HEALTH RECORDS & INFORMATION MANUAL
FOR COMMUNITY HEALTH FACILITIES

AMENDMENT NO 56 -60.
56(29/10/15)
57(30/6/16)
58(20/10/16)
59(8/10/15)
60(18/8/16)

Where a number appears at the bottom of an amended page [e.g. 51(01/10/15) – amendment number, date] an alteration has been made or new section included. The amendments as indicated reflect the provisions of Policy Directives/Guidelines/Information Bulletins:

- PD2015_047 - Photo and Video Imaging in Cases of Suspected Child Sexual Abuse, Physical Abuse and Neglect
- PD2016_025 - Child Related Allegations, Charges and Convictions against NSW Health Staff
- PD2016_047 - Employment Checks - Criminal Record Checks and Working with Children Checks
- GL2015_012- Non-Admitted Patient Data Collection Transition from WebNAP to EDWARD Reporting
- IB2016_039 Non-Admitted Patient Data Collection: Changes for Reporting via WebNAP effective 1 July 2016

as notified by Strategic Relations and Communications on
29 October 2015
30 June 2016
20 October 2016
8 October 2015 and
18 August 2016 respectively

The Manuals and complete amendments are available on the Internet at http://www.health.nsw.gov.au/policies/manuals/Pages/default.aspx

If you choose to print the amendment, ensure you print it double sided.

If you are missing any amendments please email cgrm@doh.health.nsw.gov.au They can be emailed to you in an electronic version.

<table>
<thead>
<tr>
<th>PAGE(S) REMOVED</th>
<th>PAGE(S) INSERTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index</td>
<td>Index</td>
</tr>
<tr>
<td>197 - 226</td>
<td>197 - 226</td>
</tr>
<tr>
<td>245-312</td>
<td>245 – 312</td>
</tr>
</tbody>
</table>
## Index

### A
- **ABORIGINAL - TORRES STRAIT ISLANDER - INFORMATION** ................................................................. 137
- **ADOPTION ACT 2000 - RELEASE - INFORMATION** ........................................................................... 23
- **ADULT-TO-ADULT - LIVING DONOR LIVER TRANSPLANT** .............................................................. 115
- **ACUTE RHEUMATIC FEVER & RHEUMATIC HEART DISEASE – NOTIFICATION OF** .................. 312

### C
- **CHARGES - CONVICTIONS - CHILD RELATED ALLEGATIONS** ........................................................ 197
- **CHARGING - HEALTH RECORDS - MEDICAL/CLINICAL REPORTS** ............................................. 76
- **CHILD PROTECTION - POLICIES - CHILD WELLBEING** ................................................................. 127
- **CHILD RELATED ALLEGATIONS - CHARGES - CONVICTIONS** .................................................... 197
- **CHILD SEXUAL ABUSE, PHYSICAL ABUSE, NEGLECT- PHOTO AND VIDEO IMAGING** ............ 212
- **CHILD WELLBEING - CHILD PROTECTION - POLICIES** ................................................................. 127
- **CONFIDENTIALITY - NOTIFIABLE CONDITIONS - DATA SECURITY** ............................................. 129
- **CONSENT - DISABILITY SERVICES - GUARDIANSHIP ACT** ......................................................... 122
- **CONSENT - FORMS** ......................................................................................................................... 116
- **CONSENT - MEDICAL TREATMENT - PATIENT INFORMATION** ....................................................... 85
- **CONVICTIONS - CHILD RELATED ALLEGATIONS - CHARGES** ..................................................... 197
- **CREMATION CERTIFICATES - FEES/CHARGES** ............................................................................. 84
- **CRIMINAL - WORKING WITH CHILDREN - EMPLOYMENT CHECKS** ......................................... 245

### D
- **DATA SECURITY - CONFIDENTIALITY - NOTIFIABLE CONDITIONS** .............................................. 129
- **DISABILITY SERVICES - GUARDIANSHIP ACT - CONSENT** ......................................................... 122
- **DISEASES - PUBLIC HEALTH ACT - NOTIFICATION** .................................................................... 124
- **DISPOSAL AUTHORITY - GA45 - GENERAL RETENTION** ................................................................. 190
- **DISPOSAL AUTHORITY - GDA17 - GENERAL RETENTION** .............................................................. 148
- **DOCUMENTATION - MANAGEMENT - HEALTH CARE RECORDS** .............................................. 298

### E
- **EDWARD REPORTING – NON-ADMITTED PATIENT DATA - TRANSITION WEBNAP** ................. 271
- **ELECTRONIC INFORMATION - SECURITY POLICY - NSW HEALTH** ........................................... 31
- **EMPLOYMENT CHECKS - CRIMINAL - WORKING WITH CHILDREN** ........................................... 245

### F
- **FEES/CHARGES - CREMATION CERTIFICATES** ............................................................................. 84
- **FORMS - CONSENT** ......................................................................................................................... 116
- **FORMS - STATE HEALTH** ................................................................................................................ 289

### G
- **GA45 - GENERAL RETENTION - DISPOSAL AUTHORITY** ............................................................... 190
- **GDA17 - GENERAL RETENTION - DISPOSAL AUTHORITY** ............................................................. 148
- **GENERAL RETENTION - DISPOSAL AUTHORITY - GA45** ............................................................. 190
- **GENERAL RETENTION - DISPOSAL AUTHORITY - GDA17** .......................................................... 148
- **GUARDIANSHIP ACT - CONSENT - DISABILITY SERVICES** ............................................................ 122

### H
- **HEALTH CARE RECORDS - DOCUMENTATION - MANAGEMENT** .............................................. 298
- **HEALTH RECORDS - MEDICAL/CLINICAL REPORTS - CHARGING** ........................................... 76
- **HEALTH RECORDS - MEDICAL/CLINICAL REPORTS - RATES** .................................................... 82
- **HEALTH RESEARCH - INTELLECTUAL PROPERTY** .......................................................................... 274
<table>
<thead>
<tr>
<th>Category</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INFORMATION - ABORIGINAL - TORRES STRAIT ISLANDER</td>
<td>137</td>
</tr>
<tr>
<td>INFORMATION - ADOPTION ACT 2000 - RELEASE</td>
<td>23</td>
</tr>
<tr>
<td>INTELLECTUAL PROPERTY - HEALTH RESEARCH</td>
<td>274</td>
</tr>
<tr>
<td>LIVING DONOR LIVER TRANSPLANT - ADULT-TO-ADULT</td>
<td>115</td>
</tr>
<tr>
<td>MANAGEMENT - HEALTH CARE RECORDS - DOCUMENTATION</td>
<td>298</td>
</tr>
<tr>
<td>MANAGEMENT - TUBERCULOSIS</td>
<td>136</td>
</tr>
<tr>
<td>MANAGING - MISCONDUCT</td>
<td>227</td>
</tr>
<tr>
<td>MEDICAL TREATMENT - PATIENT INFORMATION - CONSENT</td>
<td>85</td>
</tr>
<tr>
<td>MEDICAL/CLINICAL REPORTS - CHARGING - HEALTH RECORDS</td>
<td>76</td>
</tr>
<tr>
<td>MEDICAL/CLINICAL REPORTS - RATES - HEALTH RECORDS</td>
<td>82</td>
</tr>
<tr>
<td>MIDDLE EAST RESPIRATORY SYNDROME - NOTIFICATION</td>
<td>125</td>
</tr>
<tr>
<td>MISCONDUCT - MANAGING</td>
<td>227</td>
</tr>
<tr>
<td>NOTIFIABLE CONDITIONS - DATA SECURITY - CONFIDENTIALITY</td>
<td>129</td>
</tr>
<tr>
<td>NOTIFICATION - DISEASES - PUBLIC HEALTH ACT</td>
<td>124</td>
</tr>
<tr>
<td>NOTIFICATION - MIDDLE EAST RESPIRATORY SYNDROME</td>
<td>125</td>
</tr>
<tr>
<td>NSW HEALTH - ELECTRONIC INFORMATION - SECURITY POLICY</td>
<td>1</td>
</tr>
<tr>
<td>PATIENT INFORMATION - CONSENT - MEDICAL TREATMENT</td>
<td>85</td>
</tr>
<tr>
<td>POLICIES - CHILD WELLBEING - CHILD PROTECTION</td>
<td>127</td>
</tr>
<tr>
<td>PHOTO AND VIDEO IMAGING - CASES OF SUSPECTED CHILD SEXUAL ABUSE, PHYSICAL ABUSE AND NEGLECT</td>
<td>212</td>
</tr>
<tr>
<td>PRIVACY MANAGEMENT PLAN - NSW HEALTH</td>
<td>1</td>
</tr>
<tr>
<td>PUBLIC HEALTH ACT - NOTIFICATION - DISEASES</td>
<td>124</td>
</tr>
<tr>
<td>RATES - HEALTH RECORDS - MEDICAL/CLINICAL REPORTS</td>
<td>82</td>
</tr>
<tr>
<td>RELEASE - INFORMATION - ADOPTION ACT 2000</td>
<td>23</td>
</tr>
<tr>
<td>RHEUMATIC FEVER (ACUTE) &amp; RHEUMATIC HEART DISEASE – NOTIFICATION OF</td>
<td>312</td>
</tr>
<tr>
<td>SECURITY POLICY - NSW HEALTH - ELECTRONIC INFORMATION</td>
<td>31</td>
</tr>
<tr>
<td>STATE HEALTH - FORMS</td>
<td>289</td>
</tr>
<tr>
<td>SUBPOENAS</td>
<td>47</td>
</tr>
<tr>
<td>SYPHILIS</td>
<td>126</td>
</tr>
<tr>
<td>TORRES STRAIT ISLANDER - INFORMATION - ABORIGINAL</td>
<td>137</td>
</tr>
<tr>
<td>TUBERCULOSIS - MANAGEMENT</td>
<td>136</td>
</tr>
<tr>
<td>WEBNAP – NON-ADMITTED PATIENT DATA COLLECTION – CLASSIFICATION AND CODE</td>
<td>269</td>
</tr>
<tr>
<td>WEBNAP TO EDWARD – NON-ADMITTED PATIENT DATA COLLECTION</td>
<td>271</td>
</tr>
<tr>
<td>WORKING WITH CHILDREN - EMPLOYMENT CHECKS - CRIMINAL</td>
<td>245</td>
</tr>
</tbody>
</table>
CHILD RELATED ALLEGATIONS, CHARGES OR CONVICTIONS AGAINST NSW HEALTH STAFF (PD2016_025)

PD2016_025 rescinds PD2006_025

PURPOSE

This Policy Directive and the attached Procedures set out the mandatory requirements for managing child related allegations, charges and convictions involving NSW Health staff, which includes, for the purpose of this policy, anyone working in NSW Health, whether as a paid staff member or engaged in any other capacity, including as a volunteer, Visiting Practitioner, student attending clinical placement or anyone else appointed on an honorary or contractual basis. It also applies to staff of the NSW Ministry of Health.

Child related allegations and convictions include any alleged behaviour or criminal charges or convictions against NSW Health staff that may constitute reportable conduct, as specified under Part 3A of the Ombudsman Act 1974, where the alleged victim was under the age of 18 years at the time of the alleged behaviour; this extends to child pornography, non-work related and historical matters.

This Policy Directive includes the requirements of the Ombudsman Act 1974 and the requirements of Part 5 of the Child Protection (Working with Children) Act 2012.

MANDATORY REQUIREMENTS

All child related allegations and convictions against current NSW Health staff members must be:

- Reported to the Child Protection Helpline if there is suspected risk of significant harm relating to a child or a class of children:
  - Where there are concerns about a child that do not meet the threshold for a mandatory report, the NSW Health Child Wellbeing Unit must nevertheless be contacted.
- Reported to the NSW Police if there is alleged criminal conduct
- Notified to the employing Chief Executive (or Secretary, NSW Health in the case of NSW Ministry of Health staff), including where the person works in a different NSW Health organisation to where the allegation has been identified
- Notified to the NSW Ministry of Health via a Reportable Incident Brief (RIB) by the Chief Executive (or delegated person) within 24 hours
- Investigated (unless the facts are clear and uncontested), risk managed and findings made, consistent with the processes in the NSW Health policy on Managing Misconduct (or Government Sector Employment Act in the case of NSW Ministry of Health staff) and the requirements of this policy
- Notified to the NSW Ombudsman using Part A of the Ombudsman’s Notification Form as soon as possible and in any event within 30 days of the matter being brought to the attention of the NSW Health organisation (unless the matter falls outside of the definition of reportable conduct)
  - The NSW Ombudsman must also be notified of the outcome using Part B of the Ombudsman’s Notification form and, unless otherwise advised by the Ombudsman, be provided with the documentation relevant to the investigation and findings.
- Notified to the Children’s Guardian if the staff member is classified as a child related worker and there has been a finding of sexual misconduct committed against, with or in the presence of a child, or a serious physical assault of a child
• Notified to the Australian Health Practitioner Registration Agency:
  o If there is a reasonable belief of notifiable conduct by a registered health practitioner. Under the Health Practitioner Regulation National Law (NSW) notifiable conduct includes practising while intoxicated by alcohol or drugs; sexual misconduct in the practice of the profession; placing the public at risk of substantial harm because of an impairment (health issue); or placing the public at risk because of a significant departure from accepted professional standards
  o Any conduct of a registered health practitioner that the Chief Executive suspects on reasonable grounds may constitute professional misconduct or unsatisfactory professional conduct under the Health Practitioner Regulation National Law (NSW).

Service Check Register records must be created in accordance with the requirements of the NSW Health Service Check Register Policy.

Where a child related allegation, charge or conviction is work related and involves a former NSW Health staff member, the Chief Executive of the relevant NSW Health organisation must be notified, support offered to the alleged victim and reports made to external agencies as appropriate. Any available information should also be reviewed from a systemic perspective and a focus on ensuring the ongoing safety of children.

Records relating to child related allegations, charges and convictions must be kept securely and maintained for 100 years before being destroyed, noting that they may be subject to audit by the NSW Ombudsman.

IMPLEMENTATION

The following have key responsibilities in relation to this Policy Directive:

Chief Executives are required to:
• Have in place procedures for ensuring that all staff are made aware of their responsibilities for reporting child related allegations, charges or convictions involving anyone working in NSW Health
• Have in place procedures for managing child related allegations, charges or convictions, including the requirement for the Chief Executive to be notified.

Workforce Directorates / Human Resource Departments / Internal audit Units / Governance or Professional Conduct and Standards Units are required to
• Ensure provision of information, advice and monitoring as necessary to support effective implementation of this policy.

All staff are required to:
• Notify their line manager or supervisor, or other delegated position, as specified in local procedures, if they become aware of any child related allegations, charges or convictions involving a NSW Health staff member
• Self-disclose any child related criminal charges and/or convictions against them.
1 BACKGROUND

1.1 About this document

Child related allegations, charges and convictions involving anyone engaged in work in NSW Health, whether for paid or unpaid work, must be managed in accordance with this Policy Directive and Procedures and consistent with the processes outlined in the NSW Health policy on Managing Misconduct, or in the case of staff of the Ministry of Health, the Government Sector Employment Act 2013, supported by the NSW Public Service Commission’s Employment Portal. These Procedures set out the requirements for managing child related allegations, charges and convictions, where the requirements vary from, or are in addition to, those of the NSW Health policy for Managing Misconduct.

This Policy Directive and Procedures should be read in conjunction with other relevant NSW Health policies, such as those on Child Wellbeing and Child Protection, Sexual Assault Services, Service Check Register for NSW Health, Managing Concerns or Complaints About Clinicians and Incident Management.

1.2 Key definitions

Child is, for the purpose of this policy, a person under the age of 18 years of age as defined by the Ombudsman Act 1974 and the Child Protection (Working with Children) Act 2012. Refer to section 1.3.3 of these Procedures for the definition of a child and young person under the Children and Young Person’s (Care and Protection) Act 1998.

Child related allegation is an allegation or criminal charge against a current NSW Health staff member that involves reportable conduct or misconduct that may involve reportable conduct.

Child related conviction is a conviction, including a finding of guilt without the court recording a conviction, against a NSW Health staff member, for an offence involving reportable conduct.


Class of children is a group of children who may be at risk of harm from abuse because of a person or situation.

NSW Health Child Wellbeing Units are units staffed by child protection professionals who are able to provide telephone advice and support to NSW Health workers in determining the level of risk of harm and responding to the needs of vulnerable children, young people, pregnant women and families.

NSW Health organisation is, for the purposes of this policy, any public health organisation as defined under the Health Services Act 1997, NSW Ambulance, Health Infrastructure, HealthShare NSW, NSW Health Pathology, E-Health, any other administrative unit of the Health Administration Corporation, and Albury-Wodonga Health in respect of staff who are employed in the NSW Health Service, and the NSW Ministry of Health.

NSW Health Service includes all persons employed under Chapter 9, Part 1 of the Health Services Act 1997.

JIRT is a Joint Investigation Response Team made up of the Department of Family and Community Services (FACS), NSW Police Force and NSW Health Professionals working collaboratively to jointly manage statutory child protection matters (reports of sexual abuse and serious physical abuse and neglect of children and young people) that require a criminal justice and health response.
Reportable conduct is defined under Part 3A of the *Ombudsman Act 1974* as:

a. Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material) or
b. Any assault, ill treatment or neglect of a child or
c. Any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child.

The Ombudsman Act also states that reportable conduct does not include:

- Conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- Use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures.

For further information about what constitutes reportable conduct, refer to the NSW Ombudsman’s Fact Sheet *Defining Reportable Conduct*.

Staff member, for the purpose of this policy, is anyone working in NSW Health, whether as a paid staff member or engaged in any other capacity, including as a volunteer, Visiting Practitioner, student attending clinical placement or anyone else appointed on an honorary or contractual basis.

### 1.3 Legal and Legislative Framework

#### 1.3.1 Ombudsman Act 1974 and Ombudsman Regulation 2011

The *Ombudsman Act 1974* and the *Ombudsman Regulation 2011* prescribe the responsibilities of heads of agencies for preventing, and for responding to, child related allegations, charges and convictions against staff. Consistent with this Act, NSW Health Chief Executives are required to notify the NSW Ombudsman of all child related allegations, charges or convictions involving NSW Health staff as soon as is practical or at the latest within 30 days of becoming aware of the matter.

Child related allegations and convictions notifiable to the Ombudsman include conduct that has occurred outside of work or prior to the staff member’s engagement in NSW Health, including historic matters where the alleged victim may now be an adult.

NSW Health organisations are required to inform the Ombudsman of the results of their investigations into child related allegations and convictions and the action taken, or proposed to be taken, in response to such allegations or convictions.

Chief Executives are also required to ensure that all staff are informed of their obligation to notify the Chief Executive when they become aware of any child related allegation, charge or conviction against anyone working in NSW Health, and to ensure that there are clear internal reporting lines to facilitate this.

For further information, including contact details for the NSW Ombudsman’s office, refer to the Ombudsman’s website at [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)
1.3.2 The Child Protection (Working with Children) Act 2012

The Child Protection (Working with Children) Act 2012 requires notifications to the Office of the Children’s Guardian (the Children’s Guardian) of investigation findings where a child-related worker has been found to have engaged in either sexual misconduct (including sexual offences) committed against, with, or in the presence of a child, or a serious physical assault of a child.

The notification should be completed as soon as a final determination has been made by the NSW Health organisation that sexual misconduct or serious physical assault has occurred, even if appropriate disciplinary action in respect of the misconduct has not yet been determined or review or appeal processes remain available.

For further information about matters requiring notification to the Children’s Guardian, refer to their Fact Sheet ‘Information for Reporting Bodies: Reporting Certain Misconduct Involving Children’.

1.3.3 Children and Young Persons (Care and Protection) Act 1998

The Children and Young Persons (Care and Protection) Act 1998 provides for the care and protection of, and the provision of services to, children and young people. Under this Act, a child is defined as a person who is under the age of 16 years and a young person is a person who is aged 16 and above but under the age of 18 years.

A key object of this Act is for all institutions, services and facilities responsible for the care and protection of children and young people to provide an environment for them that is free of violence and exploitation. It prescribes the role of the Community Services and the role of families, agencies and communities in relation to child protection, and the role of mandatory reporters. It also provides the mechanisms by which prescribed bodies may exchange information relating to the safety, welfare or well-being of a particular child or young person or class of children or young persons. For further information, refer to the current NSW Health policies on Child Wellbeing Units and Child Protection Policies and Procedures for NSW Health.

2 INITIAL REVIEW AND RESPONSE

A child related allegation or conviction may arise or be identified through a number of sources, including:

- Information provided from a Child Wellbeing Unit, JIRT Referral Unit, local JIRT Unit, the Police, Family and Community Services, to the NSW Health organisation directly or via the NSW Ministry of Health’s Workplace Relations Branch
- Complaints or concerns, including those made by patients, their carers, or anonymously and including those relating to clinical procedures
- From a presentation to an Emergency Department or other NSW Health facility
- From a manager’s or colleague’s observations
- Self-disclosure by a staff member or
- From information in circulation in the public domain, either through formal channels arising from coverage of matters under investigation (i.e. press reporting) or informal channels (social media channels etc.).

