

# Privacy and Confidentiality of Service Users



## Information held about service users

Sapphire Neighbourhood Services (SNS) holds information in relation to service users who receive support from the organisation. This information may include, but is not limited to, personal background information and contact details; disability and/or special care needs; and information in the form of services accessed, case notes and support received. SNS holds this information in order to deliver the best quality service possible, comply with legal requirements, and ensure the health and safety of service stakeholders.

Information on people using our service will be as non-obtrusive and objective as possible, yet relevant and up to date.

Information may be collected directly from the individual/guardian, verbally and in documents, and/or from third parties such as other agencies. Personal information is to be stored in a filing cabinet, which is kept locked after hours, or on a password protected computer. Service providers have a responsibility to ensure that service users are sufficiently informed about the information to be collected, how it will be collected, the purpose for which it is collected and how it is used, who will access the information and their rights to privacy and confidentiality.

In most instances, confidentiality exists between the SNS team and the service user, rather than the individual staff member and the service user. In order to provide the most comprehensive service possible, workers can share relevant information about service users with other members of the SNS team without breaching confidentiality. This does not extend to the sharing of information about individual service users with members of the Board of Directors.

Some data collection to the funding body (the Department of Families and Community Services) is mandatory. Data collection occurs electronically for Child, Youth and Family Support (CYFS) and Intensive Family Preservation (IFP) and Intensive Family Support (IFS). In order to determine the type and detail of information that SNS is permitted to send to the funding body, it is essential to gain consent for every person attending the service. Data to FACS cannot provide identifying information and surnames without their permission. People who decline to participate in the data collection process are not to be denied a service, but rather the nature of information collected will be anonymised and reduced according to funding body specifications. In all instances new service users of the organisation will be required to sign a consent form indicating the permissions that they grant to SNS.

With regards to maintaining privacy and integrity of information, SNS:

- Will ensure all SNS staff verbally discuss with service users their rights to privacy, and make sure that service users understand these rights
- Will inform service users how SNS holds and uses the information
- Will discuss what information may be disclosed, to whom and why

- Will not disclose personal information to any other person or organisation without consent unless necessary to prevent harm to life or health
- Will inform service users that they can gain access to their information, and how
- Will allow service users to correct any wrong, incomplete, or misleading personal information that SNS holds
- Will not use personal information for any other purpose except with the person's consent unless necessary to prevent harm to life or health
- Offer people using our service the option of not identifying themselves if preferred. However, mandatory reporting requirements may still apply if a child is at risk
- Will take all reasonable steps to de-identify personal information before it is disclosed for data collection or research purposes
- Will require all new service users to sign a Consent Form indicating that they have been informed of their rights and responsibilities as a service user. This form will include information about privacy and confidentiality, and how to make a complaint

### **Service users accessing or reading their files**

Service users have the right to read any personal information kept about them by SNS and to change any incorrect information, except where set out in the National Privacy Principles.

Requests by service users to access files should be referred to the Service Manager who should ensure that assistance is provided for the that person to access information on their file within 7 days. A staff member should be made available to sit with the Person while they read their file. Ideally this should be the same family worker who originally saw the Person.

Where a minor requests access to their file, the Service Manager can choose to provide this information directly to the child/young person or to their parent or guardian. Each case will be dealt with individually in full consultation with the minor.

### **Length of time records are held about service users**

If a service to a person has stopped being provided but may need to be resumed at a future date, information relating to that person will be kept in the filing cabinet for a period of five years before being archived. If the service will not need to be resumed, the service user's records will be archived at the end of the financial year. Service user information stored on the SNS online database will be retained indefinitely.

Hard copy records are retained in case they are required for further reference, either in relation to future services or in relation to legal matters, for a period of twenty five years.

Disposing of personal records is carried out in an appropriate manner that will ensure nondisclosure of privacy and preserves confidentiality.

