Criminal justice evaluation and performance monitoring

Guideline 2: Seeking consent from clients for evaluation purposes

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Introduction

Many services funded by government are asked to collect and report information about how their programs are working. To do this in a safe, ethical, and legally compliant way, services need to seek consent from clients to participate in evaluation activities. This ensures that any personal information is used transparently and in accordance with the *Privacy Act 1988* (Cth), which governs how personal information can be collected, used, and disclosed.

Consent to participate in evaluation is different from consent to receive a service.
Even if a client agrees to take part in your program, you must **separately** ask for their permission to use their information for evaluation or reporting. Evaluation participation is always voluntary and should never affect the support a client receives.

This guide provides information to help services:

- understand the importance of informed consent,
- know when and how to seek client consent for evaluation, and
- record consent in a way that is appropriate, proportionate, and safe.

Why is getting consent important?

When you collect information from clients for evaluation or performance monitoring, it's important to think about how that information will be used—and whether the activity could be considered research. This matters because if an evaluation meets the definition of 'research', you may need approval from a Human Research Ethics Committee (HREC).

What counts as 'research'?

In some cases, program evaluation is purely internal—it's about checking how things are going or reporting back to a funder. But sometimes, evaluation findings are shared more broadly or used to build an evidence base—for example, by publishing findings or linking your program data with other datasets to explore longer-term impacts. In these cases, evaluation might meet the definition of research under the *National Statement on Ethical Conduct in Human Research* (the National Statement).[1]

Even if your current evaluation doesn't require ethics approval, it's good practice to seek informed consent. This ensures that if you want to expand your evaluation in future (e.g., through interviews, surveys, or data linkage), you already have the foundation in place. As the NHMRC notes, "work that begins as one form of activity can evolve into another over time." [2]

[1] National Health and Medical Research Council, Australian Research, and Universities Australia (2025). *National Statement on Ethical Conduct in Human Research*. NHMRC.

[2] Ibid.

What are the rules?

The National Statement is the main national guideline that covers research involving people in Australia.[3] It is produced by the National Health and Medical Research Council (NHMRC), and most research projects must follow its rules. It sets out key principles—like respect, fairness, and minimising harm—and says that most research involving people must be reviewed by a Human Research Ethics Committee.[4]

Who are the relevant ethics committees?

There isn't just one ethics committee that handles all research. The right committee depends on who is doing the work:

- **Universities**: Most universities have their own ethics committees. If a university is helping evaluate your program, they will handle ethics approvals.
- **Government agencies**: Some government departments have their own committees. For example, in the ACT, government health-related research involving government services must go through the ACT Health Human Research Ethics Committee.
- **Aboriginal and Torres Strait Islander research**: Some projects also need approval from the AIATSIS Ethics Committee, especially if the research is focused on or led by Aboriginal or Torres Strait Islander people.

You can find a full list of registered ethics committees on the NHMRC website: https://www.nhmrc.gov.au/research-policy/ethics/human-research-ethics-committees

If you're unsure, speak to your funder, university partner, or an experienced evaluator—they can help you work out if ethics approval is needed.

What if there are concerns about a client's capacity to provide consent?

Sometimes, there may be uncertainty about whether a client can give informed consent. This could be due to factors like age, cognitive impairment, intoxication, mental illness, or intellectual disability. A person's ability to give consent may also be affected by:

- fluctuations in their condition,
- medication or treatment they're receiving, and
- how complex the evaluation activity is.

However, the National Statement[5] emphasises that there "is an ethical imperative to include people with physical or mental ill-health or disability in research and to facilitate their independent decision-making". This means that services should support clients of all abilities to decide for themselves whether they want to participate. If you're unsure whether a client has capacity to give consent:

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[3] Ibid.

[4] National Health and Medical Research Council (2014). *Ethical Considerations in Quality Assurance and Evaluation Activities.* NHMRC.

[5] National Health and Medical Research Council, Australian Research, and Universities Australia (2025). *National Statement on Ethical Conduct in Human Research*. NHMRC.

- Think about whether they can understand the information, retain it, and make a decision based on it.
- You can offer extra support, such as a support person or guardian, to help explain things and answer questions.
- You can also use accessible resources, like Easy English forms or visual prompts, to help the client engage with the information.

