



**Health
Justice
Australia**

5 ways' to talk

**about mandatory
reporting,
confidentiality and
legal privilege
in health justice
partnership**

You're not alone – talking about diverse professional obligations in partnership can be hard

The innovation of health justice partnership (HJP) is enabling health and legal practitioners to work together to find new ways of reaching and assisting people with intersecting, multifaceted needs that impact on health and wellbeing.

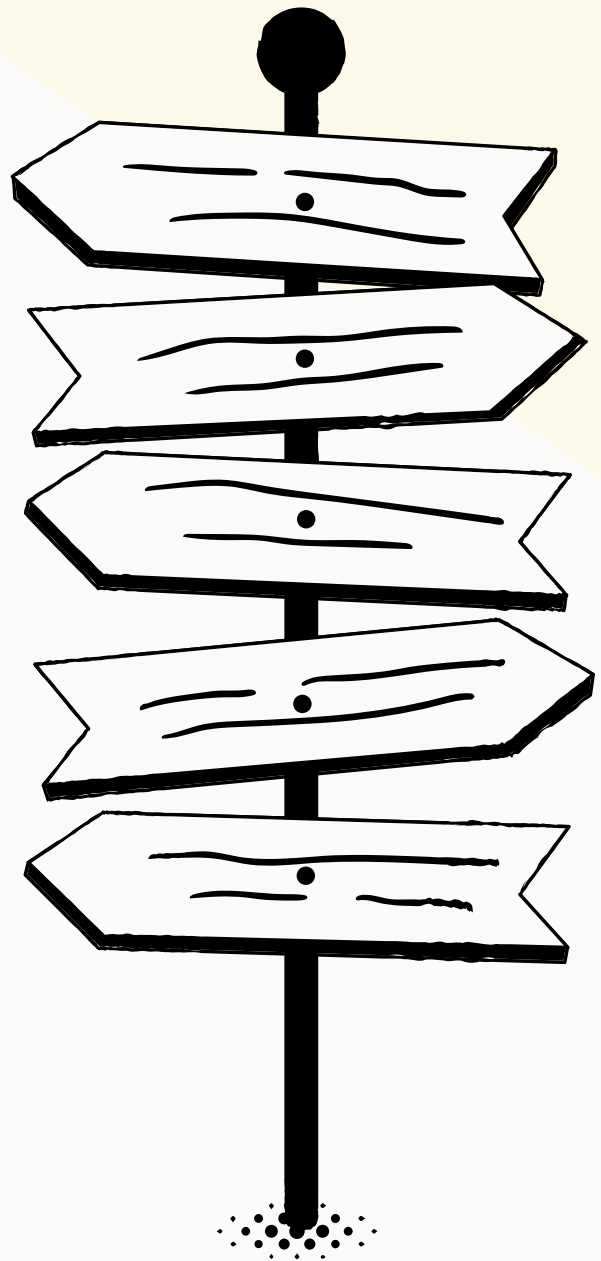
This way of working requires partners to explore a range of topics, including how to communicate and share information in a way that serves the people they are working with. It includes respecting and maintaining people's confidentiality and privacy, while upholding the professional rules and obligations of all partners. These diverse professional obligations in partnership can be complex – and if you are finding it challenging, you're not alone.