### **Informed consent**

SNS only shares information and exchanges personal information with other organisations after receiving the service user's informed consent, unless overridden by professional duty of care or in

accordance with the provision of Chapter 16A of the Children and Young Person's (Care and Protection) Act 1998 s245A. Informed consent means that the person using our service:

- Understands the need to exchange personal information about them
- Knows what personal information will be exchanged
- Knows with whom or what agency the information will be exchanged
- Agrees to the exchange

Consent may be verbal or written. If verbal, consent is noted on the relevant file. Written consent is recorded on Appendix 6B Person Consent Form (including consent to share information with other agencies) which is included in the individual's file. In situations where there is a need to exchange information about a child or young person aged under 16, generally consent will be sought from the child's parent or legal guardian. Where appropriate, the child or young person's views will be taken into consideration when making the consent decision. The exception to this is when making child protection reports to Helpline.

Where there exists any doubt about a person's ability to give informed consent, the disclosure of information must be approved by the nominated parent or guardian. If the service user can give consent but cannot write, a third party who can write can sign as a witness to that person's verbal consent. A service user has the right to withdraw their consent to release personal information at any time. This request may be verbal or in writing.

In situations where someone is unwilling to give consent, the need for privacy will be balanced against the organisation's duty of care responsibilities. It is the responsibility of the allocated member of staff to bring this to the Service Manager's attention so that a decision can be made. SNS may be compelled to disclose information about a service user without their consent if:

- Legislation requires information to be released;
- A person or the organisation is subpoenaed to provide information for court proceedings;
- There is an instance of threatened assault to a third party;
- It is in the service user's interest, for example, where the person is suicidal;
- There is an obligation not to conceal an intended or actual crime including child abuse, assault, theft or fraud. In these cases, the relevant authorities will be informed;
- As outlined under the Children and Young Persons (Care and Protection) Act 1998

### **Sharing information with external agencies**

In considering the exchange of information with other agencies, priority should be given to promoting the safety, welfare and wellbeing of children through the provision of services. All exchanges of information should be lawful, and staff should seek opportunities to involve family

members in the process of exchange information with other agencies. However, the need to provide services and the needs and interests of children and young people and of their families takes precedence over the protection of confidentiality or an individual's privacy.

Where a staff member is considering using the Chapter 16A provisions to exchange information about children and young people without consent, the staff member must:

1. Consult the Service Manager
2. Take due care to ensure that the exchange of information is lawful by ensuring that information exchanged relates directly to the safety, welfare and wellbeing of children.
3. Take due care to ensure that information is only exchanged without consent where it is required to:
  - Make a decision, assessment or plan for a child or young person
  - Initiate or conduct an investigation (e.g. NSW Police)
  - Provide a service related to safety, welfare or wellbeing
  - Manage risks to children or young people as an employer.
4. Take due care to check the credentials of anyone making a request for information.
5. Where the request has been accepted, ensure that the information sharer uses the Chapter 16A Request to Share Information and Provision of Information Forms
6. Every instance of information exchange with another agency under Chapter 16A provisions shall be recorded on file, indicating the nature of information shared (verbal/written), the type of information shared and the organisation/worker it was provided to. Original Chapter 16A documents shall be retained in the hard copy file for the service user.

### **Declining to share information with another agency**

On rare occasions, an external agency may submit a request for exchange of information from SNS under Chapter 16A provisions and the SNS staff member may in their professional opinion dispute the requirement to comply with this request.

In these instances, the staff member must:

- a. Consult the Service Manager
- b. A decision to decline a request for information must be communicated in writing, and the legal basis for the decision given. The relevant legislation should be quoted in the correspondence. SNS shall consult its legal advisor on this matter as required

c. Where two prescribed bodies disagree about the application of Chapter 16A in relation to exchanging information they should address this as an interagency dispute. See the Child Wellbeing and Child Protection – NSW Interagency Guidelines for more details

### **Section 248 Provisions**

All SNS staff will comply with Section 248 requests, unless it would be unlawful to do so.