

## Client Confidentiality Procedure

Application	All Thorne Harbour Health staff, contractors, volunteers (including Board members) and students on placement (this includes SAMESH)
Exceptions	None
Legal and regulatory framework	Health Records Act 2001 (Vic) Privacy and Data Protection Act 2014 (Vic) Privacy Act 1988 (Cth) incorporating the Notifiable Data Breaches (NDB) Scheme Freedom of Information Act 1982 (Vic) My Health Records Act 2012 (Cth)
Contractual requirements	DHHS Centrelink Confirmation eServices (CCeS)
Standards	<b>QIC</b> Standards (7 <sup>th</sup> ed): 2.2 Human resources, 2.4 Knowledge management, 3.2 Consumer and community involvement (3.2.4), 5.2 Focusing on positive outcomes (5.2.5) <b>HSS</b> Standards: 1 Empowerment <b>RACGPS</b> Standards (5 <sup>th</sup> ed): Standard C6.3 Confidentiality and privacy of health and other information; C6.4 Information Security; GP2.3 Engaging with other services <b>NDIS</b> practice standards: 2.4 1, 2.4 2
Related policy	THH Privacy and Confidentiality Policy THH NDIS Incident Management and Reporting Policy and Procedure
Related templates, forms and documents	THH Client Confidentiality Agreement for Staff and Volunteers THH client consent The Centre Clinic, Equinox and PRONTO! consent forms THH Privacy Statement Request to Access Client Care Records form THH Client Confidentiality Framework
Other Associated policies and procedures	THH Complaints and Feedback Policy and procedure THH Client Access to Client Care Records Procedure Staff Code of Conduct Volunteer Code of Conduct Notification of Privacy Breaches Work Instruction Penelope (CMS) instructions

### 1. Purpose and Scope

Thorne Harbour Health is committed to protecting the privacy and confidentiality of clients' personal, health and sensitive information (henceforth referred to as *client information* in this procedure).

The purpose of this procedure is to ensure that:

- Client information is kept confidential to clients, to the Thorne Harbour Health staff, contractors, students and volunteers assisting them, those managing client records and their supervisors, and to others at Thorne Harbour Health who need to know for other approved purposes as outlined in section 3.1 below

Document Name: THPROC_Client_Confidentiality_Procedure_v2.1_20200922		
File location: F:\Quality\POLICY REV AND DEVT\Privacy and confidentiality\THPROC_Client_Confidentiality_Procedure_v2.1_20200922.docx		
Version number: v2.1	Procedure author: Quality & Accreditation Coordinator	
This version is: Minor Updates	This version approved/effective from: 26/7/2018	
Procedure author: Quality & Accreditation Coordinator	Procedure authoriser: Director of Services	
Last minor amendment: N/A	Last reviewed: 30/6/2016	Next review due: 26/7/2021

- The limitations to client confidentiality are understood, including the circumstances under which:
  - Client access to all or part of the information Thorne Harbour Health holds on them may be refused
  - Client information may be disclosed without consent

All Thorne Harbour Health staff, contractors, students and volunteers are to comply with this procedure.

## 2. Definitions

*Confidentiality* applies to information given to a person or organisation under an obligation not to disclose that information to others unless there is a statutory requirement or duty of care obligation to do so.

*Health information* refers to any information relating to a person's physical, mental or psychological health or disability.

*Informed consent* is consent given on the basis of having:

- The capacity to give informed consent
- Been given adequate information to enable an informed decision
- Been given a reasonable opportunity to make the decision
- Given consent freely without undue pressure or coercion by any other person
- Not withdrawn consent or indicated any intention to withdraw consent

(DHHS, Informed Consent. *health.vic*)

*Personal information* refers to any information that may identify a person. Personal information includes a person's name or address, and can include photos, credit history information, bank details, where a person works and any other information that could reasonably identify them.

*Sensitive information* may refer to information including a person's race, ethnicity, political opinions, membership of political associations and trade unions, religious or philosophical beliefs, sexual preferences, health and genetic information or criminal records.

*Supervisors* at Thorne Harbour Health are Team Leaders, Managers and Directors. Each of these roles involves direct supervision of staff, volunteers or students-on-placement.

## 3. Procedure

### 3.1 Consent to collect, use and share client information

Informed consent, in writing or verbal, must be obtained from clients using Thorne Harbour Health services at intake or as soon as possible after, in order to:

- Collect and use their information, and to
- Share their information with other services and agencies. Then, only essential and relevant details are to be shared.

Thorne Harbour Health services are to provide the following information to clients about the way Thorne Harbour Health handles their information:

- Purpose of collecting their client information
- How it will be used
- To whom information may be transferred and under what circumstances

- Limits to privacy and confidentiality of client information
- How clients can access or amend their information
- How clients can make a complaint if they feel their privacy or confidentiality has been breached

Where verbal consent has been obtained, this must be recorded in the designated location in the Client Record (refer to section 6. below).

