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VICTIM SUPPORT
PROMOTING RIGHTS & RECOVERY

Standard Operating Procedure - Request for Access to Records

Purpose

This Standard Operating Procedure (SOP) outlines the processes to be undertaken when clients request access to their health records and/or when there is a subpoena for client records under the provision of the *Health Records (Privacy & Access) Act 1997*.

Scope

This SOP applies to all Victim Support ACT (VS ACT) staff who receive requests for access to health records.

This SOP does not cover access to records associated with Financial Assistance Scheme Applications.

Procedure

Health records (clinical records) are confidential documents and remain the property of Victim Support ACT. Copies of health records are not released to clients or third parties without a written request and signed authorisation from the client. Requests to access health records are assessed under the *ACT Health Records (Privacy and Access) Act 1997*.

1. Provide a copy of the Request for Record Access form (appendix A) to the client or authorised person/agency and request that they complete and return to;

Team Leader
Victim Support ACT
GPO Box 158
Canberra City, ACT 2601

By fax to: (02) 6205 0177; or by email to: victimsupport@act.gov.au.

2. On receipt of the completed request form, the Team Leader or delegate will provide acknowledgement of receipt of the form either through telephone contact, SMS or email, and advise the client that their request will be actioned within **two weeks** of the day the request is received.

A 'request for access to records received' internal activity should be entered on the client database, including the following information:

- The date the request was received;
- The time taken to accept and process the received request; and
- Information about the acknowledgement of request receipt provided.

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A copy of the form received is placed on the client's file under the 'Correspondence' section.

3. The client is to be informed of the following information at this time:

The client may choose to:

- Inspect the health record
- Receive a copy of the health record or, if the client agrees, an accurate summary; or
- View the health record and have the contents explained

The choice about the form of access lies with the client but, once a request has been made, the Team Leader may offer to:

- Discuss the record with the client, even if an explanation has not been requested; or
- Provide a summary of the record to the client rather than the whole record.

The client may accept or reject these offers.

An offer to discuss a record is intended to improve communication between the client and the health service provider and to avoid situations where records may be misinterpreted. If there is a concern that their interpretation might lead to harm to a person, the record keeper may exempt the record.

The option to provide a summary of a record is intended to allow VS ACT to provide the information in a way that may be easier to understand and more helpful for the client than an entire record.

4. The client should be informed that a Health Professional Officer will review their record in accordance with the governing legislation - *ACT Health Records (Privacy & Access) Act 1997*.

The information maintained in the VoCC tabbed section of the clients file must be reviewed by the VoCC or delegate e.g. Executive Officer or Policy Officer prior to being viewed or provided to the client as this section may contain records that are not health records. For example, advocacy activities undertaken by the VoCC under the Victims of Crime Act 1994 are not health records, although the VoCC may decide to release such records to a client if requested.

5. The client health record should be reviewed by the current Case Manager, if available, or alternatively by the Team Leader.

6. During the review of the record the Case Manager or Team Leader must take into consideration, records which may not be made available. Some records, or parts of records, may not be made available. The legislation specifies the following situations in which access may not be given:

- The health record is not in the custody of the record keeper;
- The health record does not relate to the client;
- The production of the health record contravenes other legislation or an order of a court;
- The health record, or part of the health record, relates to a report under the *Children and Young People Act 2008*; or a notification under section 103 of the *Children's Services Act*

1986 and the information in the health record could identify the person who made the report;

- The record keeper believes, on reasonable grounds, that provision of the record or a part of the record constitutes a significant risk to the life or the physical, mental or emotional health of a client or another person;
- The record includes material or information given in confidence by someone other than the client, a guardian or a health service provider; or
- The client asked the record keeper to keep information in the health record confidential. The record keeper should mark the record as confidential when the client asks. In a case where the client later becomes legally incompetent or dies, that information would be withheld.

Counselling records regarding sexual assault

Division 4.5 of the *Evidence (Miscellaneous Provisions) Act 1991*, Sections 55 and 56 provides for counselling 'communication' regarding sexual assault to be deemed to have protected confidence. Sections 57 and 58 provide immunity from disclosure under subpoena for documents recording a protected confidence in both criminal proceedings and preliminary criminal proceedings.

7. Once the record has been reviewed and it is determined that the record requested is available and/or any part of the record should be exempt, the Team Leader will within **two weeks** after the day the request is received, contact the client requesting their record and:

- Inform the client if the health record, or part of the record, cannot be produced and provide reasons;
- Inform the client if the health record, or part of the record, is exempt from access and state the grounds for the exemption; or
- Provide access to the health record in accordance with the Act.

