

C01 Client Privacy and Confidentiality

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PURPOSE AND SCOPE

The purpose and scope of this policy is to detail the standards and procedures necessary for the protection of clients' confidentiality within the organisation. All staff are expected to comply with this policy.

POLICY

PHOENIX is committed to protecting the privacy and confidentiality of clients. The organisation will ensure that all personal and health information regarding clients and their families is only collected, stored and used in accordance with statutory obligations and best practice standards. PHOENIX will promptly investigate, remedy and document any client grievance regarding privacy, dignity or confidentiality.

All clients will receive a copy of PHOENIX's privacy and confidentiality policy.

Client files are the property of PHOENIX and remain the property of PHOENIX even after cessation of client contact with PHOENIX. Client files and any identifying client data are NOT to be removed from PHOENIX premises, either by staff or clients.

Collection, Storage and Access

Only information about clients that can be shown to be directly relevant and required for their service provision is collected. PHOENIX will not keep records of government identifiers – tax-file numbers / pension card numbers / health care card numbers, although they must be sighted for access to discounted fees, when required.

Personal information must be stored securely, either in a locked cabinet away from public access, or in a secure electronic database. PHOENIX only holds personal information about a client as long as it remains relevant to the primary purpose of the organisation.

Access to personal information is on a need-to-know basis and is strictly limited to those staff or Board for whom access is essential for appropriate provision of services and/or risk management.

Research

Only non-identifying client statistics can be utilised for research purposes. The research model and ethical base presented to the Board for permission to use before any statistical information is released.

Photographic, video and digital images

Photographic, video or other identifying images of clients will not be displayed or aired publicly without prior written permission of the client and/or parent guardian. Recording of sessions for clinical quality assurance will only be done with prior written consent, and any such recordings will be destroyed at the end of the Quality Assurance process and will not be used for any other purpose other than those specified in the consent.

When Information may be Disclosed - Exceptions to Confidentiality

No information may be disclosed to any parties except under compulsion of law, with written consent or due to overwhelming public interest (to be determined by Chief Executive Officer in consultation with the Board)

Compulsion of Law

Confidential information is not privileged from disclosure to a Court, either as a witness or in answer to a subpoena to compel production of documents. However, all requests for information from police, coroner's inquiries and other legal bodies should be denied until the appropriate Court Orders (subpoena, search warrant, etc) are produced. Under a 1992 amendment to the Evidence Act 1906, Section 19, counselling notes from cases related to sexual issues do not need to be disclosed to the court unless there is a legitimate forensic reason to do so. If a subpoena is issued, and it is not contested, the organisation will be deemed to have waived this privilege.

Any requests under subpoena should be immediately referred to the Chief Executive Officer (see Phoenix Police Enquiries, Orders to Produce, Subpoenas Policy).

Consent

Custodial parents/guardians can consent to disclosure for clients who are under eighteen (18) years of age. In these cases, written consent must be obtained before the information is disclosed using the appropriate consent forms. The parent/guardian may have a right to information regarding the child's general progress and any serious concerns for the child's psychological, emotional or physical well-being, depending on the nature of their current relationship with the child. All such cases should be discussed with the Chief Executive Officer prior to the release of any information.

Overwhelming Public Interest

Disclosure is allowed in circumstances where there is actual or threatened risk to life or health, or where there is advance knowledge of the intent to commit a serious crime. This typically relates to people in danger of imminent self-harm or of harming others, or people who disclose their intention to commit a crime. Disclosure should be to the appropriate authorities (e.g. DCP, Acute Care Hospitals, etc) and be limited to the nature of the risk and to who is at risk. Decisions related to disclosure due to overwhelming public interest can **ONLY BE MADE BY THE CHIEF EXECUTIVE OFFICER.**

Clinical Practice, Accountability and Reporting Provisions

Non-identifying client details and scenarios may be discussed at a counsellor's external supervision sessions.

The Chief Executive Officer will have full access to all clinical notes and other documentation for the purposes of quality assurance, organisational line management accountability and decision-making liability, but will only access notes on a need-to-know basis. The Chief Executive Officer may also from time to time view or organise to have recorded clinical sessions for the purposes of quality assurance. Prior consent from clients must be obtained for these purposes, and all such recordings will be destroyed at the end of the QA process, and will only be used for the purposes specified in the consent.

The Office Manager may be privy to some statistical information for data entry purposes, PHOENIX statistics and funded agency statistics.

See Phoenix Client Records & Requirements Policy for information regarding FOI Provisions.

Sensitive Information

Phoenix will not collect sensitive information about an individual unless the individual consents in writing, and the information:

- Relates to the activities of the organisation
- Relates to individuals who have regular contact with the organisation on connection with its activities

Any breach of client confidentiality is viewed as a serious breach of the Code of Conduct and is subject to a range of sanctions up to and including instant dismissal for the more serious breaches.

Consent

- Staff must obtain the written consent of the client and/or parent/guardian prior to **obtaining** information about the client.
- Staff must obtain the written consent of the client and/or their parent/guardian prior to **releasing** information to any other sources (see appendix one), except where the organisation is required by law to disclose the information. This includes any acknowledgement that the client is known to PHOENIX.
- Advise clients of the following at the time of obtaining consent:
 - the purposes for which the information is collected

Collection of Client Information:

- Any written information requested from clients is to be kept to the minimum necessary to provide adequate and appropriate service to them. Any details further than those freely offered by the person involved are only to be requested should there be concern that information is inadequate to ensure appropriate service.
- When information is sought, clients have been informed of why the information sought is required by the organisation and consent forms have been completed prior to any personal or health information being collected either from any sources.
- No personal information about clients, including their names, is kept on whiteboards, noticeboards or other locations where members of the public may view it.

For information on client record retention and disposal, see Phoenix Client Records Policy.

Disclosure of information under Exceptions to Confidentiality Provisions

- **'Event' assessed by Counsellor to be life threatening to a client or others** (following a phone call): Return telephone contact will be immediately made with the client to assess circumstance, need for follow-up counsel or provision of referral to a crisis agency. At NO time is a PHOENIX Counsellor to directly intervene outside of PHOENIX premises.
Where the event is on PHOENIX premises, see Phoenix Critical and Serious Incidents Policy.
- **Circumstances where a Counsellor becomes privy to ongoing physical, emotional, sexual and/or neglect maltreatment of a mature minor (aged 14-18years)**. When appropriate, the Counsellor should discuss the matter with the client first, then the Chief Executive Officer. The Chief Executive Officer will make the decision whether the authorities (and which ones) are to be notified, especially if a family member is involved. The client will be notified if a report will be made to relevant authorities and when. See Phoenix Child Safety Policy for more detailed outline of procedures.

REFERENCE AND RELATED DOCUMENTS

- Commonwealth Privacy Act 1988
- Freedom of Information Act 1982
- PHOENIX Critical Incidents and Serious Matters Notification Policy
- PHOENIX Client Records and Requirements Policy
- PHOENIX Police Enquiries Orders to Produce Subpoenas Policy
- PHOENIX Child Safety Policy
- PHOENIX Child Safety Code of Conduct
- Staff Confidentiality Agreement
- Release of Information form
- Application for information under FOI
- Client Confidentiality Handout
- Counselling Observation Client Consent Form