The NSW Health policy on Child Protection should be referred to for guidance on how to respond to disclosures of child wellbeing concerns or abuse.
Once action has been taken to address any immediate risks, the information should be forwarded to the Workforce Director or equivalent of the NSW Health organisation, or other position as specified in local procedures, to determine if the matter constitutes a child related allegation or conviction requiring notification to the Chief Executive and to the Ombudsman.

2.1 Determining if a matter constitutes a child related allegation or conviction?

A child related allegation or conviction must contain the following three elements:

- A description of alleged behaviour or details of a criminal charge or conviction that may constitute reportable conduct, and
- The allegation or conviction is against a current NSW Health staff member as defined in section 1.2 of this policy, and
- The alleged victim was under the age of 18 years at the time of the alleged behaviour or incident.

Note that child related allegations and convictions include outside work matters, historical matters and child pornography.

2.2 Initial Notifications

All child related allegations and convictions are required to be:

- Reported to the Child Protection Helpline if there is suspected risk of significant harm relating to a child or a class of children (refer to the NSW Health policy on Child Protection)
  - A report to the Child Protection Helpline may also include information about the person’s role in NSW Health in relation to contact with children, any risk management action planned or being taken and a contact person for consultation and ongoing exchange of information.
  - Where there are concerns about a child that do not meet the threshold for a mandatory report, the NSW Health Child Wellbeing Unit must be contacted.
- Reported to the NSW Police if there is alleged criminal conduct; this reporting requirement is in addition to any report to the Child Protection Helpline, and includes matters that may not meet the threshold for a report to the Child Protection Helpline (for example, child pornography, historical abuse, etc.).
- Notified to the relevant NSW Health Chief Executive (or Secretary, NSW Health in the case of the NSW Ministry of Health staff).
  - Where the person works in a different NSW Health organisation to where the alleged reportable conduct has been identified, information must be immediately forwarded to the relevant other NSW Health organisation to manage the allegation against the staff member. This would usually be through the relevant Workforce Director or equivalent.
  - In these cases, the NSW Health organisation that identified the allegation is still responsible for ensuring any immediate safety or child protection issues are addressed, including reporting to the Child Protection Helpline, Child Wellbeing Unit, Police, referral to Sexual Assault Services, etc.
  - Information about any immediate risk action taken should be also provided to the NSW Health organisation where the staff member works.
Notified to the NSW Ombudsman using Part A of the Ombudsman’s Notification Form as soon as possible and in any event within 30 days of the matter being brought to the attention of the NSW Health organisation.

- Notified within 24 hours to the NSW Ministry of Health via a Reportable Incident Brief (RIB).
- If there is a reasonable belief that a registered health practitioner has behaved in a way that constitutes notifiable conduct, professional misconduct or unsatisfactory professional conduct under the Health Practitioner Regulation National Law (NSW), a notification is required to the Australian Health Practitioner Regulation Agency.

3 MANAGING RISKS

A risk assessment and ongoing risk management strategy must be put in place as soon as possible, consistent with the requirements in the NSW Health policy on Managing Misconduct, which outlines the options available for managing risk involving NSW Health employees. A Risk Assessment template is available on the NSW Health Intranet.

Where risk management action is required to be taken against the staff member, the NSW Health policy on the Service Check Register should be reviewed to determine any requirement for the creation of a Service Check Register record.

To ensure that child protection and patient safety issues and/or victim needs’ are considered and addressed, the management of child related allegations and convictions should include consultation with child protection workers, sexual assault services and/or senior clinical staff, as relevant.

3.1 Responsibilities to the alleged victim

The NSW Health organisation has a responsibility to ensure that, as far as possible, the needs of any alleged victims and their non offending family are being addressed, and appropriate crisis assessment and treatment, counselling, medical services or sexual assault services are offered, as appropriate.

The NSW Health organisation should ensure that the alleged victim and/or their non offending family are advised of the responsibilities of the NSW Health organisation in respect of child related allegations and convictions and that they are provided with information about the progress of any investigation, advised of the findings and are kept informed of any action planned or being taken in response to the alleged conduct.

They should also be advised of NSW Health’s reporting requirements to the NSW Ombudsman, the NSW Police and to Family and Community Services, as applicable and offered support in making a report to the NSW Police themselves, as appropriate. A nominated NSW Health contact should also be made available to them during the process.

The NSW Health organisation should liaise with the relevant contact officer of the NSW Police, JIRT or Community Services if they are involved in the matter, regarding the needs of the alleged victim and/or their non offending family.

3.2 Advising the staff member

The timing of advice to a staff member about a child related allegation should be part of the risk assessment and should involve consideration of the following factors:

- Does the information received require further clarification before it can be determined if it meets the threshold for reportable conduct?
- Are there any particular risks that would suggest the timing of the advice needs to be delayed (for example, a statement is yet to be obtained from an alleged victim)?
- Is immediate risk management action required necessitating advice to the staff member?
• Has an external agency, such as the Police or Family and Community Services, asked the NSW Health organisation to delay notifying the staff member?

• Has a notification been made to the Child Protection Helpline or the NSW Police, and if not, does this need to be completed before any advice is provided to the staff member?

• In all circumstances, the paramount responsibility of the NSW Health organisation is the protection of all children in its care; where there are identified risks requiring risk management action, this should be conveyed to the external agency, along with a timeframe for commencing the risk management action and the associated advice proposed to be provided to the staff member.

Any decision to delay notifying the staff member should be clearly documented.

The staff member should be advised of the responsibilities of the NSW Health organisation in responding to child related allegations and convictions, provided with information about the process, offered support as required and afforded procedural fairness. Refer to the Managing Misconduct policy for further information.

They should also be advised, at an appropriate time, of the notification requirements to the Ombudsman’s Office and at the conclusion of the investigation, be provided with details of any findings with regards to reportable conduct and any requirement to notify the Office of the Children’s Guardian.

4 INVESTIGATION

Irrespective of any action the Police or any other external agency may take, NSW Health organisations are required to investigate (unless the facts are clear and uncontested, such as with convictions) child related allegations and to make their own findings and decisions about any disciplinary action.

The NSW Health organisation should generally not commence an internal investigation until they have been given the clearance to do so by the external agency or until the external agency has completed their inquiries, and all child protection / criminal investigations have concluded or been closed. Consultation with any external agencies must take place to ensure that any external investigations are not compromised.

4.1 Concurrent Community Services, Police or JIRT investigation

Where NSW Police / JIRT / Family and Community Services are undertaking a criminal / child protection investigation, or have advised that they may undertake such an investigation, an ongoing liaison should be maintained to ensure that criminal, child protection and disciplinary investigations are coordinated effectively, and that information is exchanged as required to assist in the ongoing assessment and management of risk.

The NSW Health organisation must still complete all relevant notifications and continually assess and manage the risks based on available information but would generally not commence its internal investigation until the external investigations and any associated proceedings have concluded and the external agency has indicated that they have no objections to NSW Health commencing its investigation.

The NSW Health organisation should request information from any external agencies involved in the matter to assist in assessing potential workplace risk and to assist in completing its investigation, when appropriate to do so. In certain circumstances it may be necessary to clarify with the Police whether they have closed or suspended their investigation and the extent of the information that may be provided to the staff member.
Information requested may include details of the complaint or disclosure (including the name and age of the alleged victim if not already known), records of interview with the alleged victim or any other relevant parties and any other relevant information. A template letter is available on the NSW Health Intranet.

The NSW Health organisation must:
- Review the information provided by the external agency
- Identify and undertake any further enquiries or information as required
- Determine what needs to be put to the staff member for response, and
- Make its own findings.

Where the matter has been before the courts, information may also need to be requested about the court outcome; this should be done by asking the staff member to provide relevant documentation. It may also be appropriate to write to the court to request information. A template letter is available on the NSW Health Intranet.

In limited circumstances, if the NSW Health organisation is satisfied, after reviewing the information provided by the external agency, that it conclusively demonstrates that the allegation was false and that no further information is required, the matter may move directly to a finding and the staff member advised.

Where an external agency has substantiated an allegation, but there is no criminal conviction, the NSW Health organisation must still afford the staff member procedural fairness and make its own findings.

In exceptional circumstances, it may be appropriate to commence and conclude the employer investigation while the external criminal or child protection investigations are ongoing, noting that the Ombudsman’s office may still request that the NSW Health organisation monitor the outcome of the external proceedings. However, there must be close and ongoing liaison with the Police and / or Family and Community Services, as well as ongoing consideration and management of the risks associated with this course of action; these risks include the contamination of a criminal investigation as well as unnecessary interviewing of victims, not having access to all relevant evidence and management of a staff member’s right to silence in criminal matters, etc.

The reason for commencing the investigation in these circumstances must be documented and approved by the Chief Executive or their delegate.

4.2 Managing Child Related Criminal Charges

For child related criminal charges, it is generally appropriate to wait until the court process has been completed before finalising the employer investigation. All relevant notifications should still be made and a risk assessment completed.

To assist in the risk management decision making, the staff member should be asked for information and any relevant documentation regarding:
- The charges against them
- Any statements they have provided to the police
- Court dates
- How they intend to plead and
- Any other information that may be relevant to assess the risks.
Information should also be requested directly from the Police, Family and Community Services and/or courts.

Should the matter not proceed to a conviction or finding of guilt, the matter should be dealt with as an allegation and the NSW Health organisation must complete its investigation and make its own findings.

Should the court proceedings result in a conviction or a finding of guilt, the NSW Health organisation should obtain details of the conviction or finding of guilt, complete its risk assessment to determine whether any action is required to be taken against the staff member, provide the staff member with procedural fairness regarding any proposed adverse action and finalise the matter in accordance with the requirements of this policy and consistent with the Managing Misconduct policy.

In certain limited circumstances it may be appropriate to finalise the investigation in terms of making findings and decisions about disciplinary action, subject to procedural fairness requirements as above, prior to the completion of the court process, for example, where a guilty plea has been entered, noting that the Ombudsman’s office may still request that the NSW Health organisation monitor the outcome of the external proceedings.

### 4.3 Interviewing children

For child related allegations, consideration must always be given to whether it is necessary to interview the child who is the alleged victim.

In certain situations, it may not be appropriate or necessary to interview the child. Where this decision is made, it must be clearly documented and included in the final investigation report. Factors that may affect the decision to interview the child include:

- Sufficiency of the available information about the alleged conduct, i.e. for a young child, it has been reported by a colleague/parent who directly witnessed the alleged behaviour and they have provided detailed information.
- The child has already been interviewed by an external agency and the NSW Health organisation has obtained details of the interview:
  - If there are concerns about the sufficiency of the information obtained, they should be raised with the external agency.
- The child’s age/developmental stage or other factors impact on the child’s ability to provide detailed information.
- Whether the child parents/guardians consent to their child being interviewed and for older children whether the child also consents.
- Any other factors that indicate an interview may result in further trauma or be detrimental to the welfare of the child.

A decision to interview a child must be made in consultation with child protection workers, and if a child is to be interviewed, it must only be by persons with sufficient skill or expertise in obtaining children’s evidence. Child protection staff and in some instances Aboriginal Health workers may be best placed to conduct an interview with a child.
5  ISSUES ARISING IN CHILD RELATED MATTERS

5.1  Allegations arising from clinical procedures

Where a child related allegation has arisen out of a clinical procedure, it must still be managed in accordance with this policy; however the NSW Health policy on Managing Complaints or Concerns about Clinicians should also be consulted.

In certain cases, to assist in the initial review in determining whether the allegation meets the definition of reportable conduct (see section 1.2), an appropriately qualified and independent clinician may need to review whether the conduct being alleged is reasonable for the purpose of the management or care of the child having regard to their age, maturity, health or other characteristics and to any relevant code of conduct or professional standard and therefore whether further investigation under this policy is warranted.

A decision that the allegation or complaint does not constitute an allegation of reportable conduct and therefore is not required to be managed as a child related allegation under this policy should be approved by an appropriately delegated person and the records maintained securely and centrally, noting that such records may be subject to audit by the NSW Ombudsman.

5.2  Anonymous allegations

Anonymous allegations must still be managed in accordance with this policy.

Action taken will depend on the level of detail provided, and the ability to obtain further detail. Where there is insufficient information or details to make any enquiries or take any action, this should be noted and the complaint filed in a secure and confidential place.

Where the information provided meets the definition of alleged reportable conduct, an Ombudsman notification is required and the NSW Health organisation is required to complete an investigation, make findings and decisions about any disciplinary action.

When assessing action to take in response to an anonymous complaint, the following factors should be considered:

- Any details in the allegation that can be confirmed or refuted (for example, was any context provided, were there details of the alleged behaviour, was there a time frame, was any workplace named or details of any alleged victims or witnesses or any physical or other evidence provided)
- Contact with the NSW Police and FACS to confirm if they have any information in relation to the allegation; and if so that they give their consent to that information being put to the staff member
- Is the complainant able to be identified and contacted if further clarification is required? Note that non identification of the complainant does not preclude action being taken

5.3  Non work related and historical child related allegations

Non work related and historical child related allegations, charges or convictions against current NSW Health staff, including matters where the alleged victim is now an adult, must still be managed in accordance with the requirements of this policy, including:

- Reporting to the Child Protection Helpline where there is a current risk of significant harm to a child or class of children. The Online Mandatory Reporter Guide or the NSW Health Child Wellbeing Units can assist identify in determining whether the risks meet the threshold for reporting to the Helpline. If they do not meet the threshold, a referral may still need to be made to the Child Wellbeing Unit.
• Reporting to the NSW Police where there is alleged criminal behaviour.
• Offering support to the alleged victim (or their family) in making a report to the NSW Police.
• Completing an investigation (unless the facts are clear and uncontested) and making findings and managing risk.
• Completion of all other notifications in accordance with the requirements of this policy, including to the NSW Ombudsman.

5.4 What happens if the Police do not charge the NSW Health staff member or the Court makes a finding of ‘not guilty’?

For child related allegations where Police involvement has not resulted in criminal charges or in a guilty finding at court, the NSW Health organisation must still manage workplace risks while any criminal proceedings are ongoing; once they are finalised, undertake its own investigation (unless the facts are clear and uncontested), and make its own findings and complete all relevant notifications.

The NSW Health organisation’s actions should include a review of information obtained from the Police or from the court (refer to section 4); the evidence considered and the rationale for decisions made, noting there are many reasons that matters do not proceed to charges or to a conviction, where the standard of proof required is 'beyond reasonable doubt', whereas in civil matters, the standard is the 'balance of probabilities', subject to the "Briginshaw v Briginshaw principle"; that is, the more serious the potential misconduct, and therefore the more serious the consequences for the staff member, the stronger the evidence must be to support an adverse finding.

The staff member should still be afforded procedural fairness and provided with an opportunity to respond to the allegations and any proposed adverse findings or action.

5.5 Exchanging information with Family and Community Services / Police / JIRT

Where Family and Community Services / Police or JIRT have involvement in a matter or may have information relevant to the NSW Health organisation’s investigation and assessment of potential risk to the workplace, separate requests for information should be made to each external agency in accordance with Chapter 16A of the Children and Young Persons (Care and Protection) Act. A Template letter is available on the NSW Health Intranet.

Information may also need to be provided by the NSW Health organisation to Family and Community Services / Police or JIRT regarding risk management action it is taking or planning to take in response to the child related allegation and the nature of any potential risks in terms of the person’s role within the workplace.

For further information about exchanging information under Chapter 16A, refer to the NSW Health policy on Child Protection.

5.6 Allegations involving child pornography or child abuse material

Where an allegation involves child pornography or child abuse material, the NSW Police must be contacted immediately and advice sought before initiating an internal investigation or alerting the staff member. If the alleged use involves a NSW Health device, it should be quarantined without warning so that there is no opportunity for files to be deleted or the computer to be switched off or on or other evidence tampered with.
Special care must be taken to ensure that any alleged child abuse material is not unnecessarily transmitted or disseminated within the NSW Health organisation, that it is contained and that only a limited number of nominated senior staff members are involved in any investigation and that the process for making any decisions or assessment of the material is clearly documented as part of the investigation.

As part of the response to an allegation involving child abuse material, the NSW Health organisation should audit the staff member’s use of NSW Health devices, subject to identifying any potential risks to the investigation.

The NSW Health organisation should be guided by the Police in respect of the classification of material as child pornography.

5.7 What happens if the staff member no longer works in NSW Health?

Where an allegation relates to conduct that has occurred within NSW Health by a former staff member who is not engaged in the NSW Health Service or in the NSW Ministry of Health at the time of receipt of the information, the relevant Chief Executive (or Secretary in the case of a matter relating to a person formerly engaged in the NSW Ministry of Health) must still be notified and appropriate reports to external agencies must be completed, including to the Child Protection Helpline if there is a risk of significant harm to a child or class of children, the Australian Health Practitioner Regulation Agency if the person is a registered health practitioner and the information received suggests such a notification is required, or the NSW Police if required.

The alleged victim should be offered support, as appropriate, which may include supporting them in reporting the matter to the NSW Police or to any other external oversight or investigative agency. Depending on the level of information available, the circumstances of the alleged conduct should be reviewed with a focus on ensuring the ongoing safety of children.

Refer to the NSW Health policy on Child Protection for further advice.

5.8 What if the alleged victim is now an adult?

If the allegation relates to a current NSW Health staff member, it must be managed in accordance with the requirements of this policy, regardless of the current age of the alleged victim (see section 5.3).

Refer to the NSW Health policies on Child Protection and Sexual Assault Services for further information on managing disclosures from adults.

5.9 What happens if the allegation is retracted, the complaint withdrawn, or the alleged victim wants no action taken?

In these circumstances, the NSW Health organisation is still required to fulfil the requirements of this policy, including notifying the Ombudsman, notifying Family and Community Services or the NSW Police, as warranted, providing the staff member with procedural fairness and making findings based on the available information.

Where an allegation has been retracted, a complaint withdrawn, or an alleged victim wants no action taken, whether or not another agency remains involved, the NSW Health organisation is required to seek information to understand the reasons for the retraction and consider this in the assessment of risk and evidence when making a finding.

Where the reasons relate to concerns around personal safety, the NSW Health organisation should explore with the person the different options for addressing those concerns, including the involvement of the NSW Police.
6  MAKING FINDINGS

6.1  Findings for the Ombudsman
For the purpose of the Ombudsman’s scheme, the following findings should be considered:

- **Substantiated** (i.e. a finding that the conduct occurred and is reportable conduct);
- **Not substantiated – insufficient evidence** (i.e. there is some evidence of weight however there is insufficient evidence available to reasonably establish that the alleged conduct did occur);
- **Not substantiated – lack of evidence of weight** (i.e. where the evidence is of such poor probative value or lacking in weight, such as to warrant a finding that, on the balance of probabilities, the conduct did not occur);
- **False** (i.e. where inquiries into the matter show reportable conduct or an act of violence did not occur).
  - Some of these matters may also be vexatious, for example where inquiries into the matter show the allegation was made without substance and to cause distress to the person against whom the allegation was made;
- **Not reportable conduct** (i.e. where inquiries into the matter show the conduct was not reportable).
  - For example; use of force that was trivial or negligible in the circumstances, conduct that was reasonable in the circumstances or found to be accidental. This may include ‘misconceived’ matters, where inquiries into the matter show that, even though the allegation was made in good faith, it was based on a misunderstanding of what actually occurred and the incident was not reportable conduct.

For further information, refer to the NSW Ombudsman’s Fact Sheet on making findings for child related matters.

6.2  Misconduct findings
In addition, the NSW Health organisation must make findings about whether any substantiated conduct constitutes misconduct and therefore whether remedial, disciplinary or other action (in the case of volunteers etc.) is required, consistent with the Managing Misconduct policy.

7  FINALISING THE PROCESS

7.1  Notifying affected parties of the outcome
The alleged victim and / or their family should be notified of any findings made by the NSW Health organisation and any action taken, including against the staff member in response to those findings and of any notifications made to external agencies.

7.2  Notifying the Australian Health Practitioner Regulation Agency
Where the staff member is a registered health practitioner, consideration must be given to any requirements to notify the Australian Health Practitioner Regulation Agency if such notification has not been completed already and there is a reasonable belief that the practitioner has behaved in a way that constitutes notifiable conduct, professional misconduct or unsatisfactory professional conduct under the Health Practitioner Regulation National Law (NSW).
Notifiable conduct is defined under the *Health Practitioner Regulation National Law (NSW)* as including:

- Practising while intoxicated by alcohol or drugs
- Sexual misconduct in the practice of the profession
- Placing the public at risk of substantial harm because of an impairment (health issue) or
- Placing the public at risk because of a significant departure from accepted professional standards.

Professional misconduct and unsatisfactory professional conduct are defined in sections 139B–139D of the *Health Practitioner Regulation National Law (NSW)*.

7.3 **Notifying the Children’s Guardian**

Any findings of sexual misconduct or serious physical assault against a child involving a child-related worker must be notified to the Children’s Guardian. This must be done using the pre-existing “Working with Children Check Employer log in” details for the NSW Health organisation.

In certain circumstances, NSW Health may also provide information to the Children’s Guardian under Chapter 16A of the *Children and Young Person’s (Care and Protection) Act* if that information is considered relevant to an assessment of risk that the staff member may pose of a child or class of children.

