

Pacific Community Resources

B05.1 Confidentiality, Protection of Privacy and Disclosure of Information

REVISED: May 2014

Policy:

In all circumstances staff will remain aware of the right of participants to have information about them held in confidence. The following guidelines are to be applied in maintaining confidentiality and disclosing information.

General Guidelines:

Pacific Community Resources will collect only the personal information of participants that is required for the provision of services, to meet the requirements established by the program's funder, to meet accreditation requirements, and for the purposes of research directly related to the provision of high quality services. Only information that pertains to the service being delivered will be collected.

Pacific Community Resources confidentiality policy is explained to participants during the initial program orientation, including to what extent information will or will not be shared with referring workers, probation officers, parents/guardians or others having a professional interest, this includes information obtained through conversation, text message, email or social media. Participants will also be informed, at intake, what information will be collected, the purpose of collection, and what is in place for privacy protection.

Participant confidentiality does not include keeping participant information from supervisors, as this undermines supervision and leaves the participant, worker and agency vulnerable.

Staff will not share private information about participants or co-workers with other participants.

Information about participants should not be divulged to others in general and should not become social conversation or gossip. This means that participants should not be discussed in public places (e.g. restaurants, at parties, etc.) where conversations can be overheard. Neither should staff discuss participants in their presence unless the participants are included as participants in the conversation.

All information of a child protection nature must by law be reported to the Ministry for Children and Families as soon as possible. ***Refer to policy D01.1, Duty to Report Child Protection Concerns, this Manual.***

Section 96 of the Child, Family and Community Services Act allows MCFD social workers to access any information from anywhere in a child abuse investigation. This is operationalized by a "simple request". No court order is needed.

Staff will cooperate with Police and provide relevant information if a participant is a suspect in an investigation, or if a child or youth has been reported as a missing person. In the event that staff are made aware that a person (adult or youth) has or is about to commit a serious crime, there is a civil responsibility to report this information to the Police. Ideally, the individual being reported should be informed that the reporting is taking place. However, under some circumstances this may not be the best plan. The program supervisor must be kept informed of all situations involving serious crime or the police.

Disclosure of information necessary to prevent people from doing harm to themselves or others is justified.

Participants are allowed access to any reports or documents we write about them, and as a matter of good practice Pacific Community Resources workers will routinely share reports with the participants about whom they are written. Any confidential third party information contained in such reports must be "blacked" or "whited" out prior to sharing the report.

Staff should remain aware that any information in written form pertaining to specific participants or the overall functioning of a program could be utilized in an investigation or subpoenaed as evidence in court.

Pacific Community Resources policy manuals, policy statements, program descriptions, etc. are not considered confidential and will be made available to participants, parents/guardians of participants, and funders upon request. Requests for Pacific Community Resources policy from other agencies will be forwarded to the supervisor for consideration.

Consent

Pacific Community Resources will obtain written participant consent for information to be entered into the Web-based participant tracking database.

In circumstances where a participant refuses to provide consent, the counsellor will consult with the program supervisor on methods to be used to collect participant information and evaluate participant progress. Refusal to provide consent should not be a reason to lead to termination of services.

In employment services consent is required for service delivery and online billing purposes.

Pacific Community Resources staff will not disclose personal information unless the staff is certain of the identity of the person making the request and the right of this person to have access to the information.

Who Has Access to Records of Persons Served

Access to participant files is limited to: the worker(s) providing direct service; the program supervisor, agency manager, Director or Executive Director; the participant; the funding Ministry liaison worker; government representatives investigating a complaint (e.g. the Office for Children and Youth, the Child, Youth and Family Advocate's Office); the Coroner's Office if investigating a death; and an internal or external audit team. Any file that is sent out of the office will be photocopied for our records in advance.

For MCFD funded programs, the following people may also access participant information on a need to know basis: the assigned social worker for a child-in-care; the parent of a participant under the age of 12 if the child is in the parent's legal care; and MCFD's internal review unit if reviewing a complaint, concern or death. Please note that for Alcohol and Drug Programs, the youth's parent, guardian, social worker, other professionals or concerned parties may not have access to information about a youth without the youth's written consent.

Access to file information by other non-agency professionals is limited to those who provide the Agency with signed written Consent of Release of Information of the participant, or if applicable, a child or youth's legal guardian. This must specify the name of the individual, the type of information to be shared, and consent to release information is only valid for one year.

When participants are referred from one Pacific Community Resources program to another Pacific Community Resources program, information may be shared between workers/supervisors with prior written consent of the participant. Pacific Community Resources will allow, with reasonable notice, an inspection of participant files by the programs' funder.

Freedom of Information and Protection of Privacy

Persons served have the right to view information that is recorded about them. Staff should review the file prior to the participant viewing it to ensure that information about third parties has been removed or redacted. If a participant wishes to have a copy of their file the request must be made in writing. They may not take the original and any information given to them must not contain information about third parties. If a report in a participant's file was not authored by PCRS, the person served will need to contact the author of the document should they wish to obtain a copy.

Any written request for information must be responded to within seven (7) working days of the written request being received. Pacific Community Resources will provide participants with the necessary supports to assist them to access information written about them (e.g., completing written requests; providing information on where and how to access information).

All freedom of information requests must immediately be discussed with the program supervisor/manager and agency privacy officer who will forward the request and the file through the appropriate government channels, if necessary.