Build your partnership based on values and principles

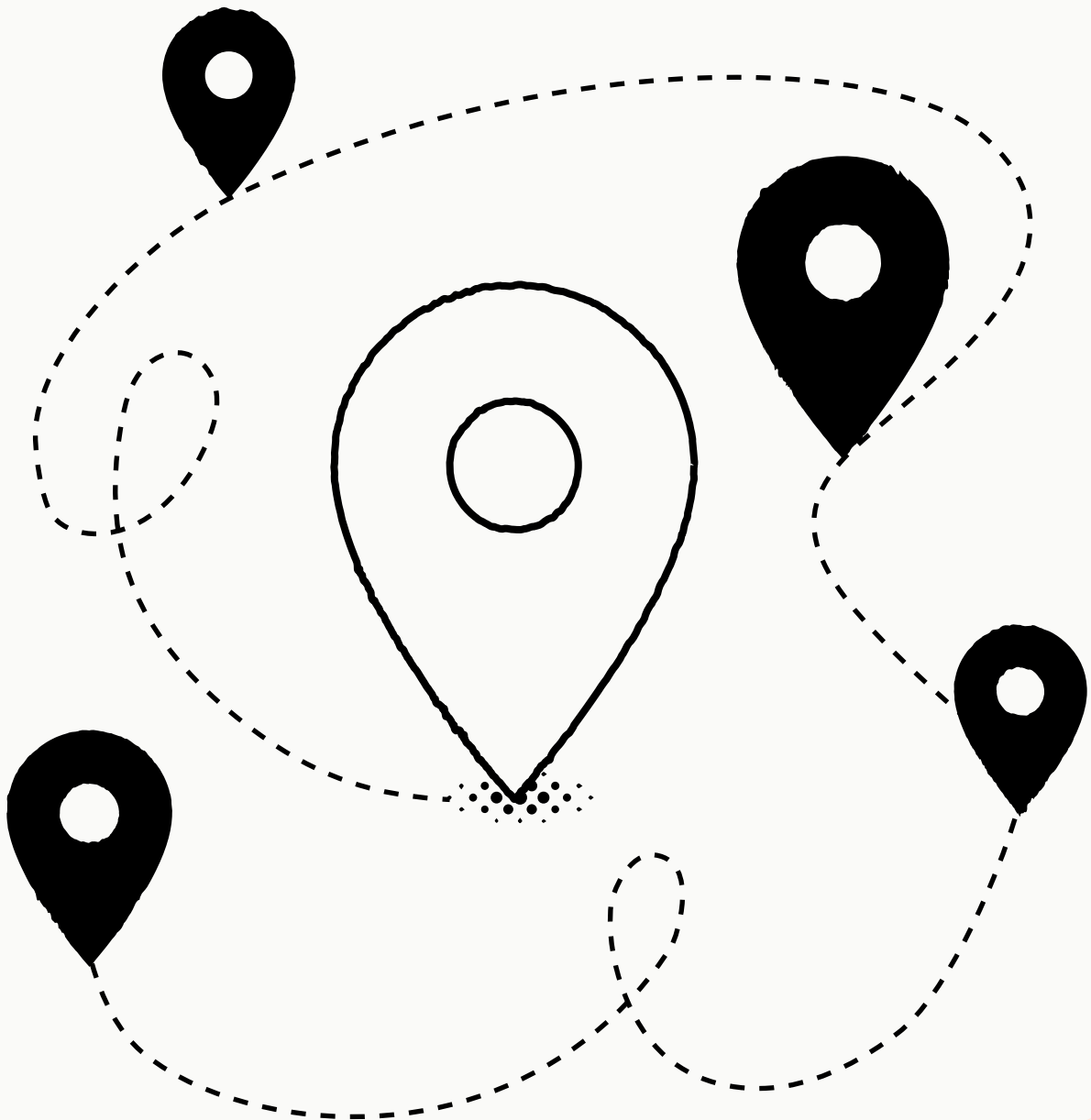
One key to exploring how to effectively integrate different perspectives and practices is to build your partnership based on values and principles. HJPs can do this by:

- ✦ understanding and valuing the diverse perspectives each partner brings to a partnership
- ✦ building an equitable way of working together, where each partner's contributions are valued
- ✦ building trust through openness and transparency, including about each partner's interests and obligations
- ✦ identifying what a mutually beneficial way of working together looks like, and reviewing this regularly
- ✦ having the courage to work together on innovative approaches to meet your individual HJP goals.



About this resource

HJP practitioners are putting these principles into practice in a range of different ways when talking about information sharing and effective collaboration. This resource contains some of their practical insights. Here are five ways to navigate mandatory reporting, confidentiality and legal privilege.



Talking about mandatory reporting, confidentiality and legal privilege.

