

Information Sharing Agreement between Queensland Health and Queensland Corrective Services

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Operating Guidelines

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Queensland
Government

Foreword

Queensland Health and Queensland Corrective Services have a collaborative relationship and a shared interest in ensuring prisoners receive effective and efficient health services and are managed safely.

Prisoner in these guidelines means a person in Queensland Corrective Services' custody and includes a person who is in the custody of Queensland Corrective Services pending transport for detention in a corrective services facility.

It **does not** include a person who is released on parole or a person who is detained in an authorised mental health service as a classified patient under the *Mental Health Act 2016*.

Information sharing between Queensland Health and Queensland Corrective Services is critical to ensuring the safety of prisoners and employees, and the provision of client focused health services.

These operating guidelines focus primarily on information sharing between Queensland Health and Queensland Corrective Services under the Information Sharing Agreement (the Agreement) which may be relied upon where the shared client does not provide consent/authorisation to that information sharing or it is not practicable to request it in the circumstances.

Any reference to **information sharing** in these guidelines means the disclosure of relevant confidential information about a shared client, between Queensland Health and Queensland Corrective Services, and includes information provided orally, in writing, and in any other format.

The Agreement facilitates the sharing of relevant confidential information to enable the timely delivery of quality health services to shared clients, the safe, secure and effective supervision and management of shared clients and/or ensure the safety of all persons within corrective service facilities.

Shared clients in these guidelines means **prisoners** who are also receiving a health service provided by Queensland Health.

These operating guidelines support the Agreement by providing context, examples and guidance to assist the sharing of relevant information between the agencies regarding shared clients. The aim of these guidelines is to empower employees to understand and correctly apply the Agreement to share relevant information where required.

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1 Introduction

These operating guidelines are intended for Queensland Health and Queensland Corrective Services employees who provide health services or corrective services to a shared client. Given the importance of information sharing in providing the best possible health care, facilitating safe, secure and effective supervision and management of shared clients and ensuring the safety of all persons within corrective service facilities, it is critical that all persons involved are aware of their duties and obligations.

This section introduces:

- the Information Sharing Agreement between Queensland Health and Queensland Corrective Services (the Agreement)
- what these guidelines cover
- the roles and responsibilities of Queensland Health and Queensland Corrective Services
- the guiding principles for information sharing between the agencies.

The Information Sharing Agreement

Queensland Health and Queensland Corrective Services employees who hold confidential information are prohibited from disclosing it to another person, whether directly or indirectly, unless consent or authorisation has been provided by a shared client or the disclosure is authorised by law.

The Agreement, made pursuant to Section 151(1)(b) of the *Hospital and Health Boards Act 2011* and in accordance with section 341(3) of the *Corrective Services Act 2006*, provides a mechanism for information sharing between the two agencies. The Agreement sits within a broader information sharing framework (see [Appendix 1 – Broader information sharing framework](#)).

The Agreement facilitates the sharing of relevant confidential information between the two agencies where it is reasonably required for the provision of client focused health services or to enable safe, secure and effective supervision and management of shared clients, which includes ensuring the safety of all persons within corrective service facilities. In such situations and where it is impracticable to request consent or authorisation in the circumstances, relevant information can be shared **without the consent** of the shared client under the Agreement.

What do these guidelines cover?

These operating guidelines provide contextual information and practical examples to help Queensland Health and Queensland Corrective Services employees understand:

- Who can share information?
- When can information be shared?

- What information can be shared?
- How can information be shared?
- How can shared information be used?
- How should the sharing of information be recorded?
- How should information received be stored?

Roles of the parties

Queensland Health

Queensland Health is **responsible for the management of the State's public health system.**

Queensland Health is comprised of the department and Hospital and Health Services that deliver public sector health services in designated geographic areas.

Queensland Health services and programs that regularly interact with shared clients include:

- alcohol and other drugs services
- authorised mental health services
- prison health services (also known as offender health services)
- prison mental health services.

Queensland Health operates onsite health facilities in correctional centres. Every correctional centre has a primary health service presence. Hours of operation vary from a 24-hour presence to daily specified hours of operation. Visiting medical officers and health professionals also attend centres regularly to assess and treat patients as required.

Mental health services delivered by Queensland Health in correctional centres have a separate governance structure and operating model to primary health care services delivered by Queensland Health.

Queensland Health services should only share relevant health information under this Agreement if the information is relevant to their service area, or otherwise refer the matter to the most appropriate Queensland Health service for consideration.

Queensland Corrective Services

Queensland Corrective Services is **responsible for providing safe correctional environments.**

They provide community safety and crime prevention through the humane containment and supervision of prisoners in correctional centres. They deliver offence focused rehabilitation programs with the vision of maximising rehabilitation and reducing recidivism.

How the parties work together

Queensland Health supports Queensland Corrective Services by providing client focused health services to patients who are shared clients. Health care provided to shared clients in correctional centres should be equivalent to the services provided to other members of the public in the community.

Queensland Corrective Services supports Queensland Health by ensuring the safe, secure and effective supervision and management of shared clients and the safety of all persons within corrective service facilities, enabling them to provide health services.

Appropriate health care is critical to the rehabilitation of prisoners and their general wellbeing while in custody.

Queensland Corrective Services and Queensland Health employees must work collaboratively to develop sustainable strategies and mechanisms for necessary information sharing. Mechanisms and strategies should include ensuring a consistent means of communication and a structured approach to allow both agencies to fulfill their respective functions in relation to shared clients in custodial environments, and in planning for shared clients' transition to the community.

Guiding principles for information sharing

Sharing information with consent or authorisation is preferred

The preferred mechanism for disclosing confidential information about a shared client is by obtaining their **consent or authorisation**.

Queensland Corrective Services should confirm whether there is a current written **authority** in the shared client's file which would apply to the disclosure of information by Queensland Corrective Services.

Queensland Health employees should seek **informed consent** from the shared client for the disclosure of information to Queensland Corrective Services. If a shared client has given prior consent to disclosure of their information, consideration should be given to whether the **consent** remains valid and could apply to the disclosure.

Ensuring health, safety and wellbeing is paramount

Where informed consent cannot be obtained, Queensland Corrective Services and Queensland Health employees have a duty of care to shared clients and should disclose relevant information where it is reasonably required to facilitate safe, secure and effective supervision and management of shared clients, and/or to ensure that client focused health services are delivered to shared clients.

When considering whether information sharing is reasonably required to facilitate safe, secure and effective supervision and management of shared clients and/or to ensure that client focused health services are delivered to shared clients, Queensland Health and Queensland Corrective Services employees should consider the intention of the Agreement which includes facilitating information sharing to ensure the safety of all persons within corrective services facilities and where it is necessary to ensure the health or safety of the shared client or another person.

For Queensland Corrective Services to safely and effectively manage shared clients, employees require relevant information so that informed decisions can be made on risk management strategies, accommodation, monitoring and other aspects of their management.

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For Queensland Health to provide client focused health services, clinicians require relevant information so that informed decisions can be made on diagnosis, treatment, risk assessment and management, care and transition planning, and other aspects of a shared client's health care.

