

Information provision



9.1 Responsibility to provide information to the Department of Community Services

Under section 248 of the Act, Health Services may be required to provide information to the Department of Community Services (DoCS). It is a legal obligation to comply with a request for information made under section 248. Maintaining the confidentiality of a client is not a sufficient reason for failing to respond to a section 248 Request For Information.

The key factors of this provision are:

- The request must be made using the Department of Community Services 'Information Request' form.
- The information requested can only be information relating to the safety, welfare and well-being of a particular child or young person or a class of children or young people.
- The request cannot require Health Services to collect or obtain new information. The request only applies to information already held by the Health Service.

The Department of Community Services may request information about:

- the child or young person's history, current circumstances and their views
- the parent or family
- other relationships
- the agency's role and relationship with the child, young person and family
- the capacity of the parent to adequately care for the child which could include information on domestic violence, drug and alcohol or mental health concerns.

When making a request for information under section 248, the Department of Community Services will clearly outline:

- the subject of the information request and, if this is an adult, their relationship to the child or young person
- how the request for information relates to safety, welfare and well-being and risk of harm issues
- identifying information so Health workers can check they are talking about the appropriate person
- the timeframe for providing the information.

9.2 Agreed timeframes for responding to section 248 requests

NSW Health and the Department of Community Services have agreed the following timeframes for responding to section 248 requests for information. It is important that all staff comply with these timeframes when responding to requests for information.

9.3 After hours and weekend requests

Health Services may receive section 248 requests for information after business hours and on weekends. You are only required to provide information on whether a nominated person has attended a hospital or after hours crisis service.

Area Health Services should make reasonable efforts to respond to after hours and weekend requests for information. The information that you can be reasonably expected to provide includes whether a client has made contact with a Health service, the name of the service, the last date of contact and nature of the contact.

9.4 Urgent requests

If the identity of the Health service that has had contact with a child, young person or other person nominated on the section 248 request is known, Area Health Services should make efforts to respond to the Department of Community Services as soon as practicable within 24 hours. Information that can reasonably be expected to be supplied within this timeframe includes whether the client has made contact with a Health service, the name of the service, the last date of contact with the client and the nature of the contact.

If the identity of the Health service is not known, Area Health Services should make reasonable efforts to establish whether the nominated person has had contact with any Health service in its boundaries. If it is established that the nominated person has had contact with a Health service, you should supply the Department of Community Services within 72 hours with the name of the service, the last date of contact with the client and the nature of the contact.

9.5 Standard requests

Area Health Services should make efforts to provide the Department of Community Services with the requested information within 5-10 days.

9.6 Requests for written reports

Area Health Services must provide the Department of Community Services with the requested information within 3 weeks. This timeframe relates to reports requested under section 248 only.

9.7 Establishment of a central contact point and register for responding to section 248 requests for information

NSW Health and the Department of Community Services have agreed that all section 248 requests for information will be directed to a single central contact point in an Area Health Service using the Department of Community Services 'Information Request' form.

If frontline Health workers receive requests for information directly, they must immediately inform and consult with their service manager and the central contact point with their Area Health Service.

Each Area Health Service must establish a central contact point to which requests can be directed and from which responses to the Department of Community Services will be sent.

Procedures will need to be put in place to allow the appropriate Health service manager to compile the information provided by the Health service and provide this to the central contact point.

All responses to section 248 requests should be made using the 'Response to an Information Request' form. There is a copy of this form in Appendix 5.

Details of the requests and a note as to what information was provided must be recorded in the Health record from which the information was taken.

9.8 Responding to urgent requests for information

In urgent situations, an Area Health Service may provide information to the Department of Community Services by telephone. This information should then be confirmed in writing through the central contact point using the 'Response to an Information Request' form.

9.9 Uncertainty about whether to provide information

Staff with expertise in child protection should be consulted about requests where there is a dispute or uncertainty as to what information should be provided to the Department of Community Services.

