



What is Confidentiality?

Briefing Paper No. 8

Plain language material

Confidentiality is an important principle in ethics, and is a central part of all research projects. Confidentiality is about your **privacy**, meaning that any information you tell someone will be kept between you and that person, unless it is clear that it is public or open access information.

As a participant in a research project, you should be told at the start of the project that the researcher will protect your privacy and confidentiality; that is, that your name or any other way to identify you will not appear in a project report or publication unless you choose to be identified or are a co-author.

Ensuring that all research participants understand confidentiality is part of **Free Prior Informed Consent** (see also [Briefing Paper No. 7](#)). Aboriginal and Torres Strait Islander culture tends to be based on oral traditions. People pass on their knowledge by talking, singing and other performances, and so protection through Western intellectual property laws such as copyright is not usually possible. This is because copyright only applies to knowledge and art that is written down, recorded or filmed (see [Briefing Paper No. 2](#)). So Aboriginal and Torres Strait Islander custodians of knowledge can only receive protection against unauthorised use of their knowledge if they satisfy elements of what are called the 'Breach of Confidence' laws.

What are Breach of Confidence laws?

These laws apply as part of Trade Secrets laws. These laws have been used in the past to protect Aboriginal and Torres Strait Islander secret and sacred knowledge in Australia when researchers have attempted to publish information that Aboriginal and Torres Strait Islander people told them was secret.

Aboriginal and Torres Strait Islander knowledge that is maintained within a community could be considered a trade secret. But once the knowledge is spread to the public – that is, outside the community – then this option no longer exists.

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How do I protect confidentiality?

- Anything that you tell a researcher should remain confidential, unless you are told that it will be made public.
- You can tell a researcher that you don't want them to write or talk about something in particular.
- Before speaking about important things, make sure that you have asked the researcher how they are going to protect your confidentiality. This is likely to include a prior informed consent form (see [Briefing Paper No. 7](#)).

Selected references

Hansen S and Van Fleet J. 2003. *Traditional knowledge and intellectual property: A handbook on issues and options for traditional knowledge holders in protecting their intellectual property and maintaining biological diversity*. American Association for the Advancement of Science, Washington DC.

Janke T. 1998. *Our culture, our future. Report on Australian Indigenous cultural and intellectual property rights*. Michael Frankel and Company. Sydney. See pages 63–72.

Smallacombe S, Davis M, Quiggin R, Christie M, Craig D, Cronin D, Davies J, Davis M, Douglas J, Duffy M, Edwards T, Evans L, Guy J, Jordon L, Muir K, Raven M, Rea K and Sherwood J. 2007. *Scoping Project on Aboriginal Traditional Knowledge*. DKCRC Research Report 22. Desert Knowledge CRC. Alice Springs.