Consider urgency

While disclosure with consent or authorisation is preferred, information concerning shared clients should be exchanged as quickly as is reasonably practicable. The urgency of the need to disclose information should be considered in determining the mechanism for disclosure. For example, whether it is practicable in the circumstances and given the timeframes to seek consent or authorisation from shared clients.

Sharing proactively is best practice

Information should routinely be shared proactively, where relevant and in accordance with the Agreement and these guidelines, in addition to responding to direct requests for relevant information. Proactively releasing relevant information will lead to more timely and collaborative exchanges for the best possible health care, safe, secure and effective supervision and management of shared clients and the safety of all persons within corrective service facilities.

Consider human rights

The *Human Rights Act 2019* ensures the human rights of all people in Queensland are respected, protected and promoted. Queensland Health and Queensland Corrective Services acknowledge that disclosures made under the Agreement require a balanced assessment of competing interests and recognise the need to ensure that any decision making is compatible with human rights. The human rights which may be impacted by decision making under the Agreement include the right to life, privacy, access to health services, and humane treatment when deprived of liberty.

Both agencies recognise that in practice, some of these rights may be limited and acknowledge that any decision which limits a shared clients' human rights must be demonstrably justifiable at law.

2 Who can share information?

Queensland Health employees

The *Hospital and Health Boards Act 2011* authorises a *designated person* to share information under certain circumstances including pursuant to an agreement made under section 151(1)(b). These guidelines do not limit or restrict other information sharing abilities contained within the *Hospital and Health Boards Act 2011*.

A designated person is defined under section 139A of the *Hospital and Health Boards Act 2011* **and includes employees of the department and Hospital and Health Services (HHS).**

Queensland Corrective Services employees

The *Corrective Services Act 2006* authorises an *informed person* to share information under certain circumstances as prescribed in section 341(3).

An informed person is defined under section 341 of the *Corrective Services Act 2006* **and includes Queensland Corrective Services employees, service providers engaged by Queensland Corrective Services** and **any other person** in receipt of confidential information from QCS employees and engaged service providers.

The use of **authorised employees, Queensland Health employees or Queensland Corrective Services employees** in these guidelines means a *designated person* and/or *informed person* as appropriate in the context.

3 When can information be shared?

Both Queensland Corrective Services and Queensland Health have a range of mechanisms for sharing information (see [Appendix 1 – Broader information sharing framework](#) for an overview). The Agreement does not prevent information sharing through any of the other mechanisms and is intended to apply where other legislative mechanisms do not provide a basis for disclosure. The most appropriate mechanism in the circumstances should be relied upon.

Before sharing information under the Agreement, you must consider:

1. **whether the consent/authorisation of the shared client to share their information can be or has already been obtained**
2. *(If consent/authorisation is declined or it is not practicable to request it)* **whether the information is reasonably required to be shared to ensure one or both of the following can be provided:**
 - Safe and effective corrective services
 - client focused health services
3. **whether the type of information and the circumstances in which it will be shared are consistent with these operating guidelines.**

Relevant information can be shared proactively and reactively (in response to a direct request) under the Agreement.

The next section outlines guidance for Queensland Health sharing information with Queensland Corrective Services. You can skip to the guidance for [Queensland Corrective Services sharing information with Queensland Health](#).

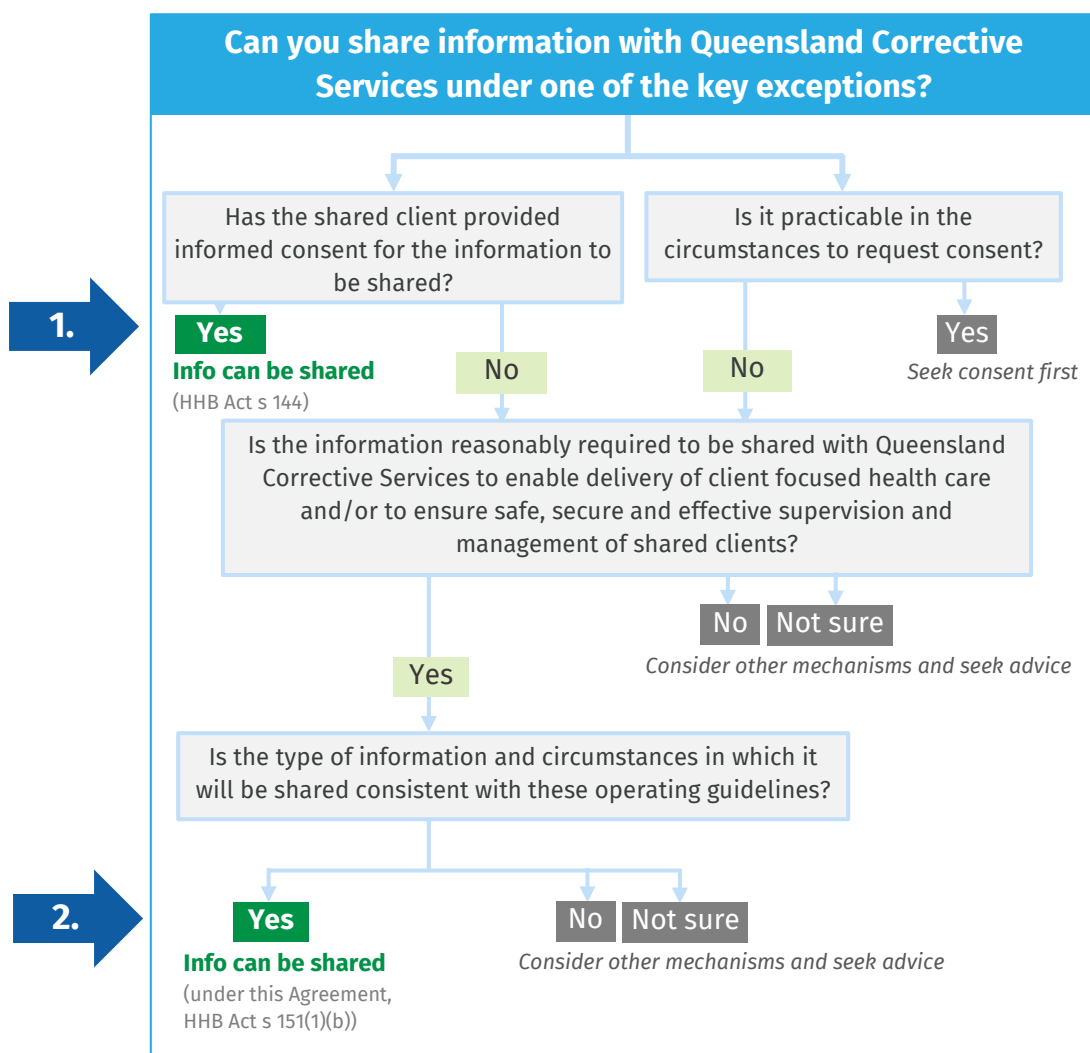
Queensland Health sharing information with Queensland Corrective Services

Patient related information held by Queensland Health is considered confidential information under Part 7 of the *Hospital and Health Boards Act 2011*. This includes identifiable information acquired about patients who are shared clients whilst Queensland Health employees are providing public sector health services to them.

