

## *Information Management: Social Work Records, records ownership and access*

<b><i>Information Management: Introduction.....</i></b>	<b><i>2</i></b>
<b><i>Social Work Records .....</i></b>	<b><i>2</i></b>
What information should be included in a case record? .....	2
How should this information be represented in a case note?.....	2
How and when should case records be recorded? .....	3
Can I change or amend a case record at a later date? .....	3
For how long and where should I store case records?.....	3
What are my legislative responsibilities with regard to case records? .....	4
<b><i>Who Owns Confidential Social Work Records?.....</i></b>	<b><i>4</i></b>
Social workers employed by agencies or organisations .....	4
Self-employed social workers .....	4
Contracted social workers .....	4
<b><i>Access to Social Work Records or Information: Legal and Ethical Considerations Regarding Confidentiality.....</i></b>	<b><i>5</i></b>
Obtaining written informed consent before providing access to client information.....	5
Disclosing information without consent.....	5
Access to client records by colleagues or managers.....	5
Legally requested information.....	6
Third party requests for information .....	6
Client access to social work records .....	6
Freedom of Information and other government access applications .....	6
Access where client is a couple, family or group.....	7
Access to social work records of children and young people.....	7
<b><i>Case Record Management in the Absence of the Social Worker .....</i></b>	<b><i>7</i></b>

## Information Management: Introduction

---

The term 'information management' encompasses both the methodological and technological processes for the collection, storage, processing, retrieval, sharing and management of information.

The type of information managed by social workers will vary greatly according to the area and context of practice but its, often, confidential nature places particular ethical and legal obligations and considerations on those responsible for its practice and physical use and storage.

This ethics and practice guideline covers four main areas: social work case records; ownership of social work case records; access and sharing of confidential client information; and information management following an unexpected short-term, long-term or permanent absence of a social worker. The guideline presents ethical and legal considerations for social workers with respect to managing confidential client information. The guideline consists of general information only and is **not a substitute for legal advice**. Social workers are encouraged to seek their own independent legal advice for specific questions relating to a particular practice context or situation.

## Social Work Records

---

Maintaining records is an integral and important part of practice for social workers. Research has shown that record-keeping practices have an impact on client outcomes such that poor case notes can result in poor decision-making and adverse client outcomes (see Preston-Shoot, 2003; Cumming et al., 2007).

A case record, case files and case notes are all terms used to apply to a chronological record of interactions, observations and actions relating to a particular client.

### What information should be included in a case record?

The guiding principle for deciding what information should be included in a case note is whether it is relevant to the service or support being provided.

The *AASW Code of Ethics* (2010) states that *social workers will record information impartially and accurately, taking care to report only essential and relevant details* (5.2.5a).

The type of information that is considered relevant will clearly depend on the context of practice, however, generally speaking, it would include a record of all discussion, interactions with the clients and other persons or services involved in the provision of support including referral information, telephone and email correspondence.

### How should this information be represented in a case note?

There are a number of case-recording models available to social workers. Some of these provide general guidance for writing case notes while others are specific to a service type or context.

Many organisations have policies and procedures around case recording.

The AASW does not recommend the use of one model or policy over any other, however the *Code of Ethics 2010* points to some general principles for good record keeping.

Information recorded about a client should be **impartial**, **accurate** and **complete**, with care taken to ensure that:

- Only details relevant to the provision of a support or service to which the client has consented are recorded (see sections 5.2.5 (a) and 5.2.4 (b)).
- When working with involuntary clients this means recording information relevant to statutory practice (see also 5.2.2).
- notes are free from derogatory or emotive language (5.2.4 (a))
- subjective opinions are qualified with relevant background information, theory or research (5.2.5 (a))
- relevant information is not omitted (5.2.5 (c)).

### **How and when should case records be recorded?**

Case notes can be recorded manually or electronically and should:

- Include on each page the name and date of birth (DOB) or other identifying information of the client (This can be handwritten, typed or constitute an electronic tag where an electronic case recording program is utilised).
- be dated
- be recorded as soon as possible after an interaction or event
- be typed or clearly readable if handwritten
- include the name, signature and profession or role of the author
- the time of contact, particularly where there are a high volume of interactions in a day

### **Can I change or amend a case record at a later date?**

Care should be taken to avoid errors or omissions. In some instances it is illegal to change, white-out or amend case notes after the fact.

If a change must be made to correct an error or omission, the change can be recorded as a new and separate case note. In addition to outlining the error or omission as part of this new case note, it is advisable to provide an explanation for the earlier absence or inaccuracy. You may also add, if possible, a note in the margin of the original case note referring the reader to the additional or amended detail.

A case note should never be amended or changed in light of additional information obtained at a later date. This should always constitute a new case note.

### **For how long and where should I store case records?**

Social work records should also be kept and stored for a period of time after the conclusion of a period of service provision. The AASW advises, in the absence of legislation, that social work records should be kept for a period of 7 years following the last contact with the client. The AASW further recommends that social work records relating to children or minors should be kept until the child or young person would turn 25 years old. Social workers should check any specific legislative requirements regarding client records for their particular context of practice.

