

# Direction on the NSW Countering Violent Extremism Intervention Program

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As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998* (NSW) (PIIP 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:

**“Agency Schedule”** means the list of agencies involved in the assessment or interventions of individuals as part of the Intervention Program as detailed in the schedule at **Schedule 1**;

**“Assessment Team”** means the NSW Assessment Team, a multi-agency group of skilled practitioners from law enforcement agencies who will assess the appropriateness of an individual’s participation in the Intervention Program using nationally consistent CVE assessment tools. The Assessment Team is chaired by the NSW CVE Intervention Coordinator;

**“Assessment tools”** means the nationally agreed assessment tools that are used to assess an individual’s suitability for a countering violent extremism intervention program;

**“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 Coordinator”** means the agency representative on the Intervention Panel whose role is to ensure that the identified services, outlined in the Client’s Intervention Service Plan, are delivered for the Client within acceptable timeframes;

**“Case Worker”** means the person who will liaise with the Client and ensure they have access to the support services as outlined in the Client’s Intervention Service Plan. The personal contact is particularly important in building trust for the Intervention Program and the Case Worker will most likely be a government employee but, in exceptional circumstances, may be from a NGO or community group. The Case Worker will be determined by the Case Coordinator who may seek advice from the Intervention Panel to determine the most suitable agency/person to perform the role;

**“Consent”** provided by an individual to participate in the Intervention Program enables sharing of information amongst the agencies listed in Schedule 1 and Specialist advisors, where required, to facilitate the provision of services in an Intervention Service Plan. NGOs and specialised service providers may be invited to participate as appropriate;

**“Client”** means an individual who has provided consent to participate in the Intervention Program;

**“Client Contact Person”** means an individual that the Client has a trusted relationship with and will likely be someone close to the Client (i.e. family member). The Client Contact Person may act as a conduit between the Case Coordinator and the Client where it is not appropriate for the Case Worker or Case Coordinator to perform this role;

**“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 Steering Committee (CVESC)”** means the NSW committee with representatives from NSW Government agencies who are responsible for providing oversight on efforts to counter violent extremism within NSW;

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

**“Disengagement”** means the process of behavioural change where an individual’s involvement in violent extremist activities (including providing material support) reduces and/or ceases;

**“Diversion”** means the activities and associated process that seek to prevent at-risk individuals becoming violent extremists, including through the provision of intervention and support services;

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

**“In-depth Risk Assessment”** means the detailed assessment conducted by the Assessment Team using nationally maintained CVE assessment tools to determine an individual’s suitability to participate in the Intervention Program;

**“Initial Risk Assessment”** means an initial screening that an officer or the Assessment Team conduct on a Client referred to the Intervention Program. This assessment considers the individual’s risk of committing an act of violence and determines their suitability to participate in the Intervention Program;

**“Intervention Panel”** means the NSW CVE Intervention Panel, a multi-agency group of skilled practitioners from government agencies who will facilitate the intervention services, specifically to design, implement and monitor an Intervention Service Plan for Clients of the Intervention Program and to ensure appropriate governance, reporting and program evaluation arrangements are in place. The NSW Department of Justice will convene the Intervention Panel based on the advice of the NSW CVE Intervention Coordinator as Chair of the Assessment Team. Members of the Intervention Panel are listed in Schedule 1;

**“Intervention Program”** means the NSW CVE Intervention Program as established under the National CVE Framework;

**“Intervention Service Plan”** means a document that articulates CVE and non-CVE goals as agreed by the Client. These goals are used to determine suitable services that may directly achieve, or support in addressing, these goals.

**“National CVE Intervention Framework”** means the nationally agreed approach to countering violent extremism intervention programs that provide appropriate support and intervention services for those most at risk of radicalising to violent extremism. The national framework ensures there is a nationally consistent approach to policies and assessment tools which will guide referral and support processes.

**“Needs Analysis”** means the assessment conducted by the Assessment Team and confirmed by the Intervention Panel using a needs analysis template to identify the individual’s needs, both CVE and non-CVE, and options for intervention;

**“NGO”** means a non-government organisation contracted by the NSW Government for the purposes of providing services under the Intervention Program;

**“NSW CVE Intervention Coordinator”** means the officer appointed by the NSW Government to coordinate the assessment process to determine relevance for the Intervention Program. This role will also act to provide initial contact to foster engagement and gain consent for the individual to become a Client of the Intervention Program and referral of relevant assessments to the Intervention Panel;

**“Potential Client”** means an individual that has been identified and assessed as being appropriate for the Intervention Program but has not yet provided consent to participate;

**“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 and pathways by which individuals come to accept the use of violence, or support the use of unlawful violence by others, as a legitimate means of pursuing their political, ideological or religious goals;

**“Specialist advisors”** the Case Coordinator may seek the advice of a specialist advisor to provide direction on appropriate support services to be included in the Intervention Service Plan;

**“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 Intervention Program is a “person engaged” by the relevant public sector agency to work with an individual.

