## AIHW Ethics Committee

### Undertaking of Confidentiality (s.29) for new applications

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| Project title |  |

### Undertaking made in pursuance of Section 29 of the Australian Institute of Health and Welfare Act 1987

###### Note: This application must be signed by a responsible officer with the authority or delegation to commit the organisation to the terms and conditions in this undertaking (usually the Principal Investigator’s supervisor).

**WHEREAS:**

1. Subsection 29 (2) of the *Australian Institute of Health and Welfare Act 1987* ('the Act') provides for the disclosure of information to a person specified in writing by the Ethics Committee;
2. The Ethics Committee has agreed to release information to you;

NOW I,   
*Full name of Responsible Officer*

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*Position of Responsible Officer*

in the  
*Name of Department or Organisation*

HEREBY UNDERTAKE that the above mentioned organisation will use the information in accordance with the following conditions.

1. The unit record file will not be matched, in whole or in part, with any other information for the purposes of attempting to identify individuals, nor will any other attempt to identify an individual be made.

2. The person/organisation will not disclose or release the information to any other person or organisation, except as statistical information that does not identify an individual.

3. Access to the unit record file will be restricted to only those employees of the organisation who are directly responsible to the Principal Investigator and who have signed below. The Principal Investigator will explain to any employees granted access to the information the provisions of the AIHW Act prohibiting release of the information to others.

4. Access will not be granted to any other organisation without specific approval of the AIHW Ethics Committee.

5. The information will be used for statistical purposes in health and/or welfare research.

6. The information will not be used as a basis for any legal, administrative or other actions that could directly affect any particular individuals or organisations as a result of their identification in this project.

7. The identifying information will be used only for the project proposed and described in this application. Use of any of this information in any other project will not be undertaken until a separate application form has been submitted to, and approved by, the Ethics Committee.

8. The recipient will cooperate with any surveillance procedures established by the Institute or its Ethics Committee and advised to the recipient in writing.

9. Results of the project will be made available for consideration by the Ethics Committee, if it so requests prior to any public release.

10. The Institute will be acknowledged in all reports and publications resulting from this project, and will be provided with a copy of all such reports and publications.

11. The recipient will comply in all respects with the requirements of section 29 of the AIHW Act, (Attachment A) (and of Part lll of (T*he Privacy Act 1988*) including the Australian Privacy Principles.

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| 12. Copyright in all data is vested in the Commonwealth and contributing States and Territories.  13. Any publication (or other means of dissemination) which uses the data must identify the AIHW as the source.  *In providing this undertaking I understand and accept on behalf of the above mentioned organisation that subsection 29(1) of the Australian Institute of Health and Welfare Act 1987 provides that a person who receives information or a document relating to another person and makes a record of, or divulges that information to any person, is guilty of an indictable offence punishable on conviction by a fine or imprisonment or both.* |
| Signature of responsible officer:  Printed name:  Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *This application must be signed by a responsible officer with the authority or delegation to commit the above mentioned organisation to the terms and conditions specified in this undertaking of confidentiality.* Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  All employees of the above organisation who will be granted access to AIHW supplied data must be listed and must agree to comply with the conditions included in this Undertaking of Confidentiality. |

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| Principal Investigator who will have access to AIHW supplied data Name:  Position:  Organisation/Unit:  Signature:  Date: Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Details and signed undertaking of any other person/s who will have access to AIHW supplied dataAdditional Name  Name:  Position:  Organisation/Unit:  Signature:  Date: Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Additional Name  Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Additional Name  Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Additional Name Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Witness Name:  Position:  Organisation/Unit:  Signature:  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Attachment A**

An extract from the *Australian Institute of Health and Welfare Act 1987*

**29 Confidentiality**

(1) Subject to this section, a person (in this subsection called the ***informed person***) who has:

(a) any information concerning another person (which person is in this section called an ***information subject***), being information acquired by the informed person because of:

(i) holding an office, engagement or appointment, or being employed, under this Act;

(ii) performing a duty or function, or exercising a power, under or in connection with this Act; or

(iii) doing any act or thing under an agreement or arrangement entered into by the Institute; or

(b) any document relating to another person (which person is in this section also called an ***information subject***), being a document furnished for the purposes of this Act;

shall not, except for the purposes of this Act, either directly or indirectly:

(c) make a record of any of that information or divulge or communicate any of that information to any person (including an information subject);

(d) produce that document to any person (including an information subject); or

(e) be required to divulge or communicate any of that information to a court or to produce that document in a court.

Penalty: $2,000 or imprisonment for 12 months, or both.

(2) Subject to subsections (2A) and (2B), nothing in this section prohibits:

(a) a person from divulging or communicating information, or producing a document, to the Minister if it does not identify an information subject;

(b) a person from divulging or communicating information, or producing a document, to a person specified in writing by the person (in this subsection called the ***information provider***) who divulged or communicated the information, or produced the document, directly to the Institute;

(c) a person from divulging or communicating information, or producing a document, to a person specified in writing by the Ethics Committee if to do so is not contrary to the written terms and conditions (if any) upon which the information provider divulged or communicated the information, or produced the document, directly to the Institute; or

(d) the publication of conclusions based on statistics derived from, or of particulars of procedures used in, the work of the Institute, if:

(i) to do so is not contrary to the written terms and conditions (if any) upon which an information provider divulged or communicated information relevant to the publication, or produced a document relevant to the publication, directly to the Institute; and

(ii) the publication does not identify the information subject.

(2A) Paragraph (2)(c) applies only to information that is health‑related or welfare‑related information and statistics.

(2B) Paragraph (2)(c) applies to a document only to the extent to which the document contains health‑related or welfare‑related information and statistics.

(3) A person to whom information is divulged or communicated, or a document is produced, under paragraph (2)(a), (b) or (c), and any person under the control of that person is, in respect of that information or document, subject to subsection (1) as if the person were a person exercising powers, or performing duties or functions, under this Act and had acquired the information or document in the exercise of those powers or the performance of those duties or functions.

(4) In this section:

(a) ***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions;

(b) ***person*** includes a body or association of persons, whether incorporated or not, and also includes:

(i) in the case of an information provider—a body politic; or

(ii) in the case of an information subject—a deceased person;

(c) ***produce*** includes permit access to;

(d) ***publication***, in relation to conclusions, statistics or particulars, includes:

(i) the divulging or communication to a court of the conclusions, statistics or particulars; and

(ii) the production to a court of a document containing the conclusions, statistics or particulars; and

(e) a reference to information concerning a person includes:

(i) a reference to information as to the whereabouts, existence or non‑existence of a document concerning a person; and

(ii) a reference to information identifying a person or body providing information concerning a person.