

Disclosure of forensic and/or criminal history for tāngata whaiora in vocational rehabilitation

Procedure Responsibilities and Authorisation

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Procedure Review History

Version	Updated by	Date Updated	Summary of Changes
02	Joanne Parker	July 2015	Aligned to Integrated Care Pathway terminology; and provided specific information on documentation
03	Joanne Parker		Rename and align to clinical practice pathways
04	Tania Christie	August 2022	Functional assessment added. Rationale provided as to why tāngata whaiora are supported to obtain a history of criminal convictions. Changed to current Te Whatu Ora template.

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1 Overview

1.1 Purpose

The procedure is aimed at providing a guideline for mental health professionals to support tāngata whaiora in making decisions about when disclosure of criminal history and / or forensic history may be justified, prior to vocational placements in the areas of employment, work experience and further education.

1.2 Scope

This procedure applies in the process of assisting tāngata whaiora into vocational placement opportunities. Mental Health Professionals have, in the past, supported tāngata whaiora with a forensic history / criminal history into vocational placements. There has been an informal process to screen tāngata whaiora to ensure the risks to the individual and the placement are minimised. This procedure aims to formalise the process to ensure all people involved are informed and follow best practice. This procedure must be acted on within the domains and to the expectations of the following policies:

- [Health Information Privacy](#) (Ref. 1976)

1.3 Patient / client group

Tāngata whaiora of the Mental Health and Addictions service.

1.4 Exceptions / contraindications

Nil.

1.5 Definitions and acronyms

Criminal and traffic conviction history	Historic record of criminal and traffic convictions which is held by the Ministry of Justice
Disclosure	The act of revealing or uncovering information. Providing information about previous criminal history
Forensic history	A person who has a history where charges have been laid but no conviction has been entered due to either not guilty on the grounds of insanity (NGRI) or not being fit to stand trial. In this case there is no record in the criminal history of these charges.
Mental health professional	All registered health professionals as noted in the Health Practitioners Competency Assurance Act 2003 and in addition social workers, psychotherapists, counsellors and cultural advisors.
Multidisciplinary team	Members from various disciplines who work together with tāngata whaiora and their whānau to determine goals, evaluate outcomes, and make recommendations to support tāngata whaiora care.
Placement supervisor	Person co-managing vocational placement who is a non-Te Whatu Ora - Waikato staff member e.g. Enrich +

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Risk management	A systematic approach to the management of risk, staff and tāngata whaiora safety. Risk management involves identifying, assessing, controlling, monitoring, reviewing and auditing risk.
Special patient	A person who has been found not guilty on the grounds of insanity (NGRI) by the court. Those found NGRI or unfit to stand trial may become special patients. Reference to Mental Health (Compulsory Assessment & Treatment Act, 1992 and the Criminal Procedure (Mentally Impaired Persons) Amendment Act 2003 (CPMIP).
Victim notification process	Victim notification process offers victims of serious crime an opportunity to stay informed about the person who offended against them. (Reference to Mental Health (Compulsory Assessment & Treatment Act, 1992).
Vocational Rehabilitation	Is a process which enables tāngata whaiora with disabilities to overcome barriers to accessing, maintaining, or returning to employment, education or other meaningful occupation
Vocational rehabilitation team	Tāngata whaiora, mental health professional team members including: registered mental health professional and support staff.

2 Clinical management

2.1 Roles and responsibilities

All Staff

To support the decision making process through the multidisciplinary team.

Mental Health Professional Team

The clinical staff working with the tāngata whaiora in vocational rehabilitation will follow the procedure in their clinical practice.

Managers

Charge Nurse Manager, Associate Nurse Manager and/or Team Leader will provide management and leadership to support the clinical team working in vocational rehabilitation.

2.2 Competency required

Must be a registered mental health professional.

2.3 Equipment

Ministry of Justice – Request your own criminal conviction history

<https://www.justice.govt.nz/criminal-records/get-your-own/>

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5. Communication of criminal history and / or forensic history

The tāngata whaiora has obtained their criminal history record and / or a decision has been made regarding what information to disclose. At this point the vocational rehabilitation will focus on developing effective communication skills specific to disclosure of criminal history and / or forensic history in preparation for vocational opportunities