Victim Support ACT does not charge fees at this time for accessing records.

8. The record will be provided to the client as discussed and agreed. If the record is to be mailed to the client it must be sent through Registered Post so that it is a requirement that the person that it is addressed to provides proof of identity when receiving or collecting the record. If the person elects to collect the record from VS ACT in person they must show proof of identify, e.g. a form of identification with a photo, such as a current drivers licence. An attached letter should be included, appropriate to the request received and response provided (appendices B to F).

9. If the client has elected to view the record in person and have an explanation provided by the Case Manager and/or the Team Leader, a time is to be agreed and an appointment made detailing the time, date and location of the meeting.

10. A 'request for access to records completed' internal activity should be entered on the client database, including the following information:

- The date the request was actioned;
- The time taken to process the received request;

- Details of whether a full or partial copy was provided; and
- Details of how the copy was provided to the client (in person or by registered post).

Evaluations

Outcome Measures

- VS ACT prepares all records for release in stipulated timeframes as per the Act
- VS ACT provides information to clients accessing the service as to how they may access their records by directing them to the VS ACT website

Method

- VS ACT maintains a register of all requests for records
- VS ACT provides and receives completed Request for Access Records form from clients and/or authorised persons prior to releasing information

Related Legislation, Policies and Standards

Legislation

Health Records (privacy & Access) Act 1997

Victims of Crime Act 1994

Victims of Crime Regulation 2000

Human Rights Act 2004

Policies

ACTPS Integrity Policy 2010

ACTPS Standards for the Conduct of Inquiries and Investigations 2010

ACTPS Code of Conduct

ACTPS Code of Ethics

JACS Records Management Policy

JACS Gifts, Benefits and Bribes Policy

Standards

Public Sector Management Standards 2006

ACT Public Service Code of Ethics

Allied Health Professionals ACT Standards of Practice

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Appendix A

Request for Records Access form



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Request for Record Access

Under the Act Health Records (Privacy and Access) Act 1997, Section 7

Client UJ:
(0000-0000)

1. Client (whose record do you want to access?) ☐ Mine ☐ Someone else's (complete details in sections 1 & 2)

Surname		Given Names			
Maiden Name (or other name)		Date of Birth	/	/	
Address		Suburb		Postcode	

2. Requestor

Surname		Given Names			
Relationship (to client)		Company			
Address		Suburb		Postcode	
Home Ph.		Mobile No.		Fax No.	

3. Information Required (What information do you require)

Type of Access	<input type="checkbox"/> Copy of the record Victim Support ACT Record
	<input type="checkbox"/> Other (please specify) _____
	2. Specific Information <input type="checkbox"/> Statement of attendance ____/____/____
	3. Access to view the record (Access to view with explanation will require an Appointment) <input type="checkbox"/> Entire Record <input type="checkbox"/> Other _____

4. Authority

Grounds For Authority	I am authorised to access the record on the client's behalf because (Please tick whichever is applicable)		
	<input type="checkbox"/> I am the client		
	<input type="checkbox"/> I have the client's/parent's/guardian's written consent (see below)		
	<input type="checkbox"/> I am the client's next of kin (Only applicable where the patient is a minor (under 16), or where the patient is deceased with no Will)		
<input type="checkbox"/> I am the Legal Guardian, Executor of the Will or have a Power of Attorney (Please attach evidence)			
Consent (Parent/Guardian consent needed if patient is under 16 years)	I hereby authorise the release the information specified above to the requestor named on this form.		
	Signature: _____	Print Name: _____	Date: ____/____/____
	Relationship to the client: _____		
	Are there any Guardianship/Parental Responsibility Orders currently in place? <input type="checkbox"/> Yes <input type="checkbox"/> No (Please supply copies)		

Return completed form via:

Fax: (02) 6205 0177

Email: victimsupport@act.gov.au

Enquiries: Phone 6205 2066

Post to: Team Leader

Victim Support ACT

GPO Box 158

CANBERRA CITY ACT 2601

Level 4, 1 Moore Street, Canberra City 2601
GPO Box 158 Canberra ACT 2601
Phone: (02) 6205 2066 Fax: (02) 6205 0177
Website: www.victimsupport.act.gov.au

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Appendix B

Examples of letter to accompany requested documents – Full copy to client



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Date

Name

Address

Dear (name)

Re: Release of Information request – (name and DOB)

Thank you for your correspondence of (date) requesting a copy of your health records from Victim Support ACT.

