulated in the *Health Services Act 2016*, the *Health Services (Information) Regulations Act 2017* or other written laws.
- maintain information request and release policies, processes and/or procedures that support the access, use and disclosure of information for legal purposes outlined in the *Health Services Act 2016*, the *Health Services (Information) Regulations 2017* or in other written laws.
- ensure information request and release policies, processes and/or procedures allow for ongoing access for multiple users when applicable. For non-permanent staff access must end on the end date of their contract.
- assess ongoing access approvals at a reasonable review date at the discretion of the authorising authority.
- establish an information release contract or agreement with individuals and/or organisations contracted by the WA health system, when appropriate, that details the legal purposes for which information can be accessed, used and/or disclosed.
- undertake quality assurance checks and an annual audit to ensure the local policies, processes and procedures are aligned with lawful and appropriate information access, use and disclosure which maximises information sharing to perform the legal purposes stipulated in the *Health Services Act 2016*, the *Health Services (Information) Regulations 2017* or other written laws.
- rectify any identified inconsistencies that misalign local policies, processes and procedures against the intent of this Policy, as requested by the System Manager.

### 3.2. Culture of information sharing

Health Service Providers are required to:

- create strategies and mechanisms such as training and education programs, that support a culture of information sharing that promotes the access, use and disclosure of information when it is permitted or required by law.
- develop processes, procedures and systems that enable staff to share information when it is permitted or required by law.
- develop processes, procedures and systems for sharing information with other Health Service Providers for safety and quality purposes to perform the function prescribed in section 34(2)(i) and 34(3) of the *Health Services Act 2016*.

### 3.3. Governance

Information access, use and disclosure authorisations at a system-wide level are described in legislation and mandatory policies in the Information Management Policy Framework.

Health Service Providers are required to:

- ensure local governance related policies, procedures and guidelines do not prevent or restrict information from being collected, used or disclosed for purposes that are permitted or required by law.
- adopt access, use and disclosure models that do not prevent or restrict information from being collected, used or disclosed for purposes that are permitted or required by law.

### 3.4. Consent

Health Service Provider local policy, processes and procedures must reflect the meaning of health information described below:

Health information, under section 213 of the *Health Services Act 2016*, is defined as:

- (a) information, or an opinion, that is also personal information, about:
  - (i) the health (at any time) of an individual; or
  - (ii) a disability (at any time) of an individual; or
  - (iii) an individual's expressed wishes about the future provision of health services to the individual; or
  - (iv) a health service provided, or to be provided, to an individual; or
- (b) other personal information collected to provide, or in providing, a health service.

An individual's consent is not required to disclose information when the information:

- is not health information or another type of personal information, or
- is not reasonably identifiable, that is, contains no identifying information nor is able to be re-identified, or
- is aggregated or statistical information, or
- the information access, use or disclosure is required or authorised by law.

An individual's consent is required when:

- the information is personal information and the use is unrelated to the use for which the information was initially collected, and
- the use or disclosure of that information is not required or authorised by law.

Health Service Providers are required to:

- ensure consent related policies, processes, procedures, mechanisms and guidelines do not prevent or restrict information from being collected, used or disclosed for purposes that are permitted or required by law.

### 3.5. Research

Health Service Providers are required to:

- ensure research related policies, processes and procedures do not prevent or restrict information from being collected, used or disclosed for purposes that are permitted or required by law.

### 3.6. Information misuse and inappropriate disclosure

Health Service Providers are required to:

- take all reasonable steps, to ensure information is protected from misuse, interference, loss, unauthorised access or modification.
- ensure the risk management related policies, processes, procedures and strategies that minimise misuse and inappropriate disclosure do not prevent or restrict information from being collected, used or disclosed for purposes that are permitted or required by law.

- ensure local policies, tools, processes, awareness training and education programs enable staff to:
  - secure and protect sensitive, confidential and appropriately classified information.
  - do everything reasonable and practicable to prevent the misuse or unauthorised access to or disclosure of information.

#### 4. Compliance monitoring

Health Service Providers are required to comply with this Policy through annual audits.

Health Service Providers are required to provide their annual audit and all access, use and disclosure related local policies, processes and procedures to the Department of Health, when requested by the System Manager.

The Department of Health will conduct reviews of the annual audits to ensure compliance with this Policy.

#### 5. Related documents

The following documents are mandatory pursuant to this Policy:

- N/A

#### 6. Supporting documents

The following information is not mandatory but informs and/or supports the implementation of this Policy:

- [Information Access, Use and Disclosure Policy Resource Compendium](#)

#### 7. Definitions

The following definition(s) are relevant to this Policy.

Term	Meaning
Access	Refers to the right or opportunity to use or view information. An individual enacts this access when they use, view or enter the environment in which this information is held.
Aggregated information	Is summed and/or categorised information that is analysed and placed in a format (for example, in tables or graphs) that prevents the chance of revealing an individual's identity (i.e. individual records cannot be reconstructed).
Approved Governance Model	Refers to a model that has been approved by the relevant authorising authority to govern the access, use, disclosure and sharing of information when it is lawful. The governance model must comply with other mandated policies and the relevant authorisation and delegations schedule.

