

Multiagency collaborative panel information sharing Arrangement

ARRANGEMENT UNDER SECTION 297F OF THE *YOUTH JUSTICE ACT 1992*

PRESCRIBED ENTITIES:	<p>DEPARTMENT OF CHILDREN, YOUTH JUSTICE AND MULTICULTURAL AFFAIRS</p> <p>QUEENSLAND POLICE SERVICE</p> <p>DEPARTMENT OF EDUCATION</p> <p>DEPARTMENT OF HEALTH</p> <p>DEPARTMENT OF COMMUNITIES, HOUSING AND DIGITAL ECONOMY</p> <p>DEPARTMENT OF SENIORS, DISABILITY SERVICES AND ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS</p> <p>DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL</p> <p>QUEENSLAND CORRECTIVE SERVICES</p>
SERVICE PROVIDERS:	AS PUBLISHED ON THE DEPARTMENT OF CHILDREN, YOUTH JUSTICE AND MULTICULTURAL AFFAIRS WEBSITE

1. DEFINITIONS & INTERPRETATION

1.1 In this Arrangement, the following definitions apply:

Act means the *Youth Justice Act 1992*;

Arrangement means this arrangement;

Child charged with an offence has the same meaning as in s 297E of the Act;

Confidential information has the same meaning as in s 284 of the Act;

Holder has the same meaning as in s 297G of the Act;

Multiagency collaborative panel means a panel of public service officers and non-government agencies convened to coordinate the provision of services (including assessments and referrals) to meet the needs of young people involved in the youth justice system and provide Confidential Information that may be used by courts in making bail or sentencing decisions for young people;

Particular purposes means the purposes set out in section 297G(2)(a) to (f) of the Act and repeated in clauses 4.1(a) to (f) of this Arrangement;

Prescribed entity has the same meaning as in s 297D of the Act and the prescribed entities for this Arrangement are the prescribed entities listed at the start of this Arrangement;

Recipient has the same meaning as in s 297G of the Act;

Regulation means the *Youth Justice Regulation 2016*;

Service provider has the same meaning as in s 297D of the Act and the service providers for this Arrangement are the service providers listed at the start of this Arrangement.

2. ESTABLISHMENT OF ARRANGEMENT

- 2.1 The prescribed entities and service providers establish this Arrangement under section 297E of the Act to enable the prescribed entities and service providers to:
- (a) coordinate the provision of services (including assessments and referrals) to meet the needs of children charged with offences; and
 - (b) provide confidential information that may be used by courts in making bail or sentencing decisions for children; and
 - (c) share relevant confidential information with each other for the purpose of the matters mentioned in paragraphs (a) and (b).
- 2.2 The prescribed entities and service providers will ensure that any sharing of confidential information under this Arrangement complies with the Act and the provisions of this Arrangement.

3. PRINCIPLES FOR SHARING INFORMATION

- 3.1 Without limiting clause 2.2, in implementing this Arrangement, the prescribed entities and service providers will have regard to the:
- (a) the youth justice principles in schedule 1 of the Act; and
 - (b) the principle that whenever possible and practical, a person's consent should be obtained before disclosing confidential information relating to the person to someone else.
- 3.2 The prescribed entities and service providers acknowledge that section 297C of the Act provides that as well as the youth justice principles, it is a principle underlying Division 2A of Part 9 of the Act that, whenever possible and practical, a person's consent should be obtained before disclosing confidential information relating to the person to someone else, but that section 297C does not prevent confidential information relating to a person from being disclosed to someone else under this division if the person's consent is not obtained before the disclosure.

4. SHARING OF CONFIDENTIAL INFORMATION FOR PARTICULAR PURPOSES

- 4.1 A holder acknowledges that, under section 297G of the Act, it may only disclose confidential information under this Arrangement, if the holder reasonably believes the information may help the recipient to:
- (a) participate in case planning for the child; or
 - (b) assess the child's needs; or
 - (c) ensure a court is able to take into account the child's needs; or
 - (d) provide appropriate referrals for the child; or
 - (e) deliver services, programs or support for the child; or
 - (f) address the child's health needs or disability needs so far as they are relevant to the child's previous, or possible future, offending behaviour (the **particular purposes**).

5. NOTICE FROM THE RECIPIENT TO THE HOLDER WHEN REQUESTING CONFIDENTIAL INFORMATION

- 5.1 When a recipient requests confidential information from a holder, the recipient must give the holder a written notice stating:
- (a) the type of confidential information being requested; and
 - (b) the particular purposes that the recipient reasonably believes the confidential information may help the recipient to do.

