

# Confidentiality Undertaking

made in pursuance of section 29 of the Australian Institute of Health and Welfare Act 1987 (AIHW Act).

The National Drug Strategy Household Survey Confidentialised Unit Record File is released under strict conditions. Failure to observe these conditions may result in a breach of section 29 of the AIHW Act and the penalties that apply for contravening that section (fine or imprisonment, or both).

*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.*

## WHEREAS:

- a) The Australian Institute of Health and Welfare (AIHW) acquires and holds information which is 'health-related information and statistics' or 'welfare-related information and statistics' as defined in the AIHW Act, and that information is subject to the provisions of section 29 of that Act (copy attached).
- b) Subsection 29(2) of the AIHW Act provides for the disclosure of information in accordance with the purposes of the Act. Section 29(2)(b) further specifies that information may be provided to a person specified in writing by the information provider. Such a person becomes an 'informed person' for the purposes of section 29 of the Act.
- c) I may become an 'informed person' within the meaning of section 29 of the AIHW Act, and that criminal penalties apply for improperly divulging or communicating information provided under the Act.

I, \_\_\_\_\_

*Full name of Responsible Officer*

\_\_\_\_\_

*Position of Responsible Officer*

in the \_\_\_\_\_

*Name of Department or Organisation*

**I HEREBY UNDERTAKE** that I will use the information in accordance with the conditions specified below.

1. The confidentialised unit record file (CURF) will not be matched, in whole or in part, with any other information.
2. No attempt will be made to identify an individual or organisation within the CURF.
3. 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.
4. Access to the CURF will be restricted to those listed as authorised to access the data and who have signed below.
5. Data will be stored on a secure server, will be password protected and will not be accessed by anyone who has not submitted a signed confidentiality undertaking.
6. Access to the CURF will not be granted to any other individual or organisation without specific approval of the AIHW.
7. The information will be used for statistical purposes in health and/or welfare research.
8. 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.
9. The recipient will cooperate with any surveillance procedures established by the AIHW and advised to the recipient in writing.
10. The recipient will comply in all respects with the requirements of section 29 of the AIHW Act, (Attachment A) (and of Part III of (The Privacy Act 1988) including the Australian Privacy Principles.
11. Copyright in all data is vested in the Commonwealth and contributing States and Territories.
12. Individual age, sexual orientation, indigenous status, main language, country of birth, industry of employment, occupational status, and pregnancy status will not be crossed tabbed with other demographic or geographic variables (age groups are an exception to this rule). If you wish to do this, you MUST seek approval from the AIHW.
13. All data will be tested for data quality issues. If the estimates have a relative standard error (RSE) between 25-50%, authors must indicate caution in published work; if the RSE is between 51% to 90%, authors must indicate in published work that the estimate has a high level of sampling error meaning that it is unsuitable for most uses; if the RSE is greater than 90%, the estimate must not be used or published.
14. Cell sizes less than five will not be included in any report or publication.
15. Base sizes less than thirty will not be included in any report or publication.
16. I have read the AIHW Policy on reporting to manage confidentiality and reliability, and agree that any publication of data from the NDSHS CURF will comply with the policy.

17. The AHW will be acknowledged in all reports and publications resulting from use of NDSHS data and must identify the AIHW as the source of the data and acknowledge the NDSHS survey.
18. I will provide the AIHW with a copy of all such reports and publications at least 1 week prior to public release. **Please email your research to aod@aihw.gov.au.** Failure to do so may result in your access to the NDSHS CURF being revoked
19. The CURF will be destroyed—when no longer required, within 7 years from the date signed below, or if the organisation ceases operation—whichever is the sooner.
20. If I become aware of a known, or suspected privacy or data breach that relates to information or data that I have been given access to for the purposes of this Undertaking, **I will immediately notify the AIHW at aod@aihw.gov.au and the Australian Data Archive at ada@ada.edu.au.**
21. All applications from outside Australia will be considered on a case-by-case basis. If the data are to be transferred outside of Australia, a customised dataset will need to be prepared and applicants may be charged on a cost-recovery basis. Once the AIHW and the Department of Health and Aged Care have reviewed the application, applicants will be notified if there will be a charge for providing the dataset/s and a quote will be provided if the applicant wishes to proceed.

*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 document 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.

**Details and signed undertaking of any other person/s (e.g. supervisor) who will have access to AIHW supplied data**

*Make additional copies of this page as required.*

**Additional Names**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Organisation / Unit: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Witness**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Organisation/Unit: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Section 29 of the *Australian Institute of Health and Welfare Act 1987*

- (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.