Refer to the NSW Health policies on Child Protection.

For further information about requirements for notifying the Children’s Guardian and how to make a notification, refer to their Fact Sheet “Information for reporting bodies: Reporting certain misconduct involving children” available on their website.

7.4 **Final notification to the Ombudsman**

Once the investigation or other action is finalised, and findings (including those related to convictions) and final decisions made, the Ombudsman’s office must be notified using Part B of the Ombudsman Notification Form available from its website.

Unless the Ombudsman has advised otherwise, the notification should be accompanied by copies of all material relevant to the investigation and decision making, including records of interview, memorandums or in-briefs, emails, file notes of conversations and correspondence related to the matter.

The *Summary of Notifications Information Sheet* available on the NSW Intranet also provides further guidance on other notification considerations.

7.5 **Service Check Register**

Service Check Register records must be created in accordance with the requirement so the NSW Health policy on the Service Check Register.

7.6 **Other action required**

As part of finalising child related matters, NSW Health organisations should always review the circumstances of the alleged or substantiated conduct from a systemic perspective with a focus on ensuring the ongoing safety of children.
8 KEEPING RECORDS

Records relating to child related allegations and convictions, including false, malicious or disproven allegations should be kept on a file that is separate to the staff member’s personnel file in a central secure location, and must be retained for a minimum of 100 years and then destroyed in accordance with the State Records guidance GA 28.

Related files should be cross-linked to each other, for the purposes of future management.

All records relating to child related allegations and convictions, including where a decision has been made that a matter is not reportable to the Ombudsman, may be audited by the NSW Ombudsman’s Office.

Records relating to the management of child related allegations are subject to the provisions of the Government Information (Public Access) Act 2009.

57(30/6/16)

PHOTO AND VIDEO IMAGING IN CASES OF SUSPECTED CHILD SEXUAL ABUSE, PHYSICAL ABUSE AND NEGLECT (PD2015_047)

PURPOSE

The purpose of this Policy Directive is to:

• Define the NSW Health requirements and minimum standards for the use and management of photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect

• Guide NSW Health staff when capturing, storing and managing images for the purpose of documenting health and clinical features and informing possible future judicial proceedings that require medical opinion.

MANDATORY REQUIREMENTS

This policy requires that:

• The immediate and longer-term physical and emotional needs of the child and their parent(s) / guardian(s) are identified and taken into account when considering photo and video imaging.

• Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and limited other relevant purposes, and is not excessive or unreasonably intrusive.

• Imaging is only captured where informed consent is sought and obtained for each purpose for which it may be used.

• Capture, recording and storage of images is limited to LHD / SCHN owned memory devices.

• Images are stored securely and are stored separately from the principal health care record, to maintain patient privacy.

• Limited access is provided to images, to maintain patient privacy.

• Capture, use and management of photo and video images in cases of suspected child abuse is conducted in accordance this Policy Directive, in conjunction with:
  Child Wellbeing and Child protection Policies and Procedures for NSW Health (PD_2013_007)
  Current Standards and Practice Guidelines for NSW Health Sexual Assault Services

56(29/10/15)

IMPLEMENTATION

Chief Executives are responsible and accountable for:

• Establishing mechanisms to ensure the directives and requirements of this policy are applied, achieved and sustained
• Ensuring that NSW Health staff understand and are aware of their obligations in relation to this policy and related policies and procedures
• Ensuring resources are available to deliver and meet the directives and requirements of this policy
• Ensuring that NSW Health staff are trained to operationalise and implement this Policy
• Ensuring NSW Health staff are advised that compliance with this policy is part of their patient / client care responsibilities
• Ensuring that procedures for capture, storage, access and security are subject to risk analysis reassessment over time.

Facility managers are responsible for:

• Ensuring the requirements of this policy directive are disseminated and implemented in their service / department / hospital
• Establishing local validated processes for image preparation, capture, processing, storage, transmission, archiving, retention and disposal
• Monitoring implementation and compliance with this policy.

NSW Health workers are responsible for:

• Implementing and complying with the directives and requirements of this policy
• Ensuring that their knowledge of consent, privacy and documentation management processes is maintained, consistent with the requirements of this policy directive.

1 INTRODUCTION

1.1 Rationale

Clinical evaluation of a child or young person who is suspected of having been abused or neglected involves a holistic assessment of their physical needs, psychosocial needs, medical history, and any social or familial risk factors. NSW Health practitioners are required to document and report suspicion of harm and may use clinical photo and video imaging to supplement and enhance the detail in written notes and diagrams. Imaging can assist the physician to review the facts associated with clinical examination and history as part of their clinical diagnosis: in an attempt to ensure the accuracy of a diagnosis this may include professional peer review. Diagnoses in cases of suspected child abuse have an impact on the safety, welfare and wellbeing of a child or young person. Clinical photo and video imaging is an important tool in the achievement of accurate clinical conclusions to support the needs of children and young people.
This policy defines the NSW Health requirements and minimum standards for the use and management of photo and video imaging in cases of suspected child sexual abuse, physical abuse and neglect. It will guide NSW Health workers to know what actions to take when capturing, storing and managing images for the purpose of documenting health and clinical features, and informing possible future judicial proceedings that require medical opinion. A development group was convened to inform the development of this policy. Details of membership appear at Appendix 5.5.

1.2 Who this policy applies to

This policy applies to NSW Health workers in Local Health Districts (LHDs) and the Sydney Children’s Hospitals Network (SCHN) who are employed or contracted to capture or manage imaging in cases of suspected child abuse, including:

- Medical practitioners or other specialist staff undertaking medical and forensic examinations of children and young people aged under 18 who are suspected of having been sexually abused, physically abused or neglected
- Psychosocial, sexual assault and child protection practitioners, coordinators and managers
- Medical photographers, Joint Investigation Response Teams (JIRTs), Aboriginal health services and other clinical and allied health staff
- Managers or officers who support the capture, viewing, accessibility, transmission or management of photo and video imaging. This includes data custodians, IT technical and support staff, health information managers and staff in medical records departments.

The policy may also be of interest to:

- NSW Health interagency child protection partners
- Those who work in the wider criminal justice setting and child health and advocacy settings
- Networks that support children and young people who have experienced sexual abuse, physical abuse or neglect and their non-offending family members
- Those who work in private health settings who wish to adopt minimum standards for the use and management of photo and video imaging in cases of suspected child abuse.

1.2.1 Exclusions

This policy does not apply to:

- Sexual abuse examinations utilising clinical colposcopic equipment without capture of imaging
- Photo and video imaging taken in other types of medical examinations (i.e. those that do not relate to suspected child abuse)
- Medical imaging such as Magnetic Resonance Images (MRIs), Computerised Tomography (CT) scans, skeletal surveys, radioisotope scans or post-mortem imaging.

1.3 Service users

Children or young people who use NSW Health services in relation to suspected sexual abuse, physical abuse and/or neglect and, depending on the age of a young person, this may include parent(s), carer(s) or guardian(s).
1.4 Context for practice

1.4.1 Interagency context

Medical and forensic examinations and associated photo and video imaging take place in the context of an interagency response to child protection. Interagency roles and responsibilities are outlined in the Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013, current standards and guidelines for NSW Health Sexual Assault Services and NSW Interagency Guidelines.

1.4.2 NSW Health context

The psychosocial and medical needs of a child or young person are a priority and need to be responded to appropriately. NSW Health’s role is to provide an integrated psychosocial and medical response to all suspected child abuse presentations including assessment, crisis intervention and counselling. The medical response will potentially include a medical and forensic examination. Medical and forensic examinations are critical to the crisis response required on presentation of: a child victim of sexual abuse to a Sexual Assault Service or Emergency Department; or a child with suspected physical abuse or neglect to a medical practitioner, Emergency Department, or other health service.

Related child protection and violence prevention, privacy, security and document management policies are listed in Appendices 5.1 to 5.4.

1.4.3 Clinical context

Clinical photography has assisted in the development of medical knowledge and skills within the NSW Health workforce over the last two decades, and aided the interpretation and evaluation of injuries, for the benefit of examiners and their patients. Medical and forensic assessment of children suspected of having been abused occurs within a framework that responds to the immediate psychosocial and medical needs of a child and their family – who are often traumatised and distressed.

This context includes:

- Identification of children at risk who require a medical and forensic assessment
- Recording of medical history and examination findings complemented by appropriate clinical photo or video imaging
- Forensic specimen collection where relevant (as in recent sexual abuse)
- Medical treatment of injuries or other sequelae of the abuse, such as the risk of exposure to sexually transmitted diseases or pregnancy
- Interpretation of clinical findings, with a reference to any allegation of abuse.

Anatomical diagrams are useful for recording certain features of an injury, such as the number of injuries, the type of injuries, their overall size and shape and the general location of the injuries on the body. It is difficult for a doctor to record adequately sufficient information for detailed medical and forensic assessment of many injuries with diagrams and words alone. Medical illustration is a specialised career. It takes both skill and time to produce an accurate and useful medical drawing. The extra detail provided by a photo or video record is of particular relevance when a medical and forensic examiner is asked to comment, sometime after the medical examination, on whether a particular account of accidental injury, provided by a caregiver, might reasonably account for the clinical findings.
Several advantages of photography can be summarised as below:

- Photo and video images allow review of injuries or other clinical findings, such as evidence of dermatological conditions or malnutrition, in a more comprehensive manner. Indeed there are many reasons why a child’s injuries may need to be reviewed. The original examining doctor may review photos when preparing an expert certificate and/or prior to appearing in court. Photo and video imaging can assist the examining doctor when they review the patient for ongoing clinical care, or if the police provide additional information and ask for a clinical opinion, in regards injury causation. Photo and video imaging is useful for gaining a second opinion by a senior colleague as to the significance of the injury and also helps determine if specialist referral is necessary. It may also prevent the need for a child to travel long distances to a specialist centre.

- Imaging can overcome the difficulties presented by children and young people having to lie still for extended periods of time. Children can naturally wriggle and not want to lie still – especially if they have experienced sexual abuse or if there is injury or recent assault. This is particularly relevant to examining the ano-genital regions, especially in pre-pubertal females where there is a need to assess in detail the significance of small anatomical structures which may be a normal variant or an indicator of recent or earlier injury.

- Sexual abuse assessment in pre-pubertal children is complex. Paediatric genital anatomy is variable and accurate observation and interpretation is difficult. Forensic colposcopic imaging allows the examination to proceed with the knowledge that a child or young person can benefit from subsequent specialist review of the imaging as a record of the complex clinical findings.

- Photo and video imaging may enable the medical examiner to capture a clear picture of an area that was only exposed for a few seconds. The use of photo and video imaging can in many cases prevent the need for a child or young person to return for a repeat examination, or undergo examination under anaesthesia.

It is best practice in Forensic Medicine to rigorously separate the observation and recording of findings from the interpretation of those findings. Photo and video imaging enables the examiner to concentrate on observation, which is demanding, and then to later consider all possible causes.

1.4.4 Intimate images, sensitive evidence and retention

Photo and video imaging captured as part of a medical and/or forensic assessment may include intimate images.

Intimate images are defined as depicting the genitalia, anus or post-pubertal female breast (Faculty of Forensic & Legal Medicine, 2014) and may also include other parts of the body, such as the buttocks or chest of a pre-pubertal child.

These images are considered as 'sensitive evidence' under the Criminal Procedure Act 1986 (Section 281B). Where they are held by the NSW Police Force and Office of the Director of Public Prosecutions (ODPP) access to them is restricted. These restrictions do not extend to images held by NSW Health. Where a subpoena has been validly lodged, the court is not obliged to restrict access to intimate images held by NSW Health.

In accordance with health care record retention policies, once an image is captured as a medical record it can be subpoenaed, shown in court and remains on a medical record file for at least 30 years (NSW Government General Retention and Disposal Authority policy, 2004, revised 2011).
2 NSW HEALTH MINIMUM STANDARDS

When use of photo and video imaging is being considered during medical and forensic examinations in cases of suspected child sexual abuse, physical abuse and neglect, NSW Health will ensure that:

<table>
<thead>
<tr>
<th>1. The immediate and longer-term physical and emotional needs of the child and their parent(s)/guardian(s) are identified and taken into account. (Section 2.1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and other directly related purposes, and is not excessive or unreasonably intrusive. (Section 2.2)</td>
</tr>
<tr>
<td>3. Imaging is only captured where informed consent is sought and obtained for the specific purposes for which it may be used. (Section 2.3)</td>
</tr>
<tr>
<td>4. There are standardised procedures for capturing and documenting images to reduce variation across statewide services. (Section 2.4)</td>
</tr>
<tr>
<td>5. Capture, recording and storage of images is limited to LHD/SCHN owned memory devices. (Section 2.5)</td>
</tr>
<tr>
<td>6. Images are stored securely and separately from the principal health care record, to maintain patient privacy. (Section 2.6)</td>
</tr>
<tr>
<td>7. Restricted access is provided to images, to maintain patient privacy. (Section 2.7)</td>
</tr>
<tr>
<td>8. The integrity of images is maintained in the longer-term. (Section 2.8)</td>
</tr>
</tbody>
</table>

### 2.1 Physical and emotional needs of the child or young person

Standard: The immediate and longer-term physical and emotional needs of the child and their parent(s)/guardian(s) are identified and taken into account when considering photo and video imaging.

In accordance with the Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013 and current standards and guidelines for NSW Health Sexual Assault Services:

- In cases of suspected physical abuse and neglect, optimally, assessment should be conducted by the medical officer with a social worker or other health professional colleague, e.g. a nurse, present to facilitate a holistic assessment (Suspected Child Abuse and Neglect (SCAN) Medical Protocol, 2014).
- In cases of suspected sexual assault a joint response by the medical practitioner and counsellor from the Sexual Assault Service or Child Protection Unit provides the professional response required in these circumstances (Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013).

When deciding whether and how to capture images in this context, NSW Health workers must:

- Identify and take into account:
  - Factors arising from the life circumstances of the child or young person, their psychosocial development, vulnerability to particular risks and their linguistic, cultural and religious needs
  - The circumstances in which the child or young person was alleged to have been assaulted, abused or neglected

56(29/10/15)
− The need for an appreciation and understanding of Aboriginal people and communities’ inter-generational trauma legacies, the impact of power dynamics, the importance for understanding an Indigenous world-view, including cultural practices and protocols, the multiple and inter-related factors that contribute to the poorer health status of Aboriginal people, and the limitations of Western approaches in the assessment and treatment of trauma (see http://www.health.nsw.gov.au/aboriginal/pages/default.aspx).

• Ensure that children, young people and their parent(s)/guardian(s) have:
  − Access to health information relative to their wellbeing
  − The opportunity to participate in decision making
  − Access to an interpreter if required (see Interpreters – Standard procedures for working with Health Care Interpreters)
  − Access to an Aboriginal Health worker if desired. It is important to determine at the beginning the most appropriate person or people to communicate with in relation to the patient.

2.2 Purpose of imaging

Standard: Imaging is captured for the primary purpose of documenting a clinical finding for the health care record and other directly related purposes, and is not excessive or unreasonably intrusive

In accordance with the NSW Health Privacy Manual for Health Information, 2015:

• The primary purpose for collecting photo and video imaging is to document a clinical finding for the medical record
• Imaging must be relevant to the purpose, not excessive, accurate, up to date, complete and must not be unreasonably intrusive
• Collection of photo and video imaging must supplement, not replace, other methods of documenting findings
• Other directly related purposes for collecting photo and video imaging may include:
  − Peer review to assist diagnosis
  − Providing an aide-memoire for potential future legal proceedings
  − Teaching, research and quality improvement activities (sections 2.3.3, 2.7.1, 2.8 and 2.9).

LHDs/SCHN must ensure that images are only captured and used for relevant purposes in accordance with the NSW Health Privacy Manual for Health Information, 2015.

2.3 Seeking consent

Standard: Imaging is only captured where informed consent is sought and obtained for the specific purposes for which it may be used

LHDs/SCHN must ensure that NSW Health workers act in accordance with the NSW Health Consent to Medical Treatment - Patient Information policy, 2005 and the NSW Health Privacy Manual for Health Information, 2015 and comply with 2.3.1 to 2.3.3 below. Additional advice may be sought from NSW Health Legal and Regulatory Services.
2.3.1 Who should seek consent

An examiner must ensure that valid consent has been obtained. An examiner may ask another health care practitioner to seek consent, however the examiner maintains responsibility and may be held responsible in some circumstances if consent is not sought correctly (NSW Health Privacy Manual for Health Information, 2015).

2.3.2 Who can provide consent

Where a child or young person is less than 14 years of age, consent given by a parent or legal guardian is generally necessary. In some circumstances, consent can be given by the young person if he or she is considered by the treating health care practitioner to be mature enough, and if this would be appropriate in the circumstances. See ‘Gillick competence’ in the ‘Glossary’.

Where a young person is aged 14 or 15 they are generally able to consent, however an assessment of their maturity and understanding will still need to be made. Effort should be made to seek the consent of a parent or legal guardian unless the young person indicates a strong objection, and this is reasonable in the circumstances. Alternatively a parent or legal guardian can provide consent, however it would be exceptional to proceed on the basis of parent or guardian consent without the acquiescence of the young person aged 14 or 15.

Where the young person is 16 years of age or over they should generally be capable of consenting themselves (NSW Health Consent to Medical Treatment - Patient Information policy, 2005; NSW Health Privacy Manual for Health Information, 2015).

For guidance on capacity to consent see the NSW Health Consent to Medical Treatment - Patient Information policy, 2005 and the NSW Health Privacy Manual for Health Information, 2015.

Occasionally, a parent delegates their responsibility for consenting to medical treatment on behalf of their minor child, to another adult. This may occur in certain cultures, for example, in relation to Aboriginal children, where an extended family member, rather than the child’s mother or father, might be responsible for giving consent on their behalf. Where NSW Health workers require advice about who is able to provide consent for imaging they should consider the following options:

- Refer to policy relating to:
  - The broader context of consent for the examination (NSW Health Consent to Medical Treatment - Patient Information policy, 2005; NSW Health Privacy Manual for Health Information, 2015)
  - Child Wellbeing and Child protection Policies and Procedures for NSW Health, 2013 and current standards and guidelines for NSW Health Sexual Assault Services

- Contact NSW Health Legal and Regulatory Branch or NSW Kids and Families during business hours

- Contact the Guardianship Division of the NSW Civil and Administrative Tribunal.

2.3.3 The consent process

Where child sexual abuse, physical abuse or neglect is suspected and the capture and use of photo and video imaging is considered as part of a medical and forensic examination, informed consent must:

- Be sought in accordance with the NSW Health Consent to Medical Treatment - Patient Information policy, 2005 and the NSW Health Privacy Manual for Health Information, 2015 and

- Address consent for the capture of the image(s) and the separate specific purposes for which image(s) may be used.
The consent process must include:

- Patient/parent/guardian access to culturally appropriate information
- Seeking written informed consent for the capture of photos to document a clinical finding
- An explanation to the child or young person and/or their parent(s)/guardian(s)
  - What the procedure for capturing imaging will involve
  - That imaging may include ano-genital and breast/chest areas of the body and that they may opt to exclude imaging of these or other specific body areas
  - That any records of examinations, findings, photos, videos, samples/specimens taken in accordance with the consent/s given
    - Will be stored in accordance with NSW Health: Health Care Records – Documentation and Management policy, 2012 and the NSW Government General Retention and Disposal Authority policy, 2004 (revised 2011) for a minimum of 30 years
    - May be referred to another clinician for a second opinion and peer review
    - May be forwarded to the NSW Police Force, ODPP, and by the court under subpoena, including the judge, the jury, the defendant, counsel for both prosecution and defence and any other people whom the judge considers relevant
    - May be produced to comply with a request to a NSW Health organisation under the legislation set out in the Children and Young Persons (Care and Protection) Act 1998
    - May be forwarded to parties in Family Court proceedings under subpoena

For the purpose of this policy the consent process must also include:

- Seeking separate informed consent for the use of copies of photo and video imaging for a) teaching and/or b) approved research. All such copies must be de-identified, the teaching and research activities must be compliant with the NSW Health Privacy Manual for Health Information, 2015 and other relevant NSW Health policies and research must be approved by a Research Ethics Committee (for example, see https://hrep.nhmrc.gov.au/certification/hrecs, http://www.ahmrc.org.au/ethics2.php and www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf). Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW can help to determine whether an activity constitutes a research or quality improvement activity.
- An explanation that consent for the future use of images for a) teaching and/or b) approved research activities may be withdrawn by the person who provided consent or the person depicted in the image(s) once they are Gillick competent.

An interim NSW Health consent form is located in Appendix 5.6.

2.4 Procedures for capturing and documenting imaging

Standard: There are standardised procedures for capturing and documenting images to reduce variation across statewide services

LHDs/SCHN must support NSW Health workers to comply with 2.4.1 and 2.4.2 below.

2.4.1 Capturing imaging

Capture of imaging in cases of suspected child abuse must be conducted in accordance with the NSW Health Privacy Manual for Health Information, 2015, and must be restricted to NSW Health workers with suitable training and experience in the procedures required to comply with this photo and video imaging policy.
At a minimum, NSW Health workers must:

- Carefully explain to the child or young person, and where appropriate their parent(s)/guardian(s), what the procedure is going to involve in advance of the examination.