1. Understand and describe your professional obligations

Consult with your peak, industry or statutory body in relation to your obligations and the rights of the person you are working with under relevant legislation and privacy laws, and discuss these with your partner. When you do, ensure that all partners are comfortable throughout the conversation. For example, when you communicate with your partner:

- ✦ think about how you can explain your professional obligations without using language specific to your profession (jargon)
- ✦ ensure there is opportunity for your partner to ask questions or clarify points they may not understand
- ✦ ask your partner to explain their professional obligations and ensure that you understand them.

This will provide an opportunity to discuss how you will maintain obligations such as client legal privilege, mandatory reporting, confidentiality and privacy when working collaboratively. We encourage you to have these conversations early and often.



Talking about mandatory reporting, confidentiality and legal privilege.

② Keep the people you are working with at the centre of your approach

Take a person-centred approach to develop processes for information sharing which uphold an individual's rights and provide information in a way that supports their decision-making capacity. Explain in a way that meets each person's individual needs how their information will be collected, used and stored so that the person can then determine when, how and with whom their information can be shared. Particularly relevant to health justice partnership is also to outline (ideally in accessible language with helpful diagrams or visuals) the possible consequences of the decisions being made that relate to information sharing.

Some people will want to go through this informed consent process each time you wish to share information, while others will be comfortable providing their consent at the outset (i.e. recorded on an authority form at the point of intake or referral). Regularly check back with people regarding their understanding of each worker's role and how information is shared between practitioners.

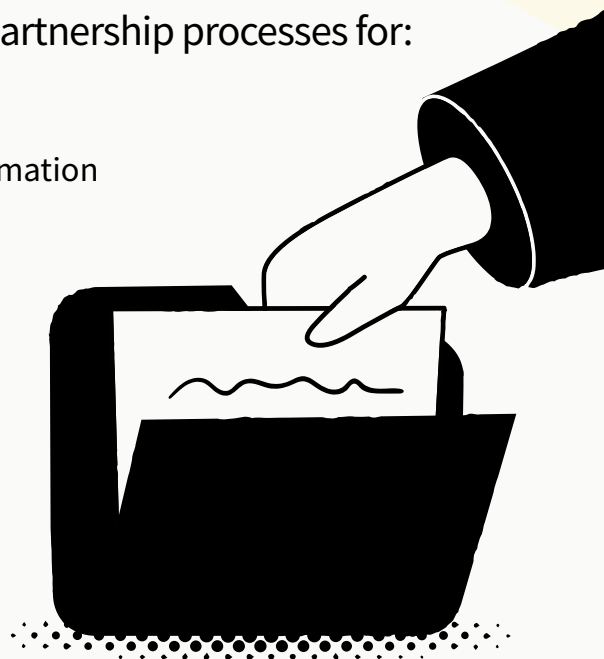


Talking about mandatory reporting, confidentiality and legal privilege.

3. Agree on an information sharing process between partners

With your patient/client's choices in mind, get clear about what information sharing is possible in the partnership, and understand why each partner might have their own process. This is an important part of building a transparent and trusting relationship. Establish partnership processes for:

- ✘ conflict of interest checks
- ✘ how you will jointly record and store people's information
- ✘ obtaining consent to share client information
- ✘ what information is required for referral within and outside the partnership
- ✘ communicating with patients/clients
- ✘ care coordination and planning
- ✘ who is in which meetings, and when it is ok to ask people to leave
- ✘ how you will communicate with each other about patient/client information.



To help you find an information sharing process that works for all partners, you may wish to go through the following case studies together. When reading and discussing them, think about what partnership approaches and processes to navigating information sharing could be used to get the best outcomes for the person involved, while maintaining the following:

- ✘ professional obligations of the workers involved
- ✘ person-centred and trauma-informed approaches
- ✘ informed consent.

