



Title: Information Sharing Protocol

Responsible Officer: Registrar
Action Officer: Client Manager

References:

Family Responsibilities Commission:

- Queensland Government Code of Conduct
- Privacy Policy
- Procedures Manual

Relevant Legislation

- *Family Responsibilities Commission Act 2008*
- *Public Records Act 2002*
- *Right to Information Act 2009*
- *Criminal Law (Rehabilitation of Offenders) Act 1986*
- *Information Privacy Act 2009*
- *Child Protection Act 1999*
- *Coroners Act 2003*

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| Unit | Family Responsibilities Commission |
| Manager | Maxine McLeod, Registrar |
| Author | Camille Banks |
| Position | Client Manager |
| Contact | (07) 4081 8400 |
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1. Purpose

This protocol document provides for the secure exchange of information between:

- Government agencies
- service providers and
- the Family Responsibilities Commission.

The secure exchange of information assists to streamline service provision to Family Responsibilities Commission clients. The protocol outlines the circumstances in which, and the means by which, relevant information may be exchanged between the Family Responsibilities Commission (the Commission), prescribed entities and other relevant entities under Part 8, 'Information Exchange', of the *Family Responsibilities Commission Act 2008* (the Act).

The purpose of Part 8 of the Act is to provide for the exchange of relevant information in order to support the work of the Commission, whilst ensuring that personal information required to facilitate the delivery of Government services is responsibly and transparently collected, managed and disclosed.

While the public expect that personal information held by agencies will be appropriately protected, there is an expectation that information will be shared in partnership where it is appropriate to do so. Sharing information is pivotal to the delivery of high quality, cost effective and cohesive public services.

2. Background and Context

The Act established the Family Responsibilities Commission, which commenced operating on 1 July 2008. The Commission was initially a partnership between the four Cape York communities of Aurukun, Coen, Hope Vale and Mossman Gorge, the Queensland and Australian Governments and the Cape York Partnership. In 2014, the Commission also commenced operations in Doomadgee.

The purpose of the Commission is to support the restoration of socially responsible standards of behaviour and to assist community members to resume and maintain primary responsibility for the wellbeing of their community and the individuals and families of the community.

By establishing the Commission, the Queensland Government demonstrated a clear commitment to innovative approaches in formulating and maintaining accountability mechanisms for Indigenous communities. The objectives of the Commission are focused on the following social priorities:

- child safety (safeguarding the future generation);
- school attendance (safeguarding education);
- lawful behaviour (safeguarding the community); and
- responsible tenancy (restoring accountability).

The Commission places a focus on early intervention to address individual and family issues before they escalate and require serious remedial action. The Commission assists individuals to undertake actions to address issues which have been notified to the Commission by conferencing the individual and determining appropriate actions to address dysfunctional behaviour. Outcomes of conference often result in the Commission referring individuals to community support services. In some cases the Commission may issue an income management notice to redirect a percentage of income support and family payments to the purchase of priority goods such as food, housing, clothing, education and health care. The emphasis in conferencing is on a proactive and collaborative approach.

Strengthening collaborative cross agency and Government partnerships is critical to the Commission's support function.

Underpinned by the legislative requirements for sharing information, the Commission is guided by a commitment to client-centered service, collaboration and mutual respect and accountability.

3. What information will be exchanged?

This protocol sets out the standard processes for requesting information, specifies what supporting evidence may be required to disclose information and addresses the following types of information exchange between the Commission and other entities:

- agency notice information
- post agency notice data clarification
- confirmation of residency
- request for additional information
- advice about conferences
- notifying agency attendance at conferences
- notification of decisions
- Case Plan liaison and monitoring with community service providers and
- information from agencies, service providers and organisations regarding clients.

4. Legislative Authority for the Sharing of Information

Part 8, of the Act governs the exchange of information about Commission clients between the Commission and other entities.

Part 8 of the Act sets out those circumstances in which the Commission may *give* and may *request* certain types of information about Commission clients.

4.1 When the Commission may give information

Section 92 of the Act sets out when the Commissioner may disclose personal information. The Commissioner may give **personal information** to a **prescribed entity** if:

- giving the information may help the entity to decide whether particular information should be given to the Commissioner or the Commission or
- it is necessary to help the Commissioner or the Commission, or the entity, coordinate support services for the person.