Client consent to Thorne Harbour Health services collecting and sharing their information is time-limited. Consent must be re-obtained periodically where information is to be shared, and a record kept of the client's updated consent status.

Clients' informed consent in writing is to be obtained for the collection and use of their audio (including transcripts) or visual images (including photographs, video, digital or artistic images). This consent must be collected prior to generating the material for promotional, media, advocacy or service-related purposes.

Clients have a right to withdraw their consent to the collection or use of all or part of their information, no matter the format, at any time. If a client requests to withdraw their consent, the supervisor or relevant staff member from the service/program concerned is to:

- Discuss the reasons for withdrawal and any implications for service/program provision with the client
- Record the client's decision in the client's contact notes and other relevant places in the Client Record

### **3.2 Collection and use**

Client information may only be collected and used for the purposes for which it has been collected. These purposes may include:

- Providing a service to the client
- Referral to other services
- Handling a complaint
- Incident management and reporting
- Service/program planning
- Advocacy
- Service/program evaluation
- Auditing
- Research

Only de-identified and non-identifiable client information or feedback may be used in Thorne Harbour Health research, evaluation or review reports and discussions.

Copies of confidential client information may only be made if necessary:

- For an above purpose, and the risks have been considered and mitigated, or
- To meet legal or contractual requirements (as detailed in sections 3.3 and 3.4).

Wherever it is lawful and practicable, individuals will have the option of using an alias.

As required by the Australian Privacy Principles (2014) contained in the Privacy Act 1988, Thorne Harbour Health will not adopt a government assigned individual identifier number e.g. Medicare number as if it were its own identifier/client code.

### **3.3 Access and Correction**

Clients have a right to access and correct their personal information held by Thorne Harbour Health. Refer to the Thorne Harbour Health's *Client Access to Client Care Records Procedure* for further details.

### **3.4 Disclosure without consent**

Client personal, health or sensitive information may only be disclosed without the client's consent in the following circumstances:

- It is required or authorised by law (e.g. subpoenaed by a Court, requested under FoI or the My Health Records Act 2012 (Cth)) or to meet contractual requirements, for instance, DHHS<sup>1</sup> or Centrelink Confirmation eService (CCeS)<sup>2</sup> contractual requirements.
- It will prevent or lessen a serious and imminent threat to somebody's life or health.

### **3.5 Secure storage, archiving and destruction**

Client information will be protected against loss, unauthorised access, use, modification or disclosure and against other misuse.

All client records will be kept securely in password-protected electronic client record systems, electronic folders and/or locked filing cabinets, to be accessed only by Thorne Harbour Health staff and volunteers with authority to do so.

The records of inactive clients are to be securely archived for the period required under the *Health Records Act 2001* after which time they may be safely destroyed<sup>3</sup>.

### **3.6 Security measures**

The following physical, technical and administrative security measures are to be enacted across Thorne Harbour Health.

Physical measures

- Locking filing cabinets and unattended storage areas
- Physically securing the areas in which the personal information is stored
- Not storing personal information in public areas

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<sup>1</sup> DHHS policy and funding guidelines 2018 Vol 2 Health Operations 2018-19 Ch 4 Conditions of funding 4.11.1 Privacy requires Thorne Harbour Health to comply with the Privacy and Data Protection Act 2014 (Vic), the Health Records Act 2001 (Vic) and other information sharing and privacy obligations imposed by law and related codes and guidelines.

<sup>2</sup> Some Thorne Harbour Health services access the Centrelink Confirmation eService (CCeS) to confirm client income information. Maintaining access to CCeS requires that Thorne Harbour Health complies with the *CCeS Policy* and *CCeS Terms* including around client confidentiality and obtaining clients' informed consent prior to accessing their information. Under the CCeS Terms, Thorne Harbour Health is obliged to make relevant client records available for CCeS auditing.

<sup>3</sup> The Health Records Act 2001 requires organisations to retain and securely store the records of adult clients for at least 7 years and the records of child clients (under the age of 18) until the child reaches 25 years of age.

- Positioning computer terminals and fax machines so that personal information cannot be seen or accessed by unauthorised people or members of the public
- Not transferring client records off Thorne Harbour Health sites unless necessary (refer to 3.6.1 below)

#### Technical measures

- Using passwords to restrict computer access, and requiring regular changes to passwords
- Establishing different access levels so that not all staff can view all information
- Ensuring information is transferred securely (for example, not transmitting health information via non-secure email)
- Using electronic audit trails
- Installing virus protections and firewalls
- Thorne Harbour Health control over mobile devices (refer to Thorne Harbour Health's *Mobile Devices Policy*, for further details)

#### Administrative measures

- Routinely informing staff, volunteers, contractors, students and Board members about the importance of client confidentiality and our privacy and confidentiality policies and procedures during induction
- Providing easy access to privacy and confidentiality policies and procedures on the staff intranet
- Requiring staff, volunteers, contractors, students to read and sign the Thorne Harbour Health *Client Confidentiality Agreement for Staff and Volunteers* when they start
- Requiring staff and volunteers and to read and sign the their respective codes of conduct

### 3.6.1 Transporting client records off-site

Client information in paper or electronic form must not be transported out of the office unless authorised and it is necessary to do so (for example, transporting between Thorne Harbour Health sites, to or from client home visits or other off-site service delivery points).