<b>Term</b>	<b>Meaning</b>
Contracted Health Entity	Has the meaning given in section 6 of the <i>Health Services Act 2016</i> as a non-government entity that provides health services under a contract or other agreement entered into with the Department CEO on behalf of the State, a health service provider or the Minister.
Contracted Organisation	Refers to a private or public organisation or entity that has been contracted by the WA health system to provide non health services.
Consent <sup>1</sup>	Consent means a voluntary choice that is based on sufficient information and an adequate understanding of both, the proposed access, use and/or disclosure of the information, and the implications of the access, use or disclosure.
Data	The term 'data' generally refers to unprocessed numbers, facts or statistics, while the term 'information' refers to data that has been processed in such a way as to be meaningful to the person who receives it. The terms 'data' and 'information' are often used interchangeably and should be taken to mean both data and information.
Disclosure	An individual, role or group discloses information if 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.
Health information	Has the meaning given in the <i>Health Services Act 2016</i> in section 213 as: (a) information, or an opinion, that is also personal information, about: (i) the health (at any time) of an individual; or (ii) a disability (at any time) of an individual; or (iii) an individual's expressed wishes about the future provision of health services to the individual; or (iv) a health service provided, or to be provided, to an individual; or (b) other personal information collected to provide, or in providing, a health service.
Information	The term 'information' generally refers to data that has been processed in such a way as to be meaningful to the person who receives it. Information can be personal or non-personal in nature. The terms 'data' and 'information' are often used interchangeably and should be taken to mean both data and information in this policy.
Legal purpose	Refers to the purpose that is authorised by the <i>Health Services Act 2016</i> , the <i>Health Services (Information) Regulations 2017</i> or any other written laws. It does not refer to the operational purpose or an operational fit-for-purpose assessment.

<sup>1</sup> Modified from the *National Statement on Ethical Conduct in Human Research (2007) Updated 2018*

Term	Meaning
Non-personal information	Information from which a person's identity is not apparent, and cannot be reasonably ascertained. Whether information is truly non-personal will depend on the context, including the nature of the information, the number of people to whom it could potentially relate and the amount of information proposed to be disclosed. Although a series of individual pieces of information may not, on their own, enable the identity of an individual to be ascertained, identification may occur when all the pieces of information are combined together.
Operational purpose	Refers to the purpose for which an operational activity, action or procedure is undertaken. It does not refer to the legal purpose for which an activity, action or procedure is undertaken.
Personal information	Has the meaning given in the <i>Freedom of Information Act 1992</i> in the Glossary clause 1:  Means information or an opinion, whether true or not, and whether recorded in a material form or not, about an individual, whether living or dead —  (a) whose identity is apparent or can reasonably be ascertained from the information or opinion; or  (b) who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.
Reasonably identifiable information	Reasonably identifiable information is personal information. It includes information connected with an individual's name, image, date of birth or address; information that contains a unique personal identifier when the holder of the information also has the master list linking the identifiers to individuals; and information that the holder can merge or link to other information they already hold, enabling them to identify individuals.
Research	Original investigation undertaken to gain knowledge, understanding and insight as described in the National Health and Medical Research Council " <a href="#">Australian Code for the Responsible Conduct for Research</a> " 2018.  The concept of research is broad and includes the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative. <sup>2</sup>
Sensitive information	Refers to information that might result in an adverse impact(s) on an individual, the WA health system, the government and/or other third parties.

<sup>2</sup> Source: Australian Code for the Responsible Conduct for Research 2018



Term	Meaning
Use	A person 'uses' information if they utilise, handle, collect or communicate information within the WA health system or employ information for a purpose.
WA health system	Pursuant to section 19(1) of the <i>Health Services Act 2016</i> , the WA health system means the Department of Health, Health Service Providers and to the extent Contracted Health Entities provide health services to the State, the Contacted Health Entities.

## 8. Policy contact

Enquiries relating to this Policy may be directed to:

Title: Assistant Director General  
 Division: Purchasing and System Performance  
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## 9. Document control

Version	Published date	Effective from	Review date	Effective to*	Amendment (s)
MP0015/16	1 July 2016	1 July 2016		1 July 2017	Original version
MP0015/16 v2.0	1 July 2017	1 July 2017	1 July 2020	17 October 2019	Major Amendment Updated to align more closely with the <i>Health Services Act 2016</i> and Health Services (Information Sharing) Authorisations 2017
MP0015/16 v2.1	17 October 2019	17 October 2019	1 October 2022	23 July 2021	Major Amendment Updated to align new principles in the Information Management Policy Framework



MP0015/19 v2.2	23 July 2021	23 July 2021	1 October 2022	29 November 2021	See comments below.
Amendment to pg 37 to Supporting Information – ‘Information Access, Use and Disclosure Policy Resource Compendium’.					
MP 0015/19	29 November 2021	29 November 2021	1 October 2022	Current	See comments below.
Amendment to page 29 of Supporting Information ‘Information Access, Use and Disclosure Policy Resource Compendium’. Removed reference to Data Practice Code document as it is no longer relevant.					

## 10. Approval

This mandatory policy has been approved and issued by the Director General of the Department of Health.

<b>Approval by</b>	Dr David Russell-Weisz, Director General, Department of Health
<b>Approval date</b>	15 June 2017

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