6. NOTICE FROM THE HOLDER TO THE RECIPIENT WHEN DISCLOSING CONFIDENTIAL INFORMATION

- 6.1 When a holder discloses confidential information under section 297G to a recipient, the holder must give the recipient a written notice stating:
- (a) the particular purposes that the holder reasonably believes the confidential information may help the recipient to do; and
 - (b) that the recipient must not disclose the confidential information to another entity under another arrangement unless the holder consents, in writing, to the disclosure (under section 44B(2)(b) of the Regulation).
- 6.2 The holder must give the notice under clause 6.1 to the recipient before, or at the same time as disclosing, the confidential information to the recipient (under section 44B(3)(a) of the Regulation).
- 6.3 The recipient and the holder acknowledge that notice stops having effect six months after the notice is given or on an earlier day stated in the notice (under section 44B(3)(b) of the Regulation).
- 6.4 The prescribed entities and service providers acknowledge that:

- (a) the six month period under clause 6.2 is 'to ensure that entities which share information more frequently can do so readily without needing to create a notice for each instance information is shared within a six month period'; and
- (b) 'after that period, a new written notice will be required to ensure that the sharing of information remains appropriate for meeting a child's needs',

according to page 5 of the explanatory notes for the *Youth Justice and Other Legislation Amendment Regulation 2019*.

- 6.5 The prescribed entities and service providers acknowledge that the notice under clause 6.1 will apply to disclosures made during the meetings of multiagency collaborative panels in accordance with the notice during the effective period of the notice.

7. NOTICE FROM THE HOLDER TO THE RECIPIENT WHEN NOT DISCLOSING CONFIDENTIAL INFORMATION

- 7.1 When a holder declines a request for disclosure of confidential information to a recipient, the holder must give the recipient a written notice stating the rationale for reasonably believing that the confidential information may not help the recipient for a particular purpose.

8. REQUIREMENT FOR CONFIDENTIAL INFORMATION PREVIOUSLY SHARED UNDER ANOTHER ARRANGEMENT UNDER THE ACT

- 8.1 This clause 7 applies if the confidential information was disclosed to the holder by another entity (**other entity**) under another arrangement.
- 8.2 The holder must not, under the other arrangement, disclose the confidential information to a recipient unless:
- (a) the holder requests the other entity's consent to the disclosure; and
 - (b) the other entity consents, in writing, to the disclosure; and
 - (c) the holder complies with any conditions of the consent,
- as required under section 44B(5) of the Regulation.
- 8.3 the holder's request to the other entity for consent must be in writing and state the particular purpose that the holder reasonably believes the confidential information may help the recipient to do (under section 44B(6) of the Regulation).
- 8.4 The parties acknowledge that 'This mechanism is designed to facilitate instances where the disclosing of information by a recipient to a party outside of an arrangement, but who is a party to a different arrangement under the YJ Act, will be beneficial in meeting the needs of a child charged with an offence', according to page 6 of the Regulation.
- 8.5 For the avoidance of doubt, the requirements under this clause 7 apply in addition to the requirements in clause 5.

9. RESTRICTIONS ON RECORDING, USE AND DISCLOSURE OF CONFIDENTIAL

INFORMATION DISCLOSED UNDER THIS ARRANGEMENT

- 9.1 A recipient must only record, use or disclose confidential information for a particular purpose and as permitted under the Act.
- 9.2 A recipient must not:
- (a) record or use the confidential information or intentionally disclose the confidential information to anyone, other than under Division 2 of Part 9 of the Act; or
 - (b) recklessly disclose the confidential information to anyone.
- 9.3 The prescribed entities and service providers acknowledge that:
- (a) it is an offence under section 288 of the Act, for anyone who is employed or engaged by a recipient to:
 - (i) record or use the confidential information or intentionally disclose the confidential information to anyone, other than under Division 2 of Part 9 of the Act; or
 - (ii) recklessly disclose the confidential information to anyone; and
 - (b) this offence is punishable by a maximum penalty of 100 penalty units or 2 years imprisonment.

10. DISCLOSING CONFIDENTIAL INFORMATION ABOUT A CHILD WITHOUT THE CHILD'S CONSENT

- 10.1 If the holder discloses confidential information relating to a child without the child's consent, the holder must make all reasonable attempts to advise the child of:
- (a) the disclosure; and
 - (b) the particular purpose that the prescribed entity or service provider reasonably believes the information may help the recipient of the information to do (under section 44C(2) of the Regulation).
- 10.2 The holder may delay advising the child under clause 10.1 if the holder reasonably believes the delay is appropriate in all the circumstances (under section 44(3) of the Regulation).
- 10.3 The holder must make a record of an attempt made by the holder to:
- (a) obtain the child's consent to the disclosure; and
 - (b) to advise the child under clause 10.1 (under section 44(4) of the Regulation).

11. FORMS FOR NOTICES UNDER THIS ARRANGEMENT

- 11.1 The Department of Children, Youth Justice and Multicultural Affairs will prepare forms for the notices to be used under this Arrangement and provide the forms to the other prescribed entities and service providers.

