

## Records - Access by the Child Death Review Team

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**Functional Sub group** Clinical/ Patient Services - Records  
Clinical/ Patient Services - Baby and child

**Summary** Procedures to be instituted by public health organisations when access to records is requested by the Child Death Review Team.

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**Applies to** Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Community Health Centres, Divisions of General Practice, Government Medical Officers, NSW Dept of Health, Public Health Units, Public Hospitals

**Distributed to** Public Health System, Community Health Centres, Divisions of General Practice, Government Medical Officers, NSW Department of Health, Public Health Units, Public Hospitals

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**Status** Active

### Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

**CIRCULAR****File No****Circular No** 96/73**Issued** 25 September 1996**Contact** Barbara Wellesley Ext 9511**ACCESS TO DEPARTMENT OF HEALTH RECORDS BY THE CHILD DEATH  
REVIEW TEAM****Introduction**

The Children (Care and Protection) Amendment Act commenced on June 1996 for the establishment of the Child Death Review Team (the "Review Team"). The Review Team will be responsible for reviewing child death(s) resulting from abuse and/or neglect which has occurred in suspicious circumstances or in circumstances as may be prescribed in regulations.

The Functions of the Child Death Review as described in The Children (Care and Protection) Amendment Act is set out below:

**Functions of Child Death Review Team****1. The Team has the following functions:**

- a. to formulate recommendations as to policies and practices to be implemented by government and private agencies and by the community for the prevention or reduction of child deaths and for that purpose:
- i. to identify, and undertake a detailed review of information concerning, deaths of children that are due to abuse or neglect or that occur in suspicious circumstances or in circumstances of a kind prescribed by the regulations, and

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In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.

- ii. to maintain a register of child deaths occurring in New South Wales after a date prescribed by the regulations, classifying such deaths according to cause, demographic criteria or other factors prescribed by the regulations, and
    - iii. to analyse data accumulated with respect to the causes of child deaths reviewed or registered, and to identify patterns and trends relating to those deaths.
  - b. to identify areas requiring further research by the Team or other agencies;
  - c. to undertake such research or other projects as the Minister may require concerning the causes of child death;
2. The Team has and may exercise such other functions as may be given to it by or under this or any other Act.

The Review Team has very broad powers to obtain access to and copy records which it “reasonably requires” under section 104(3), and these powers override pre-existing health confidentiality provisions. In this regard the Review Team is to be provided “full and unrestricted access” to records. It should also be noted that there is no requirement for the Review Team to approach a court to authorise access, or to have a court action on foot, as would be required for a search warrant or subpoena.

This Circular must be read in conjunction with The Children (Care and Protection) Amendment Act 1996, the Freedom of Information Act 1989, the Circular on Confidentiality of Records 90/126 and Subpoenas 93/35.

#### **Access to Health Department Records by the Review Team**

Each Area Health Service will implement protocols that:

1. Upon written request from the Review Team to the relevant Chief Executive Officer of the NSW Area Health Service, the Review Team is to be provided ‘full and unrestricted access’ to records for the purpose of exercising its functions. This includes the right to inspect and on request, to be provided with **COPIES of any** record, SI 04(2);
2. Ensure reasonable inquiries are made to assure themselves that the information requested from the records relates to the function of the Review Team;
3. The request from the Review Team is acted upon within 5 -10 days of being received;

4. The Review Team is responsible for returning all copies of the requested records to the Area Health Service for appropriate disposal;
5. The Review Team will provide written protocols for ensuring the confidentiality of records whilst they are in its possession;
6. Area Health Services have protocols for ensuring confidentiality of records whilst being transferred to the Review Team;
7. Records should be couriered as the preferred method of transfer. Records should only be transmitted by facsimile where there is insufficient time to have the records sent by courier and where the Review Team and the agency concerned both have a secure facsimile;
8. The copy of the requested information should be sent by courier as the preferred method of transfer. Information should only be transmitted by facsimile where there is insufficient time to have it sent by courier and where the Review Team and the agency concerned both have a secure facsimile;
9. There is a nominated person who has the responsibility for copying, recording and tracking and destroying all copies of the information provided to the Review Team. This should include the date when information has been despatched and a date when it has been returned and destroyed.

### **Failure to comply**

Failure to comply with the request for a health record which has been *reasonably require(d)* by the Review Team will be a breach of the law.

If in doubt as to the validity or method of compliance with any request received, enquiries should be made with the Review Team from where the request was issued.

John Wyn Owen  
**Director-General**