- Provide the opportunity for the child or young person, and/or parent(s)/guardian(s) to ask questions and receive answers in a way that takes into consideration the person’s level of development and understanding as described in section 2.1 of this policy.

- Seek informed consent as described in section 2.3 of this policy directive via a process that:
  - Explains what consent means in relation to the separate specific purposes for which images may be used (as described in section 2.3 of this policy directive) and the implications that may arise for the child, young person or their parent/guardian providing consent.
  - Provides options for providing or refusing consent at any time during the course of the examination for:
    - The capture of images of specific areas of the body.
    - The specific purposes for which images may be used.

- Consider whether the child or young person and their parent(s)/guardian(s) would find it helpful if the practitioner or other NSW Health worker demonstrated the use of the video colposcope and observation monitor. This could be achieved by displaying real time magnified images of objects and/or non ano-genital body parts on a monitor placed in a location easily seen by the child or young person and examiner.

- Ensure that images of a child or young person's face are not captured, unless it is required to document a clinical finding.

- Capture the minimum number of images required to adequately document a clinical finding.

- Adopt the following good practice techniques:
  - Use a RAW (digital negative that requires processing), TIFF or JPEG format for capturing still images.
  - Use a procedure that will allow reliable identification of the recording(s) in relation to the particular child or young person and the time that the image(s) was taken. For example, include the child's hospital ID label for identification purposes.
  - Include some form of further visual identification on the first and last image, including the child’s name or initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID) and the date.
  - Include a scale in the image, where possible.
  - Consider anterior, posterior and lateral images of the patient and document the anatomical location of each image (an example 'Request for medical photography services' form is located in Appendix 5.7).

When conducting telehealth NSW Health workers must:

- Consider the professional capacity of the host and remote site examiners as either the supervising or the supervised clinician based on their relevant and appropriate training and experience.

- Act in accordance with the requirements of this policy directive.

- Consider using the good practice techniques set out in the Agency for Clinical Innovation Guidelines for the use of telehealth for clinical and non-clinical settings in NSW, 2015.

NSW Health does not support recording of an entire telehealth consultation with a patient or any audio recording.
2.4.2 Documenting Imaging

NSW Health workers must:

- Reference images using an individual health care patient identification system including a child or young person’s name or initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID), date of birth (DOB), the date the images were captured and the name of the treating physician
- Document consent and the existence of images in the patient's medical records. For physical abuse and neglect the Suspected Child Abuse and Neglect (SCAN) Medical Protocol, 2014 may be used, unless this is being assessed in conjunction with suspected sexual abuse when the Child Sexual Assault Medical Protocol in the Sexual Assault Investigation Kit (SAIK) may be used. Details must include:
  - Any refusal of consent for capturing photo and video imaging
  - Any withdrawal of consent for the capture or use of photo and video imaging before and during the examination
  - The name of the photographer, the date and time, and the location of where the images were taken to maintain integrity in the event of legal action or issuing of a subpoena
  - The number and type of images that were taken
- Note that child abuse and neglect images must be stored securely and separately from a child or young person’s principal health care record (see section 2.6.2) and a reference placed on the health care record where the images are located to identify the existence of any principal health care record or other relevant health related documents. Index or patient administration systems must reference the existence of satellite/decentralised health care records that address a specific issue and that are kept separate from the principal health care record
- Document authorised permission for release/transmission in the patient's medical records (see section 2.6.3 of this policy directive).

Where telehealth is used, document at both sites that the consultation has occurred and ensure that this documentation concurs.

It is good practice to disclose the existence of images to NSW Police Force on the Expert Certificate.

2.5 Devices used to capture, record, store and transmit images

Standard: Capture, recording and storage of images is limited to LHD/SCHN owned memory devices LHDs/SCHN must ensure that:

- In cases of suspected child abuse, medical and forensic imaging is captured on dedicated LHD/SCHN owned:
  - Clinical camera imaging devices used for the sole purpose of documenting suspected sexual abuse, physical abuse, and neglect;
    - or where the sole purpose of a clinical camera is not restricted to documenting abuse or neglect, such as in an Emergency Department, the clinical camera must accommodate an LHD/SCHN owned removable memory device and images must be captured onto the removable device and not the camera, using one removable device per patient

56(29/10/15)
− Clinical colposcope imaging equipment, preferably used for the sole purpose of documenting sexual abuse
− Portable or removable memory devices, such as DVDs, memory sticks and external hard drives

• Single Lens Reflex (SLR) clinical camera equipment is the preferred option and:
  − Includes a flash
  − Includes a lens with a close up facility
  − Has at least six megapixels.

A 'stand-alone' personal camera (i.e. one that is not part of a mobile telephone or ipad) may be used in exceptional circumstances and only where:
  − No LHD/SCHN owned equipment is available and
  − The personal camera can accommodate an LHD/SCHN owned removable memory device and use is restricted to capturing images onto the removable device and not the personal camera, using one removable device per patient.

• All equipment complies with NSW Health Electronic Information Security Policy, 2013 and NSW Health Privacy Manual for Health Information, 2015

• Imaging equipment is:
  − Capable of producing an accurate representation of any evidential clinical finding being recorded
  − Appropriately maintained and managed, such as updating date and time settings, recharging/replacing batteries
  − Strictly governed and controlled and adequately secured using lockable facilities
  − Monitored in respect of who accesses and uses it.

• Any equipment or devices used for remote access to NSW Health networks from an external location must be authenticated and authorised by the LHD/SCHN and connectivity must be protected by approved controls. This includes mobile devices, smartphones, tablets, netbooks, notebooks, palmtops, handheld personal organisers, laptops, modems, PDAs, wireless access points, portable or removable storage devices, CD/DVD burners and printers


NSW Health does not support:

• The use of any other personal equipment or devices for the purpose of capturing or storing images in relation to suspected child abuse. Examples include cell phones, smartphones, tablet devices, netbooks, notebooks, palmtop, handheld personal organisers, laptops, USB drives, DVDs and removable memory cards and sticks
• Use of Skype or other insecure software/platforms in NSW Health care settings.

2.6 Security and storage of images

Standard: Images are stored securely and separately from the principal health care record, to maintain patient privacy

LHDs/SCHN must support NSW Health workers to comply with 2.6.1 to 2.6.6 below.
2.6.1 Transfer of images from the capture equipment to secure storage

NSW Health workers who capture and/or support the management of medical and forensic photo and video imaging in cases of suspected child abuse must:

- Check the original images on the camera equipment/LHD removable memory device and:
  - Consider deleting those where at the time the examiner first views the image(s), in the opinion of the practitioner, it is not usable. For example, the image depicts surrounding context rather than the patient or the lighting or exposure impedes what is depicted. Caution must be exercised and where the practitioner is unsure the image must be retained
  - Delete those where the person that provided consent for imaging withdraws consent before completion of the examination
  - Where images are deleted, document the number of images that were deleted and for each image, the reason why it was deleted

- Transfer the retained original image/s from the capture equipment/LHD removable memory device to LHD/SCHN secure network storage facilities as soon as possible and usually within one working day (see Figure 1)

- Archive retained original image/s. A 'read only' format or the equivalent facility is preferred to ensure the integrity of the original image/s and restrict the potential for editing

- Use a separate working copy of an original image for any editing that might be required

- Check images have successfully transferred to LHD/SCHN secure network storage facilities and then delete images that are left on the camera equipment/LHD removable memory device

- Periodically format capture camera equipment/LHD removable memory devices to ensure data recovery processes cannot be used to recover deleted images: Where a removable memory device per patient is used, such as in personal or non-dedicated cameras, formatting must occur as soon as possible after transfer to LHD/SCHN secure network storage facilities and usually within one working day

LHD/SCHN SD camera card

Securely transport LHD/SCHN SD camera card to LHD/SCHN PC/Laptop

Connect LHD/SCHN SD card to LHD/SCHN PC/Laptop

On network?

Use LHD/SCHN PC/Laptop to load image from LHD/SCHN SD card onto secure network drive

Image stored on secure network drive

Not on network?

Load image from LHD/SCHN SD card onto encrypted LHD/SCHN laptop

Securely transport LHD/SCHN laptop to LHD/SCHN PC network

Load image from LHD/SCHN laptop to LHD secure network drive

Connect LHD/SCHN laptop to network
2.6.2 Storage of images


Photo and video imaging in cases of suspected child abuse, together with the medical records associated with the imaging, must be stored securely and separately from a child or young person’s principal health care record.

LHD/SCHN secure storage facilities may be within a Child Protection Unit, Sexual Assault Service, an Emergency Department or other LHD/SCHN facility offering medical and forensic examinations.

All original photo and video images and any separate working copies used for editing must be stored on LHD/SCHN owned restricted secure network drives. Such restriction(s) to be determined by the Chief Executive Officer, or officer delegated responsibility for the security of LHD/SCHN medical records relating to cases of suspected child abuse.

Where LHD/SCHN owned restricted, secure network drives are not immediately available, in some remote areas for example, electronic/digital photo and video imaging must be:

- Transferred from the camera equipment/removable memory device to an LHD/SCHN owned laptop using appropriate safeguards, such as password or PIN codes, together with encryption technology (see Figure 1)
- Kept in lockable facilities with restricted access.

It is preferred that original images are stored using a 'read only' format, or equivalent, and images must be maintained in an original state and not subject to processes that cause permanent alteration.

All hard copy images must be stored securely in LHD/SCHN owned lockable facilities with restricted access. Such restriction(s) to be determined by the Chief Executive Officer, or officer delegated responsibility for the security of LHD/SCHN medical records relating to cases of suspected child abuse.

To maintain the integrity of the images in the event of legal action, images must be stored with:

- A copy of the consent form and documentation that includes the name of the photographer, the date and time the image/s were taken, and the location where the images were taken (see section 2.4.2)
- Accompanying documentation that includes a child or young person’s initials, Medical Record Number (MRN) and/or Area Unique Identifier (AUID), date of birth (DOB), the date the images were captured and the name of the treating physician
- A reference that identifies the existence of any other relevant health related records or documents that are kept separately from the images, such as the location of the principal health care record. The images can be linked to the principal health care record via a notation on the principal record that a 'confidential health record exists'.

The restricted access electronic and hard copy storage facilities must have an auditing or tracking procedure that documents:

- Who, other than restricted access workers, views an image
- When an image leaves the location where it is stored and its destination
- When an image is copied and by whom.
2.6.3 Transmission of images

For the purpose of security and patient privacy, NSW Health workers involved in the transmission of medical and forensic photo and video imaging in cases of suspected child abuse must act in accordance with the NSW Health Electronic Information Security Policy, 2013, NSW Government Digital Information Security Policy, 2015, NSW Health: Health Care Records – Documentation and Management policy, 2012 and the NSW Health Privacy Manual for Health Information, 2015 and:

- Restrict access to images as described in section 2.7 of this policy directive
- Obtain authorised written permission to release/transmit a copy of an image from a senior member of NSW Health staff, such as the attending medical and forensic practitioner, health information manager or a senior medical records officer/manager. Archived original image(s) should be retained as described in section 2.6.1 of this policy
- Document the authorised permission for release/transmission in the patient's medical record and:
  - The details of the request for release, including the reason for release
  - The number and type of images released
  - The date
  - The person/recipient to whom the image/s have been released
  - Full details of the address/location that the image/s were sent to.

Within NSW Health

- Consideration must first be given to restricted party viewing of the images at the NSW Health source site.
- Where this is not possible and electronic transmission occurs, it must occur:
  - Within NSW Health email
  - From NSW Health email accounts to another recognised NSW Health address
  - Using appropriate safeguards such as encryption technology, password or PIN codes and delivery/receipt confirmations, where available
  - From LHD/SCHN owned computers, equipment or devices or those that are authenticated and authorised by the LHD/SCHN with connectivity protected by approved controls or, through NSW Health Secure File Transfer solutions.

In all cases consider whether it is feasible to remove or abbreviate patient identifiers on the image and in any subject lines whilst the image is in transit in liaison with the recipient.

External to NSW Health

Where it is necessary to release images to restricted parties outside NSW Health, such as the court or under rigorously restricted information sharing practices relating to Chapter 16A and Section 248 of the Children and Young Persons (Care and Protection) Act 1998 (see section 2.7.1 to 2.7.4 for details of permitted access):

- Consideration must first be given to restricted party viewing of the images at the NSW Health source site
Where this is not possible:

- Electronic copy/copies on a removable memory device under strict governance and control using appropriate security safeguards such as encryption technology, password or PIN codes, or where this is not possible
- Hard copy/copies

should be transported sealed in an appropriately robust sealed envelope (or similar package) with a unique number allocated from a register held by the NSW Health source site. The envelope/package should be delivered by hand by an employee of NSW Health, registered post or courier and a receipt should be obtained.

At no time must a portable or removable device be used if it is not securely encrypted and released using these safeguards.

Where this is not possible it should be noted that electronic transmission of personal health information to destinations external to NSW Health are not considered secure (NSW Health Privacy Manual for Health Information, 2015) and where electronic transmission is necessary, the following must occur:

- Appropriate safeguards must be used such as encryption technology, password or PIN codes and where available, delivery/receipt confirmations
- LHD/SCHN owned computers, equipment or devices or those that are authenticated and authorised by the LHD/SCHN with connectivity protected by approved controls must be used.

In all cases consider whether it is feasible to remove or abbreviate patient identifiers on the image and in any subject lines whilst the image is in transit in liaison with the recipient. Images must never be emailed or uploaded via the internet to cloud services. Personal email accounts must never be used to transmit patient information.

Communication using File Transfer Protocol (FTP), telnet, Mobile SMS, instant messaging and web traffic (HTTP) is not permitted by NSW Health as a secure process for sharing photo and video imaging (NSW Health Electronic Information Security Policy, 2013).

### 2.6.4 Ownership and copyright

Images, recordings and documentation produced by NSW Health workers in a NSW Health service facility remain the property of the health service, including those taken by visiting medical officers.

Copyright of all recordings is owned by the State of New South Wales through the Local Health District/Speciality Network.

### 2.6.5 Destruction of images and medical record information

An original image on the camera equipment/device may be deleted in accordance with section 2.6.1 of this policy directive.

In all other cases, NSW Health workers must act in accordance with the NSW Government General Retention and Disposal Authority policy, 2004 (revised, 2011) and retain images for a minimum of 30 years after legal action is completed and resolved (where known), or after last contact for legal access or 30 years after the individual attains or would have attained the age of 18 years, whichever is the longer.
2.6.6 Images received from external sources

With the exception of formal, professional clinical peer group requests, review of an image sent to a practitioner from any other source, for example, a family member, in the context of investigating allegations of child abuse needs to be carefully managed. Offering an opinion on such images needs to done with caution because the practitioner may be exposed to various risks, including difficulties arising from the quality of the image, uncertainties about the date and time it was captured, the identity of the person depicted in the image(s) and an inability to document a clear chain of evidence. In these circumstances:

- Where a person depicted in an image has not been examined by an appropriate practitioner, a NSW Health practitioner that receives the image must not provide advice based solely on the image.
- The image should be retained as a record of a request for review, stored separately from images that the examiner has captured and include a notation with full details of the request (for example, the source and date) and any response.

2.7 Access to images for relevant purposes

Standard: Restricted access is provided to images, to maintain patient privacy

LHDs/SCHN must ensure that NSW Health workers comply with 2.7.1 to 2.7.5 below.

2.7.1 Permitted access

NSW Health workers who capture and/or support the management of medical and forensic photo and video imaging in cases of suspected child abuse must ensure that access is restricted to:

- Designated NSW Health workers providing treatment to children or young people or involved in their safety who have unique user identification, individual password authentication and permission controls.
- Circumstances where:
  - It is reasonably necessary, and directly associated with the primary purpose/s of collection and
  - The patient/their parent(s)/guardian(s) would reasonably expect the information to be used for that purpose, or
  - Separate informed consent has been obtained for the purpose of a) teaching and/or b) research activities.
- The patient or their parent(s)/guardian(s), unless release would affect the personal affairs of any person, including a request by a parent or guardian where such access may lead to child abuse or prejudice a child’s physical or mental health. Caution must be exercised and an interpretation and explanation of the clinical findings is preferable to the provision of access to images.
- Approved teaching and/or research activities (section 2.8) where:
  - the young person and/or their parent/guardian has provided separate informed consent, and
  - images are de-identified and anonymity of patients is maintained, and
– the teaching and/or research activities are compliant with the NSW Health Privacy Manual for Health Information, 2015 and other relevant NSW Health policies and the research has received ethical approval (for example, see https://hrep.nhmrc.gov.au/certification/hrecs, http://www.ahmrc.org.au/ethics.php and www.ipc.nsw.gov.au/statutory-guidelines-research-purposes-pdf), and

• Quality improvement activities (section 2.9) where:
  – images are de-identified and anonymity of patients is maintained, and
  – Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW is used to help to determine the activity, and
  – the quality improvement activities are compliant with NSW Health Privacy Manual for Health Information, 2015 and other relevant NSW Health policies.

• Information sharing under Chapter 16A and Section 248 of the Children and Young Persons (Care and Protection) Act 1998 (sections 2.72 and 2.7.3)
• Requests under a court subpoena (see section 2.7.4)
• The requirements of the Health Privacy Principles NSW Health Privacy Manual for Health Information, 2015.

Where access to images is deemed necessary, consideration must be given to viewing the images at the NSW Health source site.

Where release is deemed necessary it should be restricted to the above circumstances and integrity of security must be maintained in accordance with section 2.6.3 of this policy directive and NSW Health Electronic Information Security Policy, 2013, NSW Government Digital Information Security Policy, 2015, the NSW Health Privacy Manual for Health Information, 2015 and NSW Health: Health Care Records – Documentation and Management policy, 2012.

2.7.2 Information sharing under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998

Chapter 16A establishes a scheme for sharing information relating to the safety, welfare or wellbeing of children and young persons between prescribed bodies.

All applications and requests for access to photo and video imaging under Chapter 16A must be forwarded to an appropriate Health worker, medical and forensic examiner involved in the case, manager of the relevant service that authorised the images to be taken (e.g. Sexual Assault Service, Child Protection Unit, Emergency Department or Paediatric Unit), or LHD/SCHN Central Contact Point, regardless of the author of the recording.

The LHD/SCHN will provide a medical report or Expert Certificate to summarise findings to support investigation, assessment, decision making and coordination of services. Access to images of ano-genital, breast/chest and other sensitive areas of the body must be rigorously restricted and considered in the context that such images can only be interpreted by qualified medical and forensic examiners.

Consideration must be given to the relevance of access to or release of photo and video imaging relating to suspected physical abuse and neglect to prescribed bodies for the purpose of the safety, welfare or wellbeing of the child or young person. Where a request is granted, accompanying interpretation or explanation of clinical findings must also be provided.
Where a medical examination has taken place in accordance with Section 173 of the *Children and Young Persons (Care and Protection) Act* 1998 a medical report is provided for the Secretary of Family and Community Services (FACS). An existing Expert Certificate could also be provided.

### 2.7.3 Information sharing under Section 248 of the Children and Young Persons (Care and Protection) Act 1998

Section 248 governs the exchange of information relating to the safety, welfare and wellbeing of children and young people between the Department of Family and Community Services and prescribed bodies.

Requests under Section 248 should be directed to the LHD/SCHN Central Contact Point and come from the Secretary, Family and Community Services (or delegate).

Under Section 248 FACS can request access to a child or young person's medical record, which includes the Child Sexual Assault Medical Protocol/SAIK and Suspected Child Abuse and Neglect (SCAN) Medical Protocol, 2014. The LHD/SCHN will provide a medical report or Expert Certificate to summarise findings to support investigation, assessment, decision making and coordination of services. Access to images of ano-genital, breast/chest and other sensitive areas of the body must be rigorously restricted and considered in the context that such images can only be interpreted by qualified medical and forensic examiners.

Consideration must be given to the relevance of access or release of photo and video imaging relating to suspected physical abuse and neglect to the Secretary of the Department of Family and Community Services and prescribed bodies for the purpose of the safety, wellbeing and welfare of the child or young person. Where a request is granted, accompanying interpretation or explanation of clinical findings must also be provided.

Where a medical examination has taken place in accordance with Section 173 of the *Children and Young Persons (Care and Protection) Act* 1998 a medical report is provided for the Secretary of FACS. An existing Expert Certificate could also be provided.

### 2.7.4 Subpoenas

For the purpose of a subpoena, a 'document' includes 'an electronic medical record or information contained on a computer file, such as photos and/or video' (NSW Health Subpoenas policy, 2010) and For the purpose of this policy directive a photo or video image captured in a case of suspected sexual abuse, physical abuse or neglect, constitutes a 'sensitive record' (section 4.3: NSW Health Subpoenas policy, 2010).

LHDs/SCHN must act in accordance with the NSW Health Subpoenas policy, 2010, and ensure that the LHD/SCHN designated officer (e.g. medical records health information manager or medico-legal officer or risk manager) is informed about the subpoena, as well as, where possible, the senior health care provider and treating health care provider.

