



## Privacy Management Annual Report 2010-11

Nepean Blue Mountains Local Health District (NBMLHD) meets its privacy obligations through appropriate governance and the provision of privacy information and support to staff.

NBMLHD provides ongoing privacy information and support to its staff through:

- A privacy Intranet website
- Provision of privacy awareness at new staff orientation
- Provision of privacy training, which is available to staff on-line as annual mandatory training and also face-to-face
- Availability of key privacy resources, including the NSW Health Privacy Manual (Version 2), NSW Health Privacy Internal Review Guidelines, and the Privacy Information posters and leaflets. These continue to be distributed to staff for reference and dissemination.

The District Privacy Contact Officer and delegates have continued to provide policy and compliance support/advice to health service staff, particularly in relation to electronic health records, and access to, and disclosure of personal health information. The District Privacy Contact Officer and other key representatives attended several privacy information and networking sessions during 2010-11.

Privacy information is provided to consumers through an Information Privacy Internet site. The Privacy Information for Patients leaflets are made available to patients/clients on attendance at Nepean Blue Mountains facilities. The availability of privacy posters and leaflets to patients/clients continues to be regularly audited and improvements to processes implemented.

Operational privacy issues and privacy complaints are addressed as required, either as informal complaints handled through existing complaints handling processes, or as formal complaints under privacy law via the Internal Review process.

Actions have been undertaken by NBMLHD resultant from the complaints, including review of policies and practices, staff counselling and further training.

### Privacy Internal Review

The *Privacy and Personal Information Protection Act 1998* provides a formalised structure for managing privacy complaints relating to this Act and to the *Health Records and Information Privacy Act 2002*. This process is known as 'internal review'.

During 2010-11, Nepean Blue Mountains Local Health District (and the former Sydney West Area Health Service facilities now forming part of NBMLHD) received three new applications for internal review:

1. A privacy complaint was received in October 2010. The applicant alleged a breach of privacy relating to personal health information not already on the public record published in an article by a former staff member. The internal review concluded that there had not been an inappropriate disclosure of the applicant's personal health information by former Sydney West Area Health Service.
2. An application for internal review was received in January 2011 regarding alleged release of information from the patient's medical record to a former GP without consent. Investigation revealed that the patient's former GP still treats the patient's family and family members had advised the GP that the patient had been in hospital in recent years. The former GP subsequently requested information which was released to the former GP even though the current GP was indicated in the records. The findings of the internal review concluded a breach of HPP11 – Limits on Disclosure of Health Information.
3. In March 2011 a notification of a privacy breach led to a decision to undertake a breach notification to a patient. The patient subsequently decided to lodge an application for internal review of the matter. A university academic was undertaking research into the use of an electronic medical record system and included screen printouts from the system in a published article. These screen shots included the patient's personal health information. Investigation revealed that the academic was under the impression that the screen shots were from a test system which did not include real patient details. The screen printouts were provided to the academic by a staff member who was aware they were from the 'live' patient system. Necessary action was taken to immediately remove the patient personal health information from the published article. The findings of the internal review concluded that a breach of HPP11 – Limits on Disclosure of Health Information and also the Statutory Guidelines in Research – had occurred.

In addition, one privacy matter carried over from 2010-11 was finalised:

A complaint was received in May 2010 and the investigation finalised in July 2010. The applicant alleged disclosure by a staff member of the gender of the patient's unborn baby to a mutual friend. The findings of the internal review concluded a breach of Health Privacy Principle 11 – Limits on Disclosure of Health Information. In addition, information obtained during the investigation provided sufficient evidence to substantiate a breach of Health Privacy Principle 5 – Retention and Security of Health Information and Health Privacy Principle 10 - Limits on Use of Health Information.

In all cases NBMLHD undertook to review local policies and procedures and implement further staff training to prevent similar breaches occurring in the future.

### **Informal Privacy Complaints/Enquiries**

Where Nepean Blue Mountains Local Health District (and former Sydney West Area Health Service) has received a complaint or enquiry about privacy and the complainant does not wish to lodge a formal application for internal review of the matter, these complaints are dealt with under existing complaint handling

protocols. Thorough investigation is undertaken in all cases and any resultant recommendations actioned.

During 2010-11, NBMLHD received and investigated two informal privacy complaints/enquiries. The nature of the complaints and outcomes are as follows:

1. A complaint was received in July 2010 from a patient alleging access to the patient's medical records by a family member who was a member of staff and disclosing this information to other family members. The applicant was unwilling to identify the staff member against whom the allegations were made and chose not to proceed with the complaint.
2. In July 2010 a complainant alleged a neighbour believed to be working at a NBMLHD hospital had accessed the complainant's medical records to obtain identifying information about the complainant and his family. Preliminary investigations regarding access to the electronic medical record of the complainant were unable to substantiate the allegations made by the complainant. Further discussion with the complainant indicated that the neighbour may have obtained the identifying information from another source. The applicant chose not to proceed with the complaint.