

H31. PRIVACY AND INFORMATION SHARING

Content:	Illawarra Aboriginal Corporation Policies and Procedures
Version:	2.0
Section:	Housing
Applies To:	Board, Management and Staff of all IAC Services
Date:	October 2015 (Review October 2018)

Background and Purpose

The IAC's Housing policies articulate our aims, goals and philosophies in providing housing services for Aboriginal tenants and their families. They explain how the Illawarra Aboriginal Corporation works with its staff and other agencies to ensure that our tenants are afforded the best and most appropriate services and that we meet all of the requirements of the Aboriginal Housing Office and the Office of Community Housing.

Background

The Illawarra Aboriginal Corporation and all state public sector agencies, statutory bodies, declared authorities and local councils must meet the requirements of the Privacy and Personal Information Protection Act, 1998 and the Health Records and Information Privacy Act, 2002 in the collection, use, storage and disclosure of personal and health information.

The Privacy and Personal Information Protection Act, 1998 commenced on 1 July 2000. The Act broadly covers the areas of collection, use, storage and disclosure of all personal information except health records.

The Health Records and Information Privacy Act, 2002 commenced on 1 September 2004. This Act covers the areas of collection, use, storage and disclosure of health records and applies to organisations that collect, hold or use health information, and makes provision for the protection of that information.

The purpose of this policy is to explain the circumstances under which the Illawarra Aboriginal Corporation collects, uses, stores and discloses personal and health information and under which circumstances the IAC will share information with other government and non-government agencies.

IAC Commitment

The IAC respects the privacy of its clients. The IAC will:

- ensure that staff are trained in and understand how to protect tenants' and applicants' privacy and confidentiality
- ensure that tenants are able to access their personal information held by the IAC once references to third parties are removed
- collect personal and health information for a proper and lawful purpose in order to provide services
- collect personal information in a private interviewing area
- collect personal and health information directly from the client, unless it is unreasonable or impractical to do so, or the client has consented to it being collected from someone else
- ensure the information collected is relevant, accurate, up to date, complete and not excessive or misleading
- inform clients what and why information is collected, how it will be used and who it may be given to
- not keep personal or health information for longer than necessary
- ensure the information collected is securely stored
- do all that is reasonable in the circumstances to prevent loss, unauthorised access, use, modification or disclosure and misuse

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IAC Commitment (cont)

The IAC will also:

- only disclose information to other agencies or persons which identifies clients:
 - ◊ if the disclosure is directly related to the purpose for which the information was collected and there is no reason to believe that the person concerned would object
 - ◊ if the person to whom the information relates was informed when the information was collected that it would be disclosed in this way
 - ◊ if it is reasonably believed that the disclosure is necessary to prevent or lessen a serious and imminent threat to any person's health, safety or life
- ensure compliance with the privacy principles except:
 - ◊ where the person to whom the information relates has provided informed consent
 - ◊ If lawfully authorised or required to do so under the Privacy Act, by legislation, or a Privacy Code of Practice, and if available, supported by a Service Agreement, Memorandum of Understanding or similar document.

Personal information

Personal information is information, or opinion, about a person that discloses their identity, such as written records or photographs. It can also include information about a person's ethnic or racial background, political opinion, criminal history, religious belief or sexual preference.

Health information

Health information is personal information that specifically relates to:

- a physical or mental health disability that a client has at any time
- express wishes about the future provision of health services to a client
- a health service provided, or to be provided, to a client

Collecting Information

The IAC will not collect information unless it is for a proper and lawful purpose. Information is collected so that various housing services can be provided. In most situations, clients will be advised why the IAC is collecting personal information, and who else will receive this information. The IAC may decide not to provide this advice to clients if:

- the client does not want this advice
- the IAC is not legally required to provide it

Holding Information

The IAC will keep information for as long as housing services are provided. While holding information, the IAC will ensure that it is protected and made as secure as possible from loss, unauthorised access, use, modification, disclosure and misuse.

A client who has been given access to a document held by the IAC may apply to make changes to those records if:

- the document contains information about the client's personal affairs
- the information is available for use by the IAC in connection with its administrative functions
- the information is, in the client's opinion, incomplete, incorrect, out of date or misleading

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Using or disclosing Information

The IAC will only use or disclose personal and/or health information for the purpose for which it has been collected (or another purpose that is directly related to the purpose for which it was collected), unless:

- the client has consented to its use or disclosure for another purpose.
- the IAC has reasonable grounds to believe that it is necessary to:
 - ◊ lessen or prevent a serious and imminent threat to the life, health or safety of a client, or of someone else
 - ◊ lessen or prevent a serious threat to public health or safety
 - ◊ meet its legal obligations to protect the public revenue
 - ◊ respond to information requests from the Housing Minister on a matter
 - ◊ meet its obligations in relation to the safety, welfare or wellbeing of a child or young person under the Children and Young Persons (Care and Protection) Act 1998.
- the IAC requires the information for reasons such as:
 - ◊ conducting surveys about client satisfaction and issues relating to long term service enhancement
 - ◊ the training of IAC staff
 - ◊ where it is reasonably necessary for research or the compilation of statistics in the public interest
 - ◊ where it is reasonably necessary for funding, planning or evaluating the provision of a health service provided in partnership with the IAC

Health information will only be included on any computerised system linking the IAC to other organisations with the client's consent, unless the IAC is permitted to do so by another Act or law.