The agency privacy officer will inform the executive director of any refusal to allow access to a participants' file. The applicant will be informed in writing the reasons for refusal, and the name, title, address and telephone number of the employee who can answer the applicant's questions about the refusal. Participants will be advised of the reasons for refusal to access personal information within 30 (thirty) calendar days of the request being made. The participant will be advised of available avenues for reviewing a decision to decline a request for access to information.

No documentation will be shared which is an unreasonable invasion of a third party's privacy.

Child specific records will not be released to parents having lost guardianship to the Ministry for Children and Family Development

If the request for a file comes from someone other than the person served (ie: lawyer) consent to release the file must be obtained from the person served.

Depending on individual circumstances and file contents, there may be situations in which it is good practice for the worker involved to sit down with the participant and go over and debrief the file contents with the participant prior or in addition to the file being handed over.

Protection of Privacy: Documents, Notes, Daytimers, Flash Drives, Mobile Devices, Computers and the Internet

Any information on persons served will be kept secure. All agency electronic devices will be password protected. Staff will encourage participants to password protect their devices if they are being used for communication regarding PCRS programs.

Files are not to be removed from the work site without permission from the program supervisor. Files or brief cases containing confidential documents, electronic devices or USB may not be left in cars (e.g. not to be left in cars overnight).

Documents containing identifying participant information (ie: full names, reasons for service or attendance) shall not be in an area where other participants or non-participants can view them. This includes thrown in trash baskets or recycling bins without shredding.

Any electronic device (including mobile phones and flash drives) shall have all their information deleted prior to disposal.

Daytimers or notebooks containing confidential notes should be treated with care and should not be left unattended or left in a vehicle. Daytimers or notebooks should only carry as much information as is needed and useful for carrying out the day-to-day functions of the job. For example, confidential notes should be transferred from the daytimer or notebook to the participant file.

To date it is Pacific Community Resources policy to keep all closed files for 99 years.

Participants or non-staff members may not use computers containing confidential information without approval from the program supervisor, and without the constant supervision of the staff member allowing/supervising the access.

For computers that are for participant use only staff may have knowledge of the password. No participant information should be saved to the hard drive of computers used by participants. All participant information will be removed from any computer that is moved from a staff use area to a participant use area.

Computer screens displaying confidential information should not be left on unattended or within the range of vision of a participant or visitor. In other words, if a program assistant is working on confidential information and a participant or visitor approaches, and if the screen is within view, the receptionist must go to a blank or non-confidential screen.

If staff work on participant reports from their heir home computers, participant information cannot be stored on their personal machines. If staff are working on the participant tracking database from their home computer they may not leave the machine unattended while they are logged in. If a staff member has access to a web based participant tracking database they must log off their machine when not in use.

Electronic mail sent or received is not confidential and belongs to the agency. Participant full names should not be sent in emails. Any attached documents should be encrypted.

If using social media to communicate with participants' staff must use a work PCRS account. The privacy settings on all PCRS social media accounts must ensure that they do not allow a third party to see information about PCRS program participants.

All telephone conversations with or in regard to participants are to be held in a manner that respects the participant's right to confidentiality. For example, conversations with or about a participant are not to be held within hearing of non-staff members or in the reception area of Pacific Community Resources offices. Staff are to keep in mind that conversations on cellular and cordless phones may be overheard.

Conversations on cellular and cordless phones pertaining participants or other confidential Pacific Community Resources matters should be kept as brief and non-identifying as possible

Fax Machines

Fax machines will not be kept in public areas. Standard cover sheets are to be sent with all faxes stating, "Some of our fax messages are confidential. Should you receive one in error, please telephone us and send the message back by mail."

Audio and Video Tapes and Photographs

The production of audiotapes or audio-visual material for education, training or other purposes is only to occur with the participant(s)' and if applicable, the guardian(s)' written consent and approval from the program supervisor. The release of audio or videotapes or photographs is only to occur with the participant(s)' and if applicable, the guardian(s)' written consent and approval from the Executive Director. *Refer to policy K01.1, Media Relations.*

Research

The use of any confidential information for research purposes will be utilized in a non-identifying, aggregate way, and will first be approved by the Continuous Quality Improvement (CQI) Committee or the Executive Director.

MCFD & School Board Funded Programs

In order for us to work with the children, youth and families referred to our programs, it is necessary and expected that the assigned MCFD social worker share with us all relevant background information and reports pertaining to referred children, youth and families.

Information will be made available to those persons known to have a recognized professional interest in the care and management of the youth to the extent that specific information is directly relevant to the child's welfare.

Drug & Alcohol Counselling & Prevention/Health Programs

Under the provisions of the Infants Act, youth may be referred to Drug and Alcohol Counselling or Prevention Programs without background information being shared by the referral source. At the same time, records may be shared with other health care providers for continuity of care, even without participant permission, provided that the information was collected for health care purposes (which includes alcohol and drug counselling).

Cross Reference:

- *Consent to Health Care by Young Persons, F6.1 (this Manual)*
- *Duty to Report Child Protection Concerns, D1.1 (this Manual)*
- *Freedom of Information and Protection of Privacy Act (Agency Library)*
- *Child, Family & Community Services Act (Agency Library)*
- *Infants Act (Agency Library)*
- *Summarized Version (Handout) for Youth and Children who are Consumers of PCRS (Website)*
- *Summarized Version (Handout) for Adults who are Consumers of PCRS (Website)*
- *Summarized Version (Handout) for Consumers of Employment Programs (Website)*

EFFECTIVE: *January 1996*

APPROVED: *August 1997*

REVIEWED/REVISED: *August 1997, January 1999, March 2001 (Employment Programs Confidentiality Policy), July 2003 (Name Change), January 2004, May 2014*