Personal information has the same meaning as in the *Information Privacy Act 2009*. It is information or opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

Prescribed entities are:

- the Department of Child Safety, Youth and Women
- Department of Education
- the Department of Housing and Public Works
- Queensland Corrective Services
- the Department of Justice and Attorney-General, including the Supreme, District, Magistrates and Childrens Courts
- the Queensland Police Service
- Principals of non-State Schools
- Community support service providers (State and Australian Government and non-Government organisations) to which a client has been referred and
- School Attendance Case Managers.

For example, details about the children in the care of a Commission client may be given to a non-Government service provider in order to help the service provider coordinate parenting support services for the client.

The Commissioner may also give personal information to Centrelink if the person is subject to income management, or the Commission is considering making an income management order, if it may help the Commissioner or the Commission to:

- decide whether a person is a community member, and therefore within the jurisdiction of the Commission or
- make an appropriate decision under the Act about the person.

For example, the Commission may provide the date of birth of a Commission client to Centrelink in order to establish whether that person is in receipt of a welfare payment.

The Commissioner may also give personal information to a **relevant entity** if it is necessary to help the Commissioner or the entity to evaluate the effectiveness and operation of the Commission under this Act.

Relevant entities are:

- the Department of Child Safety, Youth and Women
- the Department of Education
- the Department of Housing and Public Works
- the Department of Justice and Attorney-General, including the Supreme, District, Magistrates and Childrens Courts and
- Centrelink.

4.2 When the Commission may request information

Section 93 of the Act sets out when the Commission may ask other entities for relevant information. The Commissioner may ask a **prescribed entity** for **relevant information** in the entity's possession or control.

Prescribed entities are defined in 4.1 above.

Broadly, **relevant information** is information that may assist the Commission in its decision-making. **Relevant information** is information that may help the Commission to:

- properly consider matters to which an agency notice relates
- decide whether to hold a conference
- decide whether a person is a community member
- identify appropriate persons to attend a conference
- make appropriate decisions at conference
- prepare Case Plans or
- assess the effectiveness of, and monitor compliance with a Case Plan.

Relevant information may be about:

- a relevant person for an agency notice
- a student the subject of a school attendance notice
- a child the subject of a child safety notice or
- the family of a relevant person, student or child mentioned above.

The Commissioner may only request relevant information from a community support service provider if the information is about a Commission client who has been directed to attend a community support service under a case plan.

For example, the Commissioner may request information about a person's attendance at a community support service to help the Commission make a decision about whether the person should be subject to income management.

When a request for information is made by the Commissioner under section 93 of the Act, a relevant entity must comply with the request except where the sharing of such information may:

- prejudice the investigation of a contravention or possible contravention of law
- prejudice an investigation under the *Coroners Act 2003*
- enable the existence of a confidential source in relation to the endorsement or administration of a law to be revealed
- identify a person who has given the entity or someone else information about a child protection matter
- endanger a person's life or physical safety
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law or
- would not be in the public interest to disclose.

4.3 When the Department of Education may give information

Section 94 of the Act provides that the Department of Education may share personal information about a person with a relevant entity if the sharing of such information may assist in coordinating or providing educational programs or services for a school aged child.

For this section, **relevant entity** means an entity involved in the provision of educational programs or services in relation to school aged children.

For example, the Department of Education may share personal information about a child's parent with School Attendance Officers and School Attendance Case Managers.

The relevant entity may then record, disclose or use this personal information to coordinate or provide such educational programs, or use the information in evaluating the effectiveness of educational programs or services.

5. Protection provided by the Act

The Act provides protection to a person sharing information honestly and in compliance with the Act.

Under section 95 of the Act, a person sharing information in the administration of the Act with the Commissioner, the Registrar, or other entity is not liable civilly, criminally or under an administrative process. The sharing of information authorised by the Act will not be considered a breach of any code of professional conduct, etiquette or ethics.

For example, a health or other professional who provides information to the Commission under the Act on behalf of a service provider cannot be disciplined by a professional body, or incur any formal professional negative consequences for providing such information.

Section 95 also provides that should there be a proceeding for defamation in relation to information given in compliance with the Act, a person has a defence of absolute privilege.

If a person has a confidentiality requirement conditional with their particular profession or employment, the person will not be held to have violated that confidentiality oath, Act or rule of law upon sharing information as authorised by the Act.

