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| PROCEDURE NAME: | Client Information Sharing | NO. | 1.6.1 |
| Approved By: | Controlled Documents Committee | Approval Date: | 07/11/19 |
| Document Owner: | Director, Services and Operations | Next Review Date: | 07/11/22 |
| Related Policy: | 1.6 Privacy | | |

1. PURPOSE

The purpose of this procedure is to ensure that QEC complies with the legislated requirements for all requests for client information sharing.

2. SCOPE

This procedure applies to all QEC staff.

3. DEFINITIONS

Child Information Sharing Scheme – The Children Legislation Amendment (Information Sharing) Act 2018 authorises prescribed professionals and service providers to share information to promote the wellbeing and safety of children (QEC will become a prescribed service provider in 2020).

Client – Any individual admitted to any of QEC’s programs. A client record is created for all admitted clients.

Electronic register – Refers to QEC’s secure electronic file that includes all Freedom of Information, Subpoena, Child Information Sharing and Family Violence Information Sharing requests and outcomes.

Family Violence Information Sharing Scheme – Created as Part 5A of the Family Violence Protection Act 2008 and the Family Violence Protection (Information Sharing) Regulations 2018. The scheme authorises a select group of prescribed information sharing entities to share information between themselves for family violence risk assessment and risk management (QEC will become a prescribed service provider in 2020).

Freedom of Information Act 1982 (Cth) – The FOI Act gives consumers the right to request information held by public hospitals. The Act gives consumers the right to access documents about their personal information and the activities of government agencies along with the right to request that incorrect or misleading information held by QEC may be amended or removed.

Freedom of Information Professional Standards -a legislative instrument that outlines obligations that agencies subject to the FOI Act must comply with. Office of the Victorian Information Commissioner (OVIC) Professional Standards inform the implementation of Part 1B of the Freedom of Information Act 1982 (Vic).

Health information – Information or opinion about a person’s physical, mental or psychological health or disability that is also personal information. This includes information or opinion about a person’s health status and medical history.

Health Records Act 2001 (Vic) – Protects the privacy of individuals’ health information. It regulates the collection and handling of health information.

Office of the Victorian Information Commissioner (OVIC) – Independent regulator with combined oversight of information access, information privacy and data protection.

Privacy is a human right and information privacy (being the protection of personal information) is a key aspect of this right.

QEC Privacy Officer – QEC has a designated person within an organisation that is responsible for overseeing all ongoing activities related to the development, implementation, maintenance, and adherence to QEC’s policies and procedures relating to privacy, access, and patient health information in compliance with legislation

Subpoena – is a legal document that commands a person or entity to testify as a witness at a specified time and place (at a deposition, trial, or other hearing), and/or to produce documents or other tangible objects in a legal proceeding.

4. PROCEDURE

QEC receives a range of requests for client information. These requests typically fall into one of the following five areas shown in the table below. The response to each of these requests is described under separately under Sections 4.1 to 4.5.

Table 1: Client Information Requests

| FOI | Subpoena | Child Information Sharing | Family Violence Information Sharing | Open client file Information request |
|-------------------|-------------------|---------------------------|-------------------------------------|--------------------------------------|
| Refer Section 4.1 | Refer Section 4.2 | Refer Section 4.3 | Refer Section 4.4 | Refer Section 4.5 |

4.1 FOI Requests

Refer to the Professional Standards issued by the Information Commissioner under Part 1B of the Freedom of Information Act 1982 (Vic) www.ovic.gov.au

Receiving Requests

- All requests for information under the FOI Act 1982 (Cth) must be submitted in writing and forwarded to QEC Privacy Officer
- FOI Request Form (see appendix 1) is available on request and also on QEC website
- Requests must include a completed FOI Request Form, the application fee and proof of identity which must include current address, photograph and signature
- QEC administration enter the request on the electronic FOI and Information Sharing Register located on G drive/Administration Services/Medical Records/FOI Requests under the FOI tab and current financial year
- The date of the request is entered initiating the 45 day request deadline to complete the FOI request.

Processing Requests

- QEC Privacy Officer with the support of QEC administration will ensure a thorough and diligent search is undertaken to identify and locate documents and information relating to the relevant FOI request
- If the information is located, the QEC Privacy Officer will discuss the FOI request and findings with QEC Chief Executive Officer (CEO) and a decision will be made detailing the outcome
- If the outcome is to progress this request, the relevant documentation/information will be prepared by QEC administration then forwarded to the Privacy Officer for checking. Once this is done, the QEC Privacy Officer will forward to CEO who will authorise the information to be sent to the requestor
- Authorisation will be made in writing (via email or note on document) by CEO who will communicate this to Privacy Officer
- Once informed by Privacy Officer, QEC administration will inform the requestor and a copy of the information will be retained in the clients file
- If the requested information is not found the requestor will be informed in writing
- The FOI electronic register will be updated by QEC administration, recording the time and cost of processing the request
- Administration determine cost (refer Fees section) and send this detail to QEC Finance
- Invoice is then sent to FOI requester. Once invoice is paid, the fiancé Department issues a receipt to the requester.

