

PRIVACY AND CONFIDENTIALITY POLICY

Version	1
Date approved	1 July 2013
Authorised by	Julia Hall, Executive Director

SCOPE AND PURPOSE

This policy applies to all personnel, management and Management Committee members of the National Association of Community Legal Centres (NACLC) and includes personnel, management and committees of any separately operating programs of NACLC. This policy governs the manner in which private and confidential information of the people with whom NACLC deals, is gathered or obtained, used and securely stored. This policy conforms to the National Privacy Principles in the *Privacy Act 1988* (Cth).

PRINCIPLES

NACLC is committed to protecting the privacy and confidential information of its clients, staff and others with whom we deal, in the way we collect, store and use information about them. NACLC will not disclose any personal or confidential information about people except in accordance with the law and this policy.

POLICY

Personal Information of personnel, job applicants and individuals who communicate with NACLC

NACLC will meet its legal and ethical obligations as an employer and as a peak body providing services to member organisations. These obligations include, but are not limited to:

- complying with the National Privacy Principles in the *Privacy Act 1988* (Cth)
- respecting the privacy of people who call or otherwise communicate with NACLC
- protecting the confidentiality of any personal information provided to NACLC in the course of NACLC performing its functions as a peak body providing services to member organisations
- ensuring that job applicants and personnel are provided with privacy when they are being interviewed or discussing matters of a confidential nature, or when they provide personal information to NACLC
- ensuring that all personnel, management and Management Committee members are aware of this policy and its implications
- allowing personnel access to their personal records.

If personnel are dissatisfied with NACLC's treatment of their confidential information they should make their complaint to the Executive Director or other appropriate senior staff member in any separately operating program of NACLC. In the event that the complaint concerns the Executive Director, it should be sent to the NACLC Convenor (the Chair of the NACLC Management Committee).

This policy will be supplied to all staff and relevant consultants/contractors on their commencement and will be redistributed to all personnel following any significant amendment.

*Information of Clients of **knowmore** Legal Service*

knowmore is an independent legal service giving free legal advice and related assistance to people who are considering providing information or engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse. **knowmore** is a separate program of NACLC and provides its services through lawyers, specialist counsellors and social workers, supported by administrative staff.

1. Why we collect personal and confidential information

The primary reason **knowmore** collects personal and confidential information is to enable us to provide the best services to clients. We need to know the personal information and the circumstances

of each client so that we can provide legal advice and information relevant to their particular situation. If we can do that, the client is in the best position to make an informed decision about whether they wish to provide information to the Royal Commission and how best to do so, and about any other legal questions they may have. The information we need include names, contact details and details about the person's situation. If we are not able to get this information, we are unable to provide the best quality legal advice.

We also need to collect this personal information in order to satisfy the requirements of the funding agreement for the **knowmore** service. We are obliged to provide data such as the number and types of services delivered and some broad demographic profiles of our clients in order to satisfy the reporting requirements attached to our funding, provided by the Australian Government. We only provide de-identified information to government; we ensure it is not possible to identify any individual client from these reports.

NACLC and the Australian Government, the funding body, may also share some of this de-identified, broad demographic and service data with the Royal Commission itself or some other agencies and researchers, to assist in evaluating the effectiveness of **knowmore's** services, assessing legal needs in the community and in planning future service delivery, or funding for support services.

2. How we will protect the information

- we will ensure privacy for clients when they are being interviewed or discussing matters of a personal or sensitive nature.
- when we collect personal information we will explain to clients why we collect it, who will have access to it, what the consequences are of not providing the information and how the client can get access to their information.
- we will not tell anyone outside **knowmore** about a client's information without their consent, save for the exceptional circumstances we explain in this policy.
- all knowmore staff and management owe a duty of confidentiality to clients of the knowmore service and they are all informed of this obligation and this policy upon commencing work.
- **knowmore** will take all reasonable measures to protect the security of your personal and confidential information from loss, unauthorized access, use, modification or disclosure. Our information technology service provider has a signed confidentiality agreement with NACLC. Our hard copy records are kept securely. If we are travelling with any client records or information, we will take steps to protect its confidentiality.

3. Disclosure of personal and confidential information

knowmore staff will not disclose to any person outside the service, information provided by clients that is confidential or that would lead to identification of the client, their legal matter, or the facts giving rise to their legal matter, except:

- (a) with the client's consent, or
- (b) to our professional indemnity insurer, if necessary for insurance purposes, or
- (c) if required by law, such as under compulsion of a subpoena; or
- (d) as authorized by law, including:
 - i. to avoid the probable commission of a serious criminal offence
 - ii. to protect a child or another person from the risk of serious harm.

knowmore employs social workers and counsellors to deliver support and counselling services to clients who need that support. Our social workers and counsellors are subject to laws in all states and territories of Australia, and ethical obligations imposed by their codes of conduct and professional standards, that require reporting of information to relevant government authorities about possible incidents of child abuse or risks to children. This policy provides notice to clients that if they are dealing with our counsellors or social workers and they provide information to them that suggests that a child is currently experiencing or is at risk of abuse, including neglect, this may enliven our counsellors' reporting obligations.

This applies in any situations where a client may be receiving assistance from a counsellor or social worker, including in the presence of a lawyer and for the purposes of receiving legal advice. In those situations we will seek to explain to clients, before engaging a counsellor or social worker, that these obligations apply.

If we are seeking a clients consent to provide their personal information to another agency for a purpose such as to assist them with receiving other support services, we will discuss with the client the proposed referral to other programs or agencies, and explain that their information will only be released to these services they agree. We will obtain a client's written consent for this referral in circumstances where we are meeting with them, and they can obtain a copy of this consent form upon request. If we are dealing with a client over the telephone and it is not possible to obtain written consent we will note, where relevant, that we have explained the proposed referrals and are satisfied that they understood the proposed use and disclosure, and have provided informed consent.

4. Access and correction

Clients may ask for access to their personal information and any reasonable request will be met as soon as/and in a manner that is practicable. Clients may ask staff to correct any factual information about themselves that they believe is incorrect.

5. Storing and destroying records

- when **knowmore** finishes assisting a client, any original documents the client has supplied (e.g. medical reports) will be returned to the client (unless the client cannot be contacted in which case they will be kept on file for 7 years).
- **knowmore** will keep all records relating to a client for at least 7 years after which time they may be destroyed without notice to the client.
- where a file is opened for a client, the client will be asked to sign an authority authorising the destruction of the file after 7 years.

6. Complaints

If a client is unhappy with the privacy or confidentiality of **knowmore**, they may complain to the Principal Lawyer of the Service. Contact details are on the Service's website.

Documents related to this policy	
Forms	A client document destruction authorisation form Client consent to share information form
Legislation or other requirements	<i>Privacy Act 1988</i> (Cth) <i>Revised Professional Conduct and Practice Rules 1995 (Solicitors Rules)</i> (NSW) or equivalent rules and legislation in other States and Territories <i>Evidence Act 1995</i> (NSW) Codes of Ethics of the Australian Association of Social Workers and the Psychotherapy and Counselling Federation of Australia
Related policies	Code of Conduct and Ethics Policy NACLC Risk Management and CLC Practice Guide

Reviewing and approving this policy		
Frequency	Person responsible	Approval
Every 2 years or as required	Executive Director	Executive Director

Policy review and version tracking			
Version	Date Approved	Approved by	Next Review Due
1	1 July 2013	Julia Hall, Executive Director	31 January 2015
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