



Revised April 2014

Privacy and Confidentiality

Background:

Current practices relating to privacy, confidentiality and information sharing are a significant concern for mental health consumers, and their families and carers.

There is a general lack of knowledge about the laws, principles and practices governing privacy and confidentiality, also, there is considerable variation across the states and territories in laws, and practices relating to privacy and confidentiality. This inconsistency has the potential to compromise both the privacy of consumers' information and their ability to access and provide information to family and carers which is required for their caring role.

In 2007-08, the NMHCCF conducted a consumer and carer survey on privacy and confidentiality issues and concerns. Data was collated and analysed in a preliminary way to form the basis of an Issues Paper, which was written by research consultants and completed in September 2009. The Issues Paper used a collaborative approach with consumer, carer and clinician project teams to ensure that the views and perspectives of the three major stakeholders were fully explored. The paper examined the impact of privacy and confidentiality on the experience of consumers and carers in our national mental health system and identified a range of solutions and recommendations. The Issues Paper was used to develop a **Position Statement on Privacy and Confidentiality**, which was launched at The Mental Health Services Conference in late 2011.

Key Points:

- **Consumers and carers** reported privacy and confidentiality is sometimes used as a way to exclude them from gaining information;
- **Consumers and carers** believe it is important to talk with them about how they would like their information to be shared;
- **Consumers and carers** said that there were some issues regarding privacy and confidentiality and information sharing on which they could agree and others where they could not;
- **Consumers and carers** support an agreed approach to the exchange of information;
- **Consumers and carers** believe that additional assistance and support from clinicians would allow better management of information-sharing between them;
- **Consumers** denied access to their health information saw this refusal as potentially harmful to the relationship between clinician and consumer;
- **Consumers** would like the opportunity to decide what information is shared with their carers;
- **Consumers** would like to be advised and consulted about who has the right to access their personal health information; and
- **Carers** are not always provided with the information they need to assist them in their caring role, and are sometimes seen as of little importance (or worse, an impediment) in a consumer's recovery.

Recommendations:

The NMHCCF endorses and emphasises the importance of three-way dialogue between treating clinicians/mental health services, consumers and carers about what information is shared, and how and when it should be shared. Open communication has the potential to reduce misunderstandings and antagonism around information sharing.

A number of states and territories have produced guidelines for the sharing of consumer information. It is evident that in most of these guidelines, they not only identify and outline how information can be shared between agencies and other service providers, but also the reasons and circumstances to justify the sharing of information.

It remains that the exchange of consumer information can be readily justified by government agencies; however, this principle is not as evident when it relates to the consumer themselves, or a family member or carer.

The NMHCCF identifies the following strategies to improve privacy, confidentiality and information sharing:

- Improve communication between consumers, carers and clinicians about which information can be shared and with whom, when, how and for what reason
- Consider the needs of Aboriginal & Torres Strait Islander people and those from a culturally and linguistically diverse background
- Clarify and disseminate privacy and confidentiality legislation and information sharing policies
- Review the codes of ethics of mental health professional bodies
- Develop practical guidelines on privacy, confidentiality and information sharing.

Resources:

Information sharing between mental health workers, consumers, carers, family and significant others. Published by the State of Queensland (Queensland Health), June, 2011.
http://www.health.qld.gov.au/mentalhealth/docs/info_sharing.pdf

Health Services Act 1991 Part 7 Confidentiality Guidelines *Updated to reflect Health Services Act 1991 (Reprint No. 7A) Version 6* Update February 2012 – Version 6.
http://www.health.qld.gov.au/foi/docs/conf_guidelines.pdf

International Journal of Mental Health Nursing (2012) 21, 366–385 **Feature Article_798** 366.38. Comparative review of family–professional communication: What mental health care can learn from oncology and nursing home care.
<http://onlinelibrary.wiley.com/doi/10.1111/j.1447-0349.2011.00798.x/abstract>

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