Under Part 7, there is a strict duty of confidentiality imposed on Queensland Health employees and it is an offence to share information unless one of the exceptions to the duty of confidentiality listed in Part 7 applies.

This section explains the two most relevant exceptions that permit sharing information about a shared client with Queensland Corrective Services:

1. disclosure with the consent of the shared client (section 144);
2. disclosure to Queensland Corrective Services under this Agreement (section 151(1)(b)).



Sharing information with consent is preferred

Section 144 of the *Hospital and Health Boards Act 2011* allows Queensland Health employees to share information if the relevant shared client gives informed consent.

The preferred way for Queensland Health employees to share relevant information with Queensland Corrective Services employees, as reflected in the Agreement, is by obtaining the informed consent of the shared client and ideally in writing. Where a shared client has given verbal consent to disclosure but a Queensland Health employee is unable to obtain the consent in writing, the Queensland Health employee must document the verbal consent they are relying on to disclose information.

If consent cannot be obtained and/or it is not practicable to seek consent to disclose, and there are no other exceptions under Part 7 of the *Hospital and Health Boards Act 2011* that would permit disclosure of relevant information, use of the Agreement to share information can be considered.

A shared client declining to consent to their information being shared with Queensland Corrective Services employees should be respected wherever possible, however in specific circumstances disclosure under the Agreement may be appropriate.

What is consent to disclosure?

In order to consent to the disclosure of information a person must give **informed consent**.

A person has given informed consent if they are considered to have capacity and have made a decision based on material and information relevant to the disclosure of their confidential information.

A person is presumed to have capacity to make decisions until proved otherwise.

Capacity in these guidelines means the person is capable of—

- (a) understanding the nature and effect of decisions about the matter; and
- (b) freely and voluntarily making decisions about the matter; and
- (c) communicating the decisions in some way.

Consent may also be provided by a substitute decision maker with relevant authority, including a guardian appointed for health care.

Seeking informed consent

In seeking informed consent, QH clinicians should:

- explain the request for the disclosure of specific information, including the purpose, who will have access and how it will be used;
- use language that is clear and concise to ensure understanding;

- offer the use of appropriate cultural support including interpreters and or liaison officers/health workers (for further information regarding seeking consent from Aboriginal or Torres Strait Islander patients or from patients from culturally and linguistically diverse backgrounds consult the [Guide to informed Decision-Making in Health Care](#));
- explain that they can decline and/or withdraw their consent at any time;
- provide the shared client sufficient time to consider and clarify the purpose and benefits of sharing the specific information;
- close the discussion by clarifying that there is shared understanding about the disclosure, including what information they are consenting to be shared;
- ensure that any consent is given voluntarily; and
- document information on the above steps in the patient's clinical record and use the Consent to Disclose Information form.

For further information in relation to seeking informed consent consult the [Guide to informed Decision-Making in Health Care](#).

Patients who lack capacity to give informed consent

If a patient lacks the capacity to consent Queensland Health employees should consider whether they have a substitute decision maker from whom consent for disclosure could be sought. For further information about substitute decision makers consult the [Guide to informed Decision-Making in Health Care](#).

If time allows, ongoing attempts to seek consent should also be made, particularly when a patient is expected to regain capacity with improvements to their health.

Where no substitute decision maker can provide consent and it is not practicable to wait until a point at which a person may regain capacity, use of the Agreement to share information can be considered.

Where a patient lacks capacity to consent, consideration should be given to whether the lack of capacity should be disclosed to Queensland Corrective Services as information which is relevant to their safe, secure and effective supervision and management of the shared client in custody.

How long is consent valid?

A shared client's consent to disclosure is not enduring and can be withdrawn. Consent will last for as long as is reasonable in the circumstances. In considering whether consent remains valid Queensland Health employees should consider what purpose consent was given for initially, and any changes that may have affected the consent following the shared client initially giving consent. For example, the specificity and sensitivity of the information that a patient has consented to disclosure of and how long a period has passed since consent was given.

Use of consent forms

Queensland Health employees should use the consent form to document a patient's consent to disclosure of confidential information to Queensland Corrective Services. A copy is provided in the Resources and further information section [below](#).

Sharing information under the Information Sharing Agreement (without consent)

Section 151(1)(b) of the *Hospital and Health Boards Act 2011* allows Queensland Health employees to share information with Queensland Corrective Services employees under the Agreement.

The Agreement is used when the shared client's consent cannot be obtained, and information sharing is reasonably required to facilitate the safe, secure and effective supervision and management of shared clients and/or provide client focused health services.

When considering whether sharing information with Queensland Corrective Services employees is reasonably required to facilitate the safe, secure and effective supervision and management of shared clients and/or to provide client focused health services, Queensland Health employees should consider the intention of the Agreement which includes facilitating information sharing to ensure the safety of all persons within corrective services facilities and where it is necessary to ensure the health or safety of the shared client or another person.

Regular communication should occur between Queensland Health and Queensland Corrective Services regarding shared client's health care where it is necessary to ensure the shared client's or others safety and wellbeing. Queensland Corrective Services employees should be able to request and/or, where appropriate, be provided with relevant information about the health, treatment and care of a shared client to enable employees to provide safe, secure and effective supervision and management of the shared client. Queensland Health and Queensland Corrective Services should share as much relevant confidential information as is necessary and permissible under the Agreement to ensure both parties can fulfill their respective roles.

Examples of appropriate information sharing by Queensland Health under the Agreement:

- QH conduct a test on a shared client who is exhibiting symptoms of the COVID-19 virus. QH disclose the fact that they have performed a test on the shared client to QCS employees so that QCS employees can ensure monitoring of the shared client's health and that measures are in place to protect the safety of employees and other prisoners in the event that the shared client tests positive for COVID-19.
- A young male shared client has a history of mental illness and self-harm. The shared client completes a Medical Request Form as he is feeling anxious and depressed and is having trouble sleeping. The shared client is assessed by a QH clinician who prescribes an antidepressant medication. The QH clinician forms the opinion that there is a risk that the shared client may self-harm and that he is at an increased risk of suicide. The QH clinician explains to the shared client that they are concerned and wish to share this information with QCS. The shared client does not provide consent for this disclosure as he is concerned that it will result in him being moved to another unit. The QH clinician reminds the shared client of their duty of care and encourages the client to share the information with QCS. The shared client again declines and the QH clinician informs them that they will be advising QCS of their concerns. The QH clinician shares the information about the risk of self-harm and suicide with QCS to enable QCS to conduct their own risk assessment and take steps to reduce the risk of self-harm, such as ensuring he is accommodated in a suitable environment and is monitored.
- A QH clinician is assessing a shared client who has presented to the appointment with psychotic symptoms, including paranoia and voices telling her to harm others. During the assessment, the shared client becomes increasingly agitated and accuses the clinician of conspiring with others to harm her. The QH clinician forms the clinical opinion that the shared client requires transfer to a hospital for inpatient mental health treatment. The clinician assesses the shared client as not having the capacity to consent due to her current mental state, including paranoia towards the clinician. The QH clinician immediately progresses plans for the inpatient admission and shares information about the shared client's current presentation and plans for inpatient treatment with QCS so that they can safely accommodate the shared client until transfer to hospital can occur. Relevant information shared includes advice about her current mental state, identified risks, issues, recommendations regarding what type of environment is most appropriate and recommendations on how to best interact with her.

