



# CONFIDENTIALITY AGREEMENT

Australian Association of Social Workers (AASW) Ltd

All parties involved in the AASW Ethics Complaints Management Process (ECMP) are required to maintain strict standards regarding confidentiality. In this Agreement, the term Confidential Information means all information in any form or medium relating to a Complainant or a Respondent, their family, support persons, witnesses, or workplace, and pertains to all materials and proceedings, including the Respondent's written response, the Hearing, the Hearing Panel Report, appeals, discussions, associated correspondence, and outcomes.

The restrictions do not apply to:

- A party's right to confer with legal counsel
- A party's right to submit the same complaint to another complaint system or organisation. If you wish to submit the same (or similar) complaint to another body, you are permitted to use the content/information you already had about the matter, but you are not permitted to use any information relating to the AASW's investigation and determination of the complaint.

In order to participate in the AASW ECMP, all parties are required to sign the following Confidentiality Agreement.

## STATEMENT OF UNDERSTANDING

- I understand, accept and will respect the confidential nature of all my dealings in relation to the ECMP
- I will keep the Confidential Information secret and confidential at all times
- I will not use the Confidential Information except to carry out the responsibilities of my role as a participant in this matter
- I will not disclose any Confidential Information to anyone except those members/consultants of the AASW who need to receive that information for the Ethics Complaints Management Process, and then only to the extent needed for each such person
- I will not copy or distribute, to any person or organisation, any documents, materials, media or other things recording, containing, setting out or referring to any Confidential Information
- My obligations set out in this agreement continue beyond my role in the AASW ECMP

## ALLEGED BREACHES OF CONFIDENTIALITY

Either party to a complaint may inform the Hearing Panel and/or National Ethics Panel and/or National Ethics Officer that he or she believes information is being revealed unnecessarily. The AASW may then take whatever action it deems appropriate to remedy the concern.

Breaches of confidentiality may result in letters of warning, a termination of proceedings, or the voiding of the process. A decision to terminate proceedings may be appealed by either participant.

- a) Breaches of confidentiality by a Respondent may result in a new complaint filed against the Respondent under relevant sections of the *AASW Code of Ethics* (such as section 4.6e Responsibilities to the profession, from the 1999 edition).
- b) If the National Ethics Panel (NEP) determines that the Complainant has breached confidentiality the NEP may demand that, within ten (10) days of the Complainant's receipt of the demand letter, all confidential materials must be immediately removed from the sources to which they were given or made unavailable for use by any other source. Proof of the actions taken to withdraw or have documents sealed must be sent to the NEP. If such proof is not delivered to the NEP within thirty (30) days of the date of the demand letter, the NEP may take action to terminate or void the ECMP process.

## EXCEPTIONS

**Research purposes.** ECMP data may be accessed by approved researchers and reported in aggregate form. Research must be approved by the NEP following review of research proposals from qualified researchers. Identifying information will be removed from any shared data.

**Acquiring relevant evidence.** If an Investigator is appointed, it is in participants' best interests to cooperate with the Investigator. Participants may disclose information that is directly relevant to the purpose for which the disclosure is made.



**Disclosure of involvement by Respondent prior to issuance of the Hearing Panel or Appeal Panel Final Report.** Respondents may acknowledge their involvement in ECMP when required to do so by employers, insurers, and others who have a legitimate need to know in order to make decisions that can affect the Respondent’s ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary information. Minimal necessary information may include acknowledgment of the existence of an ethics complaint, a summary of the allegations, an explanation of the status of the proceedings, and a copy of the Respondent’s response (if submitted) to the allegations contained in the complaint. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

**Disclosure of Hearing Panel conclusions.** Respondents may report the conclusions of a Hearing Panel or Appeal Panel when required to do so by employers, Hearing or Appeal Panels, insurers, and others who have a legitimate need to know in order to make decisions that can affect the Respondent’s ability to practice. Under such circumstances, the Respondent shall provide no more than the minimal necessary information. Minimal necessary information is defined as these sections of the Final Report: the summary of the Complaint and the Summary of Findings and Penalties. All identifying information regarding parties, sources of evidence, and witnesses must be obscured.

**Disclosure of Hearing Panel conclusions to support people and/or witnesses.** The Complainant or Respondent may inform support people and/or witnesses who participated in the ECMP at their request of the outcomes. Support people and/or witnesses are expected to keep this information confidential.

**Applicable state or federal law.** Information regarding AASW ECMP proceedings may be released when disclosure is required by state or federal law or regulation. For example, where the Hearing Panel and/or National Ethics Panel assesses that compelling ethical or legal reasons prevail, such as issues of harm to self or others, or if issues arise which, under law, must be disclosed. If you are concerned about something of this nature, for example, an issue of harm to yourself or someone else, you should raise this with a member of the Hearing Panel and/or the National Ethics Officer immediately.

**Other.** The only other exception is information that is in the public domain, other than as a result of a breach of the contents of this agreement; or information that is already known to me as a result of disclosure by another source which was not, to the best of my knowledge, subject to any agreement for confidentiality.

### USE OF CONFIDENTIAL INFORMATION DURING THE ECMP

**Complainant’s agreement to release confidential documents.** By engaging in this process the Complainant agrees to release confidential records for review by the Hearing Panel who will determine if that evidence will be used in the proceedings.

**Documents submitted as evidence by either participant.** Any confidential documents submitted as evidence must be accompanied by a signed release of information.

**Discussion of pertinent confidential records.** The Complainant’s complaint represents permission for the Hearing Panel, Respondent, and if applicable, an Appeal Panel, to discuss confidential records approved for consideration at the hearing.

**I understand and agree to abide by this Confidentiality Agreement as set forth above and will treat all associated materials and processes confidentially. I understand that the AASW may contact me for evaluation purposes following the completion of the ECMP. I understand that I may decline to participate in any evaluation activity.**

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

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

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