

# PRIVACY AND CONFIDENTIALITY

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Authorised by: Management Committee		
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<b>Policy context:</b> This policy relates to:	
Queensland Standards for Community Services	Standard 4 (Confidentiality and privacy)
Other standards	
Legislation or other requirements	<ul style="list-style-type: none"> <li>• Community Services Act 2007</li> <li>• Department of Communities Service Agreement</li> <li>• The Privacy Act 1988</li> <li>• National Privacy Principles</li> <li>• YSC Memorandum of Understanding</li> </ul>

## **1. Purpose:**

The purpose of this policy is to outline how Mackay Youth Support Services (MYSS) manages the collection and storage of relevant personal information about the users of the service. In order to provide an effective and high-quality service and to maintain appropriate accountability, it is essential that MYSS collect, store and sometimes share relevant personal information about MYSS service users. As such, it is important that MYSS is consistent in its controls about what is written and said about a service user, and who may have access to this information.

The service users of MYSS have legislated rights to confidentiality and privacy, and to accessing their own records. It is essential that MYSS protects and upholds these rights, and also acts correctly in those circumstances where the right to confidentiality or privacy may be overridden by other considerations.

When service users disclose information to MYSS staff members and/or volunteers, they put their trust in the service and rely on the understanding that all staff members and volunteers will respect the legal and ethical guidelines they have to protect this information.

## **2. Scope**

This policy will apply to all service users, paid and unpaid staff - including students - the Mackay Youth Support Service (MYSS) Management Committee and external contractors.

All services provided by MYSS are included in this policy including those where MYSS is working on joint ventures with other organisations and services.

All service user personal information, whether written, verbal or electronic is included in this policy. This includes information gained from:

- referral forms
- intake and assessment forms
- ongoing case notes
- verbal disclosures
- incidents reports
- medical reports
- legal reports
- school reports
- any other reports that include personal and identifying information

MYSS will respect the privacy of the service user/Youth Support Coordinator or U-nite worker relationship, however, all visits and meetings are documented and the MYSS Manager has full access to all service user files.

Reports are provided to funding bodies that may identify demographical information such as age, gender, presenting issues etc. but this information will not include any identifying information about an individual service user.

In some circumstances, information provided by service users may be shared with other organisations or agencies. The circumstances for this disclosure are outlined further in the procedures section of this policy.

### **3. Policy statement:**

Mackay Youth Support Services (MYSS) is committed to protecting and upholding the rights of the service users to privacy and confidentiality in the way MYSS collects, stores and uses information about them. MYSS ensures that no personal information about a service user is shared with anyone, on purpose or by omission, unless the service user has given their informed consent or in special circumstances where the law allows an exception.

Specifically, MYSS will:

- ensure that all staff members and volunteers understand the legal and ethical obligations in protecting the privacy of service users
- ensure that all staff members and volunteers meet legal and ethical obligations in protecting the privacy and handling of confidential information of service user personal information.
- provide service users with information about their rights regarding privacy and confidentiality
- ensure privacy for service users when they are being interviewed or discussing matters of a personal or sensitive nature with staff members or volunteers.
- ensure that sharing of verbal and written information about service users with agencies and individuals external to MYSS occurs only when this is necessary and with the written consent of the service user (unless the circumstances are such that limits to confidentiality rights apply).
- ensure that the sharing of verbal and written information about a service user within the organisation occurs on a “needs to know” basis only.

## 4. Procedures

The 10 National Privacy Principles of Schedule 3 of the *Privacy Act 1988* (Commonwealth) as amended to 14 September 2006, relate to the services provided by Mackay Youth Support Services (MYSS) as outlined below:

### 4.1. Collection

- 4.1.1 MYSS will not collect personal information from a service user unless the information is necessary for the provision of a direct service that is in the best interest of the service user.
- 4.1.2 MYSS will collect personal information only by lawful and fair means and not in an unreasonably intrusive way. This includes:
- the provision of a private interview and meeting room both at the MYSS premises and on each school site.
  - a separate office area for staff whereby telephone and other conversations that discuss service user information will not be overheard by other users of the service.
  - home visits (where appropriate and approved by the Manager).
  - appointments and interviews outside of school hours (where appropriate and approved by the Manager).
- 4.1.3 All users of MYSS will be informed prior to personal information being collected about the purpose of the collection and that all service users have access to their own personal information.

Service users will also be informed of their right to withhold personal information and the possible impact this might have on the assistance that MYSS can provide, and how and when information might be disclosed to another service.

