

## Policy and Procedure - Australian Privacy Principles (APPs)

QP 4.1

Version 4

Date: May 2024

Authorised :Board

ABN: 48 603 486 442

### Policy

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New England North West Health Ltd (Trading as HealthWISE New England North West) will be referred to as HealthWISE for the purposes of this document. HealthWISE recognises that Information Privacy is extremely important and that we are under a legal obligation, within the bounds of the Australian Privacy Principles (APPs), to protect the integrity of personal and sensitive information that is captured, held or managed by our organisation.

The policy is intended as a guide for HealthWISE staff and stakeholders, as well as citizens of the broader community.

### Background

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In accordance with The Privacy Amendment (Enhancing Privacy Protection) Act 2012, The Privacy Regulation 2013 and the introduction of the Australian Privacy Principles (APP) the Policy was updated in 2014 to comply with relevant legislation.

### Scope

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This policy is available to all staff and stakeholders and relevant staff training will be undertaken in relation to the appropriate handling of personal and sensitive information by staff and contractors within our organisation.

This policy is a public document and access to it will be granted via the HealthWISE website and otherwise on request. Any enquires or complaints relating to this Policy or practices of the HealthWISE, should be directed to the HealthWISE Privacy Officer:

Chief Executive Officer  
New England North West Health Ltd - HealthWISE  
PO Box 1916  
Tamworth NSW 2340  
Ph: (02) 6766 1394

### Definitions

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**Personal Information:** defined in the Privacy Act 1988 to mean information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Sensitive Information:** is a subset of personal information and is defined in the Privacy Act 1988 to mean information or an opinion about an individual's health information; and biometric or genetic information about an individual that is not otherwise health information.

Sensitive information also includes information or an opinion about an individual's - racial or ethnic origin; political opinions; membership of a political association; religious beliefs or

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affiliations; philosophical beliefs; membership of a professional or trade association; membership of a trade union; sexual preferences or practices; or criminal record.

**Health Information:** is defined in the Privacy Act 1988 to mean

(a) information or an opinion about:

- the health or a disability (at any time) of an individual; or
- an individual's expressed wishes about the future provision of health services to him or her; or
- a health service provided, or to be provided, to an individual; that is also personal information; or

(b) other personal information collected to provide, or in providing, a health service; or

(c) other personal information about an individual collected in connection with the donation, or intended donation, by the individual of his or her body parts, organs or body substances; or

(d) genetic information about an individual in a form that is, or could be, predictive of the health of the individual or a genetic relative of the individual.

### Legislation

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HealthWISE complies with the following laws that relate to the management of information and records:

- *Health Records and Information Privacy Act 2002,*
- *Privacy Act 1988,*
- *The Privacy Amendment (Enhancing Privacy Protection) Act 2012,*
- *The Privacy Amendment (Notifiable Data Breaches) Act 2017*
- *Privacy Regulation 2013,*
- *Australian Privacy Principles,*
- *Archives Act 1983,*
- *Freedom of Information Act 1982*
- *Criminal Code Act 1995*
- *Spam Act 2003*

HealthWISE will develop information and records management practices and systems with appropriate evidential characteristics to enable us to demonstrate compliance with these legislative obligations.

### Principles and Procedure

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#### Collection

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HealthWISE will only collect personal information that is reasonably necessary to undertake our programs, activities or functions. The collection of personal information about an individual will only be collected in a fair, lawful and not intrusive manner and directly from the individual wherever possible.

We will ensure that each individual providing personal information is made aware of their options for providing personal information (e.g. anonymity and pseudonymity), what happens

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if a person does not provide the necessary information, the purpose of collecting the information, to whom or under what circumstances their personal information may be disclosed to another party, and how the individual may obtain access to, and seek correction, of the information held about them by our organisation.

In the event that unsolicited personal information is received , the organisation will take relevant steps to determine whether the information could have been reasonably collected. If the organisation could not have lawfully collected the unsolicited information, then where lawful and reasonable to do so, it will be destroyed or de-identified as soon as practicable.

## **Use and Disclosure**

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HealthWISE will only use or disclose personal information for the purpose it was collected; unless the individual has consented to the use or disclosure of the information, or the secondary purpose is related to the primary purpose and a person would reasonably expect such use or disclosure.

This may include situations for example, in accordance with the Australian Privacy Principles, where:

- The use of personal information for a secondary purpose that is related, or directly related, to the primary collection purpose;
- The use or disclosure of personal information is for direct marketing in specified circumstances;
- Circumstances related to public interest such as law enforcement and/or public or individual health and safety.

The organisation will obtain the consent of an individual before using or disclosing personal information for the purpose of direct marketing, as per the conditions established under section 7.4 of the Australian Privacy Principles. Our organisation will keep records of any such use and disclosure.

