Medicare Mental Health Centre

Consent and Confidentiality Policy

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2024/8	07/08/2024	Reese Chen	Think Management Team	Update Branding

Medicare Mental Health Centre's delivered by Think Mental Health acknowledge the Traditional custodians on the land on which we live and work, and of the many different nations across the wider regions from which we all come. In Canberra this is the Ngunnawal people. We pay our respects to the Elders past, present and emerging as the holders of the memories, the traditions, the culture and the spiritual wellbeing of the Aboriginal and Torres Strait Islander peoples across the nation.

1.0 Introduction

1.1 Scope and Purpose

Medicare Mental Health Centre's (delivered by Think Mental Health) are committed to ensuring the privacy and confidentiality of its service users. The Consent and Confidentiality policy sets out the Centre's approach to obtaining informed consent, as well as the ways in which confidentiality is maintained when recording and storing consumer health information. These issues are important in providing an environment where service users are equal partners in their care, can make informed choices about their treatment, and know who has access to their personal information and for what purpose.

This policy applies to all staff, students, contractors and service users in all TMH delivered centres and phone services.

1.2 Context

The Centre is committed to providing consumer-centred care, and to respecting the rights and responsibilities articulated in the National Standards for Mental Health Services 2010[1]. This includes the following rights, articulated in our Quality and Clinical Governance Framework:

> *Privacy and confidentiality* - confidentiality and privacy arrangements will be in place in accordance with relevant legislation, whilst ensuring appropriate information sharing is in place between services involved in a care pathway.
>
> *Involvement in care* – consumers and carers will be partners in their care. This will include arrangements for informed consent to care delivered at the centre and referrals.

The service model at the Centre involves important internal and external team arrangements and shared care, to enable integrated, multidisciplinary assessment and care to be provided. The consent and confidentiality arrangements in this policy are contextualised within these team and partnership arrangements. The arrangements seek to support the best care outcomes for consumers, through a process which respects their right to decision making about their services and information.

Further context for this policy will be provided in our Data Governance Policy, which will document privacy safeguards and how data related decisions are made within the Centre.

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[1] https://www.health.gov.au/resources/publications/national-standards-for-mental-health-services-2010-and-implementation-guidelines

2.0 Informed Consent

2.1 Definition and Types of Informed Consent

Informed consent is defined by the Australian Commission on Safety and Quality in Health Care as "a person's decision, given voluntarily, to agree to a healthcare treatment, procedure or other intervention that is made:

- Following the provision of accurate and relevant information about the healthcare intervention and alternative options available; and
- With adequate knowledge and understanding of the benefits and material risks of the proposed intervention relevant to the person who would be having the treatment, procedure or other intervention.[2]"

At the Centre, we are committed to providing the opportunity for informed consent to:

- Receiving a service from the Centre;
- Storing and sharing information with relevant team members and service providers;
- Being contacted for participation in Experience of Service surveys, or for other service-related matters;
- Sharing of information with internal and external teams necessary to deliver quality multidisciplinary care outcomes;
- Sharing de-identified data with the Commonwealth Department of Health and Aged Care, state and territory health departments and other agencies to allow for research, evaluation and improvement of mental health services in Australia.

2.2 Approach to informed consent

Gaining informed consent requires communicating the benefits and risks of the care proposed by the service, and the need for sharing of service delivery information to ensure service users can make an informed decision.

At the Centre, there are four very important aspects to this:

- The capacity of the person to make decisions about their treatment must be considered in the approach to informed consent;
- Consent provided must be free and voluntary;
- Information provided must cover the procedures to be undertaken, and the alternative treatment or procedures that may be available;
- Consent processes should also seek the agreement of the service user to the sharing of information within internal and external teams necessary to deliver quality multidisciplinary care outcomes.

In the informed consent process, staff will be expected to consider the personal circumstances, beliefs and priorities of the individual and any special needs they may have. This will include issues of cultural and linguistic diversity, cultural safety, the level

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[2] https://www.safetyandquality.gov.au/our-work/partnering-consumers/informed-consent

of understanding they may have of the treatment, and other non-health factors which may influence their decision. If an individual is unable to provide informed consent, due to unwillingness or incapacity, no service can be provided. If an individual is unable to provide consent and has a substitute decision maker in place, staff will liaise directly with the substitute decision maker to identify appropriate supports.

