

# Protecting sexual assault counselling records

## What is the Counselling Notes Protect service?

The Counselling Notes Protect (CNP) service is a new free legal service being delivered by Legal Aid Queensland in partnership with Women's Legal Service. CNP provides advice, assistance and representation under a new Queensland law, which protects the counselling records of victims of sexual assault or alleged sexual assault from being used in some courts.

The CNP service can help when:

- you are a victim or alleged victim of a sexual assault offence and
- you have had counselling and
- there may be court proceedings about your sexual assault or alleged sexual assault.

You can get free legal advice and representation by calling the CNP services at:

- Legal Aid Queensland on 1300 267 762
- Women's Legal Service on 1800 957 957.

## What court proceedings are covered by the new law?

The new law applies to criminal and civil court proceedings that started on or after 1 December 2017, even if the sexual assault offence happened before this date. The new law also applies to domestic violence court proceedings.

## What about criminal and civil court proceedings that started before 1 December 2017?

If criminal or civil court proceedings were started before 1 December 2017, it is still important to get legal advice about any legal options you may have to protect your counselling notes from being used in the court.

## What is considered counselling?

There are a broad range of activities considered to be counselling which may be protected by the new law. These include when a counsellor:

- listens to you
- gives verbal or other support to you, your parent, your carer or your support person
- provides help or encouragement to you, your parent, your carer or your support person
- advises or gives therapy or treatment to you, your parent, your carer or your support person either individually or in a group.

A counsellor is a person who has undertaken training, is undertaking study, or has experience relevant to the counselling process, and provides counselling. It doesn't matter if the person is a paid counsellor or a volunteer counsellor. Your doctor may even be considered a counsellor.

## What types of counselling records are protected?

Protected counselling records may include oral or written records, notes, or other types of documents. These records are made between a counsellor and either the counselled person or the counselled person's parent, carer or support person. The records can be about the counselling that you have had either before or after the sexual assault.

The legal protection may cover notes and/or records made by sexual assault counsellors, domestic violence counsellors or support services, healthcare professionals, psychologists and doctors.

## How are my records protected?

Under the new laws, your counselling records are protected from being available during a court case, unless you or the court gives permission for your records to be produced. The court's permission is also required before issuing a subpoena to obtain a copy of your counselling records. A subpoena is a court order that requires someone to give documents to the court.

## Do I have to give permission for the police or the prosecutor to access my counselling records?

You do not have to give a copy of your counselling records to the police or a prosecutor.

You do not have to consent to your counselling records being given to the police or a prosecutor.

You are entitled to obtain independent legal advice about your rights.

## What if I consent to my counselling records being made available?

If you want to consent to all or some of your counselling records being made available to the police or a prosecutor, you should get independent legal advice from a lawyer first.

If you consent to the police or a prosecutor having your counselling records, it may be difficult to withdraw your consent if you change your mind later.

**You should get immediate legal advice if someone is trying to access your counselling records.**

To access the Counselling Notes Protect service call 1300 267 762 for Legal Aid Queensland or 1800 957 957 for Women's Legal Service.