Individuals will be given the opportunity to refuse such use or disclosure. If an individual is physically, mentally or legally incapable of providing consent, a responsible person may be able to lawfully provide consent on their behalf.

If the organisation reasonably believes that the use or disclosure of personal information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body, then a written note will be made of the use or disclosure.

## **Data Quality**

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HealthWISE must take reasonable steps to make sure that the personal information it collects uses or discloses is accurate, complete and up-to-date. For information use and disclosures, there will be reasonable steps taken to ensure that personal and sensitive information is accurate, up-to-date, and complete as well as relevant, having regard to the purpose of that use or disclosure.

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### Data Security

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Reasonable steps must be taken to protect the personal information it holds and uses from misuse and loss and from unauthorised access, interference, modification or disclosure.

All personal information held by HealthWISE will be subject to:

- If in paper form, received and stored in a secure, lockable location;
- If in electronic form, received and stored in secure database(s) that are password and firewall protected;
- Access restrictions that are based on factual information and relevant regulatory requirements;
- Not being removed from HealthWISE offices unless authorised by relevant Manager in conjunction with a specified purpose;
- HealthWISE will take reasonable steps to destroy or permanently de-identify personal information that is no longer required to be held by our organisation in accordance with relevant legislation.

In the event that personal information is required to be transferred to an assisting external health provider in conjunction with services being offered to the client, then everything reasonably within the power of our organisation will be done to prevent the unauthorised use or disclosure of that personal information. This may include the use of secure messaging services.

### Openness and Transparency

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This policy will be made available, free of charge, to any person upon request. Where reasonable, this policy will be provided in the form that the individual or body requests. A general statement describing HealthWISE's approach to information privacy will also be publicly accessible via the HealthWISE website, along with the provision of links that enable citizens to provide feedback and/or request a copy of our Privacy Policy.

In conjunction with operational Information and Records Management frameworks, policies and strategies, the Privacy Policy will ensure that our organisation maintains its compliance with the Australian Privacy Principles (APPs) and any registered APP code that binds the organisation.

The operational *Complaints Management Policy* and associated *Complaints Handling Procedure* outline relevant ways in which the organisation handles enquiries or complaints from individuals, including complaints made in relation to Information Privacy.

If you would like to complain about a matter pertaining to information privacy, or a potential breach of the APPs, then you should contact, in the first instance, HealthWISE Privacy Officer, whose contact details are identified on the first page of this policy document.

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### **Access and Correction**

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The organisation must consider all reasonable lawful requests for individual access to personal information held about that individual. If a client requests information about their treatment, this may be done without escalation by completion of a *Clinical Record Access Application Form*. In this instance, the information which may be provided can include:

- Letter of attendance
- GP correspondence (with GP approval)
- Original referral documentation.

The transfer of medical record information to another healthcare provider can be done directly to that provider at the patient's lawful request via the use of secure messaging services and encrypted data.

If more detailed information is required by an individual, the following procedure applies:

#### **Procedure:**

Requests for access to medical records are completed via the *Clinical Record Access Application form for HealthWISE*. The application will be considered by the Integrated Care Manager.

For all applications, we will review the request to determine if there is a lawful reason to refuse the request. As an example, the following reasons may be considered:

- There is a threat or potential threat to a person's health, safety or wellbeing by releasing the information
- Access to information may create an unreasonable impact on the privacy of others
- The request is deemed frivolous or vexatious
- Access to the information has been granted previously
- There are existing or anticipated legal dispute resolution proceedings
- Denial of access is required by legislation or law enforcement agencies.

If the application relates to a child and the applicant is the non-custodial parent or if the application is for records of a client who is known to be deceased, the decision to provide the information will be reviewed by the appropriate Executive Manager and legal advice may be sought. HealthWISE must make reasonable inquiries to confirm the applicant's identity and relationship to the person to whom the information relates (eg. court order, parenting plan or statutory declaration).

In accordance with the conditions established by the APPs, the organisation may at times lawfully refuse access to personal information held by us. If information is withheld by us, we will provide an explanation to the individual as to the reasons why this was the case.

Under normal circumstances HealthWISE will provide an individual with access to their personal information within 30 days of receiving a reasonable request for access. In accordance with the APPs, we reserve the right to charge an administration fee to an individual(s) for providing access to the individual's personal information. This charge however must not be

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excessive, and will not apply to the making of the request. The individual(s) will be notified of the cost of the administration fee, if applicable, at the time of lodging the request.

Where relevant, the provision of lawful access to a person's personal information will be undertaken in a way that is appropriate to the person's particular circumstances, e.g. use of interpreters, via an intermediary etc.