9.10 Health workers requesting information from the Department of Community Services

Section 248 also allows the Department of Community Services to provide information to other agencies including Health services. The Department of Community Services is not however obliged to respond to requests from other agencies and will only provide information if they have assessed that it is appropriate in the circumstances. Health workers should use the agency 'Information Request' form in Appendix 5 of this manual when requesting information from the Department of Community Services.

9.11 Information requested by the Child Death Review Team

Under the Children and Young Persons (Care and Protection) Act 1998, the Child Death Review Team can request full and unrestricted access to NSW Health records. Please read NSW Health Circular 96/73 for information about how Area Health Services should respond to requests for information from the Child Death Review Team.

9.12 Protection under legislation for Health workers

Health workers providing information to the Department of Community Services under section 248 are protected by the Children and Young Persons (Care and Protection) Act 1998. Providing this information to the Department of Community Services is not a breach of professional ethics or standards of professional conduct and does not carry liability for defamation or constitute grounds for civil action.

10 Documenting relevant information

Health records provide documented evidence of a child's health, illness, injuries and management for each visit or stay in a health facility. All clinical findings must be recorded in an accurate and objective manner. Reports must be up-to-date and include a full disclosure of all the facts. Health records can be used as evidence in court.

Health records must be kept confidential, current, complete and readily available for patient care.

10.1 Documentation about physical and emotional abuse and neglect of children and young people

You must make sure that all information is accurately recorded, including:

- time of presentation
- languages spoken and need for interpreter
- physical injury, size, colour, shape of markings, type etc - use body maps
- history given by child in the course of a medical examination
- clinical observations and whether these are consistent with the history given by the child and family
- social, emotional, developmental and nutritional assessment of child and family
- all treatment given, for example drugs prescribed, referral for x-ray, admission and reason, blood tests
- growth percentiles.

10.2 Documentation about child sexual assault

All relevant medical information is recorded on the Child Sexual Assault Medical Protocol by appropriate medical practitioners and in the Health records and file notes by other staff members.

The Child Sexual Assault Medical Protocol is used for children up to 14 years old and the Adult Sexual Assault Medical Protocol is used for young people aged 14-16 and over.

10.3 Documenting a report made to the Department of Community Services

If you made the report to Department of Community Services (DoCS), you must record the following information in the client's Health record.

- the time and date the report was made
- the name of the caseworker you spoke to at the DoCS Helpline
- the information given to DoCS
- DoCS response to the report, if known
- the call reference number allocated by the DoCS Helpline.

This information may be attached to the client's health record file using the form in Appendix 5. Written feedback from DoCS to the reporter should also be attached to the client's Health records.

10.4 Documenting situations where consideration is given to making a report

Health workers must document all information relating to child protection concerns in the child or young person's Health record.

If you have considered the possibility of risk to a child but have decided that you do not have reasonable grounds to suspect a child is at risk of harm and therefore make a report to DoCS, you should document:

- the identified risk factors for the child or young person
- the identified preventative factors that mitigate against risk of harm
- whether the DoCS Helpline was consulted, and if so the time and date and the name of the Helpline officer you spoke to, if known
- any supports put in place for the child, young person and their family
- the name of the supervisor or manager consulted, if appropriate.

10.5 Requests for written reports

If you receive a request for a report from DoCS or the courts, you must document in the client's Health record the source of the request, the means of receiving the request, and the original request. A copy of the report given to the Department of Community Services or to the court must also be placed in the client's Health record.

You must inform your supervisor or manager that you are providing a report to DoCS. For more information about the procedures for reports requested under section 248 of the Act, please see Chapters 9 and 10.

If a written report is provided as a result of a section 173 medical examination order, the names of the children to be examined, and any reasons given by the parents for not agreeing to the notice requiring a medical examination, should be included. NSW Health does not charge for providing reports requested by the Department of Community Services.

10.6 Documentation of section 248 exchange of information requests

If section 248 requests for information are received from the Department of Community Services, the request and a note as to what information was provided should be recorded in the Health record from which the information was taken.

