

Direction on the pilot program for the national Countering Violent Extremism Intervention Framework

As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998* (NSW) (PPIP Act), I Elizabeth Coombs, hereby direct pursuant to section 62 of the *Health Records and Information Privacy Act 2002* (NSW) (the HRIP Act) that:

Overview

1. This is a direction made under section 62(1) of the HRIP Act. It should be read in conjunction with the HRIP Act.

Interpretation

2. In this Direction, the following words have the respective meanings:

“Assessment panel and specialist advisors” means a multi-agency group of skilled practitioners from within government agencies who will facilitate the intervention services to target individuals.

Specialist advisors will support the design of intervention services to target individuals on a case by case basis by: considering the needs analysis and development of an intervention plan; liaise with or provide case officers or community contacts; and identification of any gaps in services.

Once an individual has provided consent to participate in the program and the sharing of information, practitioners from all agencies may be engaged to facilitate the provision of services in an intervention plan. Non-government organisations and specialised service providers may be invited to participate as appropriate. The Jurisdictional Coordinator will co-ordinate and convene the panel.

“At Risk of Radicalisation to Violent Extremism (RVE)” means the individuals who have, on a case-by-case basis using behavioural indicators, been assessed as being at risk of RVE. It does not refer to individuals who are at risk of other risk behaviours (e.g. anti-social behaviour, aggression, delinquency), although an individual assessed as being at risk of RVE might also be susceptible to other risk behaviours;

“Case Officer” means the individual nominated by the Assessment Panel to develop and deliver the case management plan for the referred client;

“Client Contact Person” means the person in the community with a close relationship to the referred client that will act as a conduit between the Assessment Panel and the individual;

“Countering Violent Extremism (CVE)” means the activities and associated processes that seek to prevent individuals becoming, or remaining, radicalised to violent extremism;

“Countering Violent Extremism Advisory Group (CVEAG)” means the committee with representatives from multiple agencies across the NSW Government

responsible for providing oversight on efforts to counter violent extremism within NSW;

“**CSNSW**” means Corrective Services New South Wales;

“**Deradicalisation**” means the process of psychological change where a violent extremist’s beliefs about the legitimacy of using violence, or supporting the use of violence by others, in the pursuit of their political, ideological or religious goals change (i.e. they become former violent extremists);

“**JJ**” means Juvenile Justice of the Department of Justice;

“**DoE**” means the NSW Department of Education;

“**Disengagement**” means the process of behavioural change where a violent extremist’s involvement in violent extremist activities (including providing material support) reduces and/or ceases even though they may continue to believe that the use of violence is justified;

“**Direction**” means this direction and any Schedules;

“**Diversions**” means the process that seeks to prevent the radicalisation of at-risk individuals to violent extremism;

“**FACS**” means the Department of Family and Community Services;

“**Health information**” has the same meaning as section 6 in the HRIP Act;

“**Initial Risk Assessment**” means an initial screening that an officer conducts on a client referred by the police authorities to the NSW Pilot of the Countering Violent Extremism Intervention Framework. This assessment determines the individual’s risk of committing an act of violence, using the Violent Extremism Risk Assessment Screening Tool (VERA-S);

“**In-depth Risk Assessment**” means the detailed assessment conducted by an appropriate officer using the Violent Extremism Risk Assessment In-Depth Tool (VERA-CVE 2015) to determine an individual’s level of risk for committing an act of violent extremism;

“**Jurisdictional Coordinator**” means the officer appointed by the NSW Government to establish and coordinate the NSW Pilot of the National Countering Violent Extremism Intervention Framework in NSW including the Assessment Panel, governance, reporting and evaluation requirements;

“**Needs Analysis**” means the assessment conducted by the Assessment Panel using the CVE Needs Analysis Template to identify the individual’s psychosocial needs and options for intervention;

“**NSW Pilot**” means the time-limited program delivered in NSW to test the service delivery model in the National Countering Violent Extremism Intervention Framework.