If an individual believes and can verify that information held by our organisation is inaccurate or incomplete, HealthWISE will take reasonable steps to amend or correct the information.

If the organisation corrects personal information about an individual and we have previously disclosed this information to another APP entity, we must take reasonable steps to notify the other APP entity of the correction, where that notification is requested by the individual.

In the event that our organisation refuses to make a correction, and an individual requests that a statement be attached to the record stating that the information is inaccurate, out-of-date, incomplete, irrelevant or misleading, then under general circumstances we will attach this statement in a way that will make the statement apparent to users of the information.

In accordance with the APPs, if an individual to whom the personal information relates lawfully requests us to correct the information, then there will not be a charge to the individual for making the request, or for correcting the information or for associating a statement with the personal information.

### **Identifiers**

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HealthWISE will not adopt, use or disclose a government related identifier of an individual as its own identifier of the individual unless an exception applies. For example, Medicare or Veterans Affairs numbers will not be used to identify personal information.

### **Anonymity**

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Where it is lawful and practicable to do so, HealthWISE will allow individuals to provide information anonymously or via the use of a pseudonym. The following considerations will also be taken into account:

- An individual who chooses to access the services of HealthWISE anonymously will be advised of any potential consequences resulting from their decision (For example, the lack of a contact name or address may jeopardise care in an emergency situation);
- We will not automatically preclude an individual from participating in the activities of HealthWISE because they request anonymity or pseudonymity.

### **Trans border Data Flows**

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At present the organisation does not regularly maintain and/or disclose personal information to overseas recipients or transfer personal information outside of Australia. In the event that our organisation does lawfully maintain and/or disclose personal information to overseas

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recipients we will advise relevant clients accordingly and also, where practicable, advise which countries these recipients are likely to be located.

HealthWISE will only transfer personal information about an individual to someone who is in a foreign country if:

- The individual consents to the transfer; or
- We are reasonably sure that the information will not be held, used or disclosed inconsistently with the Australian Privacy Principles and associated requirements.
- Circumstances related to public interest such as law enforcement and/or public or individual health and safety prompt such use or disclosure.

### **Sensitive Information**

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HealthWISE collects a wide variety of information, including data relating to regional health service providers, population health statistics and individual personal/sensitive information from clients that utilise our health services.

Due to the wide array of client programs and services offered by our organisation to citizens of the community, the vast majority of personal information collected by our organisation falls into the category of 'sensitive information'.

In accordance with the APPs, and our non-profit organisational status, HealthWISE will lawfully collect sensitive information about an individual when:

- The individual consents to the collection of the information.
- The information relates to the activities of the organisation.
- The information relates solely to the members of the organisation, or to individuals who have regular contact with the organisation in connection with its activities; or
- An exception provided by the APPs allows us to lawfully obtain the sensitive information.

### **Document Control**

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The electronic version of this Policy Document stored on HealthWISE Intranet and HealthWISE website is the controlled version.

Printed or hard copies of this Policy document are uncontrolled.

Before using or relying on a printed or hard copy of this Policy document, the user must verify that it is the current version.

### **Source Documents and Cross Reference**

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Australian Privacy Principles (APPs)

Health Records and Information Privacy Act 2002

Privacy Act 1998

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The Privacy Amendment (*Enhancing Privacy Protection*) Act 2012  
The Privacy Amendment (Notifiable Data Breaches) Act 2017  
Privacy Regulation 2013  
Australian Privacy Principles  
Archives Act 1983  
Freedom of Information Act 1982  
Criminal Code Act 1995  
HealthWISE Clinical Record Access Application Form  
Complaints Management Policy  
Complaints Handling Procedure  
Information and Records Management Framework  
Information and Records Management Policy  
Information and Records Management Strategy

### Revision History

The following table shows the changes that have been made to this document.

<b>Author</b>	<b>Version</b>	<b>Date</b>	<b>Reviewed by...</b>	<b>Comments</b>
Christine Kershaw	1	August 2015	Fiona Strang	Approved by the Board October 2015
	2	May 2017	Christine Kershaw & Alicia Pratt For NDIS 3 <sup>rd</sup> Party Verification	Approved by the Board 2 November 2017
Debi Richardson/ Brent James	2a	September 2018	Christine Kershaw, Lynn Hall	Adapted to incorporate Notifiable Data Breach Amendment
	3	June 2021	Melissa Cavallaro & Christine Kershaw	
	4	May 2024	Melissa Cavallaro,	Approved

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**Update Schedule**

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This document shall be reviewed by May 2027. Reviews should also be undertaken after significant changes such as restructure or changes in the regulatory environment.