3.0 Confidentiality

3.1 Approach to confidentiality of consumer information

In order to provide a service to individuals, we need to collect and record personal information. There are no requirements to prove identify, ensuring consumers are able to use a pseudonym if they wish and this would then be protected as part of their identity with the service. Confidentiality at the Centre is supported by ensuring all staff and service users respect and understand processes and protections that limit access to this information and ensure secure storage and sharing arrangements in line with the ACT Health Records (Privacy and Access) Act 1997.

The information collected includes information about what is discussed and what happens during sessions at the Centre. This information will be accessible to members of the Centre's service delivery team and if appropriate may be available to partner agencies that are supporting service users through care pathways.

There are a number of key principles which underpin our approach to achieving the right balance between service user privacy, and sharing data to facilitate multidisciplinary care:

- Service users should have confidence that the Centre respects the importance of keeping consumer information secure;
- Service user information is only shared with consumer consent and where necessary for good care;
- Service users should not have to tell their story twice – sharing of information on referral, with consent, will help to minimise this.

At the Centre, we work in a team environment and as such, case discussions and reviews occur regularly, to ensure consumers get the best possible service. All consumer files are stored electronically. Any paper-based notes will be kept in a secure area and destroyed once transferred to our electronic database. Consumer information may be transferred by mail, facsimile or via email from time to time.

When a consumer is no longer receiving a service from the Centre all information will be archived but maintained within the data base for the required period of time. All health data is stored for a minimum of seven years after last contact. If the service user is under 18 years of age, all records will be stored until the individual reaches 18 years and then for an additional seven years, as per legislative requirements (Health Records (Privacy & Access) Act, 1997).

Where the service user gives their consent, anonymous de-identified data, without any personal details, will be made available to the confidential data base held by the Department of Health and Ageing. This will assist with overall monitoring and review of mental health service delivery and inform future services.

In line with the Centre's Code of Conduct as well as the Data Governance and Records Management Policy, staff are not to access any confidential information that is not directly required to perform their duties. Any breaches will be considered a violation of the Code of Conduct.

3.2 Circumstances under which consumer information may be shared

We take confidentiality and security of personal information seriously and will only share information with other parties in the following circumstances;

- If permission is given to share information with another person or organisation (third party);
- If we receive a request for release of information from a third-party service, even if this includes consumer consent, we will endeavour to inform the consumer prior to releasing their information, in order to confirm consent is current.
- If concerns are held for someone's safety, we have a duty of care to act to protect individuals;
- To meet legal requirements relating to;
    - mandatory reporting of recent and/or historical child abuse and neglect
    - disclosure of serious criminal activity
    - a legally mandated request for information
    - In line with best practice, we will always endeavour to inform a consumer of any pending release of information for legal purposes

3.3 Breach of Policy

If a staff member is dissatisfied with the conduct of a colleague regarding privacy and confidentiality of information, the matter should be raised with the staff member's direct supervisor/team lead. If this is not possible or appropriate, the Service Manager is the next contact point. Staff who are deemed to have breached privacy and confidentiality standards, as set out in this policy, may be subject to disciplinary action. This may result in the termination of their employment with the Centre.

If a user of our service is dissatisfied with the conduct of one or more of our staff members regarding privacy and confidentiality of information, the participant is encouraged to have their concern addressed using the Centre's Service User Feedback Policy: Complaints, Compliments and Suggestions.

Should the individual not be satisfied with the complaint management, they can report their concern to the ACT Human Rights Commission who handle complaints about the provision of health services in the ACT and complaints about access to and integrity of health records in the ACT under the ACT Health Records (Privacy and Access) Act 1997.

References

National Standards for Mental Health Services, Australian Government Department of Health, Canberra, 2010 https://www.health.gov.au/resources/publications/national-standards-for-mental-health-services-2010-and-implementation-guidelines

Australian Commission on Safety and Quality in Health Care – Our Work: Partnering with Consumers/Informed Consent https://www.safetyandquality.gov.au/our-work/partnering-consumers/informed-consent