Electronic data, including email and paper files, should be stored securely and should be accessible only to the professionals responsible for the provision of a service or support.

Social workers should be aware of methods used to dispose of electronic and paper data, and that the security of data is maintained throughout this process. This may mean, for example, that paper files are shredded or removed by a confidential waste company, and that electronic files are permanently deleted if applicable.

## What are my legislative responsibilities with regard to case records?

Case notes may be subject to a range of legislative processes and requirements during and following the conclusion of the professional relationship.

The nature of these requirements may differ greatly according to the nature or context of practice and the state or territory in which it was situated.

Organisations may have policies and procedures for ensuring these and other legislative obligations are met, in addition to general guidelines for case note recording and management.

For these reasons it is important for social workers to:

- be familiar with the specific legal requirements and processes impacting on practice
- consider the implications of federal and/or state/territory legislation to the recording of case notes
- understand how these requirements are implemented within their organisation (where relevant)
- ensure that clear policies and procedures are implemented when working in private practice. The ethics and practice guidelines *Responding to a subpoena* and *Writing court reports* may provide further guidance in relation to some specific legislative or court requirements.

## Who Owns Confidential Social Work Records?

---

The ownership of client records depends on the context of practice or employment. Below is some general information about ownership of records depending on context of practice or employment.

### Social workers employed by agencies or organisations

When employed by an organisation, the client record completed by the social worker would generally be considered to be owned by the organisation or agency, unless the employment contract or organisational policies states otherwise. The client or subject of the case record is a client of the organisation, and the social worker provides the service on behalf of, or as an agent of, the organisation.

It is important that clients understand at the outset of their engagement with an agency who owns the records. Please also refer to the section below regarding access to records.

If a social worker has concerns about the security or use of confidential client information owned by an agency, he/she may consider using appropriate organisational channels to highlight any agency policies, procedures or practices that contravene professional or ethical standards. See sections 5.4.1 of the *Code of Ethics*.

### Self-employed social workers

The client record in this instance would generally be considered to belong to the social worker, because the social worker and the organisation are one and the same.

### Contracted social workers

Social workers contracted by organisations or agencies for specific or time-limited work should ensure that ownership of social work records is clarified and understood before entering into a contract. There are many different factors that need to be considered in terms of record ownership for social workers who are contracted or sub-contracted. In some circumstances it may be advisable to seek independent legal advice prior to signing a contract.

It should also be acknowledged that client records contain personal and often sensitive information about clients. From a service provision perspective, the records may be owned by the service provider, be that an individual practitioner or an agency, however the actual information itself essentially belongs to the client and should therefore be treated respectfully and sensitively.

## Access to Social Work Records or Information: Legal and Ethical Considerations Regarding Confidentiality

---

Access to records is different to ownership. Irrespective of the context of practice, and therefore whether it is the individual social worker who owns the records or the employing agency, social workers are responsible for ensuring that client information remains confidential and ensuring that only those who require access have such privilege.

### Obtaining written informed consent before providing access to client information

Generally speaking, social workers should not provide third parties with access to confidential information without the written informed consent of the client and only when the social worker believes that granting a third party access is in the best interests of the client. The *Code of Ethics* is very clear that when providing information to third parties, *in all cases the social worker must maintain the client's confidentiality and privacy, and obtain prior written informed consent from the client to release the information* (5.2.4e).

### Disclosing information without consent

There may be instances where a social worker believes that by disclosing confidential client information, *an actual identifiable risk of harm to a specific person or persons can be prevented* (*Code of Ethics* 5.2.4e), for example if a client tells a social worker in confidence that they have clear plans to take their own life, a social worker might decide to report this to an appropriate emergency and/or mental health service.. Social workers may decide to inform clients of such disclosure, however in some instances, this might be contraindicated by risk. See section 5.2.4f of the *Code of Ethics*.

Some social workers might also be subject to mandatory reporting requirements. Please access the Ethics and Practice Guideline on *Mandatory Reporting* [here](#).

### Access to client records by colleagues or managers

As already discussed, generally where social workers are employed by agencies or organisations the organisation is deemed to own the client record; however ownership does not imply full and unrestricted access. Therefore, an agency record completed by a social worker should generally be used only by the social worker and only for the purpose for which it was acquired. If a reasonable request for information is received from a colleague or manager, or a social worker needs to consult or confer with a colleague, written informed consent should be obtained from the client. Section 5.2.4 b of the *Code of Ethics* outlines the importance of social workers discussing with clients at the commencement of the professional relationship the limits to confidentiality; the purpose for which information is obtained; to

whom the information may be made available; and how the information may be used.

### **Legally requested information**

It is imperative for social workers to discuss with clients at the outset of the professional relationship that their social work record may be legally requested by way of a subpoena or police warrant. In any context, notes can be subpoenaed for any number of reasons. Processes for responding to a subpoena may differ depending on the Court and similarly organisations may vary in their policy and procedure for doing so. Please access the AASW Ethics and Practice Guideline *Responding to a subpoena* [here](#).