12. MULTIAGENCY COLLABORATIVE PANELS

- 12.1 The prescribed entities and service providers acknowledge that multiagency collaborative panels may be established and convened according to local arrangements to coordinate the provision of services (including assessments and referrals) to meet the needs of young people involved in the youth justice system.
- 12.2 This MOU and the Arrangement, and all associated obligations, will apply in circumstances where the multiagency collaborative panel is:
- (a) convened in relation to a child charged with an offence, and
 - (b) is comprised of prescribed entities and service providers; and
 - (c) required to share confidential information for a particular purpose.
- 12.3 The prescribed entities and service providers acknowledge that:
- (a) information may only be shared under this Arrangement with members of multiagency collaborative panels who are prescribed entities or service providers under this Arrangement; and
 - (b) they must comply with their obligations under this Arrangement in relation to any information sharing under this Arrangement in connection with multiagency collaborative panels.

13. INFORMATION PRIVACY AND CONFIDENTIALITY

- 13.1 The prescribed entities and service providers must comply with all relevant laws including, as applicable, the:
- (a) *Human Rights Act 2019*;
 - (b) *Youth Justice Act 1992*;
 - (c) *Youth Justice Regulation 2016*;
 - (d) *Information Privacy Act 2009*; and
 - (e) *Privacy Act 1988 (Cth)*.
- 13.2 The parties acknowledge that s 288 of the *Youth Justice Act 1992* makes it an offence to use, record or disclose confidential information except as permitted under Division 2 of Part 9 of the *Youth Justice Act 1992*.
- 13.3 Without limiting clauses 13.1 and 13.2, a party must:
- (a) ensure that any confidential information disclosed under the Arrangement is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;

- (b) fully and promptly cooperate with each other to enable them to respond to any applications for access to confidential information disclosed under the Arrangement or to privacy complaints; and
- (c) do all things necessary to ensure that anyone who is employed or engaged by them complies with the same obligations are imposed on the parties under this Arrangement, including by providing training to those persons on the terms of this Arrangement and the offence under s 288 of the *Youth Justice Act 1992*.

14. INFORMATION SYSTEMS

- 14.1 If the Department of Children, Youth Justice and Multicultural Affairs establishes information technology systems to facilitate confidential information sharing under this Arrangement, the prescribed entities and service providers must comply with requirements imposed in relation to that system including requirements regarding individual user authentication and assignment of classification levels and additional restrictions on use or disclosure of confidential information.
- 14.2 The prescribed entities and service providers acknowledge that a copy of this Arrangement will be published on the website of the Department of Children, Youth Justice and Multicultural Affairs and the names of the prescribed entities and service providers will be published on that website or available from the Department of Children, Youth Justice and Multicultural Affairs upon request.

15. NOTIFICATION OF BREACH

- 15.1 If a prescribed entity or service provider becomes aware of any breach of this Arrangement or a relevant law it must immediately notify the Department of Children, Youth Justice and Multicultural Affairs.
- 15.2 the prescribed entity or service provider in breach must, at its own expense:
- (a) use its best efforts to rectify the breach; and
 - (b) provide reasonable assistance to other parties in respect of remedial action taken by the other parties in relation to the breach; and
 - (c) whenever possible and practical notify the child to which the breach relates and inform them of the right to make a complaint.
- 15.3 Upon notification of any breach, a prescribed entity or service provider which has disclosed confidential information to the prescribed entity or service provider in breach under this Arrangement, may notify the prescribed entity or service provider in breach that it must return or destroy all information disclosed by the disclosing prescribed entity or service provider under this Arrangement and the prescribed entity or service provider in breach must comply with that request within 20 business days, at its own expense.

16. ENDING OF ARRANGEMENT

- 16.1 A prescribed entity or service provider may cease to be a prescribed entity or service provider under this Arrangement by giving notice to the Department of Children, Youth Justice and Multicultural Affairs.
- 16.2 The Department of Children, Youth Justice and Multicultural Affairs may end this Arrangement by notice to all prescribed entities or service providers.
- 16.3 On cessation of an entity being a prescribed entity or service provider under this Arrangement or on the ending of this Arrangement:
- (a) each entity will remain subject to obligations that continue to apply under the *Youth Justice Act 1992* and *Youth Justice Regulation 2016*, including the confidentiality obligations under this Arrangement; and
 - (b) a prescribed entity or service provider which has disclosed confidential information under this Arrangement to an entity ceasing to be a prescribed entity or service provider may require that entity to return all information disclosed under this Arrangement within a specified time after termination of this Arrangement and in any event within 20 business days, and the notified entity must comply with any such notification, subject only to retaining a copy of the information to any extent that it is required by the *Public Records Act 2002* or any other law to retain a copy.