

Privacy Code of Practice for the exchange of information by participating agencies in the Youth on Track scheme

1. Overview

Objectives

- 1.1 Youth on Track is a strategy for reducing juvenile re-offending through early intervention. It aims to do this by:
- (a) identifying young people at risk of re-offending;
 - (b) identifying needs that contribute to the risk of those young people offending; and
 - (c) addressing those needs at an early stage before offending becomes entrenched, through case management and the provision of appropriate evidence-based interventions for the young person.

Process

- 1.2 Under the Youth on Track scheme, Juvenile Justice, Department of Justice uses a validated screening tool to identify suitable potential participants for referral into the scheme. Contracted service providers (YoT Providers) provide case management to referred potential participants.
- 1.3 Young people assessed for this scheme are 10 to 17 years of age.
- 1.4 The scheme involves the collection, use and disclosure/exchange of personal information about a potential participant, his or her family and home environment based on known risk factors and protective factors that can be used to predict the risk that a young person will re-offend and to contact potential participants and their carers. The risk factors are interrelated and cumulative.
- 1.5 In many instances, dealings with personal information can occur on the basis of s. 66(2)(g) of the *Young Offenders Act 1997* and/or Ch. 16A of the *Children and Young Persons (Care and Protection) Act 1998*. This Code modifies the application of the Information Protection Principles to enable the handling of information for the purposes of Youth on Track, in circumstances where s. 66(2)(g) of the *Young Offenders Act* and Ch. 16A of the *Children and Young Persons (Care and Protection) Act* do not apply.
- 1.6 The Youth on Track process is outlined below.

Identification and referral

- 1.7 There are three types of referrals:
- (a) Automatic referrals, where the YoT Screening Officer identifies potential participants from information held on the COPS database.
 - (b) Discretionary referrals, where referral agencies identify young people at risk of reoffending and refer suitable potential participants to the YoT Screening Officer. Discretionary referrals are usually made by Police or the Department of Education, but may be made by other participating agencies. When making a discretionary referral, the referral agency provides the YoT Screening Officer with personal information (listed in paragraph 2.5), including the contact details, address and known aliases of the young person and his or her parents/guardians and known safety warnings in relation to the young person and/or his or her home environment. The referral agency also provides information about the potential participant's other known risk factors.
 - (c) Unsolicited referrals, where an organisation other than a participating agency or an individual, such as a young person's solicitor or medical practitioner, refers a young person to Youth on Track.

Screening

- 1.8 The YoT Screening Officer identifies whether the young person meets the eligibility criteria¹ by using information held on the COPS database, the result of the GRAM screening² and the Client Information Management System (CIMS). In the case of discretionary referrals, the YoT Screening Officer informs the referral agency whether the young person is eligible.
- 1.9 At this stage, young people who do not meet eligibility are screened out. In the case of discretionary referrals, the referral agency is advised. The referral agency is provided with a general explanation to why the young person was not suitable. This information is used to improve the referral agency's future assessment as to whether possible candidates for the Youth on Track scheme are likely to be accepted for referral and to maintain a collaborative relationship.
- 1.10 Where a young person meets the eligibility criteria, the Youth on Track Unit then seeks information about any existing case management from Department of Family and Communities and other key service providers.

¹ Young person has had at least one caution, conference and/or charge and they have not previously been under the supervision of Juvenile Justice. For automatic referrals they must also have a GRAM (likelihood of further formal contact with police) of 60% or higher.

² Name, age, gender, prior cautions, prior charges, and Aboriginality. Note the Aboriginality of a young person is entered into the GRAM screening tool but is not stored once the GRAM is calculated.

Engagement and Consent

- 1.11 The YoT Screening Officer refers the young person to a YoT Provider, providing personal information accumulated through the earlier stages. Where the young person is already case managed by another agency, the YoT Provider contacts the existing case management agency and negotiates support to be provided by the Youth on Track scheme to the young person.
- 1.12 The provision of any support by the Youth on Track scheme to the young person by the YoT Provider can only be provided when consent is obtained from both:
- (a) the existing case management agency, if any; and
 - (b) the young person and his or her parents/guardians
- in that order.
- 1.13 If the existing case management agency does not provide consent, the young person has no further involvement with Youth on Track.
- 1.14 If the existing case management agency consents, the YoT Provider contacts the young person and parents/guardians to inform them that the young person has been referred to Youth on Track and seeks consent for the young person to participate in the scheme. The initial consent to participate in Youth on Track includes consent to personal information being stored securely after exit or disengagement from Youth on Track. Records of consent are kept by the YoT Provider and reported to the Youth on Track Unit.
- 1.15 All subsequent steps in Youth on Track are conditional on the young person and his or her parents/guardians consenting. Without consent, the involvement of the young person in Youth on Track will end and they will not be further involved unless consent is given.
- 1.16 If the young person disengages from Youth on Track at any time, the YoT Provider reports this to the Youth on Track Unit and any other agency that has been involved in the provision of services to the young person during his or her involvement with the Youth on Track scheme. The Youth on Track Unit reports back to Police the refusal of consent and monitors the COPS database for any further offending by the young person.

