

# Privacy & Record Keeping Policy

Passed 14<sup>th</sup> February 2008



## Introduction

This policy outlines the procedures and avenues through which staff and volunteers at Southern Peninsula Community Support and Information Centre (SPCSIC) maintain privacy and confidential records.

This policy meets the requirement of the Information Privacy Act 2000 (IPA) and the Health Records Act 2001(HRA) Operating under these Acts supplements but does not replace any other legal obligations of the SPCSIC.

As a funded agency the Victorian legislation takes precedent over Commonwealth Privacy legislation.

Unless otherwise stated this policy applies to both paper and electronic records.

## Purpose

SPCSIC acknowledges the following obligations to protect:

1. The privacy of an individual and only request and seek information that is relevant.
2. Information from misuse or unauthorised disclosure.
3. The confidentiality of the individual.

## Policy

### Privacy Principles

SPCSIC maintains the following principles

- Only relevant information will be collected.
- Wherever possible information will be collected from the individual rather than another party.
- Information will be collected with due sensitivity to the individual and cultural background which may impact on a person's attitude to the collection of information.
- Information will be obtained lawfully.
- Individuals will be informed as to the reason for requesting the information.
- Information will be collected in a manner that respects the privacy and confidentiality of the individual.
- Information will only be used for the purposes for which it is collected.
- Consent to use or disclose the information will be obtained (refer client consent form). Consent will be
  - Informed
  - Freely given
  - Specific
  - Current
- Where consent cannot be gained from the individual due to impairment or disability then an authorised representative will be contacted.

- Where there is no representative then an authorised organization will be contacted or decisions will be made based on what is in the best interest of the individual. Which method will depend on the importance, urgency and critical nature of the decision.

## Collecting Information

When collecting information from a person the following should apply.

- The client has the right to know the name of the person to whom he/she is speaking.
- Only information that is relevant is to be collected and recorded.
- Information is collected from an individual in private.
- How any information is to be used is to be explained.
- Data obtained for statistical purposes to meet Funding and Service Agreements must not identify an individual.
- Clients have the right to object to the wider use of personal data.
- Every effort must be made to ensure that the client understands this process. Assistance through an interpreter should be sought if this is necessary.

## Sharing Information

The use and disclosure principles will guide the sharing of information both within and external to SPCSC itself.

With the consent or understanding of the client information can be shared for:

- The primary purpose for which it is collected.
- For a secondary purpose which is directly related.
- And that which is reasonable to do so particularly where it is relevant for other staff/volunteers to have access to information in order to carry out their duties and ensure the health and wellbeing of an individual.
- Information that is shared without the consent of the individual would only be divulged if there was:
  - A serious life threatening issue to either the client, family member or that of the general public;
  - A life threatening issue relating to the client him/herself (refer separate policy document);
  - Required by law.

## Transmission of Information

Where permission from a client has been obtained for the transmission of information beyond SPCSC then the following needs to be considered.

### When Posted

- The manner in which the material is posted.
- To whom is it posted (Addressee).
- Who opens the mail and the process of the transmission of information to the addressee.

### When Faxed

- Checking process to ensure the information is correctly faxed.
- Who faxes the information.
- Who collects the faxes at the receiving end and the process of transmitting the fax to its addressee.
- Location of the Fax at the receiving end.

### When Emailed

- Systems are in place to minimise the risk of the information going to an incorrect address.
- That both SPCSIC and to those it forwards on information have policies that ensure the privacy of information sent by email and that protocols are in place re access of that information.

### By Telephone

- Location of the phone at both the transmitting and receiving end.
- The potential for the conversation to be heard (at either end) by clients or others for whom the information is not relevant.

### In Person

- The location of the conversation and the potential for the conversation to be over heard.

## Record Keeping

Information that is collected on the individual should meet the following requirements.

- Be accurate.
- Regularly updated.
- Non judgemental.
- Any conclusions need to be substantiated.
- Should be relevant.
- Clinical diagnoses should only be made by those qualified to do so.
- The recording of a clinical diagnosis should indicate from whom this information was gained.
- Should not be able to be accessed except by those authorised to do so.
- Should be held in a secure area.
- Should not be left in areas, which are accessible to the general public.
- Should not leave a SPCSIC site of operation unless it is with the permission of the Manager.
- Client information held in a computer data base should be adequately protected especially if the computers are networked or are shared by other people.
- Records should be dated and sourced especially where different people make entries.