10.7 Access to health records by children, young people and their families

There are special provisions to protect the confidentiality of clients if records are subpoenaed during child sexual assault counselling. For more information, please refer to NSW Health Circular 99/18 and the NSW Health Privacy Code of Conduct about client access to sensitive records, NSW Health Circular 98/29 about subpoenas, and to the Criminal Procedure Act 1986 and the Evidence Act 1997.

11

Best endeavours requests for service

11.1 What are best endeavours requests for service?

Under section 17 of the Children and Young Persons (Care and Protection) Act 1998, the Director-General of the Department of Community Services may request services from other agencies.

S.17. In deciding what action should be taken to promote and safeguard the safety, welfare and well-being of a child or young person, the Director-General may request a government department or agency, or a non-government agency in receipt of government funding, to provide services to the child or young person or to his or her family.

Agencies have a legislative obligation to cooperate with the Department of Community Services when it makes a request for assistance under section 17. The Act states that:

S. 18. The government department or agency must use its best endeavours to comply with the request made to it under S.17 if it is consistent with its own responsibilities and does not unduly prejudice the discharge of its functions.

In addition, under section 85 of the Act, the Children's Court may make requests which also require agencies to use the same standard to respond.

S. 85 A government department or agency or a funded non-government agency that is requested by the Children's Court to provide services to a child or young person or his or her family in order to facilitate restoration is to use its best endeavours to provide those services.

11.2 Interagency agreements for best endeavours requests

The *Interagency Guidelines for Child Protection Intervention 2000* provide some agreed parameters for making and responding to section 17 best endeavours requests.

'Best endeavours' means to exercise a genuine and considered effort to respond to a request for services to promote and safeguard the safety, welfare and well-being of the child or young person.

Requests may involve clients who in the first instance do not attend, or who appear reluctant to attend services. In such cases 'best endeavours' would include practitioners making efforts to follow up the person referred and encourage their attendance.

In using best endeavours government agencies should:

- have documented intake procedures for children, young people and families that prioritise those who are vulnerable
- consider risk of harm issues in prioritising the request for a service
- manage services flexibly to deal with high demand so that children or young people's safety, welfare or well-being is not compromised
- deliver accessible services
- use active attempts to engage families and assist families to make use of services offered.

(Interagency Guidelines for Child Protection S2.4.3 p53)

11.3 Elements required for DoCS to make a best endeavours request

Under agreement with the Department of Community Services, the following elements will be present for best endeavours requests from DoCS Community Service Centres:

- DoCS has assessed that a child or young person is at risk of harm and may be in need of care and protection.
- DoCS is in the process of, or has undertaken, a risk assessment.
- A case plan has been developed which is provided with the written request to the Health Service.
- DoCS is involved in follow up and monitoring.

Under agreement between the Department of Community Services and NSW Health, the DoCS Helpline will be able to make best endeavours requests in limited situations which require:

- urgent mental health assessment or intervention
- forensic medical examination
- emergency medical treatment
- other crisis or trauma intervention.

These requests may not require ongoing follow up by the Department of Community Services, but will be limited to cases where a child or young person is assessed to be at risk of harm and a written request is made accompanied by a case plan. For these purposes, a 'crisis or trauma intervention' is a situation where there has been a critical incident such as a major accident and a crisis mental health response is needed.

All other best endeavours requests for a service will be made from the local Community Service Centre (CSC).

11.4 Monitoring requirements for section 17 and section 85 best endeavours requests for service

The introduction of 'best endeavours' requests for service is not intended to replace existing effective referral mechanisms between the Department of Community Services and NSW Health. A registration and monitoring system is being established to monitor the frequency with which 'best endeavours' requests for service are made to Health Services and their effectiveness and impact. It will be an electronic system loaded onto the NSW Health intranet.

The database will enable NSW Health and Area Health Services (AHS) to report:

- the total number of section 17 and section 85 requests received by the AHS each month
- requests which have not been responded to
- the services to which requests are being made
- the number of requests which are unable to be met and the reasons for this
- the time frames for responding to requests and providing the service.

Each Area Health Service is required to record information on all section 17 and 85 requests for service. A senior officer of the AHS will be responsible for monitoring unmet requests and resolving disagreements between Health services. Bi-monthly reports are to be sent to the NSW Health Department.