- A QH clinician has assessed a shared client and diagnosed them with a hearing deficit. The QH clinician seeks the shared client's consent to share information about the hearing deficit with QCS, however the shared client declines. The QH clinician considers that the shared client's hearing deficit is such that it will impair their ability to hear and respond to any instructions or directions they are given by custodial officers. Despite the lack of consent from the shared client the QH clinician shares the information about the hearing deficit because QCS require the information to safely and effectively manage the shared client. QCS use the information to ensure that custodial officers are aware that the shared client may not hear them or respond when verbal instructions are given.
- A shared client is known by QH to suffer from several significant long-term medical conditions including life-threatening coronary disease. The shared client declines for this information to be shared with QCS. The shared client also declines to take the medications prescribed to them due to conflicts with their spiritual and cultural beliefs. The shared client is at increased risk of heart attacks. A QH clinician considers the risks to the safety of the shared client and others, as well as the shared client's privacy, and decides to share information about risks associated with the shared client's medical conditions with QCS employees so that appropriate management and supervision can be provided to ensure the safety of the shared client and others.
- A shared client has returned to the custodial setting after a hospital admission. To support the shared clients ongoing treatment and care and safe and secure management in the custodial setting relevant health information may be provided to QCS, including relevant clinical and risk information to inform QCS assessment related to ongoing management. For example after a hospital admission for a physical health condition the shared client may have issues with mobility that would need to be considered. Alternatively after a mental health admission a shared client may present with increased vulnerability on the transition back into custody and relevant risk information may need to be considered.

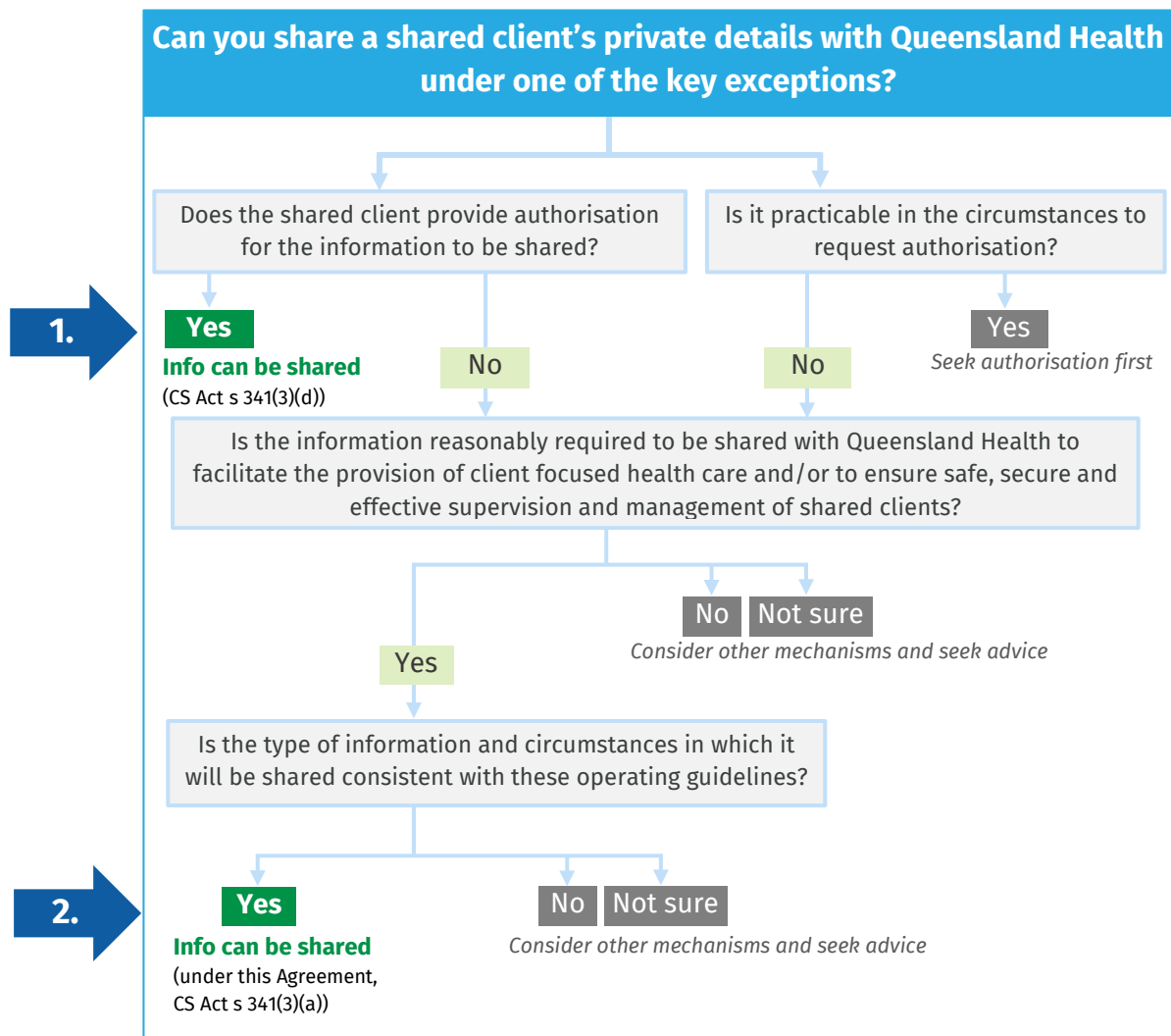
See below for [Information sharing or use not consistent with the purpose of the Agreement](#).

Queensland Corrective Services sharing information with Queensland Health

Most information held by Queensland Corrective Services about prisoners is considered confidential information under section 341 of the *Corrective Services Act 2006*. This includes, but is not limited to, specific types of confidential information such as a prisoner's private details, as well as information that could reasonably be expected to endanger anyone's life or health (including psychological health), could pose a risk to the security or good order of a corrective services facility or could disclose an expert's advice or recommendation about a prisoner.

Queensland Corrective Services employees must not disclose confidential information to anyone else other than in accordance with section 341(3). It is an offence to share confidential information with anyone else other than in accordance with section 341(3).

Under the Agreement, QCS can share information with Queensland Health pursuant to section 341(3)(a) of the *Corrective Services Act 2006*. For example, Queensland Corrective Services can share relevant confidential information with Queensland Health if it is necessary to facilitate the provision of health services to a shared client under section 266 of the *Corrective Services Act 2006*.



This section explains the two most relevant provisions for sharing information about a shared client with Queensland Health:

1. disclosure with the authorisation of the shared client (section 341(3)(d)); and
2. disclosure to Queensland Health under the Agreement.

Sharing information with authorisation is preferred

Section 341(3)(d) of the *Corrective Services Act 2006* allows Queensland Corrective Services employees to share the private details of a shared client if they **authorise** it.

A shared client's refusal to give authorisation for their private details to be shared with Queensland Health should be respected wherever possible.

Unless it is impracticable to do so, the preferred way for Queensland Corrective Services employees to share information with Queensland Health employees is by obtaining the authorisation of the shared client, ideally in writing.