NSW Health workers who manage subpoenas must:

- Be aware of whether any claim for privilege over the images can be applied and take appropriate action
- Follow the precautions for 'sensitive records' (see section 6.4: NSW Health Subpoenas policy, 2010)
• Where images are produced, provide only those that are captured under the schedule of the subpoena
• Retain a copy of the subpoena and the images that the Health service provided under the subpoena.

Where the patient whose records are subpoenaed are not a party to the proceedings before the court, the LHD/SCHN must notify the patient:
• That the subpoena has been received
• The date that the photo/video imaging must be provided to the court, so that the patient can arrange to attend court if they so wish.

2.7.5 Sexual assault communications privilege
Records relating to the counselling of victims of sexual abuse may be protected from production to the court. Photo and video imaging is not covered under this privilege (see Chapter 6 of the Criminal Procedure Act 1986).

2.8 Use of imaging for teaching and research
LHDs/SCHN must ensure that NSW Health workers comply with the following:
• Specific informed consent must be obtained from the young person or their parent(s)/guardian(s) for de-identified photo and video imaging to be used for a) teaching and/or b) approved research activities. This must include an explanation that consent for future teaching and/or approved research activities may be withdrawn by the person who provided consent or the person depicted in the image(s) once they are Gillick competent.

For this purpose, where consent is provided for de-identified images to be used for the purposes of teaching and/or approved research activities there must be a process to ensure that withdrawal of consent may be withdrawn. An example of good practice is described in Appendix 5.8.

• Anonymity of patients must be maintained during case presentations, demonstrations, teaching, research and at seminars and conferences. Where possible, fictitious data must be used and identification of individuals must not occur. Use of images that would identify the child or young person must not occur. Images of the face must be de-identified and use of blocked sections or cropping, for example, could be used for this purpose.


• Act in accordance with the NSW Health Privacy Manual for Health Information, 2015.

2.9 Use of imaging for quality improvement activities
LHDs/SCHN must ensure that NSW Health workers comply with the following:
• Quality improvement activities must:
  − use de-identified images and maintain anonymity of patients, and
  − be determined by reference to Human Research Ethics Committees – Quality Improvement & Ethical Review: A Practice Guide for NSW, and
  − comply with NSW Health Privacy Manual for Health Information, 2015 and other relevant NSW Health policies.
2.10  Maintaining the integrity of images in the longer-term

Standard: The integrity of images is maintained in the longer-term

The extent and range of digital image capturing devices, communication technologies and storage systems create a complex environment and significant challenges and opportunities for those that provide forensic science services and their patients (Australia New Zealand Policing Advisory Agency, 2013).

- LHDs/SCHN must use risk analysis and management techniques to reassess the procedures used for capture, storage, access and security for the purpose of maintaining the integrity of images in the longer term. (See, for example, NSW Health Electronic Information Security Policy, 2013, NSW Government Digital Information Security Policy, 2015, and NSW Health: Health Care Records – Documentation and Management policy, 2012.)

3  REFERENCES

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW Health PD2010_065. Subpoenas. NSW Ministry of Health. Sydney, NSW.</td>
<td></td>
</tr>
</tbody>
</table>

56(29/10/15)
## 4 Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Capture</strong></td>
<td>Capture is the process of recording (acquiring) data, such as an image or video sequence (<a href="https://www.anzpd.gov.au/">Australia New Zealand Policing Advisory Agency</a>, 2013).</td>
</tr>
<tr>
<td><strong>Child Sexual Assault Medical Protocol</strong> (the written protocol in the Sexual Assault Investigation Kit (SAIK))</td>
<td>A written record used by forensic examiners in NSW Health Sexual Assault Services to record all types of sexual abuse examinations for children 0-14 years of age and, where appropriate, may be used for young people 14 -17 years, otherwise an adult Medical and Forensic Examination Record (MFER) may be used. It is part of the Child Sexual Assault Investigation Kit (SAIK). The Adult Sexual Assault Medical Protocol may be used where a young person aged 14 or above attends an adult Sexual Assault Service. In young people aged 14 to 17, which Protocol is used is contingent upon consideration of the circumstances of the child or young person and whether a child or adult SAIK represents the most appropriate pathway. The Protocols provide guidance to facilitate the medical and forensic examination of victims of sexual abuse and ensure that laboratory specimens are collected correctly and legal requirements are fulfilled.</td>
</tr>
<tr>
<td><strong>Children and young people</strong></td>
<td>Child: A person who is under the age of 16 years. Young person: A person who is aged 16 years or above but who is under the age of 18 years. (Section 3. <a href="https://www.law.nsw.gov.au">Children and Young Persons (Care and Protection) Act</a> 1998).</td>
</tr>
<tr>
<td><strong>Colposcope</strong></td>
<td>A lighted, magnifying medical instrument used to examine the tissues of the genitalia. It allows an examiner to take a closer look at a child or young person’s genitalia and check for abnormal areas. Some devices can be fitted with photographic or video equipment that can capture still (photographic) or moving (video) images.</td>
</tr>
<tr>
<td><strong>Cultural competence</strong></td>
<td>Violence, trauma and neglect occur in culturally diverse contexts. Cultural competence is the ability to identify and challenge one’s own cultural assumptions, values and beliefs. It is about developing empathy and appreciating that there are many different ways of viewing the world, as this is influenced by culture.</td>
</tr>
<tr>
<td><strong>FACS</strong></td>
<td>Department of Family and Community Services</td>
</tr>
<tr>
<td><strong>Gillick competence</strong></td>
<td>Whilst parents, or those having parental responsibility rights, generally have the legal authority to provide consent for medical procedures for children and young people under the age of 16 years, the Gillick principle (1985 decision of the House of Lords in Gillick v West Norfolk and Wisbech Area Health Authority and anor) provides that a child’s competence to consent to medical procedures increases as they approach maturity, that is a minor under the age of 16 years may be capable of independently consenting to medical treatment when they have achieved a sufficient level of understanding and intelligence to enable them to fully understand what is proposed. Medical practitioners must decide on a case-by-case basis whether a minor has achieved this level of understanding and intelligence.</td>
</tr>
<tr>
<td><strong>Guardian</strong></td>
<td>A person with ‘parental responsibility’ as defined in Section 79A of the <a href="https://www.law.nsw.gov.au">Children and Young Persons (Care and Protection) Act</a> 1998.</td>
</tr>
<tr>
<td><strong>HRIPA</strong></td>
<td><em>Health Records and Information Privacy Act</em> 2002. The Health Privacy Principles (or HPPs) contained in the HRIP Act establish 15 rules for the management of information.</td>
</tr>
<tr>
<td><strong>Intimate image</strong></td>
<td>A photo or video image depicting the genitalia, anus or post-pubertal female breast (<a href="#">Faculty of Forensic &amp; Legal Medicine</a>, 2014) and may also include other parts of the body, such as the buttocks or chest of a pre-pubertal child.</td>
</tr>
<tr>
<td><strong>JIRT (Joint Investigation Response Team)</strong></td>
<td>JIRT is a collaborative partnership between the Department of Family and Community Services, the NSW Police Force and NSW Health workers that jointly manages statutory child protection matters that may require a criminal justice response and a health response.</td>
</tr>
<tr>
<td><strong>JPEG</strong></td>
<td>A digital compression and coding standard (<a href="#">Australia New Zealand Policing Advisory Agency</a>, 2013).</td>
</tr>
<tr>
<td><strong>JRU (JIRT Referral Unit)</strong></td>
<td>JRU is comprised of professionals from the Department of Family and Community Services, the NSW Police Force and NSW Health and ensures that reports of risk of significant harm of children and young people to the Child Protection Helpline that require a child protection response, and may require a health and criminal justice response, are jointly assessed for a response by the three JIRT partner agencies.</td>
</tr>
<tr>
<td><strong>LHD</strong></td>
<td>Local Health District.</td>
</tr>
<tr>
<td><strong>Medical and forensic examiner</strong></td>
<td>A trained Medical Officer, Sexual Assault Nurse Examiner (SANE) or Forensic Nurse who has specialised education and clinical experience in the treatment of children and young people who may have experienced child sexual abuse, physical abuse or neglect and the collection of forensic evidence.</td>
</tr>
<tr>
<td><strong>Medical and forensic examination</strong></td>
<td>A medical and forensic examination is an examination of a patient for the purpose of providing medical care and collecting forensic documentation and evidence.</td>
</tr>
<tr>
<td><strong>Neglect</strong></td>
<td>Where a child or young person’s basic needs (e.g. supervision, medical care, nutrition, shelter and education) have not been met, or are at risk of not being met, to such an extent that it can reasonably be expected to have a significant adverse impact on the child or young person’s safety, welfare or well-being. This lack of care could be constituted by a single act or omission or a pattern of acts or omissions such as failing to attend medical appointments or failing to ensure that a school age child attends school. (<a href="#">Child Wellbeing and Child Protection Policies and Procedures for NSW Health</a>, 2013).</td>
</tr>
<tr>
<td><strong>ODPP</strong></td>
<td>Office of the Director of Public Prosecutions.</td>
</tr>
<tr>
<td><strong>Original image</strong></td>
<td>The first image that is captured onto any media.</td>
</tr>
</tbody>
</table>
| **Peer review** | The evaluation of work or performance by colleagues in the same field with the aim of maintaining or enhancing the quality of work or performance in that field ([Faculty of Forensic & Legal Medicine](#), 2014a). It includes:  
- Discussion about clinical decision making and interpretation of examination findings and results of investigations  
- Meetings undertaken by and with peers with the aim of updating |
<table>
<thead>
<tr>
<th>Knowledge and improving practice through presenting of work to peers for review (Medical Board of Australia, 2014a).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal device</td>
</tr>
<tr>
<td>Photo and video imaging</td>
</tr>
<tr>
<td>Physical abuse</td>
</tr>
<tr>
<td>Prescribed body</td>
</tr>
<tr>
<td>Public Health Organisation</td>
</tr>
<tr>
<td>SAIK</td>
</tr>
<tr>
<td>SCHN (Sydney Children’s Hospitals)</td>
</tr>
</tbody>
</table>
Network) | Newborn and Paediatric Emergency Transport Service (NETS), the Pregnancy and Newborn Services Network (PSN) and the Children's Court Clinic.
---|---
Sexual abuse | The terms sexual abuse and sexual assault are often used interchangeably. For the purposes of this policy directive 'sexual abuse' is used to refer to sexual activity or behaviour that is imposed, or is likely to be imposed, on a child or young person by another person (Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013).
Sexual assault | See 'sexual abuse'.
Sexual Assault Communications Privilege (SACP) | As set out in the Criminal Procedure Act 1986, the SACP allows courts to exclude evidence that would disclose confidential communications made in the course of a professional or sexual abuse counselling relationship. See Appendix A of the NSW Health Subpoenas policy, 2010, for further information.
Standard | A standard is a key principle that must be followed.
Subpoena | A subpoena is an order from a court or tribunal which directs someone that they must on a given date:
  a) Produce to a court certain (existing) documents for use in legal proceedings
  b) Attend a court on a particular date to be a witness in a hearing and give evidence, or
  c) Do both.
A subpoena can only be issued if legal proceedings have been commenced. For the purposes of a subpoena a ‘document’ includes, ‘an electronic medical record or information contained on a computer file, such as photos and/or video’ (NSW Health Subpoenas policy, 2010).

References
## 5 APPENDICES

### 5.1 List of relevant policy documents

| NSW Health PD2013_033 | Electronic Information Security Policy. |
| NSW Health PD2010_065 | Subpoenas policy. |
| NSW Health PD2005_405 | NSW Health Consent to Medical Treatment - Patient Information policy. |

### 5.2 Related policies and procedures

- Child Sexual Assault Medical Protocol *(2002).* (*Often referred to as the SAIK (Sexual Assault Investigation Kit))

Sydney Children’s Hospitals Network and Kaleidoscope Greater Newcastle (SCHN KGN) Clinical Guideline on Photography and Video Recording of Children and Young People under 18 years who are Suspected of Having Been Physically Abused, Neglected or Sexually Abused who Present to any of the Children’s Hospitals in NSW (2012).
5.3 Key related policies and procedures to respond to adult sexual assault:

**Sexual Assault Services Policy and Procedures Manual (Adult), PD2005_607.**


*Clinical Practices – Adult Sexual Assault Forensic Examinations Conducted by Nurse Examiners, PD2005_614.*

5.4 Key Aboriginal health policies and procedures

*Aboriginal Health Impact Statement and Guidelines, PD2007_082. NSW Health.*


5.5 Membership of the Photo and Video Imaging Reference Group

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Organisation</th>
<th>LHD/SCHN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professor Graham Vimpani AM</td>
<td>Chair of the Reference Group Senior Clinical Adviser</td>
<td>Child Protection and Wellbeing</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Mr David Bennett</td>
<td>JIRT Police Officer</td>
<td>NSW Police Force</td>
<td>N/A</td>
</tr>
<tr>
<td>Ms Sue Burke</td>
<td>District Manager, Sexual Assault Services and JIRT Health</td>
<td>Bloomfield Hospital</td>
<td>Western NSW LHD</td>
</tr>
<tr>
<td>Ms Danielle Clark</td>
<td>Manager</td>
<td>Violence Prevention and Response</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Lisa Crawford</td>
<td>Senior Analyst</td>
<td>Violence Prevention and Response</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Mr Paul de Sensi</td>
<td>Medical Photographer</td>
<td>Sydney Children’s Hospital, Randwick</td>
<td>Sydney Children’s Hospitals Network</td>
</tr>
<tr>
<td>Dr Rosemary Isaacs</td>
<td>Medical Director, Sexual Assault</td>
<td>Royal Prince Alfred and Liverpool Hospitals</td>
<td>Sydney and South West Sydney LHDs</td>
</tr>
<tr>
<td>Ms Robyn Lamb</td>
<td>Dept. Head (Allied Health), Child Protection</td>
<td>Sydney Children's Hospital, Westmead</td>
<td>Sydney Children’s Hospitals Network</td>
</tr>
<tr>
<td>Ms Jenny Marshall</td>
<td>Acting Director</td>
<td>Child Protection and Violence Prevention</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Julia Martinovich</td>
<td>Telehealth Implementation Officer</td>
<td>NSW Agency for Clinical Innovation</td>
<td>N/A</td>
</tr>
<tr>
<td>Dr David McDonald</td>
<td>Senior Staff Paediatrician</td>
<td>Tamworth Rural Referral Hospital</td>
<td>Hunter New England LHD</td>
</tr>
<tr>
<td>Name</td>
<td>Title</td>
<td>Organisation</td>
<td>LHD/SCHN</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>Ms Lorna McNamara</td>
<td>Director</td>
<td>Education Centre Against Violence Child Protection and Violence Prevention</td>
<td>NSW Health NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Petra Milnes</td>
<td>Executive Officer</td>
<td>NSW e-health</td>
<td>N/A</td>
</tr>
<tr>
<td>Dr Louise Millward</td>
<td>Senior Analyst</td>
<td>Violence Prevention and Response</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Elena Mirenzi</td>
<td>Manager</td>
<td>Violence Prevention and Response</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Lynn Mitchell</td>
<td>Senior Analyst</td>
<td>Violence Prevention and Response</td>
<td>NSW Kids and Families</td>
</tr>
<tr>
<td>Ms Chloe Mousedown</td>
<td>Telehealth Implementation Officer</td>
<td>NSW Agency for Clinical Innovation</td>
<td>N/A</td>
</tr>
<tr>
<td>Dr Maria Nittis</td>
<td>Department Head, Forensic Medical Units</td>
<td>Blacktown Hospital</td>
<td>Western Sydney LHD</td>
</tr>
<tr>
<td>Mr Hugh Percival</td>
<td>Legal Officer</td>
<td>Legal and Legislative Services</td>
<td>NSW Ministry of Health</td>
</tr>
<tr>
<td>Dr Anne Piper</td>
<td>Community Paediatrician/Training Adviser, Child Protection</td>
<td>John Hunter Children's Hospital</td>
<td>Hunter New England LHD</td>
</tr>
<tr>
<td>Detective S/Sergeant Ian Priest</td>
<td>Staff Officer, Child Abuse Squad</td>
<td>NSW Police Force</td>
<td>N/A</td>
</tr>
<tr>
<td>Dr Shanti Raman</td>
<td>Paediatrician/Medical and Forensic Practitioner</td>
<td>Liverpool Hospital</td>
<td>South West Sydney LHD</td>
</tr>
<tr>
<td>Dr Carol Stevenson</td>
<td>General Practitioner in Aboriginal Health, Medical Educator, Medical Coordinator</td>
<td>Lismore Sexual Assault Service</td>
<td>Northern NSW LHD</td>
</tr>
<tr>
<td>Dr Dimitra Tzioumi</td>
<td>Staff Specialist, Child Protection Unit</td>
<td>Sydney Children's Hospital, Westmead</td>
<td>Sydney Children’s Hospitals Network</td>
</tr>
</tbody>
</table>
5.6 Interim NSW Health consent form

Reference should be made to: Child Wellbeing and Child Protection Policies and Procedures for NSW Health, 2013 (PD2013_007); current standards and guidelines for NSW Health Sexual Assault Services; NSW Interagency Guidelines; Suspected Child Abuse and Neglect (SCAN) Protocol (GL2014_012) and the Child Sexual Assault Medical Protocol in the child Sexual Assault Investigation Kit (SAIK).

I understand that:
- imaging may include ano-genital and breast/chest areas of the body. I have the option to exclude imaging of these or other specific body areas and can advise the examiner accordingly.
- photo and video imaging will be stored securely and confidentially by the NSW Health organisation. Photo and video imaging must be held by the NSW Health organisation for at least 30 years and cannot be destroyed until that time has passed.
- photo and video imaging may be viewed by another forensic examiner for the purposes of obtaining a second opinion or for peer review or by other authorised health workers.
- photo and video imaging can be subpoenaed by the court system as evidence. Where these images are used as evidence they may be viewed by the Judge, the Jury, the Defendant, Counsel for both Prosecution and Defence and any other persons whom the Judge considers relevant.
- access to photos and/or video imaging can be requested by and may be released to the NSW Police Force and/or NSW Department of Family and Community Services.

I consent to de-identified copies of my photo / video imaging being used in: (Please tick as applies)
  a) teaching [ ] Yes [ ] No
  b) research [ ] Yes [ ] No

NOTES: Forensic examiners will:
- a) record any discussions and respect any requests made by me to exclude imaging of specific body areas.
- b) inform me that I have the option of withdrawing my consent for the future use of images for teaching and research at any stage, noting that in some cases it may not be possible for images that have already been used for education or publication prior to the withdrawal of consent to be withdrawn from circulation.
- c) inform me that in order to withdraw my consent for teaching and research I must contact the Hospital/Service attended for information on the procedure required.

Forensic examiner to document any special requests made by the patient and/or discussions relating to specific consents for imaging below.

________________________________________

Please tick the relevant option:
[ ] I do [ ] I do not consent to the imaging and specific requests documented above.

Please tick the relevant option:
I am the: [ ] Patient [ ] Patient’s Person Responsible [ ] Guardian [ ] Parent [ ] Other

Signature ____________________________ Date ________ / ________ / ________

Family Name ________________________

Given Names: _______________________

For Examiner
I am satisfied the person providing consent has both the capacity and authority to consent to the imaging.

Examiner’s name ________________________ Designation ________________________
Signature ____________________________ Date ________ / ________ / ________

Interpreters name ________________________ Designation ________________________
Signature ____________________________ Date ________ / ________ / ________
### 5.7 Request for Medical Photography Services

Consent must be sought before sending this form to the medical photographer.

<table>
<thead>
<tr>
<th>Request for Medical Photography Services (to be completed by Health Professional requesting service)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requester</strong></td>
</tr>
<tr>
<td><strong>Designation/Department</strong></td>
</tr>
<tr>
<td><strong>Signature (of Requester)</strong></td>
</tr>
</tbody>
</table>

**Type of request**  
- Case history print
- Digital file
- Colour prints
- Black and white prints
- Video/audio

<table>
<thead>
<tr>
<th></th>
<th>Instructions to photographer (indicate area to be photographed below)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

56(29/10/15)
Name of Reporter/Photographer:
5.8 Good practice example of a process for complying with a withdrawal of consent for de-identified images to be used for future a) teaching and/or b) research activities

For the purpose of complying with a withdrawal of consent for de-identified images to be used for future a) teaching and/or b) approved research activities:

On receipt of consent
– Each de-identified image should be assigned a reference notation
– The reference notation should be recorded in the patient's file
– A register should be:
  ▪ Kept to document and link the reference notation of the de-identified image with the patient file and
  ▪ Maintained for a minimum of 30 years (NSW Government General Retention and Disposal Authority policy, 2004, revised, 2011)
– A copy of the consent must be stored with the de-identified image(s).

