

Prenatal Reports

Document Number PD2007_023

Publication date 30-Mar-2007

Functional Sub group Clinical/ Patient Services - Baby and child
Clinical/ Patient Services - Incident management

Summary This policy directive aims to assist all NSW Health staff in understanding the legislative changes and their obligations in regard to making and responding to prenatal reports. Prenatal reports act as an extra risk factor that must be taken into account when assessing risk of harm to a child. Section 248 information sharing provisions are also extended to information regarding an unborn child who is the subject of a prenatal report.

Author Branch Primary Health and Community Partnerships

Branch contact Jessamin Clissold 9391 9662

Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Community Health Centres, Private Hospitals and Day Procedure Centres, Public Hospitals

Audience All staff

Distributed to Public Health System, Community Health Centres, Dental Schools and Clinics, Divisions of General Practice, Government Medical Officers, NSW Ambulance Service, NSW Department of Health, Public Health Units, Public Hospitals, Private Hospitals and Day Procedure Centres, Tertiary Education Institutes

Review date 30-Mar-2012

File No. 07/717

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This Policy Directive may be varied, withdrawn or replaced at any time.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.

RESPONDING TO PRENATAL REPORTS

This policy directive should be read in conjunction with:

- *NSW Interagency Guidelines for Child Protection Intervention (2006)*[see PD2006_104]
- *PD2005_299 Protecting Children and Young People*
- *NSW Health Frontline Procedures for the Protection of Children and Young People (2000)*.

1. Introduction

- 1.1 This document outlines the requirements for NSW Health staff in implementing sections 23, 25 and 248 of the *Children and Young Persons (Care and Protection) Miscellaneous Amendments Act 2006 No. 95*.
- 1.2 These sections represent amendments made to the *Children and Young Persons (Care and Protection) Act 1998 (the Act)*, the primary legislation governing child protection responses in NSW.
- 1.3 All NSW Health staff are required to comply with the new legislation from 30 March 2007. The changes relate to responses to prenatal reports of risk of harm made to the NSW Department of Community Services (DoCS).
- 1.4 Following the amendments, prenatal reports act as an extra risk factor that must be taken into account when assessing risk of harm.
- 1.5 Section 248 information sharing provisions are also extended to information regarding an unborn child who is the subject of a prenatal report.

2. Making Prenatal Reports

- 2.1 It is not mandatory to make a prenatal report. However, a person may choose to make a prenatal report where there are reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after his or her birth. This has not changed under the legislative amendments.
- 2.2 The note under section 25 of the original Act provides that the intention of prenatal reports is to allow assistance and support to be provided to the expectant mother to reduce the likelihood that her child, when born, will need to be placed in out of home care.
- 2.3 The amendments add two further “intentions” of prenatal reporting:
 - To provide early information that a child who is not yet born may be at risk of harm subsequent to his or her birth; and
 - To provide for mandatory reporting if there are reasonable grounds to believe that the child is at risk of harm subsequent to his or her birth.

Title: RESPONDING TO PRENATAL REPORTS

3. After a Prenatal Report is Made

- 3.1 The definition of 'risk of harm' set out as outlined in section 23 of the Act has been expanded by adding a further "risk factor" in section 23(f) which reads:
'the child was the subject of a prenatal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level practical, the risk factors that gave rise to the report.'
- 3.2 This means that where a prenatal report has been made and risk factors remain after birth, health workers will have an increased responsibility to re-report to DoCS.
- 3.3 The existence of a prenatal report does not automatically require a re-report to DoCS where there is no risk of harm to the child. Reasonable grounds to suspect risk of harm are still required.
- 3.4 The prenatal report and the other factors set out in the new 23(f) act as extra risk factors that must be taken into account when assessing risk of harm. If the risk factors that gave rise to the report are still present and/or there are reasonable grounds to suspect the child is at risk of harm, reporting to DoCS is mandatory.
- 3.5 These increased obligations apply to all NSW Health workers who are aware that a prenatal report has been made and are subsequently aware that the child has been born.

4. Prenatal Reports and Information Sharing

- 4.1 Where section 248 of the Act permits, DoCS may direct prescribed agencies, including NSW Health, to provide information relating to the safety, welfare and wellbeing of a child or young person or class of children and young persons. It is mandatory to comply with these requests.
- 4.2 Section 248 information sharing provisions have also been amended and now extend to information about:
- An unborn child who is the subject of a prenatal report;
 - The family of an unborn child who is subject to a prenatal report;
 - The expected date of birth of an unborn child subject to a prenatal report.
- 4.3 Section 248 information requests that relate to an unborn child are to be processed in the same way as other section 248 requests.

Attached is the DoCS Fact Sheet on *Legislative changes from 30 March 2007*, which provides an overview of changes introduced under the *Children and Young Persons (Care and Protection) Miscellaneous Amendments Act 2006 No. 95*.

Robyn Kruk
Director-General

Fact sheet



Legislative changes from 30 March 2007

This fact sheet provides a snapshot of the amendments to the *Children and Young Persons (Care and Protection) Act 1998* which will:

- impact on the day-to-day work of Caseworkers and Managers
- commence on 30 March 2007.

Managers Client Services will run Practice Solutions Sessions in February and March to go through the changes in more detail. Legal Officers in Care Legal Support Teams can also provide further information.

