

EADRA GUIDANCE DOCUMENT

Confidentiality and the Emergency Animal Disease Response Agreement (EADRA)

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Disclaimer: This document is based on Animal Health Australia's understanding of the Government and Livestock Industry Cost Sharing Deed in respect of Emergency Animal Disease Responses (**EADRA**) and the Deed Poll. It does not constitute, and should not be relied upon as being, legal advice on the interpretation of the EADRA or the Deed Poll. It does not, and is not intended to, replace, amend or otherwise alter the terms of the EADRA or the Deed Poll in any way. Readers should seek their own independent advice on the interpretation of the provisions of the EADRA and the Deed Poll, and the application of those provisions to their own circumstances.

Background

The EADRA requires all Parties to protect Confidential Information received during activities carried out under the EADRA. These activities may be during or outside a cost shared response.

Clause 2.1 defines **Confidential Information**.

Clause 31 of the EADRA sets out when Confidential Information may be shared and steps that must be taken to protect the information from unlawful disclosure.

Schedule 9 of the EADRA contains the **Confidentiality Deed Poll**, which individuals may be required to sign prior to participation in EADRA related activities. It outlines the obligations of the individual signing it, including what information should reasonably be regarded as Confidential Information and the requirements for protecting and disclosing this information. Legal action may be taken against organisations and/or individuals who breach the terms within the Confidentiality Deed Poll.

Purpose

This guidance document helps individuals involved in EADRA related activities understand what is Confidential Information under the EADRA, when it can be shared and how it should be protected.

Definitions and capitalised words

The convention in legal documents is to:

- use a capital first letter of a word being used as defined in the document's definition clause (e.g. clause 2.1 of the EADRA).
- use a small first letter to show a word is being used as defined in a standard dictionary or in ordinary speech or usage.

Capitalised words/terms (excluding names) in this document are defined in the EADRA or the Deed Poll. Refer to the current version at [Emergency Animal Disease Response Agreement](#).

1. Who is bound by Confidentiality under the EADRA

During activities carried out under the EADRA, Confidential Information may be shared with Parties and their Representatives. Where appropriate, Confidential Information may be shared with officers, employees, advisors and members of all Parties providing it is protected.

All Parties under the EADRA are bound by the confidentiality provisions set out in Clause 31 and their representatives must take steps to ensure Confidential Information is protected. These steps may include but are not limited to:

- asking anyone they need to share information with to sign a Confidentiality Deed Poll,
- ensuring contracts with people who may be in receipt of Confidential Information include confidentiality provisions that mirror clause 31 of the EADRA, and
- including information on confidentiality in any induction briefing.

2. What is the Confidentiality Deed Poll?

The Confidentiality Deed Poll:

- Is a legal agreement
- Requires recipients of the Confidential Information to:
 - protect the information,
 - only share it with those with a need to know, and;
 - take steps to make sure that people they share information with also treat it as Confidential Information.
- Provide assurance to a Party or other person disclosing Confidential Information that the information will not be improperly disclosed or made public.
- Provides for limited sharing of Confidential Information so that:
 - CCEAD and NMG representative or Liaison Livestock Industry (LLI) can have legitimate discussions with stakeholders in their industry,
 - industry members of the CCEAD and NMG or an EADRA working group can consult to bring the authorised view of their industry to a meeting,
 - information can be shared as appropriate between the CCEAD, NMG and LLI's.

3. Breaches of Confidentiality

Potential consequences of a breach

The unauthorised release of Confidential Information could have significant impacts. This includes damaging the commercial position of a business or organisation, Australia's trade position with its international partners, or government planning and budgeting processes.

If an individual breaches their obligations under the Confidentiality Deed Poll, both the individual and their organisation may face legal action.

Any Party, organisation, business or person who suffers harm because of a breach may take legal action.

Indemnity insurance

Indemnity insurance may cover breaches of confidentiality, depending on the specific terms of the policy.

Individuals participating in EADRA activities should seek advice to confirm whether they are covered for confidentiality breaches through:

- the industry peak body they represent or
- their regular indemnity policy.

Deliberate disclosure of Confidential Information may void indemnity provisions.