Section 96 clarifies that the Act governs the sharing of information as outlined above, despite any other law that would otherwise prevent or prohibit the sharing of information.

6. Responsibilities for the sharing of information under the Act

6.1 Commission responsibilities

It is the responsibility of the Commission to make every attempt to explain to community members at a conference that there may be information exchange with service providers and other entities. The Commission will explain:

- the type of personal information to be exchanged
- the reasons for exchanging the information and
- the agencies and non-Government entities with whom information will be exchanged.

Where the Commission has received an agency notification and the Commission has not yet made a decision to hold a conference with that person, or has made a decision not to hold a

conference with that person, it is the responsibility of the Commission not to inform the community member of their notification to the Commission.

It is the responsibility of the Commission to ensure that the rights and interests of community members to privacy and confidentiality are protected and that only information necessary for the particular purpose as provided by the Act is exchanged.

6.2 Prescribed and Relevant Entities' Responsibilities

Under section 93 of the Act, prescribed entities must comply with requests for information from the Commissioner unless giving the information would be prejudicial to investigations, identify confidential sources, or would be contrary to the public interest to disclose.

Where an entity has forwarded a notification to the Commission, or is aware of a notification to the Commission in regard to an individual, and the Commission has not yet made a decision to hold a conference with that person, or has made a decision not to hold a conference with that person, it is the responsibility of the entity not to inform the community member of their notification to the Commission.

It is the responsibility of prescribed and relevant entities to ensure that the rights and interests of community members to privacy and confidentiality are protected to the extent possible and that only information necessary for the particular purpose as provided by the Act is exchanged.

This protocol does not prevent notifying agencies from informing their clients generally about their obligation to give notices to the Commission under the Act. The Commission supports agencies providing information to new and existing clients about when and how information will be shared between the Commission and the agency.

Agencies may come to an agreement with the Commission about informing agency clients of the provision of a notice to the Commission on a case by case basis.

6.3 Responsibilities of all parties

It is the responsibility of the Commission and all prescribed and relevant entities to ensure that information is exchanged:

- as allowed under the Act
- by all parties in a timely manner
- in the spirit of collaboration and to provide consistent and coordinated service provision
- in an ethical and professional manner and whilst
- maintaining confidentiality as required.

7. Confidentiality

Section 147 of the Act provides that Commission staff, Commissioners, Board Members, and staff of community support services must not record, use or disclose **confidential information** gained through involvement in the administration of the Act, unless the person does so:

- for the purpose of this Act
- when authorised under this Act
- with the consent of the person to whom the information relates or
- if the person is a child, with his or her parent or guardian's consent.

A person is not obliged to disclose confidential information, or produce a record containing confidential information to a court or tribunal unless required for the purpose of this Act.

Confidential information is:

- information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion and
- information disclosed by an entity in an agency notice.

8. Agency Notifications

Part 4 of the Act requires notifying agencies to notify the Commission if:

- a child is absent from school three times in a school term without reasonable excuse (**notifying agency: School**)
- a child of school age is not enrolled in school without lawful excuse (**notifying agency: School**)
- a child safety report is made alleging harm or risk of harm to a child (**notifying agency: Department of Child Safety, Youth and Women**)
- a person is convicted of an offence in the Supreme, District, Magistrates or Childrens Court (**notifying agency: Department of Justice and Attorney-General - Courts**)
- a person is the subject of a domestic violence protection order, or they breach a domestic violence protection order (**notifying agency: Department of Justice and Attorney-General – Courts**)
- a person breaches his or her tenancy agreement by using the premises for an illegal purpose, causing a nuisance or disturbance from the property, failing to remedy rental arrears or other breach as specified in the tenancy agreement (**notifying agency: Department of Housing and Public Works**)

All notices must be submitted to the Commission in the approved form.

9. Information requests from the Commission

9.1 Post agency notifications

The Commission may require clarification of the information contained in agency notifications, for example, clarification on the spelling of a person's name or whether they are known to the notifying agency by another name or alias.

The Commission will usually seek and receive clarification on information relating to the initial agency notification via phone or email.

Requests to clarify information will be directed to the person who provided the notice to the Commission, or to the person specified as the 'responsible officer' on the notification.