Exceptions to Privacy Principles

... under the Privacy Act for collecting, using disclosing or exchanging personal and/or health information when other agencies or organisations are involved

The IAC will ensure compliance with the privacy principles and may only otherwise exchange personal and/or health information with other agencies if the exceptions to the privacy principles apply, that is:

- where the person to whom the information relates has provided informed consent
- where lawfully authorised or required to do so by legislation, or a Privacy Code of Practice, and if available, supported by a Service Agreement, Memorandum of Understanding or similar document in place

For child protection purposes, the IAC may also lawfully exchange certain information under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998. In this situation, the IAC will only provide as much information about a client as is relevant.

Working with other agencies

Many IAC clients have dealings with other agencies, including government and non-government agencies and support groups. The IAC co-operate with these other agencies to seek the best outcomes for the client. We will also make our clients aware of the services provided by these agencies and groups where appropriate.

An interagency approach is often essential when working with clients, particularly when ensuring the safety, welfare or wellbeing of a child or young person. The IAC will work with other agencies to strengthen partnerships recognising the importance of providing appropriate support to families earlier, to prevent children and young people requiring statutory child protection intervention.

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Working with the Police

The IAC aims to assist the Police to:

- maintain law and order in and around IAC properties
- develop and implement crime prevention and community safety strategies

When appropriate, The IAC will:

- provide information that the Police need in order to carry out their duties, for example, to investigate a criminal activity or to manage a serious incident that threatens life or property
- provide information to Police when subpoenaed, unless the information is not in the public interest. In these cases, the IAC will lodge an appeal not to provide the information
- cooperate with the Police to investigate a crime or offence alleged to have occurred within IAC premises
- seek information from the Police if an offence is related to a tenancy matter

Working with the Department of Health

The IAC will work with the NSW Department of Health, Housing NSW, NSW Department of Community Services, the NSW Aboriginal Housing Office, the Aboriginal Health and Medical Research Council of NSW and the NSW Office of Community Housing to ensure that mutual clients receive appropriate housing within our capacity that is linked to appropriate mental health support services.

When a client's application for housing assistance is supported by the Mental Health Service, the IAC must be given sufficient information to accurately assess the person's housing needs.

If tenancy issues, such as arrears, property damage or nuisance and annoyance matters cannot be resolved directly with the client because of their state of mental health, the IAC may ask partner agencies to provide assistance to resolve the matter. Clients suspected of having a mental illness that is likely to put their tenancy at risk may be referred to the Community Mental Health Service.

Confidentiality will be fully respected in accordance with applicable law and policy. Any exchange of information will be provided in accordance with specified and agreed privacy protocols and, wherever appropriate, based on the client's written consent.

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Working with Community Services

Community Services (CS) has the responsibility for the care and protection of children under the Children and Young Persons (Care and Protection) Act 1998. Members of the community and mandatory reporters who suspect that a child or young person is at risk of significant harm (the statutory threshold) are required to report their concerns to the Child Protection Helpline.

The IAC has a further role in child protection which is to support the safety, welfare or wellbeing of a child or young person whether or not they are known to Community Services. Under Chapter 16A in the Children and Young Persons (Care and Protection) Act 1998 prescribed bodies including the IAC may exchange information that helps deliver services and supports to assist in the promotion of the safety and wellbeing of children and young people within IAC premises.

Working with Community Services

Community Services (CS) has the power by a notice under section 248 of the Children and Young Persons (Care and Protection) Act 1998 to request existing information relating to the safety, welfare and well-being of a child, an unborn child or a young person. Staff are legally obliged to provide this information to Community Services. Community Services can only collect information that already exists; it can not require staff to collect new information or to undertake a separate assessment and report.

Staff can continue to request information from Community Services about the safety, welfare and wellbeing of a child or young person. Community Services, however, is not required to provide any information requested.

All information concerning a report will be treated in the strictest confidence.

COMPLIANCE

This policy complies with:

- NSW Housing Act 2001
- NSW Residential Tenancies Act 2010

REFERENCES

This policy should be read with:

- **Housing NSW** "Changing a Tenancy Policy"
- **National Regulatory Code** - 1. Tenant and housing services