

Confidentiality & Corroborative Information

Receiving appropriate confidential information

- Contemporary mental health care, treatment and support is increasingly provided by a range of government and non-government services as well as informally by friends and family.
- In order to provide effective care, all care providers (informal family members included) require sufficient information from the public sector mental health services, and the outcomes of a mental health review tribunal as appropriate, to ensure that care, treatment and support are provided in a co-ordinated and safe manner.
- In attempting to achieve this, non-government organisations, along with families, friends and clients themselves may have difficulty in accessing pertinent information (when this is deemed to be “confidential”).
- There is a legal duty imposed on mental health and general public sector health employees to keep identifying information about a client private.¹
- However there are exceptions to this general duty of confidentiality. These exceptions allow for information to be given when:
 - the client gives their consent,² and, or,
 - if the information is communicated by a health professional to a “person who has a sufficient personal interest in the health and welfare of the person to whom the information relates”³
 - ◆ The client can object to this disclosure to particular people, however a professional needs to be aware of the following situations where a family or friend is providing care, the client needs to be aware that certain information needs to be exchanged so that this care can be safe and viable.
 - or when the information is required for the care or treatment of the person and the person giving the information is a health professional and they disclose the information in accordance with the recognised standards of the profession.⁴
 - ◆ Family or friends may be providing care of the client, and they can be given information relating to this care or treatment. For example they may be monitoring medications.
 - ◆ Families or friends may be acting as substitute decision makers, and are entitled to all relevant information to make a decision.⁵
- In providing care for clients there are specific periods that have been identified as crucial for clients’ safety, in particular; periods of leave or discharge from hospital.⁶
- Sharing information with external partners supports greater collaboration within new models of care.⁷ (Previously “patients have been the ‘messenger’– carrying test results, referrals and supporting information from one provider to the next. Providers often work with incomplete and unreliable information to inform decision making).

¹ *Mental Health Act 2000* s 8 (i) and *Health Services Act 1991* s 62A

² As Above *Health Services Act* s 62 C

³ As Above s 62 D

⁴ As Above s 62 E

⁵ See s 44 & 76 of *Guardianship and Administration Act 2000*

⁶ *Sentinel Events Report* - these times are of a higher risk for clients and greater transfer of information is required to ensure safety.

⁷ Chief Information Officer, Queensland Health (May 2007)

- “An approach which establishes a climate of joint responsibility, rather than primary responsibility, ensures the efficient and effective use of interagency resources and reduces the need for crisis intervention.”⁸
- A recent report of Queensland Law Reform Commission⁹ examined how confidentiality provisions operate in the Guardianship system. This report found that confidentiality provisions were often used to camouflage the rights of vulnerable people. Consequently they suggested that the rights of people be protected by increasing accountability and transparency provisions in the legislation. The duty of confidentiality has been recommended to be re-named as the duty to use information appropriately.

Giving relevant information

- There are particular times when it is necessary for workers from the non-government sector and family, to inform the public sector services about their concerns in relation to the changing needs of the client.
- This type of information is referred to as either collateral or corroborative information. The importance of this information to the care of the client has been highlighted in practice guidelines and coroners reports.¹⁰
- These circumstances include changes in the client's mental state and any expressed threats about staff or anyone in the community.

⁸ Guidelines for Collaboration between Queensland Health – Mental Health Services, Disability Services Queensland, and Funded Disability Services in the Provision of Services to people with a dual diagnosis of intellectual disability and mental illness (2004)

⁹ Queensland Law Reform Commission, *Public Justice Private Lives: A New Approach to Confidentiality in the Guardianship System*, June 2007.

¹⁰ *Clinical Practice Guidelines for Mental Health Nurse Practitioners in Emergency Departments* within North Sydney and Central Coast Area Health Service. “The most effective investigation tool available is the telephone. Use it to obtain corroborative mental health information from the patient's GP, case manager or mental health clinician, family and other sources (within the limits of confidentiality).” At p 11

NSW Mental Health Sentinel Events Review Committee *Tracking Tragedy* (Third Report 2007) found that only one third of files reviewed contained corroborative information, even when it was known that the client had lived with their family. This information was thought to be vital to inform mental health assessments. p. 44