4. Who needs to sign a Confidentiality Deed Poll?

Confidentiality is a shared responsibility by all who engage in activities under the Deed. You must sign the current Confidentiality Deed Poll if you are a Representative of an Industry Party or an observer organisation (such as, Animal Health Australia or Wildlife Health Australia):

- a. attending NMG, CCEAD or Categorisation Panel meetings as a member, observer or advisor;
- b. have accepted a role as an LLI;
- c. are an EADRA signatory or have accepted a nomination to be an Authorised Signatory;
- d. attending an EADRA workshop or meeting;
- e. participating in an EADRA working group; or
- f. involved in the development or implementation of the EADRA.

You may also be asked to sign a current Confidentiality Deed Poll if you:

- a. are engaged or consulted by a Party on EADRA related activities. For example, you may be engaged to give advice on financial or technical matters relevant to an EAD or Incident; or
- b. are providing advice to or receiving information from a CCEAD or NMG member.

If you signed an earlier version of the EADRA Confidentiality Deed Poll or signed the Confidentiality Deed Poll as a Representative of a different Party, you will need to sign the current Confidentiality Deed Poll.

Representatives of Government Parties are not required to sign a Confidentiality Deed Poll if they are bound by confidentiality provisions of a relevant Public Service Act. However, all Parties are bound by the same confidentiality provisions outlined in Clause 31 of the Deed.

5. What is Confidential Information?

Confidential Information is defined in clause 2.1 of the EADRA as:

“all know-how and commercially valuable or sensitive information (in whatever form) disclosed by a Party for the purposes of this Deed, but does not include information that:

- (a) is already in the public domain or, after the date of this Deed, becomes part of the public domain otherwise than as a result of an authorised disclosure by the receiving Party or its representatives;*
- (b) is or becomes available to the receiving Party from a third party lawfully in possession of the information and which has the lawful power to disclose such information to the receiving Party on a non-confidential basis; or*
- (c) was in the lawful possession of the receiving Party without restrictions as to its use or was developed independently by the receiving Party (as shown by its written records or other competent evidence) prior to the date of disclosure to it under this Deed; or*
- (d) the receiving Party is required by law to disclose.*

This definition has been broadened by Background paragraph C of the Confidentiality Deed Poll (Schedule 9), which notes that Confidential Information may include:

- information relating to industry members or others affected by an Incident or their properties or businesses
- information relating to response activities or plans
- commercial in confidence information relating to a third party
- sensitive information relating to government policies or financial interests
- information that attracts legal professional privilege

- internal working documents
- information relating to national security or international relations
- personal information.

Hypothetical scenarios detailing examples of what is considered Confidential Information are provided in [Appendix 1](#).

Personal information

In addition to Confidential Information, Parties must protect Personal Information as set out in clause 28 of the EADRA. These obligations are beyond the scope of this guideline. However, all Parties involved in an Incident must ensure that the identity and location of producers or companies directly affected by an EAD incursion are not made public and are only disclosed when necessary for the proper function of the EADRA (and, when applicable, with the consent of the individual concerned).

6. What am I committing to by signing the Confidentiality Deed Poll?

By signing the Confidentiality Deed Poll, you make a legal commitment to each Party of the EADRA and other parties that provide Confidential Information that you will:

- only use or disclose Confidential Information for the purposes that it was provided to you and abide by any conditions or limitations, both written and verbal, placed on the use or disclosure of the information;
- ensure that Confidential Information is stored with an appropriate level of security to prevent unauthorised access;
- only make Confidential Information available on a “need to know” basis for the proper performance of the EADRA or associated activities; and
- gain prior written approval from the disclosing Party or Parties before disclosing it to a third party or the public (except as required by law).
- take reasonable steps to ensure that any person you share information with also abides by the confidentiality requirements.

7. Scope of the Confidentiality Deed Poll

The Confidentiality Deed Poll applies to all Confidential Information disclosed by a Party or another person during activities, communications or commitments related to the EADRA, both during and outside of an Incident.

LLI representatives that participate in the Lead Agency’s emergency response control centre(s) are required to sign the Confidentiality Deed Poll. The Lead Agency may also require them to sign an additional confidentiality agreement. Any information obtained from the control centre(s) must be treated as confidential unless the Lead Agency explicitly advises otherwise.