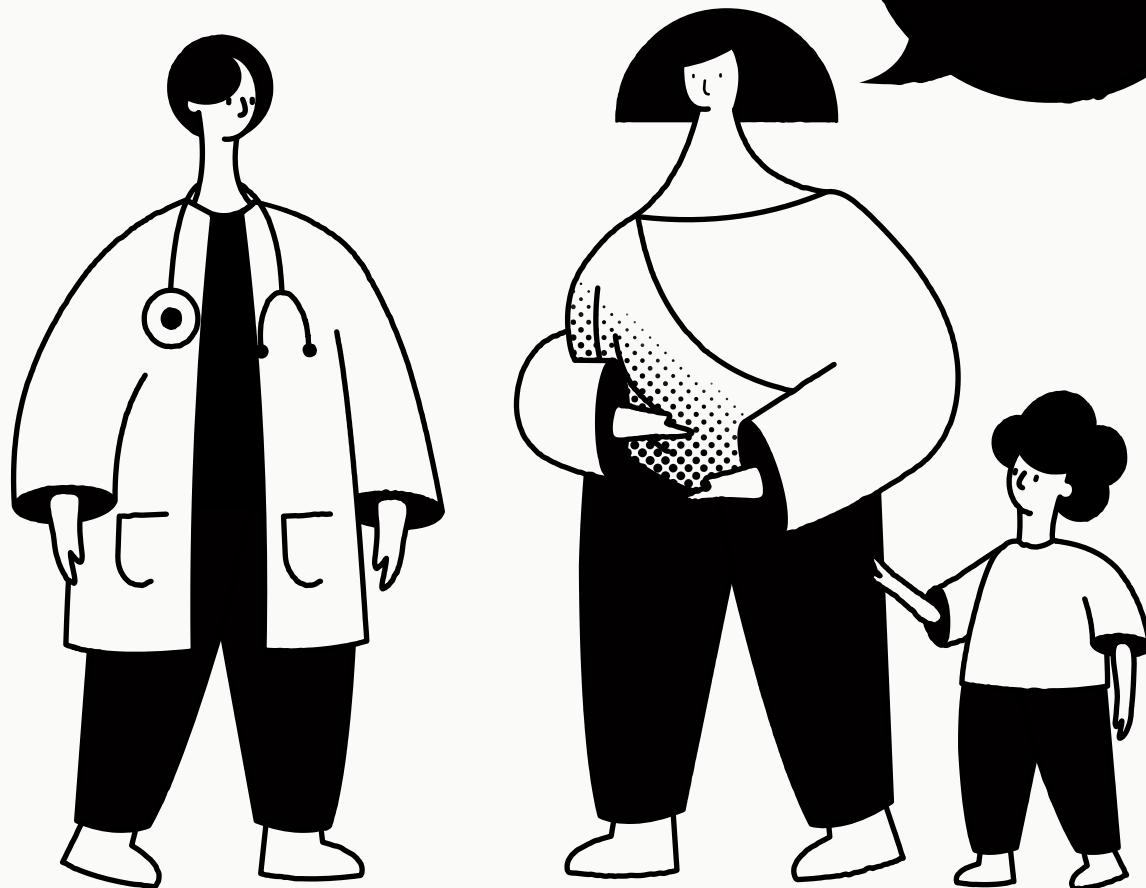
You will also find information about documenting your agreed upon processes at the end of the case studies.

Talking about mandatory reporting, confidentiality and legal privilege.

Case study 1: Lucie

Lucie has a three-week-old baby and discloses coercive control of finances and threats of violence from her partner to her social worker at a hospital appointment. Lucie is reluctant to say more as her four-year-old child is with her.

After discretely assessing Lucie's immediate safety, the social worker explains the option of seeing the health justice partnership lawyer at her hospital appointment the following week, as her partner would not be attending with her. Lucie agrees and at the next hospital appointment with both the social worker and lawyer, Lucie discloses further information about family violence that potentially impacts her children.



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Case study 2: Angelo

Angelo is sleeping rough and has no phone. When the outreach community health nurse notices he has injuries on his hands and face, Angelo tells the nurse he got the injuries in a fight. After building up some rapport, Angelo shares that he is on bail for charges related to illicit substances and has a dispute with his previous landlord.