Managers should check the detail of the amendment prior to making decisions affected by the changes. The amendments can be located at <http://www.legislation.nsw.gov.au/>

A reprinted consolidated version of the Act will be available in April 2007.

Children and Young Persons (Care and Protection) Miscellaneous Amendments Act 2006		
Topic	Section	Summary of amendment
Risk of harm circumstances and pre-natal reports	Section 23	Extends the circumstances in which a child or young person is taken to be at risk of harm to include a child who is a) the subject of a pre-natal report and b) where the birth mother did not engage successfully with support services to reduce the risk factors that gave rise to the report.
Prenatal reports	Section 25	Clarifies that pre-natal reports are (1) to allow assistance and support to expectant mother to reduce any risk of harm to the child after her or his birth (2) to provide early information about possible risks to the child and (3) to require reporting on the child after birth if there are reasonable grounds to believe the child is at risk of harm.
Grounds for care orders	Section 71	Clarifies that it does not matter whether the conduct constituting a reason, to seek care orders occurred wholly or partly outside NSW.
Release of information concerning placement of children in out of home care	New sections 149B-149K	This new section replaces section 148. It sets out the decision-making process in respect to the release to parents of information concerning the placement of children in out-of-home care. It requires carer consent to be obtained and establishes that the mechanism for review of a decision to release information is through the Administrative Decisions Tribunal. When considering the type and amount of information to be disclosed, the designated agency is required to have regard to (1) the wishes of the child or young person and (2) the wishes of the authorised carer and (3) any guidelines prepared by the Children's Guardian.
Unauthorised removal of children and young persons	Section 229	A new offence of unauthorised removal from care under an order in the new Chapter 14A.
Interstate transfer of child protection orders and proceedings	Sections 231A-231ZA	Establishes a new chapter to provide for the interstate transfer of child protection orders and child protection proceedings between NSW and other states/territories and New Zealand including: <ul style="list-style-type: none"> o administrative and judicial transfer of orders and transfer of child protection proceedings; o registration of orders and documents; o transfer of court files.
Jurisdiction of ADT	Section 245	Establishes that interstate transfer decisions are reviewable by the Administrative Decisions Tribunal.
Information exchange – prenatal reports	Section 248(1A)	Establishes that information about an unborn child who is the subject of a pre-natal report may be furnished to prescribed organisations.

Title: RESPONDING TO PRENATAL REPORTS

Amendments concerning Parent Responsibility Contracts

These amendments will enable the Director-General and the primary care-givers for a child or young person to enter into an agreement known as a Parent Responsibility Contract to improve the parenting skills of the primary care-giver.

The amendments are being implemented through a phased roll-out. Only pilot sites will be expected to implement changes to current practice from 30 March 2007

A Parent Responsibility Contract is a voluntary agreement in which one or more care-givers agree to accept support to help modify their behaviour in order to improve the safety, welfare and well-being of a child or young person.

A Parent Responsibility Contract is an alternative case management tool that can be used with parents who are failing to meet their parenting obligations where the evidence suggests that the parent/s are willing and able to accept and work with supports to improve their parenting.

Topic	Section	Summary of amendment
Definitions	Section 3	Inserts relevant definitions
Developing PRCs	Section 34	Provides for the development of a parent responsibility contract in consultation with the primary care-giver of a child or young person.
Registering care plans and PRCs	Section 38	Provides that a care plan or a parent responsibility contract is taken to be registered with the Children's Court when it is filed without the need to go before a Magistrate and that orders may be made by consent to give effect to a care plan.
Parent Responsibility Contracts	Section 38A	Defines a parent responsibility contract and details the requirements of the contract, including that it be for no longer than 6 months in duration and only entered into once within any 12 month period for the same primary care-giver. Contracts can make provision a range of matters including for the primary care-giver's attendance at support services for treatment of alcohol, drug or other substance abuse, counselling, participation in alcohol or drug testing, participation in courses aimed at improving parenting skills, information sharing between agencies and monitoring of compliance with the terms of the contract. A parent responsibility contract cannot provide for the re-allocation of parental responsibility or place the child or young person in out-of-home care.
Amendment of PRCs	Section 38B	A parent responsibility contract may be varied, but not so as to increase its duration.
Termination of PRCs	Section 38C	A parent responsibility contract may be terminated by serving a termination notice.
Effect of PRCs	Section 38D	Sets out the effect of a parent responsibility contract including that the refusal to enter into the contract may be used by DoCS as evidence of an attempt to resolve the matter without bringing a care application before the Children's Court.
Contract Breach Notice	Section 38E	Establishes that the consequences of a breach of the contract - that the Director-General may file a contract breach notice with the Children's Court so as to initiate an application for care orders.
Registration	Section 38F/G	Requires the registration of parent responsibility contracts.
Application for care orders	Section 61A	Specifies the process to be followed in the contract breach notice to apply for care orders.
Undertakings	Section 73	Enables the Children's Court to accept undertakings by "responsible persons" for a child or young person - not just the existing carer. Responsible person now includes: a person who has parental or care responsibility, the birth mother or birth father, or the primary care giver.
Treatment programs	Section 75	Extends the general power to make orders about attending a therapeutic or treatment program to apply to a parent.