9.2 Confirmation of residency

The Commission may only hold a conference in relation to a notification received about a person who is a community member. The process by which the Commission determines whether someone is a community member is referred to as 'confirming jurisdiction'.

Section 7 of the Act defines a community member as a welfare recipient whose usual place of residence since 1 July 2008 is, or was, in a welfare reform community area, or is a welfare recipient who has lived in a welfare reform community area for at least three months.

Section 48 of the Act provides examples of the matters to which the Commissioner may have regard when confirming jurisdiction, including:

- the person's address, for Centrelink and other purposes
- whether any children of the person are enrolled at a school in the community
- whether the person is renting housing in the community
- the person's usual place of residence, having regard to the person's family or kinship relationships
- how often the person is outside the community and for what reasons and
- any other matters considered necessary to inform the Commission of residency.

9.3 Request for additional Information

Once an agency notification is received and jurisdiction has been confirmed, it is the Commissioner's and Local Commissioners' responsibility to decide whether a conference is to be convened. To do this, the Commission may require additional information in order to determine the best course of action to take.

Section 93 of the Act allows the Commission to request notifying agencies or other prescribed entities to gather additional information (Prescribed Entity is defined in 4.1 above).

The information required to make conference decisions may be sensitive and will vary in accordance with the specific nature of the individual case. The ability to ascertain further facts or opinions in relation to a person the subject of a notification is necessary to enable the Commission to carry out its functions.

A request by a Commission officer for additional information will specify as clearly as possible why this information is required and for what purpose it is sought.

An agency is only expected to provide information to the Commission about a person that has been gained through the agency's interaction with the person and their family in the performance of the agency's functions.

Commission requests for additional information may include questions such as:

- What interactions has the prescribed entity had with the person?
- What has been the person's pattern of behaviour during the prescribed entity's interaction?
- Is there a history or pattern of significant general concerns with this individual or particular family members?
- Who does the child normally reside with?
- Who has primary responsibility for the child/siblings?
- Who are the principal residents of this house?
- What existing support or other services are being provided to the person or the person's family members by the prescribed entity?

It is anticipated that in most cases a verbal or email exchange of information will occur between Commission staff and relevant representatives (e.g. principal, police etc) to gather the additional information requested by the Commission.

It is the responsibility of the Commission staff requesting this additional information to maintain confidential case notes of the key points received from such sharing of information.

10. Advice Regarding Attendance at Conferences

The Commission may request, or agree to, a representative from a notifying agency to attend a conference.

The Commissioner may also *require* a representative from the notifying agency to attend a conference under section 61(4) of the Act.

The Commission notice (Form 13 Notice of Conference - Associated Person/Entity) requiring an agency's attendance at a conference will be in writing, stating the reasons why their presence is required and will be signed by the Commissioner or an officer with the appropriate delegation (i.e. Registrar).

Details regarding the time, date and relevant location of the conference will be advised via Form 13 Notice of Conference – Associated Person/Entity. This will be preceded by verbal contact by the Commission with a relevant agency representative to negotiate preferred times.

Advice in regard to the name of the agency representative who will attend may be provided verbally or via email.

11. Liaison with Service Providers

11.1 Agreements and Orders

The Commission may come to an agreement with a client to take action to address the issues that have led to their referral to the Commission (section 68 of the Act). This is called a Family Responsibilities Agreement.

If the client is unwilling to come to an agreement with the Commission about the actions that are necessary to assist them to address their issues, the Commission may direct the client to take action (section 69 of the Act). This is called a Family Responsibilities Order.

Actions agreed with the Commission under a Family Responsibilities Agreement may take the form of:

- personal responsibility actions
- attendance at a specific community support service or multiple services under a Case Plan or
- conditional income management (CIM).

Actions directed by the Commission under a Family Responsibilities Order may take the form of:

- attendance at a specific community support service or multiple services under a Case Plan or
- conditional income management (CIM).

Personal responsibility actions are practical and accessible things a client agrees to do to try to address their issues¹. They will usually be proposed when the Commission does not consider it necessary to refer the client to community support services, however, in some instances personal responsibility actions may also be proposed in addition to a referral to a community support service.