“**NSW Health**” means New South Wales Health;

“**NGO**” means a non-government organisation contracted by the Australian or NSW Government for the purposes of providing services under the NSW Pilot of the National Countering Violent Extremism Intervention Framework;

“Police and NSWPF” means the New South Wales Police Force;

“Public sector agency” has the same meaning as defined in section 4 of the HRIP Act, and for the purposes of this direction, those agencies limited to clause 5 of this direction;

“Radicalisation to Violent Extremism” means the process by which individuals come to accept the use of violence, or support the use of violence by others, as a legitimate means of pursuing their political, ideological or religious goals;

“Violent Extremism” means a willingness to use violence, or support the use of violence by others, to promote a political, ideological or religious goal. Violent extremism includes terrorism, other forms of politically-motivated violence (e.g. violent protests) and some forms of communal violence (e.g. racially-motivated assaults);

3. For the purposes of section 4(1) of the HRIP Act, an NGO or community member engaged in NSW to provide support through the National Countering Violent Extremism Intervention Framework Pilot Program is a “person employed or engaged” by the relevant public sector agency to work with an individual.

4. NGOs and the Client Contact Person delivering the National Countering Violent Extremism Intervention Framework (CVEIF) are required to comply with the PPIP Act and HRIP Act.

Application

5. This Direction applies to each NSW public sector agency listed in Schedule 1 and their contracted service providers that have an identified role in the NSW Pilot Program of the CVEIF for the period of the Pilot Program.

Background

Objectives of NSW Pilot Program

6. The CVEIF developed by the Australian Government and delivered by the NSW Government is designed to identify people that are at high risk of committing an act of violent extremism. The program will provide case management services to these people to encourage their diversion or disengagement from violent ideology and reduce the risk of committing extremism-motivated criminal behaviour.

7. The NSW Pilot is based on a partnership between government and the community. It will be important that community leaders play a role in facilitating participation by individuals and community based groups will be expected to provide services in some cases.

8. The NSW Pilot is the key opportunity to trial the service delivery model for the National CVEIF before it is rolled out in each state and territory. The NSW Pilot will test the underlying assumptions for the Framework in NSW, including the expectation that the community will provide in-kind support for its delivery.

9. During the NSW Pilot, policing authorities will identify individuals at high risk of committing extremist-related criminal behaviour. A Case Officer or Client Contact Person will be identified on a case by case basis to engage directly with the person to encourage their participation in the initiative. Prior to engaging these people, it may be necessary to share personal information on an individual without their prior knowledge or consent.

Process

10. The NSW Pilot Program involves seven steps, namely:

- 10.1 *Identification and initial needs assessment screening* – Australian Security and Intelligence Organisation (ASIO), the Australian Federal Police (AFP) and the NSW Police Force (NSWPF) have identified a small number of individuals that are considered suitable for the NSW Pilot. These agencies have made an initial assessment about the individual's risk of committing extremist-motivated criminal behaviour.
- 10.2 *Referral to the Assessment Panel* – The agencies in step 1 of the Pilot Program, as outlined in paragraph 10.1, will refer the person to the Assessment Panel to undertake a more formal risk assessment, needs analysis and develop a treatment plan. Key law enforcement agencies will lead this process. The Assessment Panel has the option to engage 'Specialist Advisors' from community-based agencies on a case-by-case basis depending on the needs of the individual. These advisors will provide expert input on the best treatment approach, collect personal information from or about the person and/or help identify an appropriate Case Officer. The Jurisdictional Coordinator will convene the Assessment Panel and coordinate the delivery of services.
- 10.3 *Case management planning* – A Case Officer will be identified and 'appointed' by the Jurisdictional Coordinator, preferably being a worker with whom the person has a relationship, to engage directly with the individual and facilitate their access to the contact person and to a range of community services.
- 10.4 *Identification and contact with Client Contact Person* – The Case Officer will identify a Client Contact Person. This individual will be a member of the community that is able to engage directly with the client, provide information on the client's personal circumstances and facilitate their involvement in the NSW Pilot. The policing authorities and the Case Officer may be required to disclose personal information on the client for the Client Contact Person.
- 10.5 *Contact with the person* – The Case Officer and/or Client Contact Person will approach the individual and encourage their involvement in the program. The client's consent is required to deliver case management services. The client has the option to decline involvement in the program at any point. If the client agrees to participate in the NSW Pilot, the Case Officer will explain the program, and how any personal information will be collected, used, stored, disclosed and destroyed. The client's consent will be required to collect, use and disclose personal information about the client. The client will be referred to a range of service providers, in line with their individual treatment plan. The treatment options will include a mix of services that directly address the individual's violent and extremist views and other services that support their broader needs, for example counselling.
- 10.6 *Monitoring of progress* – The Case Officer monitors engagement and provides feedback on client's progress and participation in services. The ultimate objective is that the person gains access to a range of services that help to create an ideological shift or changes the intent to participate in violent extremism. While therapeutic content of discussions with service providers remains respected, there will be some feedback of advice to the CVEAG on progress to indicate if the person continues to present a threat to the community by retention of intractable views. De-identified progress reports on the pilot will be provided to the Commonwealth Attorney General's Department for pilot review and evaluation.