Use of authority forms

Queensland Corrective Services employees should use the relevant administrative form to document authority for releasing relevant confidential information to Queensland Health. A copy is provided in the Resources and further information section [below](#).

What is a prisoner authorisation?

Section 341(3)(d) of the *Corrective Services Act 2006* allows Queensland Corrective Services employees to share information if it consists of that person's private details if the relevant shared client authorises it.

For QCS, gaining the authorisation of a shared client to share their information involves:

- providing/describing the relevant information in a way that is concise, clear and easy to understand
- explaining the purpose of sharing it with QH and what it will be used for
- explaining that the shared client can decline or withdraw their authorisation at any time
- ensuring the shared client has the capacity to make a decision about the specific issue at the specific time. For example, ensuring that the shared client's capacity is not affected by mental illness, therapeutic/other drugs, alcohol, intellectual disability or cognitive impairment
- ensuring the shared client gives consent voluntarily, and free from manipulation or undue influence (for example, without coercion from authorised employees to avoid disciplinary action)
- giving the shared client sufficient time to consider and clarify the purpose and benefits of sharing specific relevant confidential information
- documenting the authority of the shared client using the relevant administrative form and in accordance with the Custodial Operations Practice Directive for Disclosure of Confidential Information
- filing the completed authorisation form in the shared client's offender file on IOMS.

Capacity in these guidelines means the person is capable of—

- (a) understanding the nature and effect of decisions about the matter; and
- (b) freely and voluntarily making decisions about the matter; and
- (c) communicating the decisions in some way.

Where a prisoner provides general consent or authorisation to share information with those involved in their treatment and care, authorisation does not need to be sought before every instance of information sharing. Officers should use their professional judgment in determining whether prior consent given by a shared client to share their information is still valid and/or seek local advice from their line manager.

Sharing information under the Information Sharing Agreement (without authorisation)

Section 341(3)(a) of the *Corrective Services Act 2006* allows Queensland Corrective Services employees to share information with Queensland Health employees for the purposes of the *Corrective Services Act 2006*.

For example, section 266 of the *Corrective Services Act 2006* requires Queensland Corrective Services to establish or facilitate programs or services to support the health and well-being of prisoners and to rehabilitate offenders. Further, section 3 of the *Corrective Services Act 2006* outlines the general purpose of corrective services as community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

The Agreement is used when the shared client's authorisation cannot be obtained or when the information is not merely the shared client's private details and contains other categories of relevant confidential information (such as an expert's advice or recommendation about the prisoner), and information sharing is reasonably required to facilitate the safe, secure and effective supervision and management of shared clients and/or provide client focused health services.

In the interests of providing a coordinated system of health care to prisoners and facilitating their appropriate management, QCS employees may disclose to QH employees information which is necessary to facilitate the provision of health services to a shared client.

QH employees should be provided with or able to obtain, as necessary, as much information about a shared client as is legally permissible to facilitate QH employees delivering client focused health services and so QH are fully informed of potential risks to the shared client, themselves and other prisoners.

This may include information about a shared client:

- exhibiting suicidal or self-harm behaviour
- causing a risk of harm to others, themselves and other risk related information
- having an illness or medical condition
- sentencing information such as court dates, parole and/or release dates and new charges/convictions, or

- planned transfer to another correctional centre or to a facility outside the correctional centre e.g., court transfer or medical transfer.

The inclusion of QH employees in regular formal communications at the operational level will provide the basis for a strong working relationship, including information sharing. Additionally, informal communications should occur where necessary on a daily basis to support the day-to-day management of shared clients.

Examples of appropriate information sharing by Queensland Corrective Services under the Agreement:

- QCS officers become aware that a shared client who has had flu like symptoms for the past few days is feeling very unwell. The QCS officer is concerned for the shared client's welfare and offers the shared client the opportunity to attend at the medical clinic to seek medical assessment. The shared client declines the opportunity to attend the medical clinic and declines to authorise QCS officers to discuss his symptoms with QH employees. The shared client's condition continues to deteriorate but he still declines to present for medical assessment. QCS still informs QH that the prisoner is unwell and is declining to attend the clinic, as this information enables QH to perform their role of providing client focused health services. Once QH becomes aware of concerns about the shared client's health, a nurse explains the risks of not seeking treatment to the prisoner so that they can make an informed decision about whether they wish to be assessed or receive treatment. The prisoner then decides to seek treatment. Following assessment they are found to have developed a serious infection which can now be treated accordingly.
- A shared client is being assessed under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA). Information about key milestones in the assessment process is shared by QCS with QH employees involved in the shared client's treatment and care. The information is shared as QCS employees are concerned that the assessment process may act as a stressor on the shared client's medical condition which they are aware is aggravated by stress. The information is used by QH clinicians to engage with the shared client to ensure plans can be made to monitor the shared client's condition prior to, and immediately following, any risk assessment interviews and key decisions throughout the process.
- QCS becomes aware that a prisoner is self-harming and stockpiling medication in their cell. To ensure that the prisoner receives appropriate health care and management, QCS shares this information with QH. Together the parties coordinate their response and provide suitable interventions to prevent further risk of harm or suicide.

Information sharing or use not consistent with the purpose of the Agreement

The Agreement **does not** allow information sharing or use that is inconsistent with the purpose of the Agreement. For example, sharing or use of information that:

- relates to persons who are not shared clients;
- must not be disclosed under another law;
- is for disciplinary purposes against shared clients; or
- is facilitated under a different agreement, for example:
 - information intended to inform decision making by the Parole Board Queensland is shared under the Agreement between Queensland Health and the Parole Board Queensland (Confidential Information Disclosure).
 - information intended to inform an investigation into an incident or death in custody is shared, where lawful and practicable, under the memorandum of understanding between Queensland Health and Queensland Corrective Services (Prison Health Services).

The sharing of information described above may still be authorised under law, notwithstanding being excluded by this Agreement and operating guidelines.

Examples of information sharing that is inconsistent with the purpose of the Agreement:

- A shared client has entered custody and has sought assessment, and received treatment, for a mild and common non-transmissible skin condition. The QH clinician considers the need to share this information with QCS but decides that the information does not need to be shared with QCS in order for them to safely and effectively manage the shared client in custody. The clinician determines that the shared client's privacy should be maintained and does not disclose this information under the Agreement or seek the shared client's consent to share the information.
- A shared client complains to a QCS officer that his cellmate has been disrupting his sleep. The officer considers whether this is causing the prisoner a high level of stress or could be negatively impacting on the prisoner's health. Upon further questioning, the prisoner says it has only been a few nights of disrupted sleep. The next day, the officer checks in with the shared client and finds out that the situation has been resolved. The officer does not disclose this information to a clinician or seek consent to do so, as the QCS officer forms the opinion that it is not relevant to the client's health treatment and care.

4 What information can be shared?

Confidential information may be shared where it is relevant and appropriate to do so. Determining what information and what level of information is relevant and appropriate will always depend on the individual circumstances.

Relevant information means

- confidential information retained by QH and/or QCS, and which is relevant to QCS (or its engaged service providers) and/or QH being able to facilitate the safe, secure and effective supervision and management of a shared client and/or provide client focused health services to a shared client.
- confidential information retained by QCS or its engaged service providers which is relevant to QH being able to provide client focused health services to a shared client.