Assessment

- 1.17 If consent is given by the young person and his or her parents/guardians, the YoT Provider assesses the young person's risk and protective factors. This involves collection and use by the YoT Provider of personal information from multiple sources, in accordance with the consent of the young person and his or her parents/guardians. The personal information collected mainly relates to the young person, but may include personal information about family, peers and other third parties.

- 1.18 The Youth on Track Unit reports back to Police with an update about the young person's progress through the scheme, again, in accordance with the consent of the young person and his or her parents/guardians.

Case management

- 1.19 The YoT Provider identifies key areas of need, relevant services and suggested level of service provision for the young person, and works with the young person and his or her parents/guardians to develop a Case Plan. The YoT Provider may also use the information to provide services directly to the young person and/or parents/guardian.
- 1.20 The YoT Provider reports back to the Youth on Track Unit about the young person's progress. This enables the Youth on Track Unit to support and monitor the provision of Youth on Track services.

Intervention

- 1.21 Services are delivered by the YoT Provider directly or by other government and non-government service providers brokered by the YoT Provider. Brokering of services requires disclosure by the YoT Provider of personal information to other service providers; and collection by the YoT Provider of personal information from the other service providers about the young person's progress.
- 1.22 The YoT Provider prepares a weekly client progress report which it provides to Juvenile Justice and Police.

Exit

- 1.23 The YoT Provider will determine if a young person moves from one stage of case management to the next and when a case may be closed and a young person exited from the scheme.
- 1.24 The YoT Provider monitors implementation of the Exit Plan and prepares an Exit Report. The Plan and Report are provided to the Youth on Track Unit.

Evaluation

- 1.25 The YoT Provider asks participants and their parents/guardians to complete a participant feedback survey at the time of exit. The participant can choose not to complete the survey. Youth on Track records will be used by BOCSAR to evaluate the effectiveness of the Youth on Track scheme.

End of Youth on Track

- 1.26 Within 21 days of the termination of the contract all personal information collected by the YoT Provider about participants must be returned to Juvenile Justice to be managed under section 12 of the PPIP Act and any other relevant legal obligations Juvenile Justice has in respect of this personal information when returned. This Code does not modify the application of section 12 of the PPIP Act to the participating agencies.

2. Information covered by the Code

- 2.1 This Code is made under Part 3, Div. 1 of the *Privacy and Personal Information Protection Act 1998* (the PPIP Act) to provide for the operation of the Youth on Track scheme in conjunction with other participating agencies, including non-government service providers (YoT Providers).
- 2.2 The Code applies to personal information collected used or disclosed for the purposes of referring at risk young people to YoT Providers; and for quality review purposes of the referral process. Personal information will be collected, used and disclosed by participating agencies only as is reasonably necessary for the purposes set out below.
- 2.3 A corresponding code applies to Youth on Track in respect of the *Health Records and Information Privacy Act 2002*.
- 2.4 Juvenile Justice will collect and use personal information already held by participating agencies that is relevant to a person's eligibility for and potential participation in Youth on Track to identify, refer and engage potential participants. Only information relevant to eligible potential participants is shared with the YoT Provider. The YoT Provider is required to manage any information obtained for the purposes of Youth on Track in accordance with any directions provided by Juvenile Justice.
- 2.5 This Code applies to the following information:
- (a) identification and personal details – including the name, aliases, date of birth, age, gender, contact details, address, school, prior cautions, prior charges, offences, and CNI of a young person the subject of a referral to Youth on Track;
 - (b) risk factors and safety warnings in relation to a young person who is the subject of a referral to Youth on Track and/or the young person's home environment, to the extent this includes personal information;
 - (c) assessment scores relating to the risk of re-offending such as GRAM assessment scores;
 - (d) the name, contact details, address and aliases of the parents or guardians of a young person who is the subject of a referral to Youth on Track;

- (e) information about a young person's participation in Youth on Track, including reports as to the young person's progress;
- (f) contact details for a young person's carer and/or case manager, if any; and
- (g) any other personal information relevant to a young person's participation in Youth on Track.

2.6 The intention of this code is to permit the collection, use and disclosure of such information for the following purposes:

- (a) to enable potential participants to be identified and referred to Youth on Track;
- (b) to assess a young person's eligibility for participation in Youth on Track;
- (c) to identify and assess risk factors including any relevant safety warnings and any risk factors associated with a potential participant's home environment;
- (d) to locate an eligible potential participant, and that person's parents or guardians, in order to offer the young person a place in Youth on Track;
- (e) to determine whether an eligible potential participant is already receiving case management services and, if so, to exchange information with the young person's existing case management agency to facilitate the young person's participation in Youth on Track, including to negotiate support to be provided to the young person by a YoT Provider;
- (f) where a participating agency has referred a young person to Youth on Track, to advise the participating agency as to whether the young person is eligible to participate in Youth on Track or has accepted an offer to participate in Youth on Track; and
- (g) to promote community and victim safety by facilitating the sharing of information regarding a participant, and/or a third party who engages with the participant, where reasonably necessary to prevent or lessen a serious threat to the life, health or safety of any person or to public health or public safety.