Decisions

A decision will be made in a timely manner to comply with the time line specified in the FOI Act 1982 (Cth). All final decisions will be made by the CEO. QEC will ensure that the decision making process will be fair, clear, objective and free of bias. In accordance with section 27 of the FOI Act, any decision made by QEC will :

- Be in writing
- Include the name of the person/people making the decision
- Applicants will be informed of efforts made to identify and locate documents/information
- Indicate where exempt or irrelevant matter has been deleted from a document
- Clearly state where exemptions apply and the reasons why.

Exemptions

Applicants have the right to request documents however access may be denied due to exemptions stated in the FOI Act 1982 (Cth) (primarily sections 30 – 37). QEC undertakes every attempt to ensure that decisions are made with the client's best interests and rights in mind. Exemption outcomes are given full consideration and applicants informed of the outcomes.

Fees

Application fees in line with the FOI Act 1982 (Cth) are requested upon application. Whilst QEC endeavours to minimise further costs additional fees resulting from archiving, retrieval and copying documents may occur. Administration staff will calculate the associated cost of processing the FOI request. The fee structure is outlined in this link <https://ovic.vic.gov.au/freedom-of-information/for-agencies/access-charges/>.

Fees may only be waived on an individual request by QEC CEO within 30 days of application or application fee remains the only charge. Section 29 (4) (5) (6). Applicants will be informed in writing of additional costs (see appendix 2) and have 30 days from being notified of extra costs before processing to consent or withdraw. If no response has been received within 30 days the application will be withdrawn. All fees must be paid prior to completion of the application (Section 11A regulation 11).

Reviews and Appeals

QEC will ensure that decisions are made in a timely manner and will inform applicants and third parties of their review and appeals rights. QEC will provide assistance to the FOI Commissioner in relation to requests for review of agency decisions in accordance of the FOI Act.

File Management and Reporting

QEC Privacy Officer will provide accurate and timely reporting of information as required under the FOI Act, FOI Commissioner and Government Service requirements. QEC will ensure record keeping practices enable the prompt and efficient identification of agency documents.

QEC is required to provide an annual report of all FOI requests. This report is completed by the QEC Privacy Officer.

4.2 Subpoenas

Receiving Subpoenas

- When a subpoena is received by QEC administration, it is to be documented on the electronic register located at G/Administration Services/ Medical Records/FOI Requests, under the current financial year
- This register is to be maintained by administration staff and QEC Privacy Officer
- QEC administration staff email a scanned copy of the subpoena to the QEC Privacy Officer within 24 hours of receipt. The original subpoena is securely filed in the Administration Services locked filing cabinet
- The scanned copy of the subpoena is to be uploaded to TWEQ under the relevant clients file.

Checking Subpoenas

QEC Privacy Officer will check that the subpoena has the following and will then contact the relevant manager/coordinator to discuss the context of the request:

- An addressee identified by name or position description and is not addressed to more than one person

- Identifies the documents to be produced.

If further information is required, QEC Privacy Officer will liaise with the relevant QEC manager to ensure the child protection case worker who has witnessed the subpoena is contacted to clarify the scope of the subpoena. If the case worker is not available then their child protection team manager or practice leader is to be contacted. If child protection workers do not respond the Child Protection Legal Office is to be contacted for advice and guidance. All information provided is requested in writing.

If an objection to the subpoenaed material is considered, this must be submitted in writing by QEC Privacy Officer, specifying grounds for the objection. This may include:

- Insufficient time to process the subpoena
- No information available.

If there is going to be a delay in submitting document the appropriate court must be informed and an update on the status of the subpoena provided by QEC Privacy Officer (see appendix 3).

Types of subpoenas

Depending on the subpoena type, the following will occur:

- Subpoena for court attendance
 - QEC administration staff will email the subpoena to the staff member named on the subpoena and their program manager
 - A decision as to who will attend court is made by the respective manager
 - If a staff member named in a subpoena is no longer working at QEC, the relevant program manager will determine who will attend court on their behalf and notify the court that this will occur
- Subpoena for court attendance and documents
 - QEC administration staff will email the staff member named on the subpoena and their program manager with a scanned copy of the subpoena
 - Follow the steps in 'Preparing the File'
- Subpoena for documents only
 - QEC administration staff will email the staff member named on the subpoena and their program manager with a scanned copy of the Subpoena
 - Follow the steps in 'Preparing the File'

The original copy of the subpoena is added to the front of the hard copy file by QEC administration.