On receipt of a withdrawal of consent, for the purpose of compliance and risk analyses, the de-identified image/s must be deleted from:
– Files that are kept and used for the purposes of future teaching and/or research
– Existing training materials, including Powerpoint files, where they are known to exist.
EMPLOYMENT CHECKS – CRIMINAL RECORD CHECKS AND WORKING WITH CHILDREN CHECKS (PD2016_047)

PD2016_047 rescinds PD2013_028

PURPOSE

This Policy Directive and the attached Procedures outline the mandatory requirements for National Criminal Record Checks (‘NCRCs’) and Working with Children Checks (‘WWCCs’) for persons engaged or employed within NSW Health and for persons seeking to be employed or engaged in NSW Health.

This policy includes the requirements of the Child Protection (Working with Children) Act 2012 and the Child Protection (Working with Children) Regulation 2013 that commenced on 15 June 2013 for child related workers, together with the requirements of the (Commonwealth) Aged Care Act 1997 for aged care workers.

SCOPE

This policy applies to all paid and to non paid workers in NSW Health.

It includes staff on rotation, overseas applicants, volunteers, students undertaking clinical or research placements, Visiting Health Practitioners, temporary or casual ‘locum’ or nursing or midwifery agency staff, contract staff, eligible midwives and nurse practitioners appointed to Public Health Organisations otherwise than as employees and honorary appointments.

This policy applies to all public health organisations and all other bodies and organisations under the control and direction of the NSW Minister for Health or the Secretary NSW Health, including the NSW Ministry of Health and Albury Wodonga Health in respect of staff employed in the NSW Health Service and affiliated health organisations in respect of their recognised establishments and services.

MANDATORY REQUIREMENTS

- NSW Health agencies must identify the type of checks required for each position and ensure that workers have the required NCRC and WWCC, in accordance with this policy.
- NCRCs are mandatory for preferred applicants for positions in NSW Health, including for visiting health practitioners and for volunteers as specified in this policy. The mandatory requirement for a NCRC is subject to the exemption for existing staff members, and the special arrangements around the use of the NSW Health Criminal History Declaration and WWCC probity flag.
- For new child related workers (paid or unpaid), a signed NSW Health Criminal History Declaration stating no criminal history and a WWCC probity flag that indicates no criminal history meets the requirement for a NCRC.
- The use of the Criminal History Declaration and WWCC probity flag may only be used in strict accordance with the requirements of this policy.
- All applicants for positions in the NSW Health Service, including for Visiting Health Practitioners and volunteers, must complete a NSW Health NCRC consent form and provide the associated 100 points of identification, regardless of whether or not they are existing staff members.
- Existing staff members or volunteers moving to new role within the NSW Health Service are not required to undergo a NCRC unless otherwise specified in this policy.
• Students attending clinical placements within NSW Health agencies are exempt from the WWCC requirements but must have a valid NCRC.

• Any person seeking to work in NSW Health in ‘child-related work’ must have a valid WWCC number in addition to any requirements for a NCRC.

• Locum or nursing and midwifery agencies must provide evidence that staff supplied to NSW Health have a valid NCRC and a valid WWCC, as required.

NSW Health agencies must validate and keep records of WWCC numbers obtained from the Children’s Guardian.

• Existing staff members and volunteers are not required to obtain a WWCC until the phase-in dates in the Transition Schedule (Appendix 2).

• NSW Health agencies must ensure compliance with the Transition Schedule (Appendix 2) for existing child related workers to obtain a WWCC.

• All aged care workers must have a NCRC every three years in accordance with the (Commonwealth) Aged Care Act 1997.

• Community transport drivers are required to have NCRCs every three years in accordance with funding arrangements with Transport for NSW.

• All child related workers must have a WWCC every five years in accordance with the (NSW) Child Protection (Working with Children) Act 2012.

• NSW Health agencies must register designated risk assessors, to manage criminal history risk assessments, with HealthShare’s Employment Screening and Review Unit.

• NSW Health agencies must manage and assess criminal history identified through criminal record checks in accordance with this policy, and any requirements specified by the Employment Screening and Review Unit.

• NSW Health agencies must determine the need for criminal record checks for positions not mandated by this policy on the basis of risk.

IMPLEMENTATION

Roles and responsibilities

Chief Executives

Are to ensure that their organisation has systems in place to implement this policy.

Workforce Directorates / Human Resource Departments

Are to ensure the provision of instruction, information and training as necessary to support establishment of local procedures for effective implementation of this policy.

Workers

All workers in NSW Health are required to comply with the mandatory requirements of this policy.
1. **BACKGROUND**

The safety, welfare and wellbeing of NSW Health clients and patients is paramount. NSW Health is committed to ensuring that there are effective systems for protecting patients, clients and assets. One way to do that is to ensure that any person engaged to work in NSW Health has undergone appropriate criminal record checks, in addition to all other pre-employment screening requirements detailed in relevant NSW Health recruitment policies.

Apart from the special legislative provisions for children and older persons, NSW Health also has a duty of care to other vulnerable patients and clients.

A person’s prior convictions may be relevant to the performance of their duties. Therefore, all preferred applicants for engagement within NSW Health agencies must undergo criminal record checks prior to engagement to ensure that any identified relevant criminal convictions may be assessed in terms of potential risk.

This document provides the mandatory procedures for the criminal record checking of preferred applicants for paid and unpaid positions (including for volunteers and students) in NSW Health and includes the legislative requirements relating to ‘child related work’ and to ‘aged care work’.

This document also provides the mandatory criminal record check requirements for existing NSW Health workers.

2. **KEY DEFINITIONS**

For the purpose of this Policy Directive, the following definitions apply:

**The Australian Criminal Intelligence Commission (ACIC)** provides, on behalf of Australian Police Services, national criminal history record checking services to accredited third party agencies for the purpose of employment risk management.

**Children’s Guardian** refers to the Office of the Children’s Guardian, who have responsibility for the issuing of Working With Children Check clearances. The Working With Children Check functions were previously held by the Commission for Children and Young People.

**Child related roles** are:

- An approved provider or manager of an education and care service
- A certified supervisor of an education and care service
- An authorised carer
- An Assessment Officer within the meaning of section 27A of the *Children and Young Persons (Care and Protection) Act 1998*
- The Principal Officer of a designated agency, as defined by the *Children and Young Persons (Care and Protection) Act 1998*
- The Principal Officer of an accredited adoption service provider within the meaning of the *Adoption Act 2000*.

**Child related work** is work in a child related role or in paid or unpaid work, involving face to face or physical contact with anyone under the age of 18 years, in an area prescribed as child related work. These areas include but are not limited to:

- Work as a health practitioner providing health services in wards of hospitals where children are treated or elsewhere if the work includes the provision of health services to children; this includes work in paediatric or adolescent health services and in adult health services (including wards of hospitals) that include the provision of health services to under 18 year olds
- Work by persons (other than health practitioners) who provide health and care services in paediatric or adolescent health services
• Administrative, corporate, clerical, maintenance, or other ancillary work in paediatric or adolescent health services if the work involves contact with children for extended periods
• Work in mentoring and counselling services for children if the mentoring and counselling services are provided to children as part of a formal mentoring program
• Work in providing family welfare services is child-related work, if clients to whom the services are provided ordinarily include children
• Work in child protection services
• Work in education and care services, child care centres, nanny services and other child minding services provided on a commercial basis
• Work at sporting, cultural or other entertainment venues where services, activities or entertainment is provided on a commercial basis primarily for children
• Work that involves providing entertainment services primarily for children on a commercial basis
• Work at detention centres and juvenile correctional centres
• Work for a residential parent and child program involving inmates or detainees, and their children, at a correctional centre, juvenile correctional centre or detention centre or other place
• Work for a religious organisation where children form part of the congregation or organisation if the work is carried out as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of the organisation, or in any other role in the organisation involving activities primarily related to children, including youth groups, youth camps, teaching children and child care.

Children means persons under the age of 18 years as defined in the Child Protection (Working with Children) Act 2012.

Clinical Placement is also known as a student placement or fieldwork education and refers to the provision of supervised tertiary or post graduate education or research in a clinical setting by University / TAFE / other Registered Training Organisation students.

Existing child related workers are persons who are engaged or employed in child related work as at 15 June 2013 and who remain with the same employer.

Health Practitioner, for the purpose of this policy are persons registered under the Health Practitioner Regulation National Law (NSW), and any other individual who provides a health service where a health service includes the following:
• Medical, hospital and nursing and midwifery services
• Dental services
• Mental health services
• Pharmaceutical services
• Ambulance services
• Community health services
• Health education services
• Welfare services necessary to implement health services
• services provided in connection with Aboriginal and Torres Strait Islander health practices and medical radiation practices
• Chinese medicine, chiropractic, occupational therapy, optometry, physiotherapy, podiatry and psychology services
• Optical dispensing, dietician, massage therapy, naturopathy, acupuncture, speech therapy, audiology and audiometry services
• Services provided in other alternative health care fields.

58(20/10/16)
National Criminal Record Check (‘NCRC’) is an Australian-wide check of a person’s criminal history, which may be in the form of a ‘National Police Certificate’ or ‘Police Certificate’ prepared by the Australian Federal Police, a State or Territory police service, or an ACIC accredited agency (such as NSW Health); or which may also be referred to as an ‘Aged Care Check’ if being undertaken for the purpose of working in an Australian Government subsidised aged care service.

National Police Certificate is a National Criminal Record Check, see above.

NSW Health, for the purpose of this policy, consists of NSW Health agencies and the NSW Ministry of Health.

NSW Health agency refers to a local health district, a statutory health corporation, the Ambulance Service of NSW, NSW Health Pathology and Health Infrastructure and Public Health System Support Divisions of the Health Administration Corporation, and Albury Wodonga Health.

NSW Health Service consists of all persons employed under Chapter 9, Part 1 of the Health Services Act 1997.

Overseas Applicant is a person who is employed or engaged directly from overseas, including from New Zealand.

Police Certificate is a National Criminal Record Check, see above.

Preferred Applicant is an individual who is the recommended or preferred person for a vacant or volunteer position, but who has not yet been formally offered that position.

Staff member, for the purpose of this policy, refers to any person who is employed or engaged in paid work in the NSW Ministry of Health or the NSW Health Service (including as a temporary or casual), or as a visiting practitioner. It does not include locum and nursing agency staff, students or volunteers.

Student Supervisor / Facilitator is a person nominated by the education provider and approved by the NSW Health agency to provide education and supervision to students on clinical placement.

Visiting Practitioner is a medical practitioner or dentist, appointed to practice (otherwise than as a staff member) at an agency under section 76 of the Health Services Act 1997.

Volunteer includes, for the purpose of this policy, anyone engaged to work in NSW Health without being paid or renumerated except for out of pocket expenses.

Working With Children Check (‘WWCC’) is a State based legislative requirement, managed by the Children’s Guardian, for anyone in child related work in NSW. The NSW Working with Children Check consists of a national criminal history check and a review of reported workplace misconduct. Individuals are given either a clearance to work with children for five years, or a bar against working with children. The Children’s Guardian monitors individuals for the duration of the clearance for any “trigger” or “disqualifying” charges or convictions arising in NSW, as defined in Schedules 1 and 2 of the Child Protection (Working with Children) Act 2012.

Valid WWCC is either a WWCC application or clearance number or a WWCC provided for an existing child related worker by NSW Health or the Catholic Commission for Employment Relations.

WWCC Application number is the WWCC number that has been activated at the NSW Motor Registry Office/NSW Council Agency that provides Roads and Maritime Services as part of the person’s application for a clearance to work with children.

WWCC Clearance number is the number provided by the Children’s Guardian clearing the person to work with children.

WWCC Exemptions are workers who are exempt from the requirements of the WWCC and include:

- A worker who provides administrative, clerical or maintenance services, or other ancillary services, if the work does not ordinarily involve contact with children for extended periods.
- A health practitioner who is working in and visiting New South Wales from outside the State, if the period of work does not exceed a total of five days in any period of three months
- A worker who is working in and visiting New South Wales from outside the State for the purpose of child-related work if the worker is the holder of an interstate working with children check in the jurisdiction in which the person ordinarily resides, or is exempt from the requirement to have such a check in that jurisdiction, and the period of the child-related work in New South Wales does not exceed a total of 30 days in any calendar year
- A health practitioner who works exclusively in the provision of geriatric health services
- A worker who works for a period of not more than a total of five working days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present
- A worker who carries out the work in the course of an informal domestic arrangement that is not carried out on a professional or commercial basis
- A worker whose work involves direct contact only with children who are close relatives of the worker, other than a worker who carries out the work in the capacity of an authorised carer;
- A parent, or close relative, of a child who attends a school, an education and care service or other educational institution when volunteering at or for activities of the school, service or institution
- A worker who is under the age of 18 years
- A worker who is a health practitioner in private practice, if the provision of services by the practitioner in the course of that practice does not ordinarily involve treatment of children without one or more other adults present
- A worker who is a co-worker of a child or who is a work supervisor or work placement supervisor of a child; A visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one-off occasion and is carried out in the presence of one or more other adults or
- Students attending clinical placements are not in child related work and are not required to obtain a WWCC. They are however required to sign a declaration that they have read and understood the NSW Health Code of Conduct and that they will notify NSW Health if they are charged with any criminal offences.

Worker is any person who is employed or engaged in paid or unpaid work in NSW Health, (including as a temporary, casual, or ‘locum’ or nursing or midwifery agency staff member), visiting practitioners, students, volunteers, agency staff, contractors etc.

2.1 Legal and Legislative Framework

This policy outlines the:
- Working with Children Check requirements for work defined as ‘child related’ in accordance with the (NSW) Child Protection (Working With Children) Act 2012 and Child Protection (Working with Children) Regulation 2013 and
- Police Certificate requirements for work in NSW Health services and aged care facilities that receive Australian Government funding in accordance with the (Commonwealth) Aged Care Act 1997.

3. GENERAL CRIMINAL RECORD CHECK REQUIREMENTS

NCRCs are required for all new appointments to NSW Health (the requirements for existing NSW Health workers are dealt with in Section 9).
In addition to a NCRC at the time of appointment:

- Workers in ‘child related work’ must have a valid WWCC (renewed every five years) in accordance with the requirements of the (NSW) Child Protection (Working With Children) Act 2012 and Child Protection (Working with Children) Regulation 2013.
- Workers in ‘aged care work’ must have a new NCRC every three years in accordance with the (Commonwealth) Aged Care Act 1997.

To ensure appropriate criminal record checking and compliance with relevant legislation, all positions, including for volunteers, should be categorised as one of the following:

- Child related work – requiring a valid WWCC and NCRC on appointment and thereafter a WWCC every five years – refer to Section 5
- Aged care work – requiring a valid NCRC (for aged care purposes) on appointment and thereafter every three years - refer to Section 6
- Child related work and aged care work – requiring a valid WWCC and NCRC (for aged care purposes) on appointment and thereafter a WWCC every five years and a NCRC (for aged care purposes) every three years – refer to Sections 5 and 6
- Non child related (and non aged care) work – requiring a NCRC on appointment only – refer to Section 7
- Other work - roles not mandated by this Policy to have NCRCs – requiring a position risk assessment to determine the need for NCRC – refer to Section 8.

Applicants for positions in NSW Health must be advised of the criminal record check requirements as part of the recruitment process.

Refer to Appendix 12 for a summary of NCRC and WWCC recruitment requirements for staff members and volunteers, and Appendix 13 for the requirements for locum, nursing and midwifery agency staff.

4. NSW HEALTH’S ROLE IN CRIMINAL RECORD CHECKING

NSW Health only conducts NCRCs on preferred applicants for positions in NSW Health, including for visiting health practitioners and volunteers, or on existing staff members in permanent, temporary or casual positions. This is done as part of pre-employment screening during recruitment or every three years for existing workers where required under the Aged Care Act 1997.

NSW Health does not conduct the NCRCs on workers engaged through a locum or nursing and midwifery agency, or on other workers not employed by NSW Health or otherwise employed by a third party organisation. In these circumstances, it is the responsibility of the locum or nursing and midwifery agency, the individual or the third party organisation.

The Employment Screening and Review Unit (ESRU) in HealthShare NSW has responsibility for the lodgement of NCRCs for NSW Health and for coordinating the appropriate management of criminal history information in accordance with its contract with ACIC.

ESRU’s responsibilities include ensuring NSW Health’s compliance with contractual requirements around access to, and management of, criminal history information across NSW Health.

Criminal history information may only ever be viewed or accessed by designated NSW Health risk assessors that are registered with ESRU, who are aware of, and who have agreed to abide by, the strict confidentiality requirements around the management of the information and who have responsibilities in managing the associated risk assessment process.
4.1 Obtaining Consent for a NCRC

NCRCs may not be lodged without informed consent from the individual and the required evidence of their identification.

All applicants for positions within the NSW Health Service or NSW Ministry of Health whether new or existing staff members or volunteers must, at the time of application, complete the NCRC consent form (Appendix 7) and provide 100 Points of Identification (Appendix 8).

NSW Health agencies must ensure that existing staff members or volunteers have a valid NCRC for the role for which they have applied. Refer to Section 9 for information about NCRC requirements for existing staff members or volunteers.

4.2 Identification Checking Requirements for the NCRC

The NSW Health agency must complete the 100 Point Identification Checklist after sighting the applicant’s original documentation. There is no requirement to keep copies of identification documents.

For overseas applicants who are not in the country at the time of their application, verified copies of the original documents may be accepted until the applicant arrives in Australia at which time the original copies must be sighted and the 100 Point Identification Checklist completed (Appendix 8).

4.3 The NSW Health Criminal History Declaration (Appendix 4)

The NSW Health Criminal History Declaration (‘Declaration’) may be used in place of conducting separate NCRCs in recruitment for child related work, for new staff members or volunteers when supported by the WWCC probity flag and where there is no requirement for a NCRC for aged care purposes. The Declaration requires applicants to make a declaration about criminal history (including pending charges).

The use of the Declaration must comply with all the following mandatory requirements:

- It may only be used for new child related workers and not for existing workers
- It may only be used if the WWCC validation process has access to the WWCC probity flag
- It must not be accessible or disclosed to the selection panel or used as part of the process for selecting the preferred applicant
- It must be maintained securely and confidentially
- It should only be accessible to staff with responsibility for processing NCRCs and may only be used after the person has been selected as a preferred person and for the purpose of determining whether a separate NCRC is required.

When a Declaration indicates no criminal history and the WWCC probity flag confirms that the person has no criminal history, there is no further need to undertake a NCRC unless one is required for aged care purposes.

A Declaration indicating no criminal history must be retained on a successful applicant’s personnel file or on the recruitment file for unsuccessful applicants.

Declarations where the applicant has indicated criminal history must be retained in a secure file along with the documented risk assessment or file note confirming that either no actual criminal history was disclosed in the NCRC or that the disclosed criminal history was not relevant to the inherent requirements of the position.

4.3.1 Information disclosed in the Declaration

Applicants are only required to disclose criminal history as lawfully allowed in accordance with the relevant State or Territory spent convictions legislation. They are not required to disclose spent criminal history, and NSW Health may not consider spent criminal history in its assessment of the person’s suitability for work.

Spent convictions are not disclosed in the NCRC undertaken by NSW Health.

The Declaration requires applicants to state whether they have any of the following matters recorded against their name (including bonds but excluding minor traffic offences, matters that have been quashed, dismissed, withdrawn or which are otherwise spent):

- convictions in the last 10 years or
- convictions for sexual offences or
- convictions for which a prison sentence of more than 6 months was imposed or
- criminal charges which are yet to be finalised or heard in court.

A NCRC must be obtained if the person has disclosed that they have criminal history. The disclosure of criminal records or charges does not automatically preclude a person from a position; each case must be considered on its merits and in accordance with the requirements of this Policy.

If an applicant is found to have deliberately withheld or provided false information in the Declaration about convictions or pending charges that are subsequently identified as relevant to the inherent requirements of the role, the application may be rejected or if the person has been appointed, it may be grounds for dismissal.

4.3.2 The WWCC probity flag

When NSW Health validates WWCC clearances with the Children’s Guardian through designated web servers, including the eRecruit system, the WWCC probity flag may identify whether or not the person has criminal history.

The WWCC probity flag indicating no records is equivalent to a NCRC undertaken at the date of the WWCC clearance. The flag indicates if the person had any charges or convictions (including non child related matters) at the time of their WWCC clearance or any “trigger” or “disqualifying” charges or convictions (as listed in Schedules 1 and 2 of the Child Protection (Working with Children) Act 2012) in NSW after the date of the WWCC clearance.

The WWCC probity flag does not distinguish between spent and disclosable criminal records, all released as part of the WWCC. A NCRC conducted as a result of a WWCC probity flag may be returned clear because the person does not have records that are disclosable in a NCRC.

The WWCC probity flag indicating no records is only available if the applicant has provided consent for this information to be released to NSW Health. In the absence of consent, the flag defaults to the position that the person may have criminal history.

The WWCC probity flag is not available for validations conducted manually through the website of the Children’s Guardian.

4.3.3 Use of the Declaration and WWCC probity flag instead of a NCRC

The WWCC probity flag indicating no records may be used instead of a NCRC for new staff members and volunteers only when it is attached to a WWCC clearance number and the person has signed the Declaration stating that they have no criminal history.
NCRCs are still required for new child related staff members or volunteers if:

- the WWCC probity flag is not available in the recruitment process (because the validation process is being managed manually or not through eRecruit or another designated web server); or
- the applicant has not completed the Declaration; or
- there is information indicating that the preferred applicant may have criminal history (for example, from the Declaration or from the WWCC probity flag); or
- the person is going into aged care work and their last NCRC (including from the WWCC probity flag) was undertaken three or more years ago.

