

INFORMATION SHARING ARRANGEMENT

(s.43(1), *Ombudsman Act 1974*)

1. Preface

Part 6 of the *Ombudsman Act* permits two or more relevant agencies to enter into arrangements for the sharing of information held by them. Any such sharing has to be made in accordance with an Information Sharing Arrangement entered into between the parties.

2. Definitions

In this Arrangement the following definitions apply:

- **complaint** means a complaint (however described) that is made to a relevant agency.
- **disclosing agency** means the relevant agency which holds the information and is referring or intending to disclose part or all of the information to another relevant agency.
- **receiving agency** means the relevant agency with which information has or may be shared.
- **relevant agency** means an agency specified in Schedule 1A of the *Ombudsman Act* that is a signatory to this Arrangement.
- **sensitive personal information** in relation to a complainant means information relating to the complainant's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities.

3. Sharing of information

3.1 *Circumstances in which information can be disclosed*

A relevant agency is authorised to disclose information to another relevant agency in the following circumstances:

- where that other relevant agency requests the disclosure of information reasonably necessary to assist that agency to carry out its functions relating to a matter within its jurisdiction;
- where a relevant agency is referring a complaint to another relevant agency pursuant to a Complaint Referral Arrangement entered into pursuant to s.42(1) of the *Ombudsman Act*; or
- where a disclosing agency becomes aware that another relevant agency has received a complaint and the information held by the disclosing agency would assist the receiving agency to carry out its functions;

- where two or more relevant agencies have overlapping or adjunct jurisdictions and those relevant agencies agree that it is reasonably necessary to share information, regularly or in appropriate circumstances, in order for the disclosing agency and/or receiving agency to carry out its or their functions in an efficient manner.

Where a disclosing agency has (or should have) reason to suspect that certain information is or includes sensitive personal information about a complainant, the agency must not disclose the information without the complainant's express consent (which can either be oral or in writing) (s.43(6)).

3.2 *Circumstances in which information can be received*

Information can be received by a relevant agency from a disclosing agency where:

- the information was obtained by the disclosing agency with respect to a complaint dealt with by that agency; and
- the receipt of the information is reasonably necessary to assist the receiving agency to carry out its functions (s.43(2)).

3.3 *Procedures to be followed*

Any request for the disclosing of information must be in writing and nominate an appropriate contact officer.

Where a relevant agency requests information from another relevant agency pursuant to clause 3.1, it shall provide sufficient particulars of the matter to enable that agency to identify relevant information.

3.4 *Confidentiality of information provided*

It is acknowledged that confidentiality is always to be maintained within the statutory framework that exists for each relevant agency.

4. Attendance at investigations or hearings

4.1 *Circumstances in which attendance can be offered*

One relevant agency may authorise another relevant agency to be present during an investigation or hearing conducted by the agency:

- where both agencies are conducting concurrent investigations into or otherwise reviewing related matters, being either related aspects of the same complaint or of different complaints;
- where both agencies are investigating part or all of a complaint referred by one agency to the other pursuant to a Complaint Referral Arrangement entered into pursuant to s.42(1) of the *Ombudsman Act*; or

- where an agency forms the view that the presence of the other agency is reasonably necessary to assist that other agency to effectively carry out its functions

and in each case the authorising agency believes such presence will not prejudice its investigation or hearing.

Where a relevant agency has (or should have) reason to suspect certain information likely to be disclosed during an investigation or hearing will be or include sensitive personal information, the agency must not permit another agency to be present during the investigation or hearing without the complainant's express consent (which can either be oral or in writing) (s.43(6)).

4.2 *Preconditions to acceptance of an offer of attendance*

A relevant agency may accept an offer to be present during an investigation or hearing conducted by another relevant agency where:

- the investigation or hearing is in respect to a complaint; and
- the presence of the agency is reasonably necessary to assist the agency to carry out its functions (s.43(2)).

4.3 *Procedures to be followed*

Any authorisation for a relevant agency or its delegate(s) to be present during an investigation or hearing conducted by another relevant agency must be in writing, signed by the head of the authorising agency or an officer of that agency with appropriate delegated authority.

Any acceptance by a relevant agency of an offer to be present during an investigation or hearing is to be in writing, nominating the delegate(s) of the agency who will attend the investigation or hearing.

Details about the times, dates and relevant locations of investigations or hearings may be provided orally or in writing by the authorising agency.

Any relevant agency, or delegate(s) of a relevant agency, authorised to be present during an investigation or hearing may not intervene in the investigation or hearing (eg, by asking questions or exercising a power of entry) without the prior agreement of the authorising agency or its delegated officer.

5. Public availability of Arrangement

Copies of this Arrangement are to be:

- available for public inspection at the office of each relevant agency during their ordinary office hours (s.45); and
- accessible on the website of each relevant agency.

Amanda Adrian
Commissioner
Health Care Complaints Commission



Signature

6 May 2003

Date

Bruce Barbour
Ombudsman

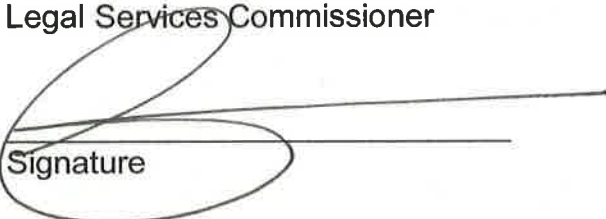


Signature

19 May 2003

Date

Steve Mark
Legal Services Commissioner



Signature

15.05.03

Date

Laurie Glanfield
A/President, Anti-Discrimination
Board



Signature

30 MAY 2003

Date

Maureen Tangney
A/Privacy Commissioner
Privacy NSW



Signature

3 June 2003

Date