If a client agrees to undertake a personal responsibility action, the action will be included in the

¹ A person cannot be directed by the Commission to undertake a personal responsibility action.

person's Family Responsibilities Agreement. It **will not** form part of a Case Plan. If the personal responsibilities action involves attendance at a community service, the Family Responsibilities Agreement includes consent by the client for the Commission to share information with the service provider to support the client in achieving their goals.

11.2 Case Plan monitoring

When the Commission comes to an agreement with a client to attend a specific community support service or multiple services, or directs the client to attend a support service, a Case Plan is prepared by the Commission. The Case Plan sets goals for the client in relation to the issues that have brought the client before the Commission.

The Commissioner may give personal information about a person to a prescribed entity if the Commissioner reasonably considers giving the information is necessary to help the Commissioner or the Commission and the entity to coordinate any support services for the person. Such information will include the conference decision and any details required to provide support to the client.

The Commission will monitor the client's compliance with their Case Plan and progress towards meeting their set goals. The Family Responsibilities Agreement or Order and accompanying Case Plan will outline the duration of the Case Plan.

The Act allows the Commissioner to require service providers to disclose particular **relevant information** to the Commission to enable the Commission to properly consider matters which have been referred to it. As noted above, **relevant information** is information that may assist the Commission in its decision-making.

The Commission will provide the service provider a copy of the Family Responsibilities Agreement or Order and Case Plan.

It will be the responsibility of the Client Manager to monitor an individual's progress against their agreed Case Plan in consultation with the service provider and report back to the Commissioner.

When monitoring a person's compliance with a Case Plan, the Commission will have an interest in:

- the person's attendance at the service
- the person's level of engagement in the identified services and
- the person's progress in the treatment plan/program developed by the service provider.

The Commission requires service providers to submit progress reports on each client on a three monthly basis via an online portal. The reporting scheme is outlined in Table One below:

| Time Frame | Report Type |
|----------------|---|
| First Quarter | Assessment Report and Intervention Plan |
| Second Quarter | Intervention Update Report |
| Third Quarter | Intervention Update Report |
| Fourth Quarter | Final Report – Intervention Summary & Recommendations |

While monitoring of a Case Plan will occur with service providers, the decision as to whether an individual is complying with the Case Plan will remain with the Commission, on the advice of the Client Manager. The Commissioners will take into consideration a range of known circumstances for the client in order to assess the level of their compliance with a Family Responsibilities Agreement or Order and Case Plan.

If the service provider report indicates that a client is not engaging in services, or is not making satisfactory progress toward meeting their goals, the Commission may make enquiries of Local Commissioners and relevant or prescribed entities to determine whether there are mitigating factors, or whether the client is engaging in alternative actions to address their issues.

12. Conflict Resolution

Where possible and appropriate in the circumstances, relevant or prescribed entities are to attempt to resolve conflicts arising through the sharing of information with the Commission with the Client Manager.

If a matter cannot be resolved it will be referred to the Commission Registrar who will likewise make all possible endeavours to resolve the issue in a timely manner.

Any requests for variation to these protocols should be submitted in writing to the Commission Registrar. The Registrar, where possible, will respond to the requested variation within five working days of receipt of the proposal.

Every endeavour will be made by the Commission to respond as promptly as possible.

13. Maintenance of Client Records

All case notes will contain key points of information from relevant or prescribed entities and other providers of information. All case notes of the Commission will be written in language that is concise, non-defamatory and avoids, where possible, criticism of individuals or families. All case files holding personal data on individuals known to the Commission are held securely and are restricted to authorised personnel.

The Commission collects, manages and discloses personal information in accordance with the *Information Privacy Act 2009*.

In addition, the Commission complies with the requirements of the *Public Records Act 2002*, which governs the storage, transfer, management and disposal of Commission records. Under the *Public Records Act 2002* we are required to:

- store and dispose of our administrative records in accordance with the timeframes identified in the *General Retention and Disposal Schedule for Administrative Records* from the Queensland State Archives
- store and dispose of our client and core business records only on approval from the State Archivist.

Section 141 of the Act requires the Commission to destroy copies of agency notices relating to persons whom the Commission confirms are not within its jurisdiction. The Commission policy is for such records to be destroyed as soon as practicable.

For further information and assistance contact:

The Registrar
Family Responsibilities Commission
Level 3, 107 Lake Street, Cairns
Telephone (07) 4081 8400 Fax (07) 4041 0974