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GUIDELINE 24

DCS

Information Sharing Guidelines (ISG)

Appendix

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CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
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Table of Contents

1.	Introduction	3
2.	Aim	3
3.	Scope	3
4.	DCS Legislative Framework for Information Sharing	3
4.1	Relevant Legislation	3
4.2	Limited Confidentiality and Informed Consent	3
4.3	Sharing Information without Consent.....	4
4.4	Decision Making Steps for Information Sharing.....	5
4.5	DCS Information Sharing Case Studies	5
4.6	Cultural Guidance	6
4.7	Mandatory Reporting	6
4.8	Family Safety Framework.....	6
4.9	Recording Information Sharing Decisions.....	7
4.10	Internal Dispute Resolution	7
5.	DCS Volunteers	8
6.	Distribution	8
7.	DCS ISG Annexes	8
8.	DCS Contacts for Further Information	8
9.	Definitions	9
10.	DCS ISG References	9
11.	Approved	9

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CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



1. Introduction

This document is the Department for Correctional Services (DCS) appendix (or procedure) to the South Australian Government's – [Information Sharing Guidelines for Promoting Safety and Wellbeing \(ISG\)](#). The following process, together with the ISG provides a framework which outlines legislative requirements and organisational policy and practice for information sharing from a DCS perspective.

2. Aim

The DCS ISG appendix outlines information sharing practices for DCS employees and volunteers when it is believed a person is 'at risk of harm' (from others or as a result of their own actions) and adverse outcomes may result unless appropriate actions are taken.

3. Scope

These guidelines apply to employees and volunteers in the Department for Correctional Services.

4. DCS Legislative Framework for Information Sharing

4.1 Relevant Legislation

The Department must adhere to the following legislative requirements which restrict, prevent or demand disclosure of information as prescribed in section 85C – Confidentiality, section 85CA – Disclosure of Health Information, and section 85D – Release of Information of the [Correctional Services Act, 1982](#) (CSAct).

In addition, the Department must also comply with Premier and Cabinet Circular No 12 - [Information Privacy Principles Instruction](#) (IPPs) which guides the collection, storage, use and disclosure of personal information by state government agencies.

4.2 Limited Confidentiality and Informed Consent

It is important that DCS employees provide offenders and/or victims (including family members) with an understanding of information sharing practices regarding limited confidentiality provisions; and circumstances where it may be impracticable or unreasonable to obtain informed consent. **Limited Confidentiality** is administered by sections 85C (1) (a) to (e) of the CSAct and section 8 (c) of the IPPs, for example:

Section 85C (1) (ba) of the CSAct provides the Chief Executive with the authority to disclose information in order to avert a serious risk to public safety. This section relates specifically to a prisoner, probationer or parolee, or derived from the Victims Register and is an example of the 'limit' of confidentiality DCS can provide to the individual; and

Section 8 (c) of the IPP allows for personal information to be used by an agency where the use of information 'is necessary to prevent or lessen a serious threat to the life or health of the record-subject or of some other person'. **Informed Consent** is administered by section 85C (1) (e) of the CSAct which allows for information sharing when the consent of the

WARNING – PRINTED DOCUMENTS MAY BE OUT OF DATE CHECK AGAINST INTRANET VERSION

CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



prisoner, probationer, parolee or registered victim to whom the information relates is obtained. Section 8 (b) of the IPP allows for information sharing when the consent of the record-subject has been obtained.

The Department acknowledges that seeking informed consent is the recommended practice when sharing information about a person; however, there are circumstances (e.g. when required by law) when information must be shared without the consent of a person.

DCS employees should ensure, where possible that ‘informed consent’ is provided in writing, but it may also be given verbally. In some cases, informed consent may be sought from the person to whom the information relates before the information is released, unless it is believed that this will place a child, young person or adult at increased risk of harm. Informed consent means the person understands with whom their information will be shared, for what purpose, and what might happen as a result of information being shared.

When explaining the limits of confidentiality, the following can be used:

DCS will work closely with other agencies to coordinate the best support for you and your family. Your informed consent for the sharing of information will be sought and respected in all situations unless:

- we are obliged by law to disclose your information regardless of consent or otherwise
- it is impracticable or unreasonable to gain consent or consent has been refused, and,
- without information being shared, it is anticipated a child, young person or adult will be at risk of serious harm, abuse or neglect, or pose a risk to their own or public health or safety.

4.3 Sharing Information without Consent

There is a legitimate reason to share information without consent if it is believed failure to share information will lead to risk of serious harm. Disclosure of information without consent is permitted if:

- (1) it is authorized or required by law, or
- (2) (a) it is unreasonable or impracticable to seek consent; or consent has been refused; and
(b) the disclosure is reasonably necessary to prevent or lessen a serious threat to the life, health or safety of a person or group of people.

The decision to share without consent must be based on sound risk assessment and approved by the appropriate officer in your agency or organisation.