8. What happens if I don’t sign?

If you choose not to sign the Confidentiality Deed Poll, your involvement in EADRA activities will be limited. You will not be permitted to attend meetings of the NMG, CCEAD, or EADRA meetings or a

Categorisation Panel or receive confidential briefings. If you have any concern about signing the Confidentiality Deed Poll, please discuss them with your Party or Animal Health Australia (AHA).

9. How do I sign the Confidentiality Deed Poll?

The current Confidentiality Deed Poll can be found in Schedule 9 of the [EADRA](#). Alternatively, a copy of the Confidentiality Deed Poll can be provided upon request by emailing eadra@animalhealthaustralia.com.au. Copies are also provided for signing at LLI, CCEAD and NMG training workshops. Please complete the Confidentiality Deed Poll and return it to AHA prior to participating in any EADRA activity.

10. Acknowledgements

AHA Acknowledges Plant Health Australia (PHA) for providing their Emergency Plant Pest Response Deed (EPPRD) Confidentiality Deed Poll Guideline that informed the development of this document.

11. APPENDICES

Appendix 1: *Examples of confidential information and how it is handled*

Appendix 2: *Guidance on wet ink and electronic signatures*

Appendix 1: Examples of confidential information and how it is handled

Examples of Confidential Information

Table 1 — Examples of Confidential Information that you may receive during an emergency animal disease response

Category	Description
Commercial in-confidence information	Information relating to a third party, such as a producer's financial records. This includes Compensation Cost claims, or commercial records provided for tracing purposes.
Sensitive government information	Information related to government policies or financial interests, including budget details and cost claims.
Legal advice	Any legal counsel or documentation provided in the context of the response.
Internal working documents	Documents from the CCEAD or NMG, such as Response Plans, Incident Situation Reports, and meeting papers.
National security or international relations	Information that could affect national security, international relations, or trade, including details of a suspect detection of an Emergency Animal Disease (EAD).

Table 2 — Examples of highly sensitive information that should not be disclosed without prior authorisation

Category	Description
Location of Infected or Suspect Premises	Specific details about where infected or suspect premises are located.
Identifying Information of Affected Producers or Companies	Names, photos, locations, or commercial data that could reveal the identity of affected producers or companies.
Implicating Individuals	Images or identifying information suggesting a person is responsible for introducing the EAD into Australia.
Personal Information	Any personal data that may be protected under the <i>Privacy Act 1988</i> , including names, contact details, or health information.

Public Domain Information and Confidentiality

Information that is publicly available or becomes public through **authorised channels** is not considered confidential.

Table 3 – Examples of scenarios where information available within the public domain that are/ are not considered confidential

Category	Description & examples
No longer confidential	Information that was once considered confidential is later published through official sources . For example, confirmed detections of an Emergency Animal Disease (EAD) that are published on the national EAD outbreak website www.outbreak.gov.au are no longer treated as confidential information.
Remains confidential	Confidential information that is publicly available but was released unlawfully may still be considered confidential and not for further distribution. For example, details on the location of an infected premises that is leaked to the media is still considered confidential, despite being published and publicly accessible.

Hypothetical scenarios where confidential information may need to be shared

Scenario 1 — An industry representative on the National Management Group (NMG) is asked by their board of directors to provide a briefing on the financial implications of a recent decision to increase the Agreed Limit due to rising response costs under the current Emergency Animal Disease Response Plan (EADRP).

Confidential Information involved:

- sensitive financial modelling and cost projections
- draft cost-sharing ratios and levy estimates
- legal advice on levy recovery
- internal government budget data

How to handle it:

- The representative informs the board that the information is confidential under the EADRA and cannot be shared without safeguards.
- Board members who require access must first sign the most recent version of the Confidentiality Deed Poll.
- Once signed, a secure and clearly marked confidential briefing can be provided.
- A record of signed Confidentiality Deed Polls is maintained and submitted to AHA.

Scenario 2 – A representative of an Industry Party is nominated to sit on an EADRA working group for the first time.

Confidential information involved:

- Early version of guidelines, policies or EADRA amendments that are not yet finalised or approved for circulation.
- Meeting minutes that may contain details of sensitive discussions or differing stakeholder views.
- Names and roles of other members on the working group, as well as their contact information.