Information includes verbal information and/or a document possessed or controlled by an authorised employee, whether brought into existence or received by them, and includes an opinion (whether verbal or recorded in some form).

Relevant information can include, **but is not limited to**, information outlined in the tables below. Authorised employees should exercise discretion in each shared client's particular circumstances regarding what is relevant confidential information. In considering what confidential information is relevant, authorised employees should consider what the purpose of sharing the information is and how this aligns with the Agreement.

Queensland Health and Queensland Corrective Services have agreed that the following **may** be shared for the purpose of their collaborative and cooperative relationship to deliver safe and effective corrective services and client focused health services to shared clients.

Queensland Health information that may be shared with Queensland Corrective Services under the Agreement

Queensland Health may share the below information with Queensland Corrective Services where the disclosure facilitates the safe, secure and effective supervision and management of a shared client and/or the provision of client focused health services.

Category	Information that may be disclosed where relevant to the Agreement
Shared client identifying information	<ul style="list-style-type: none"> • Name and aliases • Date of birth • Address and usual place of residence • Sex • Gender
Historical information	<ul style="list-style-type: none"> • Details of treatment and contact history with a Health Service including: <ul style="list-style-type: none"> ○ Community Health Service ○ Prison Mental Health Service ○ Prison Health Service ○ Alcohol and Other Drugs Service
Treatment and care	<ul style="list-style-type: none"> • Current state of the shared client's physical and/or mental health, including relevant symptoms, relevant diagnosis (where appropriate) and mental state • Relevant medical and/or psychiatric history including vaccination status • <i>Mental Health Act 2016</i> status • Recommended management plans following discharge from a mental health service • Registration in the Opioid Substitution Treatment program
Risks	<ul style="list-style-type: none"> • Identified risks relating to the shared client's engagement with treatment and care • Identified risks that may arise as result of a lack of treatment and care • Identified risks of harm to others • Self-harm or suicide concerns • Any change in treatment that may impact management considerations
Transition planning	<ul style="list-style-type: none"> • Whether care is to be transitioned to the community if released from prison • Whether the shared client has been referred to a QH transition coordination program and details of the transition plan (if known)
Other	<ul style="list-style-type: none"> • Any other significant issues or considerations relating to the shared client's treatment and care that will support their ongoing access to client focused health services and/or safe management • Details of substitute decision makers

Queensland Corrective Services information that may be shared with Queensland Health under the Agreement

Queensland Corrective Services may share the below information with Queensland Health where the disclosure facilitates the safe, secure and effective supervision and management of a shared client and/or the provision of client focused health services.

Category	Information that may be disclosed where relevant to the Agreement
Identifying information	<ul style="list-style-type: none"> • Name and aliases • Date of birth • Address and usual place of residence • Sex • Gender • Identifying information shared for the purpose of determining a shared client's vaccination status
Management information	<ul style="list-style-type: none"> • Shared client being placed on suicide observations and/or relevant changes in observation level • Shared client being removed from at-risk observations • Refusal of shared client to participate in drug test • Daily movement lists (including court escorts, medical escorts, reception and discharge lists) • Planned or actual movement (e.g. transportation or placement to another corrective services facility / Health Service Facility) • Significant accommodation change
Events	<ul style="list-style-type: none"> • Assault (shared client either alleged victim or alleged perpetrator) • Major psychological stressor experienced by the shared client (e.g. death in family or relationship breakdown) • Exposure of shared client to potentially destabilising events (e.g. intensive intervention) including anticipated experiences and events • Death in custody
Justice information	<ul style="list-style-type: none"> • Court outcomes • Pending court dates • Release dates • Parole eligibility dates • Any new charges or convictions
Physical health	<ul style="list-style-type: none"> • Any physical health concerns including deterioration or significant changes to a prisoner's health • Drug test results • Injuries that occur to shared clients in corrective services facilities and require treatment at a Health Service Facility

Mental health	<ul style="list-style-type: none"> • Any mental health concerns • Deterioration or significant changes in the shared client's behaviour or mental state • Self-harm or suicide concerns • When a shared client is required to be taken to an authorised mental health service as a classified patient or on release • Security Classification and Placement Assessments • Escape from Custody Risk Assessments • Offence history • Release and/or pending court dates
Risks	<ul style="list-style-type: none"> • Information relating to the shared client's risk of harm to others, including information relevant to historical risk • Information relevant to assessment of risk of harm to others posed by the shared client including offence and sentence details, custodial breach/incident history • Child safety concerns, including but not limited to, potential harm to children • Self-harm or suicide concerns • Any change in management that may impact treatment
Other	<ul style="list-style-type: none"> • Any other significant issues or considerations relating to the shared client's management, treatment and care • Details of substitute decision makers

5 How can information be shared?

Information can be shared orally, in writing, or in any other format.

At a local level, processes for sharing information should include, but are not limited to:

- the identification and implementation of regular forums for discussion between Queensland Corrective Services and Queensland Health employees to share relevant information where there is potential for impacts on a shared client's correctional management or health;
- the routine dissemination of information relevant to health services or correctional management of a shared client. This may include a process whereby Queensland Corrective Services generated documents such as daily reception, movement and discharge lists, are regularly and routinely forwarded to the Nurse Unit Manager and Prison Mental Health Service without the need for a specific request; and
- appropriate centre-based mechanisms for transferring relevant information when required and as soon as practicable.

Information sharing meetings

Some forums which facilitate information sharing may include local or statewide formalised interagency meetings, for example the weekly local interagency health meeting and the statewide Patients of Concern in Custody meeting. Such meetings must ensure that terms of reference and processes, so far as they relate to information sharing, are consistent with the Agreement and this operating guideline.

6 How can shared information be used?

The *Hospital and Health Boards Act 2011* and *Corrective Services Act 2006* impose obligations on authorised employees when they share information. In addition to this, authorised employees must also comply with obligations under the *Information Privacy Act 2009* and the *Public Records Act 2002* when they collect, record, store and use this information.

The Agreement and these operating guidelines do not override or alter these obligations, including the requirement for authorised employees to comply with their agency's information security and recordkeeping policies and procedures.

Using the information received

Confidential information shared under the Agreement **must only** be used for the purpose of facilitating the safe, secure and effective supervision and management of a shared client, ensuring the safety of all persons within corrective service facilities and/or the provision of client focused health services.

The recipient must ensure its use is consistent with the mechanism used.

Examples of how not to use information received:

- A QH clinician informs a QCS officer that a shared client is at risk of suicide. The QCS officer phones the shared client's family because the officer thinks they should know. The QCS officer should only have used the information for the purpose of providing safe and effective corrective services for the shared client (such as ensuring the accommodation is safe and checks are conducted more frequently). Informing the shared client's family is inconsistent with the purpose of the Agreement.
- A QCS officer has received information about a shared client's current health care needs in order to ensure that they can be effectively and appropriately managed in custody. The shared client has made an application for parole to the Parole Board Queensland and the QCS officer includes information obtained from QH under the Agreement about the shared client's health care needs in the report they are preparing for the Board about the shared client's suitability for parole. Use of the information is inconsistent with the Agreement because it does not relate to safe, secure and effective supervision and management of the shared client **in custody**. The appropriate mechanism to ensure this information is shared with the Board is the [Parole Board Queensland Confidential Information Disclosure Agreement](#).