For preferred applicants for positions identified as ‘child related work and aged care work’, if the WWCC probity flag is under three years old and indicates the person had no criminal records, and the Declaration states they have no criminal history, there is no further requirement for a NCRC.

Refer to Section 9 for the requirements for existing workers.

4.4 Where the NCRC reveals criminal records

Where a NCRC reveals criminal records, ESRU will identify whether the convictions or pending charges may be relevant to the position and, if so, forward them to the designated risk assessor within the NSW Health agency for further assessment.

The NSW Health agency’s risk assessor must determine if the records are relevant and if they are likely to affect the individual’s ability to undertake the key responsibilities of the position for which they are being considered.

If it is determined that the risks are not relevant or do not impact on the individual’s ability to undertake the key responsibilities of the position, the appointment should proceed.

If it is determined that the risks may be relevant and may impact on the role, the applicant must be contacted, and a risk assessment undertaken.

4.5 Contacting the applicant

The applicant must be asked to confirm their full name, date of birth and current address and be told of the purpose of the NCRC. Once the person’s identity has been confirmed, they may verbally be given a summary of the substance of the police history information, including dates, and asked to confirm the accuracy of the information. The applicant must not, under any circumstances, be given a copy of the criminal history information.

If the applicant states that the record does not belong to them or is inaccurate, ESRU must be contacted for further advice.

If the applicant confirms the criminal records, they should be advised of the relevance of the record to the position for which they are being considered, the type of information that may assist the risk assessment, and be given an opportunity to provide additional information to support their application.

At all times, the principles of procedural fairness, privacy and confidentiality must be maintained when conducting employment risk assessments.

4.6 Conducting the risk assessment

The risk assessment may only be carried out by designated risk assessors; those persons, who are registered as risk assessors with the ESRU, have undergone NCRCs and met any other requirements as specified by ESRU. No other persons may be involved in the management of the risk assessment process.
Only designated NSW Health risk assessors may sight or have access to criminal records or documents used in an employment risk assessment. This information must not to be given, sent or disclosed to any third party person including to any other NSW Health agency worker.

The following information may be considered as part of the risk assessment:

- The seriousness and nature of the convictions, and how they relate to the key responsibilities of the position (including ensuring they are not precluding convictions if in aged care work)
- The number of convictions, whether it was a pattern or an isolated matter
- The period of time that has elapsed since the last offence
- The amount and type of penalty awarded by the court may be indicative of the seriousness of the offence
- Any mitigating information in relation to the offences. These might include such factors as peer pressure, difficult family circumstances or other stress factors in the person’s life at the time such as drug or alcohol abuse etc
- Submissions from the applicant regarding action they have taken or changes to their circumstances that may have contributed to the offending
- References – the type of reference will depend on the nature and circumstances of the offence(s), but could include workplace references as well as information from professionals from whom the applicant has sought treatment, counselling or other help. This may include references from probation or parole officers
- The degree of direct or unsupervised contact the person will have with patients, clients’ confidential information, property, finances etc, whether the person will be working alone or as part of a team and the environment in which the work will be conducted.

Based on the information obtained, a determination must be made about whether any risks arising from the criminal record or charges, identified as relevant to the position for which the person is being considered, affect their ability to undertake the full range of responsibilities and tasks associated with the role, including whether any such risks can be, or have already been, satisfactorily mitigated.

4.7 Outcome of the risk assessment

Once the risk assessment is completed, the NSW Health agency must advise the applicant of its determination.

The NSW Health agency must also inform ESRU of the determination and provide any other information as required by ESRU, including confirmation that all criminal history information has been destroyed.

The NSW Health agency should document in a risk assessment report its reasons either to continue with the appointment or to decline the appointment because of the criminal history.

4.8 The risk assessment report

The risk assessment report should include a summary of the criminal records (including the nature of the convictions or charges, their date, and the penalty), their relevance to the key responsibilities of the role, any mitigating or risk factors associated with the role, a summary of any information provided by, or obtained from, the applicant or referees or any other body, and an analysis of the resulting risks and the decision whether or not to appoint.

4.9 Management of criminal history

Only designated risk assessors are allowed access to information about criminal history, which must be kept securely and confidentially at all times.
Information obtained about a person’s criminal history must not be used for any purpose other than for determining their suitability for engagement or ongoing engagement within NSW Health.

4.10 Retention of records

Criminal history information must be deleted as soon as the risk assessment is complete or within three months at the latest; this includes criminal history information sent or received or stored electronically.

All other records, including Declarations and Risk Assessment Reports, created or obtained in connection with NCRCs or WWCCs (including for volunteers and students) must be kept in accordance with the requirements of the NSW State Records General Retention and Disposal Authority. For the current requirements for retaining records obtained during the recruitment and selection of staff members, refer to the NSW Policy Directive ‘Recruitment and Selection of Staff of the NSW Health Service’, accessible at http://www.health.nsw.gov.au/policies/pages/default.aspx.

5. CHILD RELATED WORK

5.1 Definition of Child Related Work

Refer to the definitions of Child Related Work and WWCC exemptions in Section 2.


5.2 Recruitment requirements for child related work

People seeking to be employed or engaged in NSW Health in child related work are required to have the following two criminal record checks as part of the recruitment process:

1. A valid WWCC number from the Children’s Guardian:
   - A WWCC number should be validated as a WWCC clearance before the person commences in NSW Health, subject to the emergency provisions in Section 5.4 and

2. A satisfactory NCRC:
   - For all direct NSW Health engagements, the applicant (whether an existing worker or not) is required to complete a NCRC consent form and provide 100 points of identification as required in the 100 Point Identification Checklist and
     - The applicant should also complete a NSW Health Criminal History Declaration if they are not an existing worker and the recruitment process meets the requirements specified in Section 4.3.
   - The NCRC should be finalised before the person commences in NSW Health, subject to the emergency provisions in Section 5.4.
   - For locum or nursing and midwifery staff, it is the responsibility of the locum or nursing and midwifery agency to ensure that the person has a valid NCRC before they commence placements in NSW Health (refer to Section 5.6).

The following exceptions apply:
- A NCRC is not required if the applicant’s WWCC probity flag indicates they do not have any criminal history and they have completed a Declaration stating that they have no criminal records or pending charges (subject to any further requirements relating to aged care work - refer to Section 6).
- There are special arrangements for existing NSW Health Service workers changing roles. Refer to Section 9.

58(20/10/16)
5.3 Obtaining a Working with Children Check

WWCCs are only available from the Children’s Guardian. Individuals wishing to be engaged in child related work are responsible for obtaining and paying for their WWCC number from the Children’s Guardian.

NSW Health agencies may not apply for or pay for WWCCs on behalf of individuals.

The individual requiring a WWCC clearance must apply to the Children’s Guardian for a **non volunteer clearance** which will allow them to be engaged in either paid or unpaid work; or a **volunteer clearance** which will only allow them to be engaged in unpaid child related work.

Applicants are required to apply online for a WWCC number, which then must be activated and paid for (if for paid work), **in person**, with identification at a NSW Motor Registry Office or a NSW Council Agency that provides Road and Maritime Services (for the full list, refer to the NSW Guardian’s “Fact Sheet: How to apply” available at [https://www.kidsguardian.nsw.gov.au/](https://www.kidsguardian.nsw.gov.au/))

Individuals should include their activated WWCC number with their application, at interview or as otherwise directed in the recruitment process. Information for applicants about obtaining the WWCC is available from [https://www.kidsguardian.nsw.gov.au/](https://www.kidsguardian.nsw.gov.au/)

5.4 Emergency conditional appointments - child related workers

Child related workers are required to have a WWCC clearance before they commence work in NSW Health, except in the following circumstances:

1. Where the person has been unable to lodge their application at the NSW Motor Registry Office or NSW Council Agency before commencing work because they are an overseas or interstate applicant and a delay to them commencing work is likely to significantly affect service delivery or
2. Where there are other reasons for the person being unable to lodge an application before commencing work that the NSW Health agency determines are valid and the engagement of that worker is necessary in the circumstances to prevent an increased risk to the safety and wellbeing of children or
3. Where the person has lodged the application at the NSW Motor Registry Office or NSW Council Agency but has not yet received a clearance and a delay to them commencing work is likely to significantly affect service delivery.

The NSW Health agency is responsible for determining if the criteria for an emergency conditional appointment has been met, and for mitigating any risks associated with the applicant commencing work without a WWCC clearance, including ensuring that only delegated staff authorise such conditional appointments, and that all other relevant pre-employment screening checks are completed, including, where possible, a NCRC.

Further exemptions from the NSW WWCC apply to interstate and overseas workers (Refer to Section 5.7).

5.4.1 Emergency conditional appointments – requirements when appointing workers without a WWCC clearance

Where a new staff member or volunteer commences work without a WWCC clearance for the reasons cited in Section 5.4, they should have either completed a Declaration stating that they have no criminal history or undergone a NCRC, and the appointment must be conditional on a WWCC clearance being provided (and a satisfactory NCRC if waiting on the WWCC probity flag to support the Declaration). If the WWCC probity flag will not be available through the WWCC validation process, the NSW Health agency must immediately lodge a NCRC.
Where the emergency appointment relates to locum or nursing and midwifery agency staff, they should have met the NCRC requirements (Section 5.6) before commencing work; the Declaration and WWCC probity flag are not available for locum and nursing or midwifery agency staff.

If the person has been unable to obtain a WWCC application number from the NSW Motor Registry Office or the NSW Council Agency before commencing work, they must provide one within five days of commencing work. If after five days the person has not provided a valid WWCC number, the appointment should be suspended until the person has provided one.

Additional requirements relate to emergency appointments in aged care work - refer to Section 6.

The NSW Health agency must ensure that the ongoing appointment of all child related workers in NSW Health is dependent on valid WWCC clearance numbers and satisfactory NCRCs.

Individuals who do not have a valid WWCC number must not be engaged in child related work except in the circumstances outlined in Section 5.4.

There are penalties under the Child Protection (Working with Children) Act 2012 for employers and for individuals who fail to comply with the WWCC requirements.

5.4.2 Emergency conditional appointments without a NCRC

The NSW Health agency is responsible for determining if the criteria for an emergency conditional appointment has been met and for mitigating any risks associated with an applicant commencing work without a finalised NCRC, including ensuring that only delegated staff authorise such conditional appointments, and that all other relevant pre-employment screening checks are completed, including, where required a WWCC clearance.

Where a person has neither a WWCC clearance nor a finalised NCRC, the criteria in Section 5.4 must be met for the appointment to proceed.

A WWCC clearance probity flag and Declaration both indicating no criminal history meet the requirement for a finalised NCRC.

5.5 Validation of WWCCs

NSW Health agencies must validate WWCCs numbers with the Children’s Guardian for all new child related workers, including for agency and locum staff.

For each child related worker, records must be kept of the:

- Worker’s full name
- WWCC number
- Date and outcome of the WWCC validation and
- WWCC clearance expiry date.

These records may be electronic or in hard copy format, but must be made available to the Children’s Guardian if required for audit and monitoring purpose.

NSW Health agencies must use the “log on” details provided by the ESRU.

For existing workers, where it is identified as part of the recruitment process that the applicant’s WWCC from the Children’s Guardian has previously been validated, and is still current and valid for the work being undertaken (eg, for paid workers the WWCC is a non-volunteer WWCC) there is no further requirement to revalidate the number.

Once a worker has been validated, should the Children’s Guardian withdraw the WWCC clearance, they will contact ESRU, who will identify whether the person is still currently engaged in NSW Health and provide advice to the relevant NSW Health agencies.

If a worker’s WWCC is withdrawn by the Children’s Guardian, they must immediately be removed from child related work.

58(20/10/16)
5.6 Locum and nursing and midwifery agency staff

All locum, nursing and midwifery agency staff must have a valid WWCC and NCRC before commencing in a NSW Health agency (unless they are only working in aged care work in which case they are only required to have a valid NCRC for aged care purposes – refer to Section 6), or unless the criteria in Section 5.4 has been met for emergency appointments, or they fall within the exemptions for short term overseas or interstate workers referenced in Section 5.7.

The locum or nursing and midwifery agency is required to provide confirmation to the NSW Health agency that the person has a valid WWCC and NCRC, in accordance with this policy.

For the purpose of locum or nursing and midwifery agency staff, a valid WWCC may be one from NSW Health or a WWCC number from the Children’s Guardian, depending on when the person registered with the locum or nursing and midwifery agency.

For WWCC numbers from the Children’s Guardian, the NSW Health agency must validate the WWCC number with the Children’s Guardian.

For the purpose of locum or nursing and midwifery agency staff, a valid NCRC is:

- A National Police Certificate obtained within the last three years and a Declaration relating to any offences committed since the date of the Certificate (if the Certificate was obtained before registration with the agency) or
- A NCRC obtained by the locum or nursing and midwifery agency as part of the person’s engagement with the agency or
- A NCRC included in a WWCC obtained from NSW Health (NSW Health WWCCs lodged by agencies before March 2012 included a NCRC; NSW Health WWCCs lodged by agencies after March 2012 did not include a NCRC).

The NSW Health Criminal History Declaration and WWCC probity flag may not be used for locum and nursing and midwifery agency staff.

It is the responsibility of the locum or nursing and midwifery agency to sight the person’s relevant documentation and to assess any criminal history to determine the person’s suitability for the placement.

The locum or nursing and midwifery agency must provide the NSW Health agency with the reference number for the Police Certificate or the NCRC, the date it was undertaken and confirmation that they have assessed any identified criminal records and there is nothing in the person’s criminal record history preventing them from undertaking all the key responsibilities of the role.

The Police Certificate is not required to be provided to the NSW Health agency. Locum and nursing agencies may use the ‘Template Letter for Locum and Nursing and Midwifery Agencies’ at Appendix 3.


The table at Appendix 13 summarises the NCRC and WWCC requirements for locum and nursing and midwifery agency staff.

5.7 Overseas and Interstate applicants

WWCC application numbers are only available from NSW Motor Registry Offices or NSW Council Agencies that provide Roads and Maritimes Services located in New South Wales.
Overseas and interstate applicants, including those appointed through locum or nursing and midwifery agencies, may be unable to obtain a WWCC application number until after they have commenced work in a NSW Health agency.

The NSW Health agency should consider whether the person is exempt from the WWCC for the reasons provided in Sections 5.7.1 or 5.7.3.

If the position is not exempt from the WWCC, and the criteria in Section 5.4 has been met, the appointment may proceed, but be conditional on a WWCC clearance. The person must attend the NSW Motor Registry Office or NSW Council Agency and provide the NSW Health agency with the WWCC application number within five days of commencing work.

Interstate and overseas applicants are subject to the same Australian NCRC requirements as other applicants.

Refer to Sections 5.6 and 9.3 for further information about locum, nursing and midwifery agency staff.

### 5.7.1 Overseas applicants

Overseas workers engaged in child related work in NSW Health are required to obtain a WWCC, unless they will be working for fewer than five days in any three month period.

If the appointment needs to proceed, conditionally, in the absence of a WWCC application number, the applicant must still meet the requirements for overseas criminal record checks and have an Australian NCRC, in accordance with this policy.

NCRCs may be lodged before the person arrives in Australia as long as they complete the NSW Health NCRC consent form with verified copies of original documents for the 100 Point ID Check. Once they arrive in NSW, the original documents must be sighted by the NSW Health agency and the 100 Point ID Checklist completed.

Certified copies are copies authorised, or stamped as being true copies of originals, by a person or agency recognised by the law of the country in which the person is currently residing as having the authority to authorise or stamp such documents.

Department of Immigration and Citizenship (‘DIAC’) offices outside Australia may have the facility to certify or witness documents. A ‘Service Delivery Partner’ may be able to provide this service on behalf of the department if there is an agreement in place with the Australian Office. Applicants can visit the DIAC website for more information on offices outside Australia: [www.immi.gov.au/contacts/overseas/](http://www.immi.gov.au/contacts/overseas/).

### 5.7.2 Additional requirements for overseas applicants

In addition to requirements for the WWCC and Australian NCRC, applicants recruited directly to NSW Health from overseas (including New Zealand) must provide:

- A Police Clearance from their home country and any country they have been citizens or permanent residents since turning 16 years of age (incorporating any charges the preferred applicant may have against their name)
- If unable to provide a Police Clearance from any country they have lived in, they must complete a Statutory Declaration stating they have no pending criminal charges or convictions from any country they have been citizens, permanent residents since turning 16. If they do have such records, they must list date of offence, type of offence and court outcome (refer to Appendix 5).

Any criminal record check in a language other than English must be accompanied by a ‘certified copy’ of an English translation of the criminal record.
5.7.3 Interstate applicants

Interstate workers engaged in child related work in NSW Health are required to have a NSW WWCC if they will be working for more than five days in any three month period or more than 30 days in a calendar year.

If the appointment needs to proceed conditionally, in the absence of a WWCC application number, the applicant should still have a NCRC, in accordance with this policy.

The following exemptions from the WWCC relate to interstate workers:

- Interstate health practitioners engaged by a NSW Health agency for fewer than five days in any three month period do not require a NSW WWCC
- Health practitioners/workers working in NSW for more than five days in a three month period but fewer than 30 days in a calendar year do not require a NSW WWCC if they have an interstate WWCC number or they are exempt from the WWCC in their home State or Territory. Health practitioners in Queensland and ACT are currently exempt from their local WWCC requirements.

NSW Health agencies must ensure that interstate workers are compliant with the WWCC requirements.

5.8 Volunteers

Volunteers in paediatric or adolescent health services are in child related work if they are providing health and care services or if they are in an administrative, clerical, maintenance or ancillary role and the role involves contact with children for extended periods.

In other health services, volunteers providing health and care services are not in child related work unless they are in one of the other specified categories of child related work (refer to the definitions of ‘child related work’ and ‘WWCC exemptions’ in Section 2).

From 15 June 2013, all new volunteers engaged to work in child related work must have a valid WWCC number from the Children’s Guardian, and a valid NCRC in accordance with Section 5.

6. AGED CARE WORK

6.1 Definition of aged care work

The Australian Government’s Department of Health is responsible for the legislative criminal record checking requirements for workers in aged care work. Further information may be obtained from their website at:


Aged care workers include all paid staff members aged 16 years or over and relevant volunteers in NSW Health services and aged care facilities that receive Australian Government funding. These include:

- Residential aged care facilities
- Flexible Care services, such as:
  - Home Care Packages (formerly known as Community Aged Care Packages, Extended Aged Care at Home & Extended Aged Care at Home-Dementia Packages)
  - Multi-Purpose Service residential aged care services and
  - Transitional Aged Care services.

6.2 Requirements for aged care workers

Aged care staff members and volunteers are required to have a valid NCRC on appointment to NSW Health. The NCRC must be identified as being for the purpose of aged care and be repeated every three years for those:
Staff, contractors (including agency staff) or consultants within a residential aged care facility, who have, or are reasonably likely to have, access to care recipients or with access to the care recipient’s own home through a Home Care Package or other community service

Volunteers visiting care recipients under the Community Visitors Scheme and

Volunteers who have or are reasonably likely to have, unsupervised access to care recipients, and have turned 16 years of age or, if for full-time students, have turned 18 years of age.

The following are not aged care workers for the purpose of the Australian Government’s criminal record check requirements:

- Visiting medical practitioners, pharmacists and other allied health professionals who have been requested by, or on behalf of, a care recipient but are not contracted by the approved provider or
- Tradespeople who perform work otherwise than under the control of the approved provider (that is, independent contractors). For example, plumbers, electricians or delivery people who are utilised on an ‘adhoc’ basis
- Visiting people who attend the service at the invitation of a care recipient (e.g. family and friends) and
- Aged Care Assessment Teams who are visiting professionals not contracted by the approved provider.

People are precluded from working in Australian Government funded aged care services if they have a conviction for murder or sexual assault or a conviction for, and sentence to imprisonment (including one that is suspended) for any other form of assault.

The NSW Health agency must undertake NCRCs on all new staff members and volunteers to aged care. Refer to Section 4.3 for further information about the use of the Declaration and WWCC probity flag for preferred applicants for positions identified as ‘aged care work and child related work’.

NSW Health agencies must ensure that aged care workers have NCRCs every three years, and that persons with convictions precluding their employment are not engaged or allowed to continue to work in aged care.

6.3 Additional requirements for aged care applicants who have resided overseas

In addition to the Australian NCRC, if staff members or volunteers have been citizens or permanent residents of a country other than Australia since turning 16 years of age, they must make a Statutory Declaration before starting work stating that they have never been convicted of murder or sexual assault, or been convicted of, and sentenced to imprisonment for, any other form of assault.

The template Statutory Declaration for aged care must be used (Appendix 11).

6.4 Locum and nursing agency staff

For aged care workers engaged through a locum or nursing and midwifery agency, the locum or nursing and midwifery agency must ensure that the person has a valid NCRC, including in relation to the requirements for applicants who have resided overseas, before being placed in the NSW Health agency.