### **Third party requests for information**

Often social workers, predominantly those in private practice, receive requests from solicitors to provide confidential client information. Please note, a request from a solicitor is different to a legal subpoena or warrant. Social workers are not legally obliged to provide information to solicitors or other legal representatives if the request is not in the form of a lawful subpoena or warrant. Decisions to provide information in such circumstances should be made only with the written informed consent of the client to release the information and if assessed to be in the client's best interest. Social workers should ensure that any confidential information pertaining to a third party, such as a relative of the client, is not included or is blacked out before providing information to another professional, such as a solicitor. The above would also apply if another professional, such as a new counsellor beginning work with a client, requests access to client information. The social worker or agency who owns the client record should always keep the original record, and only supply a copy or excerpt of the record with the client's informed and written consent.

### **Client access to social work records**

Social workers may also receive requests from current and former clients for access to their client record. The *Code of Ethics* states that *social workers will ensure that clients have reasonable access to official social work records concerning them* (5.2.5 d). When considering requests from clients to access their client record, social workers should consider any ethical, legal or risk issues that may give cause to refuse access. For example, a social worker may decide to refuse a vulnerable client full access to their record as they might be concerned about risk to the client of reading sensitive information about prior trauma in an unsupported environment. In such an instance, a social worker might suggest that the client attend their office and read the file with the social worker present for support. Social workers might also decide to provide clients with partial access to their record, relevant to a particular request, or a summary report of the material. If a social worker makes a decision not to provide a client with access to their social work record, they should ensure that the client is advised of the right and is given opportunity to request a review of this decision through organisational or legal channels (5.2.5d).

### **Freedom of Information and other government access applications**

Clients requesting access to their information from government agencies can do so under a Freedom of Information Application or a Government Information Act Application (NSW only). Social workers should also check whether requests from clients to access agency records are governed by any other health records legislation particular to different jurisdictions. Social workers who work in private practice or

other non-government agencies are not subject to Freedom of Information legislation. See <http://www.oaic.gov.au/freedom-of-information/who-is-covered-by-foi> for more information.

### **Access where client is a couple, family or group**

In instances where a social worker has seen a couple, family or group for social work services and the client record therefore concerns all individuals making up the client group, social workers should have the written informed consent of all individuals before releasing the record or parts of the record to one individual from the client group or to a third party. In instances where a social worker is seeing a couple for counselling and, for whatever reason, reverts to seeing one member of the couple, a new case record or records should be created and the social worker should re-contract with the individual/s in relation to limits to confidentiality, informed consent, fee schedule, cancelled appointments etc., as if beginning a new professional relationship. (NB. Where a social worker has seen a couple for counselling and is considering seeing one or both as individual clients, the social worker should also consider any potential or perceived conflict of interest (5.1.7) and/or professional boundaries and dual relationship (5.1.6) issues).

### **Access to social work records of children and young people**

Social workers who see children and young people often do so following referral and informed consent from the child's parent/s or guardian. Social workers should respect the confidentiality and privacy of child clients, as they do for adult clients.

If a parent or guardian requests access to their child's file, social workers should consider the purpose for which information is requested and consider whether they believe it is in the best interests of the child to provide the information to the parents.

In some instances, it may be reasonable to provide a summary of the child's progress to the parents, but not to provide significant detail about particular issues the child has discussed, unless of course this is contraindicated by risk. If appropriate, the child or young person should be made aware of; and provide informed consent for, information to be released to third parties. If a child's parents are separated but have equal parental responsibility, social workers should, in most instances and in the absence of risk, provide the same information to both parents. For further information and guidelines around working with children and young people, please access the AASW's *Consent and Working with Children Ethics and Practice Guideline* [here](#).

## **Case Record Management in the Absence of the Social Worker**

---

Wherever possible, social workers should include details relating to the termination or interruption of services or supports in case note entries leading up to or following the end of the professional relationship.

However, it is also possible that termination of a social work service is unanticipated. This might include instances where the social worker becomes incapacitated or unable to continue employment or practice. These are particularly salient issues for social workers who are the sole social workers in an agency, or

work in private practice.

It is particularly important therefore to ensure that case notes are maintained and updated as soon after an interaction or event as practicable. The unanticipated termination of service raises a number of issues in relation to security, confidentiality, storage and sharing of client information.

Social workers should ensure that they or their agencies have clear document management policies and procedures. Private or self-employed social workers should also ensure that they identify an appropriate person to manage client information in their absence. A social worker may wish to enter into a reciprocal arrangement with another social worker or relevant colleague to cover absences. For example, if a social worker unexpectedly passes away, ideally the social worker will have previously nominated a person who will take over the management of client information, will store it for the appropriate length of time, and will destroy it once this time has lapsed. Such an arrangement should be disclosed to clients in advance and their understanding and informed consent sought. It is recommended that this is explicitly stated in the terms of engagement or contract prior to beginning a professional relationship. The identified person should be aware of, and adhere to, the information management policies and procedures of the social worker and any legislative requirements.

If you have any further questions about the management of confidential client information, contact our Ethics and Practice Standards Consultation Service on 03 9320 1044.