Sharing received information with others

Sharing with other employees inside your agency

Authorised employees can share received information with other authorised employees if such sharing and use is lawful and consistent with the Agreement.

An example of the appropriate sharing of received information with others

- A QCS officer has noted that a shared client is extremely distressed by an upcoming court hearing. The QCS officer is concerned about the shared client's mental state and shares this information with a QH clinician in order to facilitate QH arranging to see the shared client to assess them. The QH clinician who receives the information considers that the shared client needs to be assessed however is just about to finish their shift. Because of this, at shift handover the QH clinician shares the information QCS has provided with the oncoming QH clinician. The information is shared to ensure that health services can be provided to the shared client and so the oncoming clinician is aware of the need to assess the shared client. The oncoming clinician is bound by the same duty of confidentiality. The sharing of information between QH clinicians in these circumstances is appropriate as it is lawful and consistent with the purpose of the Agreement to ensure the shared client is provided with the required care.

Sharing with someone outside your agency

If an authorised employee needs to share information they have received under the Agreement with a third party outside of Queensland Health or Queensland Corrective Services, they should **seek local advice** from their line manager/information privacy or legal services area to ensure it doesn't breach their duty of confidentiality.

While the Agreement does not authorise disclosures to third parties there may be instances where third party sharing is authorised or required, for example a court subpoena. Where there is a basis for disclosure to a third party, QCS or QH should, where possible, consult with each other and advise each other of any disclosure.

Documentation and record keeping

When authorised employees receive or share information under the Agreement they must ensure they document:

- the date and time information was received or shared
- the name and title of the authorised employee that receives or shares the information
- what information was received or shared
- that the information was received or shared under the Agreement.

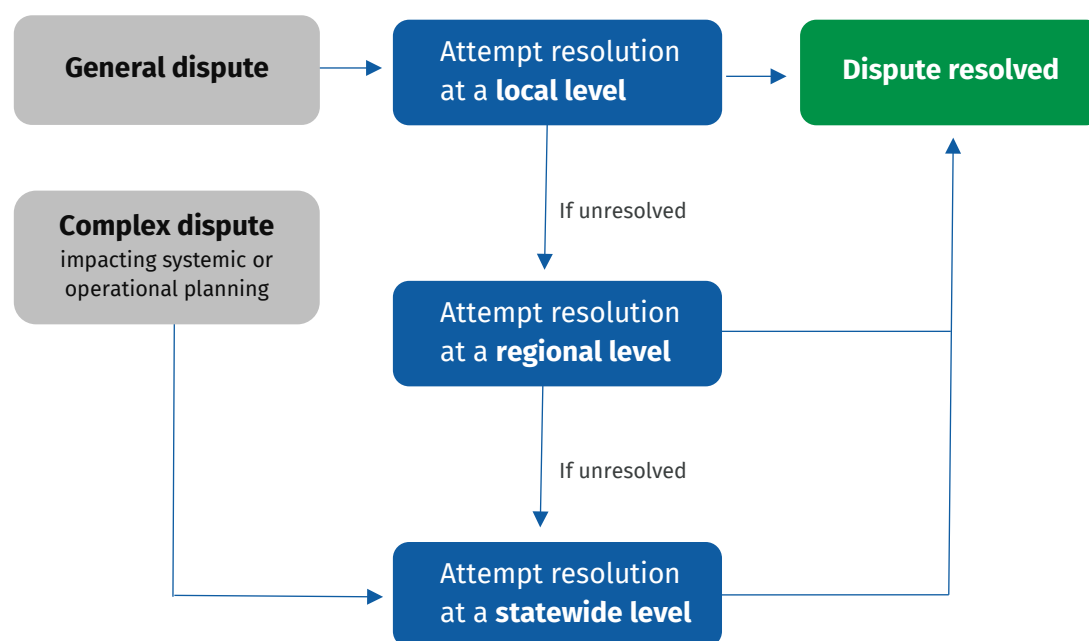
A copy of the relevant forms for documenting a shared client's consent or authority to disclose confidential information is provided in the Resources and further information section [below](#).

7 Disputes and privacy breaches

Queensland Health and Queensland Corrective Services have a collaborative relationship and a shared purpose in ensuring shared clients receive effective and efficient health services and are managed safely. However, they will sometimes have different views as to whether information sharing is reasonably required.

Dispute resolution process

Authorised employees must follow the dispute resolution process:



Resolving disputes at the local level

Working together at the local level to resolve disputes is highly encouraged. This helps frontline employees, such as clinicians delivering health services or correctional employees, to better understand the collaborative relationship and each agency's roles and responsibilities to shared clients.

QH and QCS employees should consider the following whilst attempting to resolve disputes:

- Does sharing the subject information align with the guiding principles?
- Does the decision maker need to be provided with further context for why the information is required, how it would be used and where it will be stored?
- Would removing parts of the subject information resolve the dispute?
- What can be added to local processes and policies or the operating guidelines to resolve similar future disputes?

Resolving disputes at the regional or correctional centre level

Unresolved disputes should be escalated to the regional level for resolution. This will assist both agencies with identifying and discussing recurring disputes that can be managed by updating local processes and policies.

Key contact:

Queensland Health

- Clinical Director for the relevant Prison Mental Health Service, or
- Nursing Director of Prison Health Services for the relevant Hospital and Health Service:
 - Cairns and Hinterland
 - Central Queensland
 - Gold Coast
 - Metro North
 - Metro South
 - Townsville
 - West Moreton
 - Wide Bay.

Queensland Corrective Services

- Superintendent, Deputy General Manager for Custodial Operations (Queensland Health and Queensland Police Service Engagement)
- Chief Superintendent, General Manager for the relevant Correctional Centre.

Resolving disputes at a statewide level

Disputes regarding information sharing which are unable to be resolved at a regional or correctional centre level should be escalated to the key statewide contacts outlined below.

Systemic issues related to information sharing which impact operational planning, should be escalated to the Prisoner Health and Wellbeing Leadership Group or Prison Mental Health Service Steering Committee for discussion and resolution at a statewide level.

These leadership groups are a formal interagency collaborative arrangement between relevant Queensland Health, Queensland Corrective Services, and consumer representatives. Their focus is to improve the health and wellbeing of people in Queensland Corrective Services' custody and to improve their life course after release.

Escalating disputes to the relevant leadership group assists both agencies with identifying and discussing any trends or opportunities to address in the operating guidelines. For example, by adding more contextual guidance and practical examples as necessary.

Key contacts:

- Director, Queensland Forensic Mental Health Service
- Director, Office for Prisoner Health and Wellbeing, Clinical Excellence Queensland
- Deputy Commissioner, Custodial Operations, Queensland Corrective Services.

Privacy breaches

A privacy breach occurs when an authorised employee breaches the Agreement by sharing information in a way that is not authorised by the Agreement, or in a way that is inconsistent with the purpose of the Agreement and these operating guidelines.