- 10.7 *Service exit* – If the person does not engage with the program, the Case Officer and Client Contact Person will consider whether to make a second approach, to offer support to family and friends, or to refer the person back to law enforcement.

Public Interest

11. This Direction has been made to permit the collection, withholding, use and disclosure of health information by NSW public sector agencies and contracted service providers that have an identified role in the NSW Pilot Program of the CVEIF for the purposes of the NSW Pilot Program.

12. I am satisfied that the public interest in making this Direction is greater than the public interest in requiring the public sector agencies, contracted service providers and the Client Contact Person to comply with Health Privacy Principles (HPPs) contained in Schedule 1 HPPs 3, 6, 7, 10 and 11 of the HRIP Act.

Provisions

13. The application of the HPPs under Schedule 1 of the HRIP Act is modified to the extent described below.

14. Notwithstanding Schedule 1, clause 3 of the HRIP Act, a public sector agency may collect health information otherwise from the individual if the collection of information:

- (a) is for the purpose of undertaking the risk and needs assessment of an individual under the Pilot Program, as set out in paragraphs 10.1. to 10.4, in accordance with the objectives of the Pilot Program as described in paragraphs 6 to 9;
- (b) the collection of the information is reasonably necessary for that purpose; and
- (c) there are security provisions that will protect the information that is collected.

15. Notwithstanding Schedule 1, clause 6 of the HRIP Act, a public sector agency that holds health information need not comply with clause 6 if:

- (a) the health information relates to the delivery and outcomes of the Pilot Program; and
- (b) disclosure of whether the agency holds the information would jeopardise the delivery of services in accordance with the objectives of the Pilot Program described in paragraphs 6 to 9.

16. Notwithstanding Schedule 1, clause 7 of the HRIP Act, a public sector agency that holds health information need not comply with clause 7, if:

- (a) the information relates to the delivery and outcomes of the Pilot Program; and
- (b) disclosure of this information would jeopardise the delivery of services in accordance with the objectives of the Pilot Program described in paragraphs 6 to 9.

17. Notwithstanding Schedule 1, clause 10 of the HRIP Act, a public sector agency that holds health information may use the information for a purpose other than that for which it was collected, if the use:

- (a) is for the purpose of implementing the steps of the Pilot Program as set out in paragraphs 10.1 to 10.4, in accordance with the objectives of the Pilot Program described in paragraphs 6 to 9;
- (b) the use is reasonably necessary for that purpose; and

(c) there are security safeguards that will protect the information while held by the agency.

18. Notwithstanding Schedule 1, clause 11 of the HRIP Act, a public sector agency may disclose health information to a person or other body, if:

(a) the disclosure is necessary for the purposes of implementing the steps of the Pilot Program as set out in paragraphs 10.1 to 10.4;

(b) the information that is shared is reasonably necessary and proportionate to the purposes; and

(c) there are security safeguards that will protect the information during the disclosure and while held by the public sector agency, person or other body.

Duration

19. This Direction commences on the date it is signed by me and expires six months after.

Signed by me on **16 November 2015**

Dr Elizabeth Coombs

NSW Privacy Commissioner

SCHEDULE 1

NSW Countering Violent Extremism Agencies:

Department of Justice

Multicultural NSW

NSW Police Force

Corrective Services NSW

Department of Education

Department of Family and Community Services

NSW Ministry of Health

Department of Premier and Cabinet

Juvenile Justice NSW

Treasury NSW