## Record Storage

All records that contain client information must be handled in the following manner.

- Must be kept in a secure area when not in use.

- Not accessible to the general public.
- Only accessible to those within the agency whose role necessitates knowledge of the clients.
- Not left lying around when not in use.
- Shredded if not required after 6 years.
- Not leave a SPCSIC site of operation without the approval of the Manager.
- Where information is held in an electronic format it should be password protected particularly where computers are networked or subject to multiple usage.
- All record security measures including passwords will be administered by the Manager

### Transportation of Records

Occasionally it may be necessary for records to be transported to different sites of SPCSIC operation. In these instances records shall be

- Carried in a locked bag carried by the designated transporter.
- Not left unattended in vehicles.
- Placed in the designated secure location at a site of SPCSIC operation as soon possible.
- Kept secure and in adherence to all other procedures covered in this policy.

### Access to Records

It is the right of an individual to access any personal records that are held by SPCSIC except when.

- There is documentation in the file that has been forwarded by another person/ agency (the consent of the person/ agency's agreement to release the information needs to be obtained) If not this material will be removed from the file.
- The agency is prohibited by law.
- There is a current law enforcement investigation.
- There are legal proceedings between the individual and SPCSIC.
- Couples who have attended for counselling cannot individually access the records for use in court.

#### **Access to records by persons other than the designated client will not be permitted unless:**

- The client has provided written permission to allow a 3<sup>rd</sup> party to access their file and that 3<sup>rd</sup> party can provide personal identification.
- In the event of the client being deceased any request for access to records needs to be made in writing. Release of records under these circumstances will only be made on the approval of the Manager and the provision of suitable identification.
- Records are to be released on the order of the Court.
- Where access is denied there is an explanation for this provided to the person making the request.
- Records should be checked to ensure that:
- Information relating to other people has not been inadvertently placed in the file.

## Process for Accessing Records

- A client may request access to their records. This request if verbal, needs to be clearly documented.
- SPCSIC will firstly check the records.
- Any information within the file that has been supplied by a 3<sup>rd</sup> party is to be removed unless the author has previously provided permission for its release.
- A date will be determined where a client may come and view the record at the Centre;
- The client will be supervised while reading the records.
- The client will be given an opportunity to discuss the record and be 'debriefed' if necessary.
- The client will not remove anything from the files.
- A request for copies of any aspect of the file will be considered subject to the approval of the Manager.
- A client has the right to indicate where he/she is at variance with the information in the file.
- Any correction to factual information should be recorded and placed in the file. The original file notes should not be deleted or amended.
- Any dissension in relation to assessment or conclusions (or other material in the file) made by the writer are to be noted (and dated) as such in the files. The client has the right to add to the file any comments or conclusions that s/he may wish to make.
- Requests to access records will be handled in a timely manner with due regard to the urgency of the request and availability of an agency representative to be present and debrief the client.

## Data Collection

Data collection is a requirement of Funding and Service Agreements. It is also an important requirement of research and in advocating for change. However, the following principles in relation to collection of data will apply at SPCSIC.

- The data is relevant and there is a legitimate rational for its collection.
- Clients are aware that this data is being collected.
- Clients understand that by accepting a service from the Centre that data collection is implicit in this acceptance.
- Data is not identifiable.
- Where data needs to be identifiable or is detailed that the client gives permission for this to be collected.
- Where data is forwarded on to another source the client understands and consents to this.
- Raw data information is maintained in a secure place or appropriately destroyed when no longer required.

## Disposal of Information

Any information no longer required by SPCSIC, which can identify an individual in any way or link a person to this Centre, must be disposed of by shredding.

Information that is to be retained for the purpose of data collection should be de-identified.

Documentation in relation to clients should not be disposed of within a 6-year period from when they used the documented service of SPCSIC.

### Responsibilities

- All staff and volunteers of SPCSIC have a shared responsibility to ensure that Privacy Principles are adhered to.
- It is the responsibility of the Manager to ensure that staff and volunteers are aware of their obligations under the relevant acts and perform their duties in accordance with them.
- It is the responsibility of the Manager to ensure that staff and volunteers receive any relevant training in this regard.
- It is the responsibility of the Manager to address any breaches of these policies.

### Document Revision History

| No. | Date       | Notes                |
|-----|------------|----------------------|
| 1   | 14/02/2008 | Policy passed        |
| 2   | 16/11/2018 | Update to new format |