

Privacy Code of Practice for the Extra Offender Management Service (EOMS)

1. Overview

- 1.1 The Extra Offender Management Service (EOMS) is a voluntary case management service that will be offered to eligible adult priority offenders, that is, offenders who are assessed as having a significant risk of re-offending (according to certain criteria), including domestic violence offenders.
- 1.2 EOMS has been developed by the Department of Justice (DoJ). EOMS provides persistent, repeat offenders who are not subject to court-ordered supervision with case management supervision and support, where they consent to the provision of the service.
- 1.3 The case management support and referral system aims to reduce the incidence of re-offending by addressing the person's criminogenic needs in accordance with the individual's case management plan. The EOMS aims to do this by:
 - (a) identifying persons that meet the eligibility criteria of priority offenders for referral to EOMS at new 'touch points' in the criminal justice system - the point of criminal charge, or at the point of release from custody - and offering them a place in EOMS;
 - (b) identifying the needs of those priority offenders (who are not subject to any mandated supervision) who choose to participate in EOMS;
 - (c) addressing the participant's needs through one-on-one, evidence-based case management and offence-focused interventions in line with the Risk Needs Responsivity approach to offender management; and
 - (d) contributing to increased community and victim safety and confidence in the criminal justice system through more effective responses to repeat offenders.
- 1.4 The participating agencies in the EOMS use data screening tools and existing information already held that can be used to assess the person's risk of re-offending to identify suitable potential participants for referral to EOMS. The case management service under EOMS is provided by an EOMS Provider at different sites across NSW. EOMS Providers are responsible for the provision of case management services and activities, using their technical expertise and local knowledge. The EOMS Provider will contact potential participants to offer the case management service and seek their consent to participate in EOMS.
- 1.5 The EOMS Provider may prepare reports to a court and to Corrective Services NSW (CSNSW) under EOMS, as required, including where a participant is sentenced to a term of imprisonment or to court ordered supervision by CSNSW.
- 1.6 A participant may withdraw their consent to participate in EOMS at any time. In such circumstance, the person will cease to receive case management support from EOMS. Participants will be advised before providing consent that information will be held by

the participating agencies securely and may be provided to the Court, following their withdrawal from EOMS.

2. Information covered by the Code

- 2.1 This Code is made under Part 3, Division 1 of the *Privacy and Personal Information Protection Act 1998* (the PPIP Act) to provide for the operation of the EOMS by the DoJ in conjunction with other participating agencies, including non-government service providers (EOMS Providers).
- 2.2 This Code applies to personal information collected, used or disclosed for the purpose of delivering the EOMS by participating agencies. Personal information will be collected, used and disclosed by participating agencies only as is reasonably necessary for the delivery of the EOMS (as set out below).
- 2.3 A corresponding Code applies to EOMS in respect of the *Health Records and Information Privacy Act 2002*.
- 2.4 The DoJ will collect and use personal information already held by the Police and CSNSW that is relevant to a person's potential eligibility for EOMS to refer potential participants. Only information regarding potentially eligible participants will be shared with the EOMS Provider. The EOMS Provider is required to manage any information obtained for the purpose of EOMS in accordance with any directions provided by the DoJ.
- 2.5 The Code applies to the following types of information:
 - (a) Identification and personal details – including the potential participant's name and aliases, date of birth, unique identifiers in Police or CSNSW systems, Indigenous status, age group and gender;
 - (b) Previous offending details, current or previous charges details and any cautions, court orders (including any apprehended violence order made under the *Crimes (Domestic and Personal Violence) Act 2007*), and court appearance details of a potential participant – including where a potential participant's previous offending history or current or previous charges contains information about sexual activities (in the case of sex offences);
 - (c) Contact details and residential address of a potential participant;
 - (d) Assessment scores relating to the risk of re-offending – such as the potentially eligible participant's GRAM assessment score, or CRES assessment score, or LSI-R risk rating;
 - (e) Post-custody release information such as the potentially eligible participant's release date and the location of the prison that the person is to be released from;
 - (f) Risk factors and safety warnings in relation to a potentially eligible participant the subject of a referral to EOMS, to the extent that this includes personal information;
 - (g) Information about a person's participation in EOMS, including all reports in relation to the participant's progress and exit from EOMS;

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- (h) Any personal information obtained through a person's participation in EOMS that indicates the potential breach of a court order, where that breach could pose a threat to the life, health or safety of any person, or to public health or public safety; and
 - (i) Any other personal information relevant to the person's participation in the EOMS and progress made during participation in EOMS.