Section 85C (1) (a) to (e) permits the disclosure of personal information by a delegated DCS employee without consent, if it is reasonably believed that the disclosure is necessary to prevent or lessen a serious, anticipated threat to any person’s health, safety or life. [This provision aligns with the test for disclosure in the ISG.](#)

When this occurs, consultation between colleagues and line managers regarding the information sharing decision should be discussed and approval to share information should be acquired from an authorised DCS delegate identified in the chart below:

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CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



Executive Directors, Directors, General Managers and Regional Directors

Managers, Executive Officers; Governance & Executive Support Staff; Ethics, Intelligence & Investigations Staff; Parole Board Secretariate

Any other employee authorised by a General Manager or Regional Director

4.4 Decision Making Steps for Information Sharing

The [ISG Decision Making Steps](#) (Annex A) and [ISG Practice Guide](#) (Annex B)* is the process adopted for information sharing by all state government agencies and NGOs. This is the process all DCS staff will follow and is a key resource for assisting DCS employees and volunteers in the assessment process when a risk of harm or threats to the wellbeing of an individual is identified. DCS employees should seek to make decisions based on evidence and be guided by appropriate risk assessment frameworks rather than personal values.

The [Early Intervention by Sharing Information Practice Tips](#)* is an additional resource which can be utilised and provides further discussion on the process of sharing information from a practice perspective.

*These documents have been sourced from the ISG Resources Section of the [Ombudsman SA Website](#).

4.5 DCS Information Sharing Case Studies

The following [DCS Case Studies for ISG](#) (refer Annex C) provide examples to assist DCS employees and volunteers understand the process of decision making when it is believed a person is at risk of harm (from others or as a result of their own actions) and adverse outcomes can be expected unless appropriate actions are taken. The various case studies can be accessed in Annex C and cover the following scenarios:

Case Study 1 is an example whereby information requested by a victim regarding a previous partner is declined, although relevant authorities are informed due to safety concerns.

Case Study 2 is an example where the offender information is shared after a 'distress' call from a registered victim.

Case Study 3 is an example where offender information is shared by Case Management Coordinator after a report was received on an offender's behaviour during a home visit;

Case Study 4 is an example of information sharing relating to a domestic violence situation involving a parolee.

Case Study 5 is an example of sharing information to support offender rehabilitation and protect victims of crime.

Case Study 6 is an example where information is shared by a volunteer after facilitating a child access visit.

CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



4.6 Cultural Guidance

DCS employees and volunteers should seek guidance whenever they are engaged in information sharing actions involving a child, young person or adult whose culture is unfamiliar to them.

When seeking advice about how to share information with cultural sensitivity it is vital to protect the privacy of the individual or family by discussing your concern in a way that does not identify them, therefore it is essential that:

- guidance on Aboriginal & Torres Strait Islander culture is sought in the first instance from the Director, Aboriginal Services Unit on telephone: 8266 9117; and
- DCS employees and volunteers familiarise themselves with the [DCS Cultural Guidance and Resource Information](#) (refer Annex D) to further their understanding of the complexities in different cultures.

4.7 Mandatory Reporting

Mandatory reporting plays a critical role in early intervention where a child or young person has or is being abused or neglected. DCS employees (i.e. Case Managers, Victim Support Officers, Court Report Writers, Aboriginal Liaison Officers and Home Detention Officers) and volunteers may liaise with offenders' family members in the course of their duties. It is through their concerns about children and families that issues are brought to the attention of those whose job it is to help coordinate responses.

DCS employees and volunteers should be aware that they are mandated by law (refer Section 6, 10 and 11 of the [Children's Protection Act, 1993](#)) to report suspicions of child abuse and neglect. In addition, section 10 (d) of the IPPs permits the disclosure of personal information for a purpose that is not the purpose of collection where the disclosure is required or authorised under law. Notification of abuse or neglect under Section 11 of the [Children's Protection Act, 1993](#) is required by law. This is a mandatory obligation.

Mandatory reporting does not require consent and must be reported to the [Child Abuse Report Line](#), Families SA.

4.8 Family Safety Framework

The Family Safety Framework was developed by the Office for Women in conjunction with other key South Australian government agencies. Homicide case reviews identified the lack of information sharing amongst agencies as a significant factor contributing to homicide/suicide in families where there is domestic and family violence.

The intention of the Family Safety Framework is to improve upon this by providing action based, integrated service responses to families experiencing domestic violence who are at high risk of serious injury or death.

As a result, the department developed guidelines for the [Application of the Family Safety Framework within DCS](#) to assist staff when representing the department at Family Safety Meetings (FSM). The majority of referrals to FSMs involve male perpetrators and female victims who are partners or former partners.

The DCS guidelines are intended for use in conjunction with the [Family Safety Framework Practice Manual](#) which provides overarching guidance to all agencies involved in the Family Safety Framework in relation to critical aspects including: risk assessment; information sharing; FSMs; and records management.

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CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



4.9 Recording Information Sharing Decisions

Existing DCS service related information management systems are used to record details of information sharing decisions and actions. Recording information sharing actions is an integral part of the follow up, referrals and interagency records.

The secure record keeping practices (i.e. Justice Information System, electronic or paper-based files) administered in each DCS business unit are based on the legislative requirements outlined in the [State Records Act, 1997](#).