Preparing the File

The file needs to be prepared by the date specified in the subpoena and sent to the allocated court. In order to prepare the file:

- QEC Privacy Officer will liaise with the appropriate staff member/area manager and email QEC administration and advise what documents need to be prepared
- QEC administration will locate the relevant file in TWEQ and complete the following instructions:
 - Locate primary UR number: report viewer; patients; client patient file, list UR no; view and this will list all the programs the client has attended at QEC.
 - Print all the appropriate documentation and then prepare the file using tabs as documented in Table below.

| Tab Number | Title | Description |
|-------------------|--------------|--|
| 1 | Admission | Admission paperwork A, B and C forms |
| 2 | Referrals | Referral forms, contact form and rule 6, form 13, statement of placement client contact form |
| 3 | External | Outside correspondence, general practitioner letters, hospital reports and emails |
| 4 | Minutes | Intake meeting, skills development meeting and closure/ discharge meeting |

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| 5 | QEC Report | QEC Reports, Assessments or Summary of Observations and Interventions |
| 6 | Assessment | Tool assessments (CLS, DLC, DASS 21, Parenting Strengths Scale, home based risk assessment, PASDS service activity, feed/sleep chart, parenting education and support tool, network survey |
| 7 | Medication | Medication brought from home form, residential medical agreement form, medication chart (applicable for residential) |
| 8 | Education | Child and Family Action Plan, Goal Setting Plan, Routine Resources used for education |
| 9 | TWEQ | TWEQ Report |
| Child File Description | | |
| 10 | TWEQ | Infant discharge form, statement of placement, Form 13 Rule 6, feed/sleep chart, medication form and chart. |

- Once the hard copy file has been prepared, QEC administration notifies the staff member who is being subpoenaed and QEC Privacy Officer.
- The prepared file must be checked by either the staff member/manager or QEC Privacy Officer before the file is sent to the court.
- If QEC staff have concerns about the content of the file (for example awareness of family violence which could potentially put a person at risk of harm):
 - This must be discussed with QEC Privacy Officer
 - A letter advising the court of the concerns will be completed and added to the front of the file with the subpoena by the QEC Privacy Officer, alerting the court of staff concerns (see appendix 4).
- Once the file is completed and checked:
 - Two hard copies of the file are made.
 - One is sent by registered express post to the identified court.
 - The second copy file will either be collected by QEC staff member/manager or posted by registered express post if collection is not possible.

Documentation

Any correspondence (written or verbal) relating to the subpoena including steps described in 'Checking Subpoenas' must be documented after each event in the client's file in TWEQ. Summary information is also to be maintained in the electronic register.

Conduct Money

Conduct money is sometimes attached to the subpoena and this is provided to finance for receipting/banking. If so, conduct money will be used to cover the expenses of sending the files registered express post to the court.

4.3 Child Information Sharing

- The Children Legislation Amendment (Information Sharing) Act 2018 authorises prescribed professionals and service providers to share information to promote the wellbeing and safety of children.
- QEC will become a prescribed service provider in 2020
- Once in place all requests under the Child Information Act will be in writing and addressed to QEC Privacy Officer.

4.4 Family Violence Information Sharing

- This sharing scheme was created as Part 5A of the Family Violence Protection Act 2008 and the Family Violence Protection (Information Sharing) Regulations 2018. The scheme authorises a select group of prescribed information sharing entities to share information between themselves for family violence risk assessment and risk management.
- QEC will become a prescribed service provider in 2020
- Once in place all requests under the Family Violence Information Sharing Scheme (FVIS) will be in writing and addressed to QEC Privacy Officer.

4.5 Open client file Information requests

The above information sharing procedures apply to both open and closed files. However, there are situations where a client may be given information from an open file without requiring to go through the above procedures and these apply to requests for the following :

- New and revised versions of Child and Family Action Plans
- Intake Meeting minutes
- Skills Development Meeting minutes
- Closure Meeting Minutes
- Reports (all programs excluding PASDS)
- Discharge Summaries.

If requests are received for information from other agencies engaged with QEC clients, staff will ensure client is engaged in the information sharing process and have provided consent. However, in some circumstances it may be necessary and in the best interest of the child to share information without the consent of the parent. Refer to QEC Mandatory Reporting Procedure for further guidance.

If receiving a call asking to share client information, the staff member taking the call will:

- Ask the caller for their name and contact details
- Ask the caller for what information is being requested
- Inform the agency that they will call them back and end the call
- Discuss the request with their direct line manager - information planned to be shared and requesters credibility
- Check the client record
- Feedback to client/agency
- Document any information shared.

5. RELATED QEC DOCUMENTS

- 1.6 Privacy Policy

6. RELATED LEGISLATION AND EXTERNAL DOCUMENTS

- Freedom of Information Act 1982 (Cth)
- Freedom of Information – Professional Standards
- Office of the Victorian Information Commissioner - <https://ovic.vic.gov.au/freedom-of-information/>

7. KEY WORDS

Freedom of information, privacy, information sharing, subpoena, file, request, summons, court

8. APPENDIX

- Appendix 1 – FOI Request Form (available on LOUISE)
- Appendix 2 – Additional Fees Request Form
- Appendix 3 – Subpoena Status Letter (available on LOUISE)
- Appendix 3– Subpoena Cover Letter (available on LOUISE)