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 EOMS;
- (b) To assess a potential participant's eligibility for participation in EOMS;
- (c) To identify and assess risk factors including any relevant safety warnings and any risk factors associated with contact with a potential participant;
- (d) To locate a potential participant, in order to make contact with and offer the potential participant a place in EOMS;
- (e) To facilitate the person's participation in EOMS;
- (f) To provide information to a court regarding the person's participation in EOMS where required;
- (g) To provide information to CSNSW regarding the person's participation in EOMS where the person is sentenced to a term of imprisonment or a supervision order;
- (h) To evaluate and monitor the effectiveness of the scheme for the participant in reducing re-offending behaviour, and to complete quality assurance assessments of participating EOMS Providers; and
- (i) 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 necessary to prevent or lessen a threat to the life, health or safety of any person, or to public health or public safety.

3. Interpretation

3.1 In this Code:

"CRES assessment score" means the numerical score that is the equivalent of a GRAM score for people in custody, which outlines their likely risk of re-offending (re-imprisonment) according to certain criteria.

"CSNSW" means Corrective Services NSW, which is a division within the Department of Justice. CSNSW is the agency responsible for the management and supervision of offenders in custody or in the community under supervision orders.

“Direction” means any directions and any Schedules prepared by the Department of Justice in relation to the operation and management of EOMS.

“DoJ” means the Department of Justice.

“EOMS Provider” means a non-government organisation or other entity contracted by the DoJ for the purpose of delivering EOMS, including providing case management and other services and activities in connection with EOMS.

“Extra Offender Management Service (EOMS)” means the voluntary case management service developed by the Department of Justice, and delivered by the EOMS Providers to support participants to reduce their risk of re-offending.

“GRAM assessment score” means a numerical assessment of the likely risk of someone re-offending 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 risk of re-offending according to particular criteria and obtain a GRAM assessment score.

“LSI-R” means Level of Service Inventory – Revised, which is an actuarial assessment tool used by CSNSW to determine an offender’s risk of re-offending, and the set of criminogenic needs for each offender (that is, the risk factors associated with their re-offending). The LSI-R risk rating is a threshold indication of the person’s likely risk of re-offending.

“participating agency” means a public sector agency (as defined in the PPIP Act), or EOMS Provider (non-government agency contracted to DoJ) that is directly involved with the delivery of EOMS, including the DoJ, CSNSW and NSW Police, that collects, uses or discloses personal information for one or more of the purposes set out in this Code.

“participant” means a priority offender who meets the eligibility criteria for EOMS and is referred to EOMS.

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

“Police” means the New South Wales Police Force.

“potential participant” means a person who may be eligible for EOMS according to the eligibility criteria, and who may be referred to participate in EOMS.

“priority offender” means a person who is assessed as having a significant risk of re-offending within a particular time period, according to particular criteria that can indicate re-offending outcomes and according to particular risk thresholds. A person must meet the priority offender criteria to be eligible to participate in EOMS.

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

“**third party**” means a person or agency other than the offender, participating agency, or EOMS Provider. It includes victims and potential victims of the offender, and victims’ support agencies.

4. Provisions

The application of the Information Protection Principles under Division1, Part 2 of the PPIP Act is modified to the extent described below.

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 EOMS is a lawful purpose that is related to a function or activity of the DoJ. Participating agencies will collect personal information in order to facilitate the operation of EOMS and fulfil its overarching purpose of preventing or reducing the risk of reoffending by priority offenders through offering a voluntary case management service.

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 paragraph 2.6.

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 participating agency informs the eligible participant that he or she has been referred to EOMS, to seek their information consent to participate in EOMS.

Section 11

- 4.4 For the purposes of s.11, collection of the information to which this Code applies as described in paragraph 2.5, for one or more of the purposes described in paragraph 2.6, is taken to be relevant to the purpose for which it was collected, not excessive, accurate, up to date and complete, and is taken not to intrude to an unreasonable extent on the personal affairs of the individual to whom it relates.

Section 14

- 4.5 This Code authorises a participating agency that is participating in EOMS to refuse to provide an individual with access to personal information 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

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- (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 For the purposes of s. 16:

- (a) personal information about a participant, and any third party that engages with the participant, used by a participating agency in connection with EOMS, 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 EOMS if the use is reasonably necessary for one or more of the purposes specified in paragraph 2.6.

4.8 Despite s. 17, a participating agency may use personal information it holds in connection with EOMS to enable a professional person to fulfil a professional obligation or to enable a professional standards complaint to be dealt with.

Section 18

4.9 Despite s. 18, a participating agency may disclose personal information of a participant to another participating agency or to a court if the disclosure is reasonably necessary for one or more of the purposes specified in paragraph 2.6.

4.10 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 EOMS where the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a threat to the life, health or safety of any person or to public health or public safety.

4.11 Despite s. 18, a participating agency may disclose personal information it holds in connection with EOMS to enable a professional person to fulfil a professional obligation or to enable a professional standards complaint to be dealt with.

Section 19

4.12 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 paragraph 2.6.

Application of the Code

- 4.13 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.
- 4.14 The Information Protection Principles apply to public sector agencies. They do not apply to EOMS Providers directly. EOMS Providers are 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.

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