DCS employees and volunteers should record the information sharing process when information is shared **without consent** and when information sharing requests **are refused** by you, or to you. The information to record when shared **without consent** must include:

- why obtaining consent was not relevant or possible;
- line manager's approval, if required;
- what is shared, when and by whom;
- the agency and the office or officer involved; and
- outcomes.

The information to record when **request is refused** (by you or to you) must include:

- the purpose (the immediate or anticipated risk the request was intended to address);
- reason given for refusal;
- notification to line manager; and
- outcomes and any subsequent follow up by line manager.

When sharing information **with consent** (written or verbal*) the details need to be retained, including:

- who gave it, when and to whom;
- what the consent related to; and
- the information provided or received.

* Verbal consent with recognised risk – where the DCS employee or volunteer considers that the circumstances of the verbal consent carry a degree of risk. For example, the person may have a history of unpredictable behaviours or frequent changes of mind, or the informed consent relates to highly sensitive information (i.e. offence history, serious mental health problems, financial or family circumstances, intelligence information and information about their risk of re-offending).

4.10 Internal Dispute Resolution

If a DCS employee or volunteer believes that the information sharing process is being impeded by the decisions of a colleague or line manager within DCS they should address the issue directly with the person concerned, referring to the aim of the DCS ISG Appendix. If this approach is unsuccessful the DCS employee or volunteer may contact the relevant Director to whom the issue could be referred for further consideration.

When each of the abovementioned processes has been explored but the DCS employee or volunteer remains concerned about the impact on a child, young person or adult, they

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Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



should contact the SA Principal Advisor, Information Sharing at Ombudsman SA on telephone (08) 8226 8699 or email isg@ombudsman.sa.gov.au.

5. DCS Volunteers

Volunteers play a significant role in supporting a wide range of DCS programs. Some of these programs (i.e. mentoring/befriending) provide volunteers with important insights into the general wellbeing of children, young people and adults.

While DCS volunteers are not authorised to share information with other agencies* or organisations (unless they do so with the support and supervision of a manager) they nevertheless make an important contribution to that process by advising the DCS Volunteer Coordinator when their insights cause them to be concerned about the safety or wellbeing of children, young people or an adult.

As part of their induction, all volunteers should be made aware of the relevant sections of the CSAct and DCS Guidelines for information sharing with examples of how this relates to their role. Volunteers should also be advised they are to seek support, supervision and advice from the DCS Volunteer Coordinator or a relevant manager within DCS before seeking or sharing information.

* except if making a mandatory notification to the [Child Abuse Report Line](#), Families SA.

6. Distribution

These guidelines will be communicated to DCS Executive Directors, Directors, General Managers, Regional Managers and Senior Managers, and made available to DCS employees and volunteers through the DCS Intranet site.

7. DCS ISG Annexes

[Annex A – ISG Decision Making Steps](#)

[Annex B – ISG Practice Guide](#)

[Annex C – DCS Case Studies for Information Sharing Guidelines](#)

[Annex D – DCS Cultural Guidance and Resources Information](#)

8. DCS Contacts for Further Information

Director, Governance & Executive Support – telephone: 8226 9083

Director, Aboriginal Services Unit - telephone: 8266 9117

Manager, Freedom of Information – telephone: 8226 9324

Policy Officer, Victim Services & Client Advocacy - telephone: 8226 9067

Coordinator, Volunteer Unit - telephone: 8440 3608

CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
Created: 01/11/2010	Modified: 24/04/2014	Approved: 15/12/2014



9. Definitions

Department and DCS mean the Department for Correctional Services.

Document Sponsor means the person assigned with the delegated responsibility for the timely review and update of Policy and Procedure Structure documents for which they have been identified as being responsible for.

Guidelines are functional manuals, which contain a greater level of detail regarding minimum standards.

Imminent means likely to occur at any moment, about to occur, impending, likely to happen very soon.

Informed Consent means permission an individual gives to information sharing, either implied or explicit, after they have demonstrated that they understand the purpose of the request and the likely outcomes of that consent.

Mandatory Reporting is a term used to describe the legislative requirement imposed on selected classes of people to report suspected cases of child abuse and neglect to government authorities.

Record-Subject means a person to whom personal information relates.

Volunteer is a person who undertakes a task of their own free will without payment for service and of benefit to the community.

10. DCS ISG References

[Children's Protection Act, 1993](#)

[Commonwealth Privacy Act, 1988](#)

[Correctional Services Act, 1982](#)

[Early Intervention by Sharing Information Practice Tips](#)

[Family Safety Framework Practice Manual](#)

[DCS Guideline 18 - Family Safety Framework](#)

[Information Sharing Guidelines for Promoting Safety and Wellbeing](#)

[Premier and Cabinet Circular No 12 - Information Privacy Principles Instruction](#)

[State Records Act, 1997](#)

11. Approved

David Brown
CHIEF EXECUTIVE 15.12.14

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CEN/09/0320	Guideline 24: DCS Information Sharing Guidelines Appendix	Version: 02
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