4. NGOs delivering services and the Client Contact Person facilitating this delivery, or otherwise involved in the Intervention Program are required to comply with the PPIP Act and the HRIP Act.

## Application

5. This Direction applies to each public sector agency listed in Schedule 1 and their contracted service providers that have an identified role in the Intervention Program.

## Background

### Objectives of NSW CVE Intervention Program

6. The Intervention Program is delivered by the NSW Government as part of the National CVE Intervention Framework. The Intervention Program is designed to identify and support people that are at high risk of committing an act of violent extremism. It seeks to provide case management to Clients to encourage their participation in services aimed at providing positive opportunities to assist in diversion from negative influences and reduce the risk of committing extremism-motivated criminal behaviour.
7. The Intervention Program is based on an understanding between Government and the community of the importance of early intervention. In some cases community groups may be included in Intervention Service Plans as a service provider.
8. It is acknowledged that although the Intervention Program is an ongoing government-managed program, CVE intervention services are relatively new and accordingly the service delivery model will continue to evolve as NSW and national partners learn from research and international experience and incorporate these learnings into the Intervention Program models.
9. Potential Clients are identified predominantly through agencies or law enforcement referring individuals to the NSW CVE Intervention Coordinator who will refer individuals to the Assessment Team for assessment and confirmation that an individual is relevant for the Intervention Program.
10. The NSW CVE Intervention Coordinator will determine an appropriate engagement strategy to encourage the individual's participation in the Intervention Program. This will be determined on a case by case basis and may require using another Government officer, law-enforcement officer or a Client Contact Person to engage the individual. Prior to the point that the individual has provided consent to participate and is a Client of the Intervention Program, it may be necessary for the NSW CVE Intervention Coordinator to share personal information on an individual without their prior knowledge or consent. This would be in exceptional circumstances and on an as-needs basis.

### Process

The Intervention Program involves the following steps:

11. *Identification and initial needs assessment screening* – individuals may be identified by NSW agencies' internal reporting processes. Agencies will liaise with the NSW CVE Intervention Coordinator who will undertake an initial assessment to determine appropriateness for the individual to be referred to the Assessment Team.
12. *Referral to the Assessment Team* – The Assessment Team will undertake a more formal risk assessment, needs analysis and make recommendations on services that address needs to be included in an Intervention Service Plan. The NSW Police Force leads this process and is supported by key law enforcement agencies as listed in Schedule 1.

13. *Initial approach and consent* – Once the Assessment Team has confirmed an individual is relevant for the Intervention Program, the NSW CVE Intervention Coordinator will contact the individual to seek their interest in consenting to participate in the Intervention Program. If the individual agrees to participate in the Intervention Program, the NSW CVE Intervention Coordinator will explain the purpose of the Intervention Program and clearly describe how any personal information will be collected, used, stored, disclosed and destroyed. Once the individual provides consent to participate in the Intervention Program, they become a Client of the Intervention Program. The Client's consent will be required to collect, use and disclose personal information about the Client. The Client will have access to a range of service providers, in line with their Intervention Service Plan.
14. *Referral to the Intervention Panel* – The NSW CVE Intervention Coordinator will refer the Client to the Intervention Panel once the Client has provided consent to participate in the Intervention Program. The Intervention Panel will confirm the needs as recommended by the Assessment Team and develop an Intervention Service Plan to address these needs. The Intervention Service Plan includes a short Client summary, identification of goals, services, case coordinator, case manager, Client contact person (where required) and review/monitoring requirements.
15. *Case management planning* – A Case Coordinator will be identified by the Intervention Panel, in most cases this will be a member of the Intervention Panel, to coordinate the case and ensure all appropriate services, as identified in the Intervention Service Plan, are offered to the Client. A Case Worker will be 'appointed' by the Case Coordinator, most likely from the same agency, to provide the face to face contact with the Client. The Case Worker will ensure that the Client is attending services, provide feedback on the Client's engagement in services or any identified issues with services/logistics, and identify any additional needs/changes to needs. The Case Worker will liaise with the Case Coordinator who will provide feedback to the Intervention Panel on these matters.
16. *Identification and contact with the Client Contact Person* – The Case Manager may identify a Client Contact Person in the event it is not recommended for the Case Worker to engage directly with the Client. The Client Contact Person would assume the functions of the Case Worker and engage directly with the Client, provide information on the Client's personal circumstances and facilitate their involvement in the Intervention Program to the Case Worker. The Client Contact Person would be someone the Client trusts and most likely has an existing relationship with the Client. The Client Contact Person will be determined by Intervention Panel. In the event the Client Contact Person is not a NSW Government employee listed in Schedule 1, disclosure of a Client's personal information to the Client Contact Person requires the Client's consent.
17. *Contact with the Client* – The individual may be contacted by the NSW CVE Intervention Coordinator, the Case Worker, the Case Coordinator and/or the Client Contact Person to facilitate and encourage their involvement in the Intervention Program. Consent is required for the Intervention Panel to develop an Intervention Service Plan which will detail the services to be delivered. The services will include a mix of those that directly address the individual's violent and extremist views and those that support their broader needs, for example counselling or career guidance. At any point the Client can decline involvement in the Intervention Program, or specific services.