When necessary, the documents should be transported securely in a non-transparent container or password protected electronic device.

Documents must not be left in cars overnight. They must be taken inside and securely locked in a cabinet.

### 3.7 Privacy or confidentiality breaches and complaints

All clients accessing Thorne Harbour Health services will be provided with information about how to make a complaint should they feel there has been a breach of their privacy or confidentiality. Such complaints will be dealt with according to the Thorne Harbour Health *Complaints, Suggestions and Compliments Procedure*.

The Thorne Harbour Health *Complaints, Suggestions and Compliments Procedure* is also to be followed if a complaint about a breach of client confidentiality is received from another agency or individual advocating on a client's behalf.

Where a Thorne Harbour Health member of staff, volunteer, contractor or student has observed a breach of client confidentiality by a colleague, the matter should be raised with:

- The person in breach themselves

- The direct supervisor of the person in breach, or
- The direct supervisor of the person observing the breach.

If this is not possible or appropriate, follow the delegations indicated in the *Thorne Harbour Health Disciplinary Policy and Procedures*

If a staff member, contractor, student or volunteer is found to have breached a client's confidentiality, action will be taken.

### **3.8 Notifiable privacy or data breaches**

Under the national Notifiable Data Breaches (NDB) Scheme, Thorne Harbour Health has a mandatory obligation to notify individuals and the Australian Privacy Commission of certain data breaches. As a DHHS-funded organisation, Thorne Harbour Health is also required to immediately notify DHHS when becoming aware of a breach of privacy of a DHHS-funded client, or a possible breach.

Thorne Harbour Health staff will consult with the NDIS Commission if there is a privacy breach affecting an NDIS participant. Serious breaches may be reportable as incidents under the *THH NDIS Incident Management and Reporting Policy and Procedure*.

Refer to the Thorne Harbour Health *Notification of Privacy Breaches Work Instruction* for further details.

## **4. Communication**

Information and training about the *Client Confidentiality Procedure* will be provided in a range of formats to all Thorne Harbour Health staff, contractors, students and volunteers.

## **5. Review**

The Client Confidentiality Procedure will be reviewed on a three-yearly basis, or more frequently if required.

## **6. Associated forms, templates and other documents**

Thorne Harbour Health *Consent to Share Information Form*

Thorne Harbour Health *Client Confidentiality Agreement for Staff and Volunteers*

Thorne Harbour Health *Staff Code of Conduct*

Thorne Harbour Health *Volunteer Code of Conduct*

DWF *Consent to Access Centrelink Confirmation eServices (CCeS)*

DWF *Authority to Act (Individual)*

Equinox and The Centre Clinic consent forms

PRONTO! *Consent to Communicate Client Information between PRONTO! and Other Services*

PRONTO! *PrEP Clinic Registration Form*

Thorne Harbour Health *Client Confidentiality Framework*

## **7. References and acknowledgements**

Department of Health and Human Services (Vic), *Informed Consent*, health.vic (visited 25/5/2016)

Department of Health and Human Services, *Reporting privacy breaches to the Department* (Fact sheet for funded organisations), September 2017

<https://dhhs.vic.gov.au/search/results/privacy%20incident%20reports>

Department of Health and Human Services, *Privacy incident report form*, November 2017  
<https://intranet.dhhs.vic.gov.au/privacy>

Department of Human Services (Aus) *CCeS Policy* March 2016

Department of Human Services (Aus) *CCeS Terms* March 2016

Department of Human Services (Aus) *Centrelink Confirmation eServices Procedural Guide for Businesses* March 2016

Department of Human Services (Vic), 'Information Privacy', *Business Practice Manual*, Chapter 2, September 2014

*NADA Privacy and Confidentiality Policy template*

Office of the Australian Information Commissioner, *Data breach preparation and response: A guide to managing data breaches in accordance with the Privacy Act 1988 (Cth)*, February 2018  
<https://www.oaic.gov.au/resources/agencies-and-organisations/guides/data-breach-preparation-and-response.pdf>

*Service Agreement 01/01/2016 to 30/06/2018 between the State of Victoria as represented by the Department of Health and Human Services (ABN 74410330756) and Victorian AIDS Council Inc (ABN 52907644835)* Agreement no. 31668 Agreement version # 1 Date: 25/02/2016

*VAC/GMHC Mobile Devices Policy*