If a privacy breach occurs under the Agreement, the parties must:

- immediately notify the other party of the breach:
 - for Queensland Health the relevant contacts are:
Director, Queensland Forensic Mental Health Service; or
Director, Office for Prisoner Health and Wellbeing, Clinical Excellence
Queensland
 - for QCS the relevant contact is:
Deputy Commissioner, Custodial Operations, Queensland Corrective Services
- cooperate with each other to try and contain and rectify the privacy breach as soon as possible and to implement preventative measures to avoid future breaches of a similar kind
- comply with their own internal privacy breach management processes
- otherwise comply with the requirements of the *Information Privacy Act 2009*.

Audits

QH audits

It is the responsibility of individual HHSs disclosing information under the Agreement to establish and administer an audit program to ensure that disclosure of confidential information to QCS is consistent with the Agreement, to comply with clause 8.2 of the Agreement. Any breaches of privacy identified through audit must be reported in accordance with clause 8.1 of the Agreement and escalated to the relevant contact for privacy breaches provided above.

QCS audits

QCS will administer audits to identify possible misuses of confidential information, including confidential information obtained or disclosed under this Agreement, in accordance with applicable QCS information security, and fraud and corruption control policies and procedures to comply with clause 8.2 of the Agreement. Any breaches of privacy identified must be reported in accordance with clause 8.1 of the Agreement and escalated to the relevant contact for privacy breaches provided above.

8 Resources and further information

This section includes:

- Definitions of key terms
- Links to relevant legislation and regulations
- Forms for obtaining and recording requests for informed consent to disclose confidential information

Definitions of key terms

Authorised employee means a designated person and/or informed person as appropriate in the context.

For QH, a designated person (defined in s139A HHB Act)

For QCS, including engaged service providers, an informed person as defined in s341(1) of the CS Act.

Capacity Capacity is defined in Schedule 4 of the *Guardianship and Administration Act 2000* to mean a person is capable of—

- (a) understanding the nature and effect of decisions about the matter; and
- (b) freely and voluntarily making decisions about the matter; and
- (c) communicating the decisions in some way.

Confidential information Confidential information is information about a person as defined by the relevant legislation.

For QCS, section 341 of the CS Act provides:

Confidential information is any of the following information:

- about a person's private details (including the person's identity, private residential address or contact details)
- that could reasonably be expected to pose a risk to the security or good order of a corrective services facility
- that could reasonably be expected to endanger anyone's life or health, including psychological health
- that could reasonably be expected to prejudice the effectiveness of a test or audit
- that could reasonably be expected to divulge the identity of an informant or a confidential source of information
- that could reasonably be expected to disclose an expert's advice or recommendation about an offender

- that could reasonably be expected to prejudice a law enforcement agency's investigation
- that could have a serious adverse effect on the commercial interests, or reveal commercial-in-confidence interests, of an engaged service provider.

Confidential information is not:

- information already disclosed to the general public, unless further disclosure of the information is prohibited by law
- statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

For QH, section 139 of the HHB Act provides:

Confidential information means:

- information, acquired by a person in the person's capacity as a designated person, from which a person who is receiving or has received a public sector health service could be identified; or
- information accessed by a prescribed health practitioner under section 161C(2), which relates to information contained in a prescribed information system.

Disclosure	includes providing information orally, in writing, and in any other format.
Information sharing	means the disclosure of relevant confidential information about a shared client, between Queensland Health and Queensland Corrective Services, and includes information provided orally, in writing, and in any other format.
Practicable	<p>means capable of being done. If something is 'practicable' it is feasible to be done with the available means or with reason or prudence. Whether something is practicable or not will be determined having regard to all the circumstances.</p> <p>It is not sufficient to consider something not practicable simply because it is inconvenient, difficult, or will increase costs. While these factors, and the severity of them, can be relevant when determining if something is or is not practicable, the fact that a practice is made slightly more onerous is not enough.</p>

Prisoner	means a person in Queensland Corrective Services' custody and includes a person who is in the custody of Queensland Corrective Services pending transport for detention in a corrective services facility. It does not include a person who is released on parole or a person who is detained in an authorised mental health service as a classified patient under the <i>Mental Health Act 2016</i> .
Right to privacy	The shared client has a right to privacy, and the preferred mechanism for information sharing is by obtaining their informed consent wherever practicable in the circumstances.
Shared clients	means prisoners who are also receiving a health service provided by Queensland Health.

Relevant legislation

Links to the relevant legislation have been provided below.

[Corrective Services Act 2006 \(Qld\)](#)

[Mental Health Act 2016 \(Qld\)](#)

[Hospital and Health Boards Act 2011](#)

[Hospital and Health Boards Regulation 2012 \(Qld\)](#)

[Information Privacy Act 2009 \(Qld\)](#)

Forms

The following forms should be used by employees to obtain and record consent from shared clients and document information shared without consent.

- QH Consent to Disclose information to Queensland Corrective Service
- QCS Authority to Disclose, Release and Exchange Information (Custodial)

Further Information

If you require any further information regarding these Operating Guidelines and/or the Agreement, please visit the [Administration of the Act | Queensland Health](#) webpage.

Summary of Changes

Type of Change	Change Detail
Addition of Date of Effect	Addition of ' <i>Date of Effect – 20 October 2023</i> ' on page 1 to reflect the date that the information sharing agreement and operating guidelines became effective
Addition of version control	Addition of ' <i>version</i> ' control on page 1 to reflect the date the current version was updated. In this instance v1.1 – December 2023.
Addition of section for further information	Link to where users can find further information and contact information if required on page 21.

Appendix 1 – Broader information sharing framework

The *Hospital and Health Boards Act 2011* and *Corrective Services Act 2006* provide an information sharing framework that supports authorised employees in sharing relevant confidential information while recognising the shared client's right to privacy.

Sharing information with consent or authorisation is preferred

Sharing appropriate and relevant information with the shared client's consent or authorisation is always preferable.

A shared client's decision to not consent or give authorisation should be respected wherever possible.

Queensland Health

- **Disclosure with consent of the shared client**
HHB Act s 144

Queensland Corrective Services

- **Disclosure is authorised by the shared client**
CS Act s 341(3)(d)



Sharing information without consent (under the Information Sharing Agreement)

Authorised employees may sometimes need to consider sharing information without the shared client's consent where consent is declined or it is impracticable in the circumstances to request it.

This Agreement facilitates information sharing between authorised employees where it is reasonably required to facilitate the safe, secure and effective supervision and management of a shared client, and/or the provision of client focused health services for shared clients.

Queensland Health

- **Disclosure to Queensland Corrective Services under the Information Sharing Agreement**
HHB Act s 151(1)(b)

Queensland Corrective Services

- **Disclosure to Queensland Health under the Information Sharing Agreement**
CS Act s 341(3)(a)

Other mechanisms for sharing information (seek advice first)

There are other mechanisms available to allow authorised employees to share information. These mechanisms are provided below.

Where required, local advice should be sought before using these mechanisms as these operating guidelines are not intended to cover those other information sharing mechanisms.

Queensland Health

- Other provisions for information sharing under part 7 of the *Hospital and Health Boards Act 2011*

Queensland Corrective Services

- Other provisions for information sharing under section 341 of the *Corrective Services Act 2006*