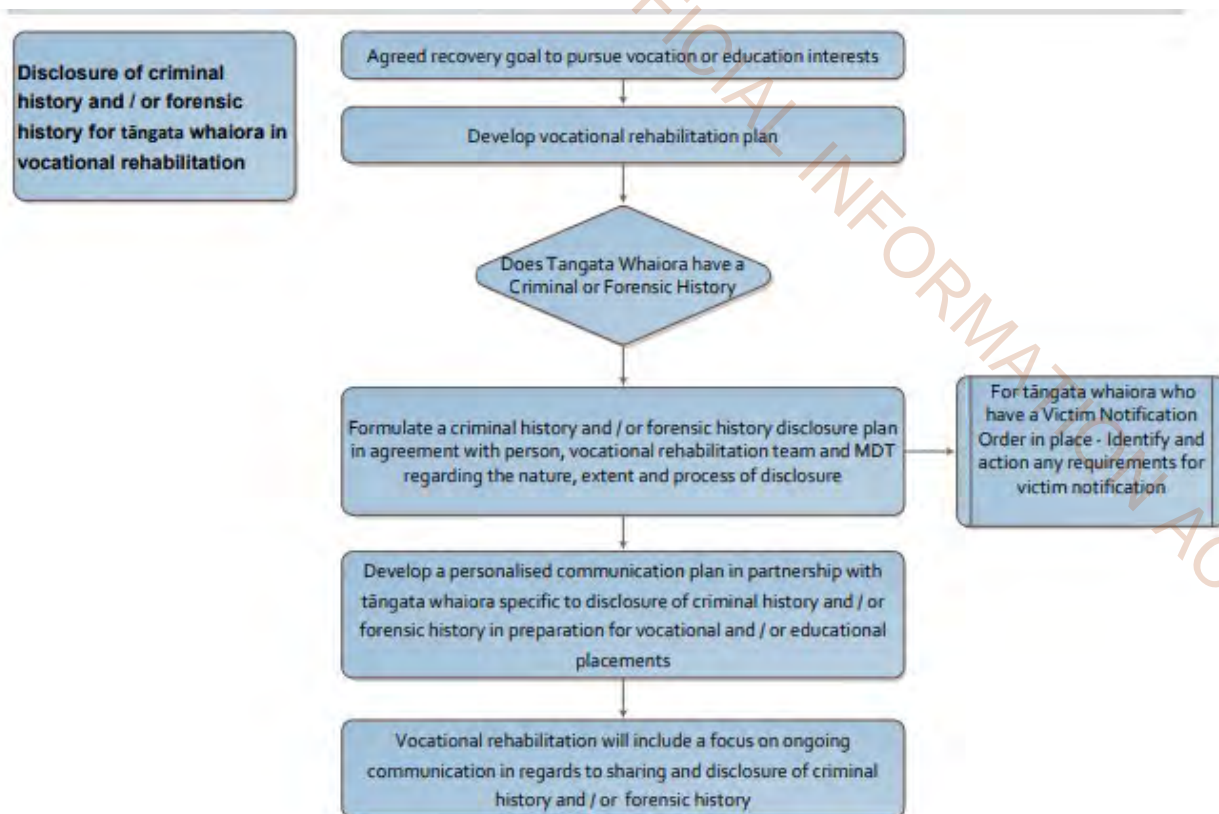
6. Vocational placement support specific to disclosure

On commencement of vocational placement from interview to employment the tāngata whaiora will be supported by the vocational rehabilitation team. This will include mentoring and coaching the tāngata whaiora with ongoing communication through the employment process specifically, disclosure of criminal and / or forensic history.

7. Victim notification

The victim notification process must be followed as per the Ministry of Health guidelines, prior to commencement of the vocational placement. This applies to tāngata whaiora who have special patient status and those with a victim notification order in place.

8. Process



Nil.

4.1 Indicators

- Mental health professionals in the vocational rehabilitation teams understand their responsibilities and are able to articulate these. There is evidence that the tasks required are completed and documented in the clinical notes.

Monitoring and reporting by team leader.

5.1 Summary of Evidence, Review and Recommendations

- Privacy at Work – A guide to the Privacy Act for employers and employees - <https://www.privacy.org.nz/assets/Files/Brochures-and-pamphlets-and-pubs/Privacyat-Work-2008.pdf>
- Ministry of Justice, New Zealand Criminal Records (Clean Slate) Act 2004
- Waikato DHB [Health Information Privacy](#) policy

- NHS code of practice: Confidentiality
- NHS code of practice: Public disclosures
- Mental Health Foundation of New Zealand: Social Inclusion and exclusion, stigma and discrimination, and the experience of mental distress 2017
- Mental Health Foundation of New Zealand: What Works: Positive experiences in open employment of mental health service users 2015
- Mental Health Foundation of New Zealand: Return to Work
- Health Information Privacy Code 1994 <https://www.privacy.org.nz/the-privacy-act-andcodes/codes-of-practice/health-information-privacy-code-1994/>
- Privacy Act 1993
<http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM297038.html>
- Waikato DHB Policy – Health Information Privacy
- Criminal Record Checks <https://www.employment.govt.nz/workplace-policies/tests-andchecks/criminal-record-checks/>

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- When the Clean Slate scheme applies
<https://www.justice.govt.nz/criminalrecords/clean-slate/>
- Ministry of Justice, New Zealand Criminal Records (Clean Slate) Act 2004
<http://www.legislation.govt.nz/act/public/2004/0036/49.0/DLM280840.html>
- Get your own criminal record <https://www.justice.govt.nz/criminal-records/get-your-own/>
- Request criminal record by individual
<https://www.justice.govt.nz/assets/Documents/Forms/request-byindividual.pdf>
- Special Patients and restricted patients: guidelines for regional forensic mental health services <https://www.health.govt.nz/publication/special-patients-and-restricted-patientsguidelines-regional-forensic-mental-health-services>
- Telling someone about your criminal record <https://www.govt.nz/browse/law-crimeand-justice/disclosing-your-criminal-record/>
- How do I get on the Victim Notification System? <https://www.police.govt.nz/faq/how-do-i-get-on-the-victim-notification-system>
- Victims Code - <http://www.victiminfo.govt.nz/support-and-services/victimrights/victims-code-full-text-version/>
- Victims' Rights Act 2002 Guidelines 2018
<https://www.health.govt.nz/publication/victims-rights-act-2002-guidelines-2018>

5.3 Associated Te Whatu Ora Documents

- Te Whatu Ora Waikato [Health Information Privacy](#) policy (Ref. 1976)