Information will be provided to the central register at three intervals:

- at the time the original request is received
- at the time of responding to DoCS in relation to whether the request is accepted
- six weeks after the request is accepted by the Health Service to report on the outcome to date.

11.5 Process for section 17 and section 85 best endeavours requests

Best endeavours requests will be sent by the Department of Community Services on the 'DoCS - section 17 Request for Service' form. The request will include a case plan and will be sent to the Manager of the Health Service from which the service is sought. When a request is received, a copy of the DoCS request must be immediately sent to the central register.

The Health Service Manager will send or transmit a written response to the Community Services Centre (CSC) using the 'NSW Health Response to Best Endeavours Request for Service' form. There is a copy of this form in Appendix 5. The response will state whether the service can be provided or not and the time frame for providing it. A copy of the response must also be sent to the central register.

Health Services are expected to respond as quickly as practicable to these requests. The service provider should contact the CSC within 2 working days of receiving the request to provide information on the status of the request. These referrals must be resolved promptly to enable the Department of Community Services to identify alternative agencies that can deliver the requested service.

If the Health service is able to provide the service, the CSC will then notify the family or individual and arrange for the necessary planning meetings to agree on the goals of the intervention.

If a Health service has agreed to provide a service to a section 17 or section 85 request, the central register should be updated after six weeks to include information on the outcome of the request. Please use the 'Update to Best Endeavours Request for Service Form' in Appendix 5.

11.6 Section 17 DoCS Helpline requests

In limited circumstances the DoCS Helpline may request 'best endeavours' responses, as outlined in chapter 11.3. These will usually be directed to Mental Health Services and Sexual Assault Services. If a 'best endeavours' response is sought by the DoCS Helpline, these requests will be directed to the Health service from which the service is sought.

Written confirmation will be sent to the central register, with a copy also being directed to the Helpline. The process for registering these reports is the same as for other section 17 requests. Verbal confirmation will be given to the DoCS Helpline as to whether the service can be provided.

The Health Service Manager will then send or transmit a written response to the DoCS Helpline using the 'NSW Health Response to Best Endeavours Request For Service' Form. The response will state whether or not the service will be or has been provided. A copy of the response must also be sent to the central register at the same time.

In these cases the written response will be faxed to the DoCS Helpline on 02-9633-7601 or on 02-9633-7633.

11.7 Criteria for accepting section 17 and section 85 best endeavours requests

A Health service should provide the services requested under section 17 of the Children and Young Persons (Care & Protection) Act 1998 unless:

- the service requested is not currently provided by the service
- the service requested is not consistent with the service responsibilities
- providing the service would prejudice the discharge of the service functions.

If a service is at capacity, priority should be given to section 17 requests on any waiting list unless there are demonstrable acute clinical reasons for other referrals to take precedence.

Concerns about the appropriateness of a request or the lack of information provided are not sufficient grounds to refuse to provide a service. If there are such concerns, the Service Manager should consult with the appropriate Department of Community Services Manager to discuss and resolve these issues.

Concerns that providing a service as requested may place Health workers at risk should also be discussed internally and with the appropriate Department of Community Services Manager to find out if a safe alternative means of providing the service is available.

Agreement to the provision of a service should not be made if it is considered that the safety of a Health worker will be placed at risk.

The Department of Community Services should be advised that provision of the service would be inconsistent with the Area Health Service's Occupational Health and Safety obligations. This reason for refusal to provide a service is likely to be rare and may mean that another agency may need to provide a service, such as the Police.

You should also consider whether the service could be provided from an alternative agency or site within the Area Health Service if this will meet the needs of the client. This can be negotiated between the managers of the Health Service in question. The service originally approached to provide the request retains responsibility for informing the Department of Community Services of the outcome of the request.

Area Health services need to establish procedures for senior staff to resolve differences in relation to responsibility to accept section 17 and 85 best endeavours requests. The responsibility for these requests lies with the Area Health Service, not just with individual services.