Where practicable, all personal information will be collected from the individual service user themselves, however, some personal information is expected to be included on formal referral documentation.

### 4.2. Use and disclosure

- 4.2.1 MYSS will only use personal information provided by a service user for effective service provision, including the assessment of individual needs.
- 4.2.2 MYSS will not disclose any personal service user information to an external entity or person(s) about a service user unless:
- The service user has consented to the information being released
  - The use of the information is necessary to protect against a serious and imminent threat to a person's health or life.
  - The use of the information is required and authorised by law.
  - The use of information is reasonably necessary to prevent a serious criminal offence.
- 4.2.3 The MYSS Manager will have access to the personal information of every service user of MYSS to ensure that appropriate services are being delivered and that safety concerns can be managed.

- 4.2.4 All required disclosures of personal service user information to an external entity or person (s) will be discussed with, and approved by, the Manager but notifications will be made directly by the MYSS staff member involved to ensure accuracy of information.
- 4.2.5 If the disclosure is requested and authorised by law, the Management Committee will formulate an appropriate response.
- 4.2.6 MYSS will at all times attempt to gain consent directly from an individual service user for any disclosure of information, unless the service user is physically or legally incapable of giving consent. In this instance, the MYSS staff member and/or Manager will consult with an available member of the Management Committee and/or a representative from the relevant funding body for advice.
- 4.2.7 Where a nominated legal guardian or parent has been nominated and authorised to act on behalf of an individual service user, then this person will be approached for written consent.
- 4.2.8 In the event that all attempts to gain consent have been unsuccessfully obtained, or the situation requires immediate disclosure, the following Youth Support Coordinator (YSC) Memorandum of Understanding clauses will override this policy:

*Information will not be disclosed without the client's express consent except in circumstances where there is a significant, immediate and real risk of harm to the client or others, e.g. suicide, family violence, expressed intention to harm self or others, etc.*

*Where the potential risk of real harm overrides the maintenance of confidentiality, appropriate responses to facilitate safety should be made. In these instances the YSC will disclose the minimum level of information necessary to facilitate safety.*

*Where there is a need to disclose information the YSC will attempt to seek the consent of the young person, however disclosure is not dependent on their consent.*

- 4.2.9 All consent to the release of information will be included on a Release of Information Form signed by the service user and/or their legal guardian or parent. If a written consent form is not available at the time of disclosure due to the urgency of the situation, then the MYSS Manager and/or Management Committee member will ensure that a written and signed record of the event is obtained from all parties.
- 4.2.10 Personal information about individual service users will not be shared by internal workers unless this is on a "needs to know" basis and is necessary for effective service delivery.
- 4.2.11 Where a service user has requested that particular sensitive information is not disclosed to any other person, and where this does not meet any of the requirements of Section 4.2.2, then this information should not be shared internally.

#### 4.3. Data quality

- 4.3.1 All MYSS staff are provided with in-house and external training on accurate, complete and up-to-date service documentation and record keeping.
- 4.3.2 All MYSS staff are qualified in providing professional, appropriate, unbiased and non-judgemental comments and language in the documentation of service user assessments and case notes.
- 4.3.2 Randomly selected service user files will be internally reviewed on an annual basis to monitor data quality compliance.

#### 4.4. Data security

- 4.4.1. MYSS will protect service user personal information from misuse, unauthorised access, loss, modification and disclosure.
- 4.4.2 Access to service user files is on a “needs to know” basis only and these files are located in a locked central filing system area in the Mackay office.
- 4.4.3 Service user files for the Whitsunday YSC service are kept in a locked filing cabinet at the YSC Whitsunday Office.
- 4.4.4 Service user files for MYSS services provided outside of the MYSS premises are stored in a locked briefcase until original notes can be transferred to the locked central filing system area in the Mackay or Whitsunday office.
- 4.4.5 All MYSS staff will date and sign original service user documentation to ensure authenticity.
- 4.4.6 Disclosure of information will only occur as allowed in Section 4.2 of this policy.
- 4.4.7 Any unauthorised access or theft of personal information kept by MYSS on service users will be immediately reported to the police and the relevant funding body if discovered.
- 4.4.8 MYSS will retain personal service user information for 7 YEARS after the closure of the active Funding Service Agreement and will destroy individual service user files after this time has elapsed.
- 4.4.9 MYSS may retain de-identified personal information for research and data collection purposes after the statutory retention period.