Please find a copy of these records as requested, which are contained in the (# of #) folios that are enclosed.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

(Name)

Team Leader

Victim Support ACT

Enclosed: x of x folios of health records

GPO Box 158 Canberra ACT 2601

Phone: (02) 6205 2066 | Fax: (02) 6205 0177 | Website: victimsupport.act.gov.au | Email: victimsupport@act.gov.au

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Appendix C

Examples of letter to accompany requested documents – Partial copy to client



VICTIM SUPPORT
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Date

Name

Address

Dear (name)

Re: Release of Information request – (name and DOB)

Thank you for your correspondence of (date) requesting a copy of your health records from Victim Support ACT.

Please find a copy of these records as requested, which are contained in the (# of #) folios that are enclosed.

Under the provisions of the *ACT Health Records (Privacy and Access) Act 1997* there are certain grounds where personal health information can be exempted from release. Please note that upon review of this file it has been determined that part of the file cannot be released for the reasons outlined below (include relevant dot point and delete remainder):

- A report under the Children and Young People Act 2008
- Contravenes other legislation and/or an order of a court
- Information given in confidence
- Relates to another person
- Necessary to avoid risk of harm to you or to another person

If you have any queries, please do not hesitate to contact me.

Yours sincerely

(Name)

Team Leader

Victim Support ACT

Enclosed: x of x folios of health records

GPO Box 158 Canberra ACT 2601

Phone: (02) 6205 2066 | Fax: (02) 6205 0177 | Website: victimsupport.act.gov.au | Email: victimsupport@act.gov.au

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Appendix D

Examples of letter to accompany requested documents – Full copy to legal representative



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Date

Name
Address

Dear (name)

Re: Release of Information request – (name and DOB)

Thank you for your correspondence of (date) requesting a copy of the above named person's health records from Victim Support ACT.

Please find a copy of these records as requested, which are contained in the (# of #) folios that are enclosed.

Please note that these records are confidential and should not be provided to the person or a third party without prior consultation with Victim Support ACT.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

(Name)
Team Leader
Victim Support ACT

Enclosed: x of x folios of health records

GPO Box 158 Canberra ACT 2601

Phone: (02) 6205 2066 | Fax: (02) 6205 0177 | Website: victimsupport.act.gov.au | Email: victimsupport@act.gov.au

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Appendix E

Examples of letter to accompany requested documents – Partial copy to legal representative



VICTIM SUPPORT
PROMOTING RIGHTS & RECOVERY



Date

Name
Address

Dear (name)

Re: Release of Information request – (name and DOB)

Thank you for your correspondence of (date) requesting a copy of the above named person's health records from Victim Support ACT.

Please find a copy of these records as requested, which are contained in the (# of #) folios that are enclosed.

Please note that these records are confidential and should not be provided to the person or a third party without prior consultation with Victim Support ACT.

Under the provisions of the *ACT Health Records (Privacy and Access) Act 1997* there are certain grounds where personal health information can be exempted from release. Please note that upon review of this file it has been determined that part of the file cannot be released for the reasons outlined below (include relevant dot point and delete remainder):

- A report under the Children and Young People Act 2008
- Contravenes other legislation and/or an order of a court
- Relates to another person
- Information given in confidence
- Necessary to avoid risk of harm to the person or to another person

If you have any queries, please do not hesitate to contact me.

Yours sincerely

(Name)
Team Leader
Victim Support ACT

Enclosed: x of x folios of health records

GPO Box 158 Canberra ACT 2601

Phone: (02) 6205 2066 | Fax: (02) 6205 0177 | Website: victimsupport.act.gov.au | Email: victimsupport@act.gov.au

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Appendix F

Examples of letter to accompany requested documents – Non party production



Date

Name
Address

Dear (name)

Re: Release of Information request – (name and DOB)

I refer to a request from (INSERT) Lawyers of Reference, enclosing a Notice of Non Party Production to produce records for the above named person from Victim Support ACT.

Please find a copy of these records as requested, which are contained in the (# of #) folios that are enclosed.

Please note that these records are confidential and should not be provided to the person or a third party without prior consultation with Victim Support ACT.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

(Name)
Team Leader
Victim Support ACT

Enclosed: x of x folios of health records

GPO Box 158 Canberra ACT 2601

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