18. *Monitoring of progress* – The Case Worker monitors engagement and provides feedback on the Client's progress and participation in services to the Case Coordinator who is a member of the Intervention Panel. The Case Worker will rely on the advice of the Client Contact Person if one has been nominated. The ultimate objective of the Intervention Program is that the Client is offered access to a range of services that help to support the individual in engaging in positive pathways and disengaging from negative influences that may lead to violent extremism. While therapeutic content of discussions with service providers remains respected, there will be some feedback of advice to the Intervention Panel on Client progress to indicate if the Client continues to present a threat to the community by retention of intractable views. De-identified progress reports on the Intervention Program will be provided to the NSW CVE Steering Committee, to inform NSW policy direction, and the Commonwealth Attorney General's Department, for the purpose of program evaluation. Any information beyond this will need the consent of the Client to be disclosed to another entity. If at any point consent is withdrawn, information collected over the course of the Intervention Program will no longer be available to agencies outside of law enforcement and should be disposed of in accordance with the PPIP Act.
19. *Service discharge* – The Client may be discharged from the Intervention Program for many reasons including a change in the Client's:
  - (a) willingness to use or support the use by others of unlawful violence in support of political, ideological or religious goals;
  - (b) achievement of goals stated in the Intervention Service Plan;
  - (c) level of engagement in the Intervention Program or specific services;
  - (d) behaviour.

### **Public Interest**

20. This Direction has been made to permit the collection, withholding, use and disclosure of health information by public sector agencies identified in Schedule 1 and, on an as-needs basis, contracted service providers that have an identified role in the Intervention Program for the purposes of the Intervention Program.
21. 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 the Health Privacy Principles (Schedule 1 of the HRIP Act) contained in sections 3, 6, 7, 10 and 11 of the HRIP Act.

### **Provisions**

22. The application of the Health Privacy Principles under Schedule 1 of the HRIP Act is modified to the extent described below.
23. Notwithstanding clause 3, Schedule 1 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 Intervention Program, as set out in paragraphs 11 to 19, in accordance with the objectives of the Intervention Program as described in paragraphs 6 to 10;
  - (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.

24. 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 Intervention Program; and
  - (b) disclosure of whether the agency holds this information would jeopardise the delivery of services in accordance with the objectives of the Intervention Program described in paragraphs 6 to 10.
25. 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 health information relates directly to the delivery and outcomes of the Intervention Program; and
  - (b) disclosure of the information would jeopardise the delivery of services in accordance with the objectives of the Intervention Program described in paragraphs 6 to 10.
26. 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 Intervention Program as set out in paragraphs 11 to 19, in accordance with the objectives of the Intervention Program described in paragraphs 6 to 10;
  - (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.
27. Notwithstanding Schedule 1, clause 11 of the HRIP Act, a public sector agency may disclose personal information to a person or other body, if:
  - (a) the disclosure is necessary for the purposes of implementing the steps of the Intervention Program as set out in paragraphs 11 to 19;
  - (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**

30. This Direction commences on the date it is signed by me and expires twelve months after the date that this direction commences.

Signed by me on **17 June 2016**

Dr Elizabeth Coombs

**NSW Privacy Commissioner**

## Schedule 1

### NSW agencies with Countering Violent Extremism responsibilities

NSW Government	Member of CVESC	Member of Assessment Team	Member of Intervention Panel
NSW Department of Justice	Yes	No	Yes
Multicultural NSW	Yes	No	No
NSW Police Force	Yes	Yes	Yes
Corrective Services NSW	Yes	No	Yes
Department of Education	Yes	No	Yes
Department of Family and Community Services	Yes	No	Yes
NSW Ministry of Health including Mental Health NSW	Yes	No	Yes
Department of Premier and Cabinet	Yes, Chair	No	No
Juvenile Justice NSW	Yes	No	Yes
Treasury NSW	Yes	No	No
Australian Federal Police	No	Yes	No
Australian Crime Commission	No	Yes	No