If the Health Service cannot accept the request, the Manager must inform the Department of Community Services of the reasons using the 'Response to Best Endeavours Request for Service Form' in Appendix 5.

It is then the role of the Department of Community Services to locate another appropriate service or consider reconvening a case planning meeting to identify alternative responses.

Area Health Services may make service specific agreements with the Department of Community Services in relation to priority groups.

12

Other referrals from the Department of Community Services

In addition to section 17 and section 85 requests for service, Health workers may receive other referrals from the Department of Community Services (DoCS). These referrals fall into two categories:

- DoCS Helpline requests for assistance
- General referrals

12.1 Department of Community Services Helpline requests for assistance

The first type of referral is generated where there is no follow up required by DoCS. These requests are made in response to a caller whose assessed needs or requests can be met by offering a service not provided by DoCS.

DoCS will help the caller to contact the service provider by either giving them a letter of introduction or contacting the service for them. They will only initiate the contact if the caller has some difficulty accessing the service because of, for example, limited mobility or isolation issues or the caller has requested that DoCS initiate contact on their behalf. The 'best endeavours' principle does not apply in these cases.

12.2 General referrals from the Department of Community Services

There may be some referrals from the local office of DoCS that will not require ongoing monitoring by DoCS. The 'best endeavours' principle does not apply in these cases. These are cases where DoCS has established that risk of harm no longer exists but the family may need help to access services.

12.3 Worker safety

Safety factors must be considered by the DoCS in making referrals to Health services. DoCS has the responsibility to share information with Health services about any known risk of violence or other safety threats to staff or clients.

12.4 NSW Health responsibilities in relation to referrals

All Health services that receive a referral from DoCS must consider the possible existence of child protection issues when determining the priority to be given to the referral. Health services must have documented intake procedures that outline the need to prioritise those who are vulnerable, including referrals from DoCS involving possible or identified child protection issues. Clients must also consent to the provision of a service.

12.5 Referrals by the Department of Community Services to specialist physical abuse and neglect of children (PANOC) services

Specialist PANOC services accept referrals of children and young people assessed to be at high and medium risk of harm. Due to the large number of potential referrals, priority groups for referrals to specialist PANOC services have been agreed with DoCS

These priority groups are families with the following risk factors:

- a previous child death in the family from non-accidental injury
- the previous assumption of care or removal of the child or other siblings in the family

- serious physical or psychological injury as a result of physical abuse or domestic violence
- a child under 5 years where PANOC has occurred
- multiple PANOC reports about the child
- polysubstance abuse by the parents or caregivers
- a parent or child with a disability.

Referrals where a combination of any of these factors exist should be accepted as a higher priority by PANOC services. This could be, for example, a situation where there has been previous assumption of care of a child and there is polysubstance abuse by the parents or caregivers.

If referrals are received outside these priority groups that the PANOC Coordinator or Manager considers to be of a higher priority, they have discretion to accept that referral in consultation with DoCS. The PANOC Coordinator or Manager should record the reason for giving priority to that referral in the Health record of the referred child or young person.

Referrals to specialist PANOC services occur when DoCS has assessed that the child is at risk of harm and is in need of care and protection. Referrals to specialist PANOC services will only occur when a protective framework has been agreed upon by DoCS and the PANOC service and structures have been put into place to ensure the child is no longer at immediate risk of harm.

DoCS will be actively involved at the time of referral to specialist PANOC services, but may not remain actively involved with the family for the duration of the PANOC service. In such situations, a designated DoCS officer will be identified and the agreed process for monitoring roles and responsibilities will be stipulated in the case plan agreed at the time DoCS reduces contact with the family.

Due to the large numbers of potential referrals, other Health services such as Child and Family Teams, Child and Adolescent Mental Health Services or Youth Health Services will also be required to respond to referrals from these priority groups. It is likely that these referrals will be made under sections 17 and 18 of the Children and Young Persons (Care and Protection) Act 1998 requiring Health services to use their best endeavours to provide a service.

12.6 Process for accepting PANOC referrals

All referrals to PANOC services must occur through a case planning process. There must be a protection planning meeting involving DoCS, the Health service, the family and, where possible and appropriate, the child or young person.