How to handle it:

- Any newly employed staff that are nominated to represent an Industry Party on an EADRA working group should sign the most recent version of the Confidentiality Deed Poll and submit it to AHA.
- Take notice of any sensitivity labels attached to documents or emails shared by AHA or other members of the working group and handle accordingly.
- If unsure of the sensitivity of a document or information provided, discuss with the working group Chair or secretariat.
- If internal consultation is necessary, ensure those who will be consulted:
 - understand the information is provided in confidence and must be managed as per the Deed Poll, and
 - have signed the current Deed Poll before any details are shared.

Scenario 3 – CCEAD has been convened following a suspected detection of Foot and Mouth Disease in Victoria. Preliminary lab results from the Victorian state laboratory are shared with all CCEAD members and observers during the meeting.

Confidential Information involved:

- lab results confirming positive detection/s of the virus
- proposed strategy for the EAD response
- names and locations of infected and suspect premises

How to handle it:

- AHA confirms all industry representatives and non-government representatives nominated to be members or observers on CCEAD have signed a current Confidentiality Deed Poll and provides copy to CCEAD secretariat.
- All members are reminded of their confidentiality obligations during the meeting.
- No information is to be disclosed externally until confirmation and public release by the Chief Veterinary Officer (CVO).

Scenario 4 – An LLI consults with a veterinary epidemiologist who is an Industry Specialist Advisor (ISA) during an EAD response to seek technical expertise and inform industry’s position on the feasibility and effectiveness of proposed movement controls.

As part of their involvement on CCEAD, the LLI receives confidential updates from the control centre, including draft containment strategies and affected premises data. Other confidential information may include:

- Names and locations of infected and suspect premises
- Commercially sensitive data from affected producers
- Draft movement control orders and zoning maps
- Preliminary epidemiological modelling and spread scenarios

How to handle it:

- Before any information is shared, the ISA must sign the current version of the Confidentiality Deed Poll.
- The LLI and industry CCEAD representative must ensure that only the minimum necessary information is shared with the ISA and that it is clearly marked as confidential.
- The ISA is briefed on their obligations under the Deed Poll, including secure handling and non-disclosure of information beyond the scope of their advisory role.
- A record of the signed Deed Poll is submitted to AHA and retained by the Industry Party.
- If the ISA’s advice is to be presented at a CCEAD or NMG meeting, it must be attributed appropriately and shared through secure channels.

Appendix 2: Guidance on wet ink and electronic signatures

Wet ink signatures

You must sign the Confidentiality Deed Poll in the presence of a witness. After signing the Confidentiality Deed Poll, send a scanned copy to AHA at eadra@animalhealthaustralia.com.au. Your organisation should also keep a copy of the signed document.

If your jurisdiction does not permit electronic execution (see below), you **must** print the Confidentiality Deed Poll and physically sign it using a wet ink signature. If your jurisdiction does permit electronic execution, you may still choose to use a wet ink signature.

Electronic signatures

Depending on your jurisdiction, you may be able to execute the Confidentiality Deed Poll electronically. The table below sets out the jurisdictions that permit electronic execution and electronic witnessing.

Electronic Execution and Electronic Witnessing								
	NSW	VIC	QLD	WA	SA	TAS	NT	ACT
Electronic execution permitted?	Yes	Yes	Yes	No	No	No	No	No
Electronic witnessing permitted?	Yes	Yes	No	No	No	No	No	No

Electronic witnessing means that the person witnessing you signing the Confidentiality Deed Poll is doing so by video link, rather than in person.

To execute the Confidentiality Deed Poll electronically, you must provide a Digital Signature or a Non-Digital Esignature. Examples of both methods are below (these examples are not exhaustive):

- a. Digital Signature:
 - DocuSign
 - AdobeSign.
- b. Non-Digital Esignature:
 - an electronic image of a signature which is 'pasted' on an electronic document like an editable PDF
 - signing an electronic document on a screen with a stylus or finger.

If you use a Non-Digital Esignature, please include the following text when you submit your signed Confidentiality Deed Poll to AHA:

*I [**insert name**] of [**insert address**] confirm that I have personally affixed my electronic signature to the Confidentiality Deed Poll, and I did so intending that my signature would bind me in the manner contemplated by the Confidentiality Deed Poll.*

Please complete the Confidentiality Deed Poll and return it to AHA prior to participating in any EADRA activity.