If the evaluation involves more detailed data collection, services should also consider whether the risks or burdens are proportionate to the potential benefits. Where appropriate, services should also consult with the client's carer and/or guardian, who may be able to provide support for decision-making.

For more guidance, see NHMRC Chapters 4.3-4.5,[6] which discuss capacity to consent among young people, those in dependent relationships (e.g., people in prison), and people experiencing physical or mental ill health or disability.

When should services seek client consent?

For ethical reasons, it is best practice to discuss consent *before* you collect the information you intend to use or share. Therefore, aim to get consent to collect data for research purposes at the start of a client's engagement with your service. It may be simplest to build consent procedures into the intake process – for example, if clients need to consent to participate in the service, you could ask them at the same time whether they consent to their information being used for performance monitoring and evaluation purposes.

You may also want to ask them at this point whether they consent to having their contact details released to a research team in the future – for instance, if you anticipate that researchers may want to contact people to participate in an interview or survey as part of an evaluation process that is additional to regular performance monitoring. However, even if the client consents to their contact details being released, this does not mean they consent to participating in the extra evaluation activities. In circumstances where the evaluation team needs to collect fresh data, there will be additional consent procedures at that time.

Some clients—especially those involved with the justice system—may not initially trust service providers and may be wary of providing information (especially if it might be shared with others). They may also wonder if there is any direct benefit to them from providing consent. In these cases, it may be better to discuss consent after building rapport. You should decide which timing works best for you, in the context of your service. It is important to have systematic processes, but this may also need to be adapted for specific clients (for example, if there are trauma or mental health issues).

What is involved in seeking consent?

Clients should clearly understand what they are agreeing to. At a minimum, explain (verbally or in writing):

- what evaluation is,

[6] Ibid.

- what data will be collected – e.g., questionnaire, interviews, observation, access to case files,
- why it is important to collect the data – e.g., to help existing clients reflect on their own experience with a service, improve the service, build an evidence base to support future funding for service, benefit future clients,
- how their data will be used, including whether it will be shared with other agencies or organisations,
- how their privacy will be protected, including where you will store the data and what you will do to protect participants' privacy and make sure they cannot be identified in any publications arising from the activities, and
- what potential future activities the information might be used for (e.g., reports, presentations).

Agencies and service providers should let clients know that the information they share will be kept private and treated with care. However, there may be limits to confidentiality—for example, if something needs to be reported because of mandatory reporting laws. If there are any such limits, make sure you explain them clearly and in plain language.

After sharing this information, it's important to check that the client understands what's been discussed. If possible, do this verbally and give them a chance to ask questions before they agree to take part.

How can services make consent easy to understand?

To give informed consent, clients must receive clear and adequate information in a format they can easily understand. About two-thirds of people in Australian prisons have Year 10 or below as their highest level of education[7].

This means, all written materials or verbal consent scripts must be provided in plain English. Some clients may require easy English, which is a specific form of written English formatted in an accessible way and accompanied by pictures. This is useful for people with very low literacy, such as those with intellectual disability or whose first language is not English.[8]

If a client does not speak English, services must provide interpreters or translated materials to ensure they can fully understand what they are being asked to agree to.