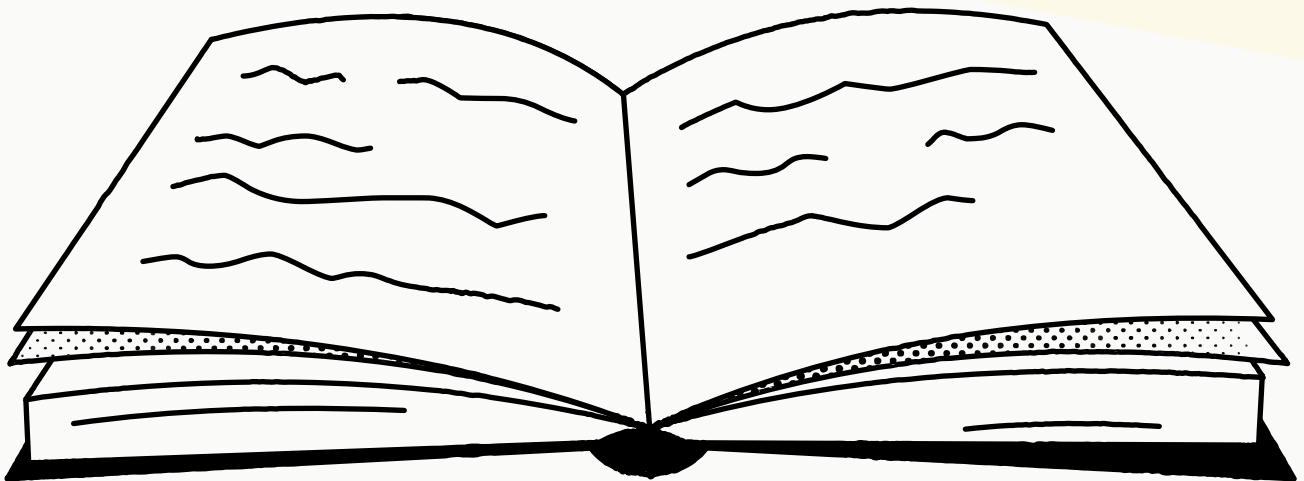
The nurse suggests Angelo discuss his legal issues further with a lawyer in their health justice partnership which he agrees to. The nurse can locate Angelo at a regular spot where he spends time during the day and offers to bring the lawyer to meet Angelo. Angelo agrees and also asks if any communication from the lawyer can be sent to his email and shared with the nurse too. He goes to the library each day to check his emails.



Talking about mandatory reporting, confidentiality and legal privilege.

Documenting how you'll share information in an MOU

You may wish to document these processes in a **memorandum of understanding**. Check in with your partner/s and patients/clients at regular intervals to ensure the partnership structure and previously agreed processes are still working, and adapt your practice as required.