Preliminary case planning should include a discussion between the referring DoCS officer and the Manager of the PANOC service or designated PANOC worker. This initial process is a means of gathering relevant information to determine whether the PANOC service is the most appropriate service and whether it is able to accept the referral. This process must not take the place of a protection planning meeting.

The protection planning meeting must occur before the PANOC Service provides a service to the child, young person or family. However the PANOC Service may negotiate with the family and the DoCS to meet the family before the protection planning meeting to begin the rapport building process.

Within six months of the referral, a review meeting must be held between the family, including the child or young person where appropriate, the designated DoCS officer and the PANOC service. The purpose of this review is to make sure that the family and services involved are aware of any progress made or to decide on new strategies if there are still protective concerns.

If a service is provided to a child, young person or family for more than six months, a review meeting must be held within each six month period.

12.7 Referrals by the Department of Community Services to sexual assault services for children under the age of 16 years

Sexual assault services provide counselling to children where the outcome of the DoCS risk assessment is that the child is at risk of harm and the assessment indicates that the child has been sexually assaulted.

This referral will be provided in writing to the Sexual Assault Service with the other outcomes of the risk assessment.

The case planning process between the Sexual Assault Service, DoCS and where relevant NSW Police will establish what protective and investigative action has occurred and what, if anything, needs to be addressed.

Counselling intervention with children under the age of fourteen years should not be provided until NSW Police or DoCS has attempted to interview the child.

NSW Police and DoCS will make the early interviewing of children a priority so that prompt support can be provided for the child without risk of contamination. Early referral to Sexual Assault Services by DoCS and Police will enable Sexual Assault Services to make immediate contact with non-offending caregivers and children over fourteen years to provide counselling in the crisis period.

If the child has not made a disclosure during a DoCS or Police interview, or the child has not been interviewed by DoCS or the Police, a case planning meeting will be called with the DoCS caseworker, a representative of the Sexual Assault Service and the relevant police officer.

The purpose of this meeting is to discuss and document:

- whether there is an intention to interview the child and when
- if the child will not be interviewed or has not disclosed, whether a belief can be formed that the child has been sexually assaulted
- the reasons why no police action is being taken at this stage, if this is the case
- the basis for re-opening the criminal investigation if this has been discontinued
- the timetable and process for review
- the tasks and role of each agency
- whether safety issues have been addressed.

If in this process a belief can be formed that the child has been sexually assaulted, and the other issues have been addressed, the Sexual Assault Service may proceed with providing counselling to the child.

12.8 Sexual assault presentations of children and young people to a medical service

If a child presents directly to an emergency department and there are reasonable grounds to suspect the child is at risk of harm as a result of being sexually assaulted, this should be reported immediately to the DoCS Helpline. The response and any examination will be coordinated by the Sexual Assault Service or Child Protection Unit.

If possible, medical examination of the child should be delayed until the child has been spoken to by an officer from the Police or DoCS. If necessary, an officer from DoCS or the Police will attend the service before the examination is done. This might include circumstances in which an urgent forensic medical examination is required and an interview with the child is necessary to establish the nature of the medical examination needed or to prevent the loss of other evidence.

Medical symptoms warranting immediate examination or treatment include pain, bleeding, discharge, bruising, possibility of pregnancy, prophylaxis and other forensic indicators. The necessary patient consent must always be obtained for any medical examination.

Referrals for urgent forensic examination may at times also be made directly from the DoCS Helpline.

The decision to provide a forensic medical examination at the time of presentation will be made by the Sexual Assault Service or Child Protection Unit counsellor and medical officer in consultation with the DoCS Helpline. The process for these examinations will comply with NSW Health Sexual Assault Policy and Procedures Manual. Before conducting the examination, appropriate consent of the child, young person or their parent or caregiver, or authorised consent from DoCS should be obtained.

Whether or not a child is examined at this time, counselling can be provided to the non-offending caregivers and children fourteen years and over. The Health service can later follow up the case with DoCS to ensure re-referral.