3. Interpretation

3.1 In this Code:

"CNI" means the unique identifier given to a person whose details are recorded on the COPS database.

"the COPS database" means the Computerised Operational Policing System, the database used by Police.

"direction" means any directions and any Schedules prepared by Juvenile Justice in relation to the operation and management of Youth on Track.

“existing case management agency” means an agency that, at the time a young person is referred to the Youth on Track Unit, is already providing case management services to the young person.

“GRAM assessment score” means a numerical assessment of the likely risk of someone having further formal contact with police according to a certain criteria.

“GRAM screening assessment” means a screening process and following assessment that uses the Group Risk Assessment Model actuarial tool, to assess a person’s likelihood of further formal contact with police according to particular criteria and obtain a GRAM assessment score.

“participating agency” means the Department of Justice, Police, Department of Education, Department of Family and Community Services or any other public sector agency (as defined by the PPIP Act) that is directly involved in the delivery of Youth on Track, a YoT Provider or an existing case management agency.

“personal information” has the same meaning as in s. 4 of the PPIP Act.

“Police” means the NSW Police Force

“potential participant” means a young person who may be suitable for referral to Youth on Track

“PIIP Act” means the *Privacy and Personal Information Protection Act 1998*.

“third party” means a person or agency other than the young person, participating agency, or YoT Provider.

“YoT Provider” means a non-government organisation or other entity contracted by the Department of Justice for the purpose of providing case management and other services in connection with Youth on Track.

“YoT Screening Officer” means a Police or Department of Justice employee in the Youth on Track Unit responsible for screening potential participants.

“Youth on Track Unit” means the Youth on Track Unit established within the Juvenile Justice to conduct and oversee the Youth on Track scheme.

4. Provisions

Section 8

- 4.1 There is no intention to depart from s. 8. For certainty, the collection of personal information by a participating agency for the purposes of Youth on Track is a lawful purpose that is related to a function or activity of the agency.

Section 9

- 4.2 Despite s. 9, a participating agency may collect personal information from another participating agency, without the person's consent, where reasonably necessary for one or more of the purposes specified in Part 2.

Section 10

- 4.3 A participating agency is taken to have complied with the requirements of s. 10 in respect of the collection of personal information when a YoT Provider informs the young person and his or her parents or guardians that the young person has been referred to Youth on Track and the YoT Provider is seeking their consent to participate in Youth on Track.
- 4.4 A participating agency need not comply with s. 10 when collecting a third party's personal information where the collection is reasonably necessary for one or more of the purposes specified in Part 2.

Section 14

- 4.5 This Code authorises a participating agency to refuse to provide an individual with access to personal information collected or used for the purpose of Youth on Track if:
- (a) giving access would pose a threat to the life, health or safety of any person, or to public health or public safety; or
 - (b) giving access would have an unreasonable impact on the privacy of other individuals; or
 - (c) the information relates to existing or anticipated legal proceedings between the entity and the individual, and would not be accessible by the process of discovery in those proceedings; or
 - (d) giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, a law enforcement agency; or
 - (e) giving access would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process.

Section 16

- 4.6 There is no intention to depart from s. 16. For certainty:
- (a) personal information about a young person and his or her parents or guardians, and any third party that engages with the participant, used by a participating agency in connection with Youth on Track, is, having regard to the purposes for which the information is proposed to be used, taken to be relevant, accurate, up to date, complete and not misleading; and
 - (b) the taking of “such steps as are reasonable in the circumstances” in relation to personal information about a third party does not require a participating agency to consult with or make inquiries of the third party.

Section 17

- 4.7 Despite s. 17, a participating agency that holds personal information may use it in connection with Youth on Track if the use is reasonably necessary for one or more of the purposes specified in Part 2.

Section 18

- 4.8 Despite s. 18, a participating agency may disclose personal information to another participating agency if the disclosure is reasonably necessary for one or more of the purposes specified in Part 2.
- 4.9 Despite s. 18, a participating agency may disclose personal information about a participant, or third party that engages with the participant, that it holds in connection with a person’s participation in Youth on Track where the agency believes on reasonable grounds that the disclosure is reasonably necessary to prevent or lessen a serious threat to the life, health or safety of any person or to public health or public safety.

Section 19(1)

- 4.10 Despite s. 19(1), a participating agency may disclose personal information to which s. 19(1) applies if the disclosure is reasonably necessary for one or more of the purposes specified in Part 2.

5 Application of the Code

- 5.1 This Code does not affect the operation of any exemption provided under Part 2, Div. 3 of the *PPIP Act*. This is consistent with s. 29(6) of the *PPIP Act*.
- 5.2 The Information Protection Principles apply to public sector agencies. They do not apply directly to YoT Providers, or to existing case management agencies which are not public sector agencies. YoT Providers, and existing case management agencies which are not public sector agencies, may be required to comply with the Information Protection Principles as modified on the basis that information in the possession or

control of a person engaged by a public sector agency in the course of such engagement is, pursuant to s. 4(4)(b) of the PPIP Act, held by the agency.

6 Review of this Code

- 6.1 The Youth on Track Privacy Code of Practice will be reviewed three years following commencement of the Code of Practice.