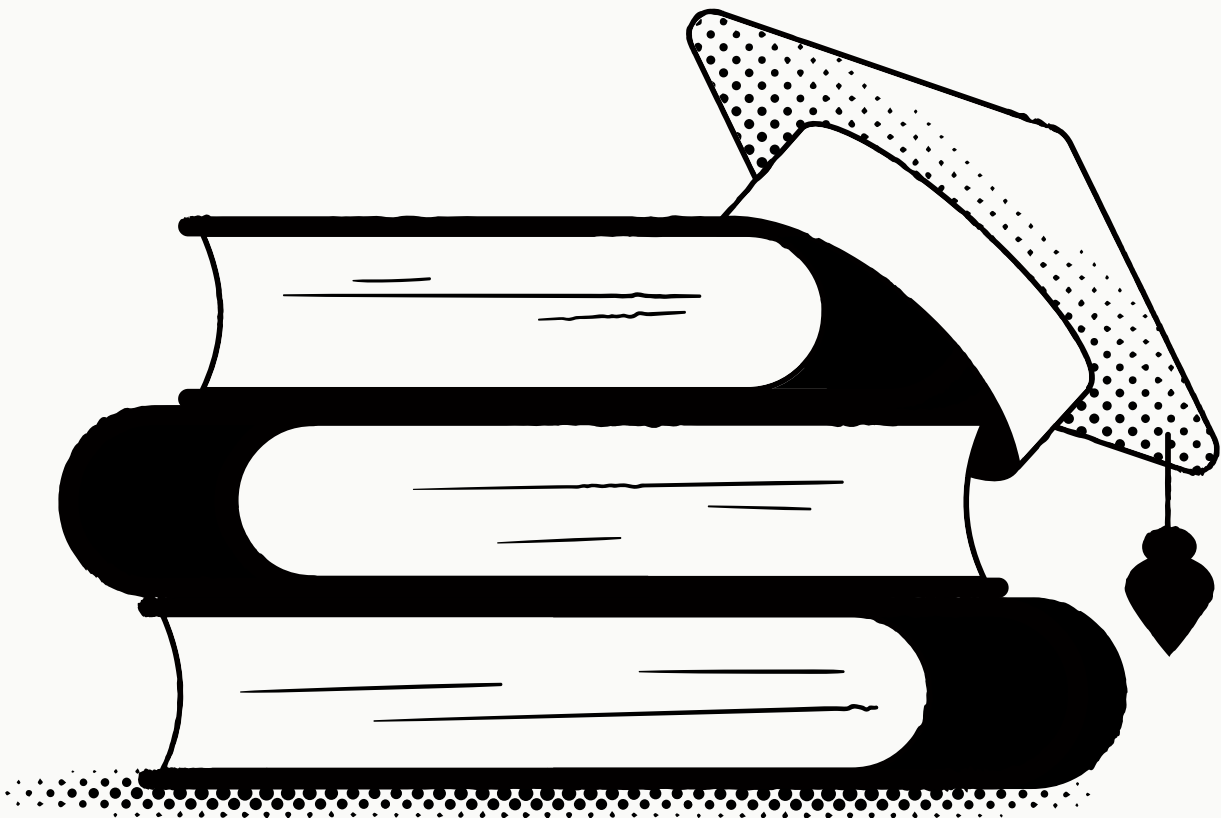


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4. Engage in interdisciplinary training about professional obligations and rules

Provide interdisciplinary training and learning opportunities in the partnership in relation to each partner's professional obligations and scope of practice. Consider establishing a regular learning schedule that covers topics relevant to working in partnership and understanding each partner's role in your specific partnership.

Talk about any changes that partnership practitioners have observed in their practice as a result of knowing more about their partner's role and obligations and use these insights to inform future learning opportunities.



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5. Be prepared for joint patient/client meetings

When undertaking joint meetings, ensure the person you are working with is clear about the obligations of each partner, including when and how certain disclosures would necessitate the sharing of their information (e.g. mandatory reports to relevant authorities required of health practitioners, service of subpoenas etc.).

Consider the role of the lawyer in briefing the patient/client on joint meetings at the point of intake to the service. If the patient/client would like to proceed with a joint meeting, agree on a process for how the meeting will be structured (noting the person may choose different meeting structures at different times, depending on what they're hoping to discuss).



Further resources and information

The Federation of Community Legal Centres, in partnership with the Legal and Integrated Social Support Network has developed a guide on how legal, health and social welfare practitioners can address information sharing and confidentiality when working in integrated settings. While the resource was established for integrated services in Victoria, the key themes of the resource may provide valuable insights for practitioners and services across the national landscape.

You can find the Integrated Practice Toolkit at

https://www.fclc.org.au/integrated_practice_toolkit

About Health Justice Australia

Health Justice Australia is the national centre for health justice partnership. We support the effectiveness and expansion of health justice partnerships in Australia through:

- ✦ Knowledge and its translation: developing evidence and translating that evidence into knowledge that is valued by practitioners, researchers, policy-makers and funders
- ✦ Building capability: supporting practitioners to work collaboratively
- ✦ Driving systems change: connecting the experience of people coming through health justice partnerships, and their practitioners, with opportunities for lasting systems change through reforms to policy settings, service design and funding.