#### 4.5. Openness

- 4.5.1. All service users are informed through the Client Service Charter of the type of personal information they may be required to disclose, and how this information may be used.
- 4.5.2. This information will be reinforced verbally by MYSS staff at each session.
- 4.5.3. The following privacy notice is printed on all MYSS forms that collect personal information:

*Mackay Youth Support Service Inc. (MYSS) is collecting the information on this form to assist us in providing support services. You do not have to provide the requested information however if you do not we may not be able to provide the services. MYSS will not pass this information on to anyone without your consent unless it is required to prevent harm or a risk of harm to others or yourself.*

- 4.5.4. If the information is collected via the telephone then the Privacy Notice must be read out to the service user.
- 4.5.5. If personal information is collected and recorded by MYSS staff, then service users must be given a printed copy of the privacy notice.
- 4.5.6. At the initial face to face meeting with a service user MYSS must inform service users of their right to confidentiality and the limitations of this. A confidentiality agreement form must be signed by the service user.

4.5.7. A new confidentiality form must be signed with each service user at the beginning of each new calendar year, or where a new staff member begins to work with an existing service user.

4.5.8. All service users will be informed of the availability of the MYSS Privacy and Confidentiality policy for further information.

#### 4.6 Access and correction

4.6.1 All service users will have access to their own personal information and case notes except in the following circumstances:

- Providing access would pose a serious and imminent threat to a person's health or life.
- Providing access would have an unreasonable impact upon the privacy of other individuals.
- The information relates to existing or anticipated legal proceedings between the organisation and the individual, and the information would not be subject to a subpoena as evidence.
- Denying access is required or authorised by law.
- Providing access would be likely to prejudice an investigation of possible unlawful activity.

4.6.2 If a service user advises that the personal information recorded by MYSS is not accurate, complete and up-to-date, then MYSS will take reasonable steps to correct this information.

4.6.3 If a service user and a MYSS staff member disagree about whether the information is accurate, complete and up-to-date, then this statement will be documented and discussed with the Service Manager who will investigate the issue.

4.6.4 All requests for access to personal records must be made in writing and forwarded to the Service Manager for approval prior to access being provided.

4.6.5 MYSS will provide both verbal and written notification and reasoning for denial of access or a refusal to correct personal information

#### 4.7 Identifiers

4.7.1 MYSS will only use unique identifiers as per the Youth Support Coordinator data reporting guidelines or those prescribed by other relevant funding bodies.

4.7.2 MYSS will not use or disclose a unique identifier allocated by another organisation or agency unless this is specifically requested by that organisation or agency.

#### 4.8 Anonymity

As per the privacy statement in Section 4.5.3, all service users have the option of not identifying themselves or providing personal information, however, this may impact on the services that MYSS can provide.

#### 4.9 Transborder data flows

MYSS will not transfer personal information about a service user to anyone in a country outside of Australia without direct advice from the relevant funding body.

#### 4.10 Sensitive information

Due to the nature of the services MYSS provides, MYSS staff may be required to collect sensitive information about a service user to best meet individual needs. This sensitive information will only be collected in the following circumstances:

- The service user has consented
- The collection is required by law
- The collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual.
- The information relates solely to service users or their families who have regular contact with MYSS.
- MYSS has advised service users at or before the time of collecting the information, that this information will not be disclosed without the consent of the service user, or under circumstances as outlined in Section 4.2.2.
- The collection is necessary for effective service provision.

**5. Other related policies and procedures**

Documents related to this policy	
Related policies	Records Management policy <a href="#">Client Service Charter</a> <a href="#">Client Service Charter Policy</a>
Forms or other organisational documents	<a href="#">Release of Information Form</a> <a href="#">Confidentiality Agreement Form</a>

**6. Review processes**

<p><u>Policy review frequency:</u> At least annually to commence in the month of February of each new calendar year. One standard area will be reviewed each month of this calendar year, excluding January of each year. Critical incidents will automatically initiate a review.</p>	<p><u>Responsibility for review:</u> MYSS Manager and Management Committee</p>
<p><u>Review process:</u> Reviews will be conducted by the Quality Management sub-group which will be comprised of the MYSS Manager and at least one other nominated Management Committee member as nominated when required. The Manager will be responsible for the inclusion of Service User and staff feedback information. The Management Committee representative/s will be responsible for ensuring that review information is presented to the Management Committee at each monthly meeting in a format that ensures expedient adoption of the Quality Management recommendations.</p>	
<p><u>Documentation and communication:</u> Policy decisions and changes will be documented and communicated through emails and memos, at weekly staff meetings and at monthly Management Committee meetings</p>	