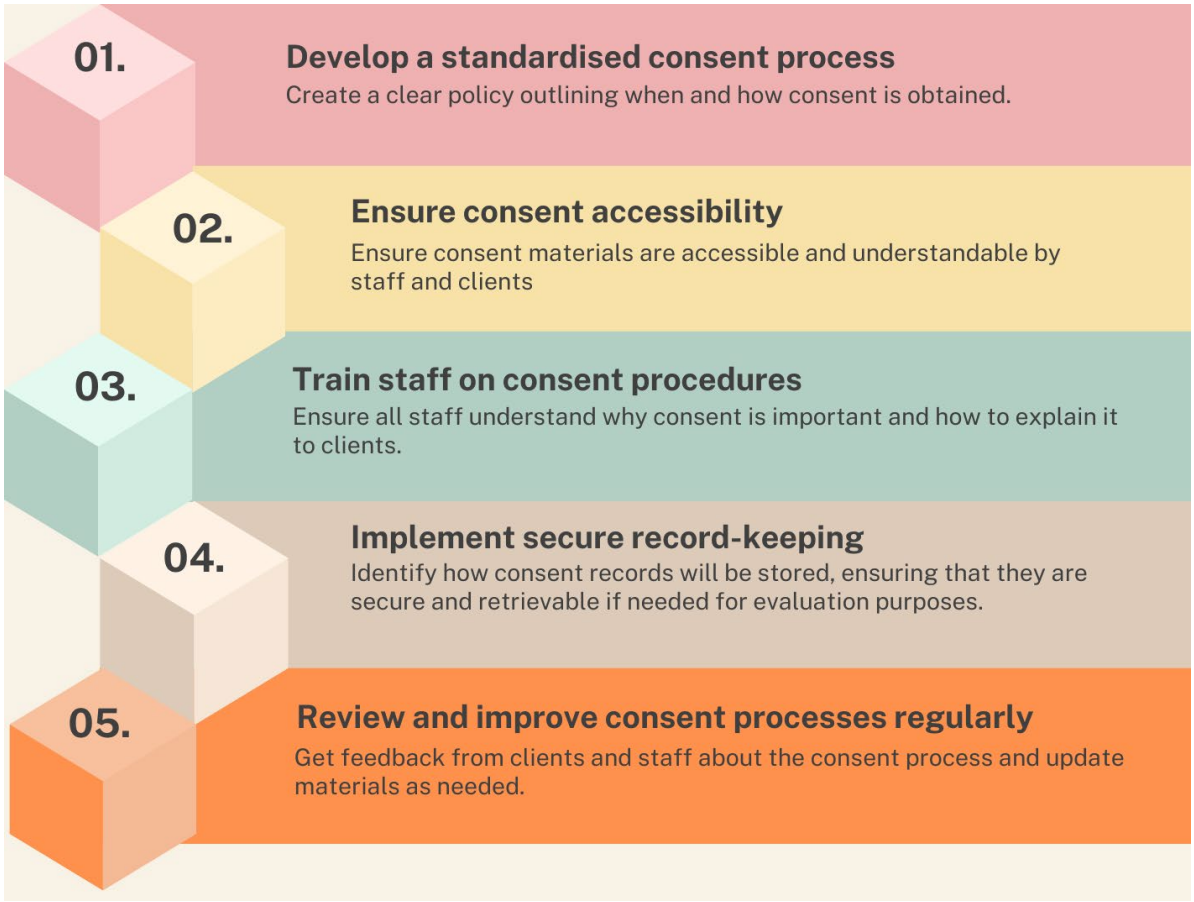
How should services record and store information about consent?

A simple checklist is often the best way to produce a record that shows you have followed the recommended procedures for obtaining informed consent. We suggest some wording for the checklist in the box at Appendix A (add or remove wording as appropriate). Make sure you maintain secure records, so you can produce them if needed. Consistent storage of consent information will help with future evaluation activities, if clients' records need to be retrieved, evaluators can see what clients consented to and when. Your service will also need to comply

[7] Australian Institute of Health and Welfare (2023). *The Health of People in Australia's Prisons 2022*. Australian Government.
[8] Access Easy English (2024). '*About Easy English*'. https://accesseasyenglish.com.au/what-is-easy-english/.

with relevant privacy laws and protect clients' information (e.g., from sharing in unauthorised ways).

What are some next steps services can take?



Appendix A: Example wording for consent checklist

Consent to provide, release and share information

This form is asking for your consent to participate in [*purpose of data collection, e.g. a trial of X program or evaluation of Y program*].

To understand [*how well the program works*], we need to collect some information from you. To do this, we will [*insert data collection methods here, e.g., 'interview you every four weeks' or 'give you a survey to fill out'*].

We will use this information to [*insert purpose here*].

We will keep your information private and, if we publish anything about [*program name*], we will not use your name or anything that will identify you.

I consent to provide personal information as part of [program or service name]

I have read the information on this form, or someone has read it to me, and I understand it ☐

I consent to the collection and use of my personal information for the purposes explained to me ☐

I consent to my information being shared with [*other service or agency*] to [*insert reason here*] ☐

I have had the opportunity to ask questions ☐

I agree to be contacted in the future about my experiences in [*program or service name*] ☐

Client signature: _____ or verbal agreement ☐

Client name: _____ Date: _____