The NSW Health agency is responsible for confirming that locum or nursing and midwifery agency staff members have NCRCs in accordance with the aged care requirements.

The table at Appendix 13 summarises the NCRC and WWCC requirements for locum and nursing and midwifery agency staff.
6.5 Emergency appointments in aged care

A person may commence conditionally in aged care work without a valid NCRC only if:

- The care or other service to be provided by the person is essential and
- An application for a NCRC or police certificate has been made before the date on which the person first becomes a staff member or volunteer and
- The person will be subject to appropriate supervision during periods when the person has access to care recipients and
- The person makes a statutory declaration (Appendix 11) stating that they have never been convicted of murder or sexual assault or convicted of, and sentenced to imprisonment for, any other form of assault.

7. NON CHILD RELATED WORK

Non child related work is any work that is not child related or aged care work and includes, but is not limited to:

- Administrative, corporate, clerical, maintenance, ancillary, volunteer work or any work by persons other than health practitioners in paediatric or adolescent health services where the work does not involve contact with children for extended periods, or
- Administrative, clerical, maintenance, corporate, ancillary or volunteer work or any work by persons other than health practitioners in all other health services (other than those defined as aged care work in Section 6) or in the NSW Ministry of Health.

All new staff members and volunteers engaged to work in NSW Health in non-child related roles must undergo a NCRC through NSW Health as part of the appointment process. As long as the person remains in non-child related work within the NSW Health Service with no break in service, there is no requirement for a further NCRC.

7.1 Agency staff - non clinical

Long term non clinical agency staff should have a NCRC. For short term non clinical agency staff, the NSW Health agency should determine whether a NCRC is necessary based on a risk assessment of the position (refer to Section 8).

7.2 Contractors - Service/Utilities (non-clinical services)

For short term/one off delivery/repair work, no criminal record checking is required. If a contractor is required to enter hospital wards or premises for the delivery or repair of equipment, the person is to be supervised and informed of the areas they are permitted to enter.

For long term contracts/tendered agreements where the company/organisation is contracted for building services and where the contractor is not providing any direct services to clients or patients, NSW Health does not undertake any criminal record checking.

If as a result of a risk assessment, it is determined that the workers engaged by the contractor should undergo NCRCs, it is the responsibility of the contracted company to organise them.

7.3 University/TAFE/other Registered Training Organisation (‘RTO’) students undertaking clinical placements in NSW Health agencies

All students are required to obtain a National Police Certificate for the purpose of undertaking clinical placements in NSW Health agencies, regardless of whether or not they are an existing NSW Health worker.
Students are responsible for obtaining their own Police Certificate. Overseas students, whether enrolled in an Australian or Overseas Tertiary Institution, must in addition to obtaining an Australian National Police Certificate, also obtain Police Certificates from their home country or any country that they have been permanent residents of or citizens in since turning 16 years of age (translated in to English). If they are unable to obtain a Police Certificate, the student must complete the Template Statutory Declaration at Appendix 5 that details whether or not they have a criminal history from their home country or any country that they have resided in, or been a citizen of since turning 16 years of age.

The name on the Police Certificate must match the name on the student’s ID card from the Tertiary Institution.

The Template Statutory Declaration at Appendix 5 must be completed once the student is in New South Wales.

Students attending clinical placements are not in child related work and are not required to obtain a WWCC. They are however required to sign the Code of Conduct Agreement for Students Undertaking a Clinical Placement at Appendix 6 stating that they have read and understood the NSW Health Code of Conduct and that they will notify NSW Health if they are charged with any criminal offences.

Students must provide NSW Health with original documentation to meet compliance requirements.

### 7.3.1 Students with criminal history or pending charges

Criminal history does not necessarily constitute a barrier to clinical placement. Each application is considered on its merits, and its relevance to undertaking clinical placements in NSW Health facilities. Mitigating factors, including but not limited to, the length of time since the convictions, the nature of the convictions and action taken since by the student will be considered.

Students with criminal history or pending charges are not allowed to commence or continue in clinical placements in NSW Health agencies until they have obtained a Clinical Placement Authority Card (or Conditional Letter) from HealthShare NSW’s Employment Screening and Review Unit (ESRU).

Students must apply directly to ESRU, by completing the ‘Application for authority to undertake clinical placements in NSW Health facilities’ at Appendix 10 if convictions are disclosed in a Police Certificate or Statutory Declaration or if they are charged with, or convicted of, an offence after the issuing of their Police Certificate.

If the risks relating to the criminal history are not relevant or are sufficiently mitigated, the student will be provided with a Clinical Placement Authority Card or a Conditional Letter with authority to undertake clinical placements subject to certain conditions.

If the risks relating to the criminal history are unacceptable, or the student has not provided the required documentation, NSW Health may decline the application or withdraw authority for the student to undertake placements if it had been previously provided. The student will be informed of this decision in writing and of the requirement to inform the Tertiary Institution’s Clinical Placement Supervisor or Facilitator.

ESRU will notify the ClinConnect Application Manager if it determines that a student, previously identified as clear to undertake clinical placements should now be refused authority to undertake placements.

### 7.3.2 Managing student compliance

NSW Health agencies must ensure that all students attending clinical placement are compliant with the requirements of this and other relevant polices, including those relating to immunisation status.
Original documentation must be sighted and checked against the student’s Tertiary Institution’s ID card.

If the student fails to provide the required compliance documentation, which includes original documentation or the NSW Health facility is not able to manage the placement in accordance with any conditions stipulated by ESRU, they should not be allowed to commence their placement. Students should be referred to their Tertiary Institution.

One way of managing compliance is through the use of ClinConnect, a web-based application to assist in the management of clinical placements for Nursing and Midwifery, Dental and Oral Health, Allied Health and Medical students.


The Student Clinical Placement Checklist (Appendix 9) may also be used to assist in managing student compliance requirements.

7.4 Other students

Students from High School or TAFE completing work experience for their secondary school qualifications at a NSW Health agency do not require NCRCs as they must be supervised at all times by a staff member of the service who is allocated responsibility for them.

7.5 Student Supervisors/Facilitators

Student supervisors/facilitators, who are engaged by a Tertiary Institution or a recruitment agency, must provide evidence of a NCRC. This NCRC must have been completed either in the last three years or at the time of their appointment with the Tertiary Institution or recruitment agency.

Student supervisors/facilitators who are existing NSW Health workers are not required to undergo a further NCRC to undertake the role of student supervisor/facilitator.

Student supervisors/facilitators are required to have a WWCC number if the work meets the definition of child related work. Refer to the definitions of child related work and WWCC exemptions in Section 2, as well as the special arrangements for existing workers in Section 9.

Where student supervisors/facilitators are required to have a WWCC, the NSW Health agency must validate the number with the Children’s Guardian.

7.6 Volunteers (non child related)

NCRCs are required for all volunteers who are engaged to provide services in NSW Health facilities, in clients’ or patients’ homes or in other services where they are required to have direct face to face or physical contact with patients or clients or have access to confidential information about NSW Health patients, clients or staff, or high level access to finances.

7.7 Community Transport

Any drivers engaged to provide community transport in connection with a funding contract with Transport for NSW Health under the Home and Community Care Program or the Community Transport Program must every three years have NCRCs, satisfactory driving records verified by a driving record check and health assessments.

NSW Health agencies with funding contracts with the NSW Government Department ‘Transport for NSW’ for community transport services should check their contracts for full details of the requirements.

58(20/10/16)
8. OTHER WORK

There may be some roles that fall outside the mandatory requirements of this Policy in relation to NCRCs. In these cases, the decision to undertake a NCRC will be based on a risk assessment in relation to the level of inherent risk to client safety, service delivery and community confidence.

The decision to undertake a NCRC for any roles not mandated by this Policy should include the following considerations:

- Whether the person is, or will be, a staff member or a volunteer in a NSW Health agency. NSW Health may only undertake NCRCs on persons it directly engages. If a NCRC is required but the person is employed by another organisation, it is the responsibility of the employing agency, or of there is no other employer, it is the responsibility of the individual.
- The length of time of the engagement, e.g. engagements that are for less than two weeks or one-off engagements may not require a NCRC, unless there are particular risks inherent in the position.
- The type of work being undertaken, including whether it requires direct contact with patients/clients, whether it involves the handling of confidential information such as that relating to patients/clients, the level of supervision involved, any protective factors that mitigate any risks relating to the role, the consequences to clients and to the organisation of any incident, and any other factors that will affect the level of risk.

A NCRC would normally be required if the role usually involves one or more of the following:

- The care of vulnerable persons
- Working in the immediate vicinity of, or having regular access to, vulnerable persons
- High levels of financial accountability
- High level access to information about staff, clients or patients, or
- Access to drugs.

NSW Health agencies should document decisions around NCRC requirements for roles not mandated by this Policy.

9. EXISTING NSW HEALTH WORKERS

There are special arrangements in the Child Protection (Working With Children) Regulation 2013 for existing child related workers to be transitioned to the new WWCC.

Existing child related workers (i.e. those employed or engaged in child related work as at 15 June 2013 but not including Visiting Medical Officers) are not required to apply for a WWCC number from the Children’s Guardian when changing roles for as long as they continue to be employed or engaged in NSW Health, or until the compliance date relevant to that worker (as specified in Appendix 2), whichever is sooner.

NSW Health agencies must ensure existing child related or aged care workers renew their WWCC or NCRC when required.

9.1 Visiting Medical Officers

Visiting Medical Officers are required to obtain a WWCC from the Children’s Guardian on renewal of their contract, or by 31 March 2018 if their contract is not due for renewal until after March 2018.

9.2 NSW Health staff members and volunteers

Existing NSW Health child related staff members and volunteers are not required to obtain a WWCC until the compliance date relevant to that worker.
Existing NSW Health staff members or volunteers changing roles (whether child related or not) are not required to undergo a further NCRC, unless:

- it has been identified that they have never previously had a criminal record check (NCRC or NSW Health WWCC) or
- a criminal record check has never been undertaken on the person’s correct or full name or aliases or
- a NCRC is required for the purpose of aged care work or
- they are undertaking a tertiary qualification and wish to undertake clinical placements in NSW Health facilities (students must obtain their own police certificate).

Once an existing staff member or volunteer has obtained a WWCC from the Children’s Guardian and it has been validated by a NSW Health agency, it does not need to be revalidated with the Children’s Guardian every time the person changes roles within NSW Health, however, the employing NSW Health agency must ensure that it is has not expired and that it is the correct type of WWCC (i.e. a non volunteer WWCC for paid workers).

9.3 Locum and nursing and midwifery agency staff

Locum and nursing agency staff, including from interstate and overseas, are not required to obtain a WWCC clearance from the Children’s Guardian until they move to a new locum or nursing and midwifery agency or until the relevant compliance date in the Transition Schedule at Appendix 2, unless they are commencing a placement in NSW Health for the first time, and the agency has not previously obtained a NSW WWCC for that person.

The relevant compliance date for existing locum and nursing and midwifery agency staff will be determined by their placement within NSW Health.

From 15 June 2013, locum or nursing and midwifery agency staff are required to demonstrate that they have either a NSW Health WWCC or a WWCC number from the Children’s Guardian depending on when they registered with the locum or nursing and midwifery agency – refer to Section 5.6 and Appendix 13 for further information.

9.4 Overseas and interstate workers

Existing Interstate or overseas workers directly engaged by NSW Health agencies (i.e. those who are on existing contracts or appointments as at 15 June 2013 and remain within NSW Health) are not required to obtain a WWCC until the compliance date in the Transition Schedule at Appendix 2.

9.5 Medical officers on rotation

Medical officers on rotation to NSW Health from external host employers are not required to obtain a WWCC clearance from the Children’s Guardian for the period of their contract with the host employer if they were an existing child related worker with the host employer at 15 June 2013.

Refer to the requirements of the NSW Health policy on ‘Medical Officers - Employment arrangements in the NSW Public Health System’, which is accessible at: http://www.health.nsw.gov.au/policies/pages/default.aspx

9.6 Volunteers

Existing volunteers (i.e. those already engaged as at 15 June 2013 in paediatric or adolescent services) are not required to have a WWCC until the relevant compliance date in the Schedule at Appendix 2.
10. List of Attachments

Appendix 1: Policy Directive checklist for implementation
Appendix 2: WWCC transition schedule for existing workers
Appendix 3: Template letter for Locum and Nursing and Midwifery agencies
Appendix 4: NSW Health Criminal History Declaration
Appendix 5: Statutory Declaration (overseas applicants/ students)
Appendix 6: Code of conduct agreement for students undertaking clinical placement
Appendix 7: National Criminal Record Check consent form
Appendix 8: 100 Point ID checklist
Appendix 9: Student clinical placement checklist
Appendix 10: Application for authority to undertake clinical placements in NSW Health facilities
Appendix 11: Statutory Declaration for aged care purposes
Appendix 12: Table of requirements for staff members and volunteers
Appendix 13: Table of requirements for locum and nursing and midwifery agency staff
APPENDIX 1

Checklist for the implementation of the Employment Checks – Criminal Record Checks and Working with Children Checks Policy Directive

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Self Assessment:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In development</td>
</tr>
<tr>
<td></td>
<td>Partial</td>
</tr>
<tr>
<td></td>
<td>Mature</td>
</tr>
</tbody>
</table>

A. STRATEGIC FUNDAMENTALS

1. A plan has been developed to implement the requirements of this policy.

2. There are resources and support to implement the requirements of the policy and an appropriate officer has been identified as responsible for the regular monitoring of progress.

3. Key Performance indicators are developed to monitor and measure the implementation.

B. INTEGRATION INTO NORMAL BUSINESS SYSTEMS

4. The requirements of this Policy Directive are included in all recruitment processes.

5. Preferred applicants for positions are given information about the requirements of this policy.

6. There are documented procedures in place regarding the management of students undertaking clinical placements and volunteers in accordance with this Policy Directive.

7. 'Designated officers' are all registered with ESRU, have undergone the appropriate checks, training etc and are deregistered with ESRU when they leave the position.

8. Documentation collected as part of the criminal record checking process is maintained and deleted in accordance with the requirements outlined in the

September 2016
APPENDIX 1

Checklist for the implementation of the Employment Checks – Criminal Record Checks and Working with Children Checks Policy Directive

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Self Assessment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment and Selection of staff Policy Directive PD2012_028</td>
<td>In development</td>
</tr>
</tbody>
</table>

9. Federally funded Aged Care Facilities have procedures for ensuring that all staff have valid National Criminal Record Checks.

C. ORGANISATIONAL IMPLEMENTATION

10. Information about the requirements of this policy is provided to interview convenors

11. There a systems in place to identify the criminal record check requirements on positions being recruited for

September 2016
## APPENDIX 2

### Working With Children Checks

**Transition Arrangements For Existing Child Related Workers**

Child related work is work involving face to face contact with under 18 year olds in an area prescribed as child related work.

<table>
<thead>
<tr>
<th>Category of child related work</th>
<th>Sub category</th>
<th>Compliance period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice Centres</td>
<td>Work at detention centres and juvenile correctional centres</td>
<td>By 31 March 2014</td>
</tr>
<tr>
<td>Child Protection</td>
<td>Work in child protection services</td>
<td>By 31 March 2014</td>
</tr>
<tr>
<td>Child development and family</td>
<td>Work in mentoring and counselling services for children as part of a formal</td>
<td>1 April 14 - 31 March</td>
</tr>
<tr>
<td>welfare services and mentoring</td>
<td>mentoring program. Work in providing family welfare services if the clients to</td>
<td></td>
</tr>
<tr>
<td>and counselling services for</td>
<td>whom the services are provided ordinarily include children.</td>
<td>2015</td>
</tr>
<tr>
<td>children</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children’s Health Services -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central Coast Local Health</td>
<td>Work as a health practitioner providing health services in wards of hospitals</td>
<td></td>
</tr>
<tr>
<td>District, Hunter New England</td>
<td>where children are treated or elsewhere if the work includes the provision</td>
<td>1 April 2016 - 31 March</td>
</tr>
<tr>
<td>Local Health District, Illawarra</td>
<td>of services to children; this includes in paediatric or adolescent services</td>
<td>2017</td>
</tr>
<tr>
<td>Shoalhaven Local Health District</td>
<td>or in adult health services that include the provision of health service to</td>
<td></td>
</tr>
<tr>
<td>Mid North Coast Local Health</td>
<td>under 18 year olds.</td>
<td></td>
</tr>
<tr>
<td>District, Northern NSW Local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health District, South Eastern</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sydney Local Health District</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children’s Health Services -</td>
<td>Work by persons (other than health practitioners) who provide health and care</td>
<td></td>
</tr>
<tr>
<td>Northern Sydney Local Health</td>
<td>services in paediatric or adolescent health services.</td>
<td>1 April 2017 - 31 March</td>
</tr>
<tr>
<td>District, Sydney Local Health</td>
<td>Note: Visiting Medical Officers must obtain a WWCC on renewal of contract or</td>
<td>2018</td>
</tr>
<tr>
<td>District, South Western Sydney</td>
<td>by 31 March 2018, whichever comes first.</td>
<td></td>
</tr>
<tr>
<td>Local Health District, Western</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sydney Local Health District,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nepean Blue Mountains Local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health District, Murrumbidgee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local Health District, Southern</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NSW Local Health District,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Western NSW Local Health District, Far West Local Health District, The</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sydney Children’s Hospitals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Network, Justice Health and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Forensic Mental Health</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Network, Ambulance Service of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New South Wales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any remaining Children’s Health</td>
<td></td>
<td>1 April 2017 - 31 March</td>
</tr>
<tr>
<td>Services – not captured in the</td>
<td>2018</td>
<td></td>
</tr>
<tr>
<td>groupings above</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Early Education and child care</td>
<td>Work in education and care services, child care centres, nanny services and</td>
<td>1 April 2017 - 31 March</td>
</tr>
<tr>
<td></td>
<td>other child minding services provided on a commercial basis</td>
<td>2018</td>
</tr>
</tbody>
</table>

Refer to Policy Directive Employment Checks – Criminal Record Checks and Working with Children Checks

Based on Schedule 1 of the Child Protection (Working with Children) Regulation 2013

September 2016

58(20/10/16)
APPENDIX 3

Template Agency Letter - Evidence of NCRC and WWCC Compliance

EMPLOYER LETTERHEAD [insert letterhead]

To whom it may concern,

This letter confirms that the person detailed below has a valid National Criminal Record Check ("NCRC") and a valid Working With Children Check ("WWCC") for undertaking working in NSW Health facilities.

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth</th>
<th>Check type</th>
<th>Check number</th>
<th>Date of check</th>
<th>Expiry date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>WWCC clearance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>NCRC</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The letter confirms that the person named above has either:

a) Provided to us a National Police Certificate (NPC) issued to them within the last three years and has signed a declaration regarding any criminal charges or conviction since the date of the NPC, or

b) Been subject to a NCRC obtained as part of the employment /engagement / registration process with [Name of Employer/Agency], and

c) That [Name of Employer/Agency] is satisfied that there is no information on the person’s record (or in any declaration provided by the person) to indicate any risks preventing them from undertaking work in NSW Health facilities.

This letter is also confirmation that the person does / does not have any convictions precluding them from working in facilities that receive aged care funding from the Australian Government in accordance with the requirements of the Aged Care Act 1997 (Commonwealth).

This letter confirms that the person named above has either:

a) Been with the agency since prior to June 2013 and has a Working with Children Check clearance obtained from NSW Health (attached) which did / did not include a NCRC or

b) A Working With Children Check clearance issued to them by the Children’s Guardian, which [Name of Employer/Agency] has verified online with the Children’s Guardian.

Any questions regarding this letter should be directed to [Name, Position and Contact Number].

Yours sincerely

Name
Position, Employer/ Agency

September 2016
APPENDIX 4

Criminal History Declaration
For child related work in NSW Health

This declaration supports NSW Health's requirements for new starters to NSW Health to undergo a National Criminal Record Check as part of the recruitment process. This declaration is only for applicants for child related work; it is not for existing workers already engaged in NSW Health.

Personal details

<table>
<thead>
<tr>
<th>FAMILY NAME</th>
<th>MIDDLE NAME(S)</th>
</tr>
</thead>
</table>

| ALIASES/PREVIOUS NAMES (if any) |
| DATE OF BIRTH |
| ROLE APPLIED FOR |
| NSW HEALTH ORGANISATION |

Declaration

I understand that:

- It is a condition of engagement with NSW Health that I disclose any criminal history as lawfully allowed in accordance with the relevant State or Territory Spent Convictions legislation, noting that I am not required to disclose spent criminal history.
- I have separately provided consent for NSW Health to undertake a National Criminal Record Check (NCRC) to confirm information I have provided in this declaration, and that a NCRC may be undertaken should I be selected as a preferred person for this role.
- The disclosure of criminal records does not automatically preclude me from this role, and I understand that each case is considered on its merits.
- If disclosed criminal records are considered relevant to the requirements of the role, I may be asked to provide additional information in support of my application.
- Information disclosed in this declaration will be treated in strict confidence and will only be viewed by authorised staff; it will only be considered if I am a preferred person for this role and for the purpose of determining if further information is required in respect of any criminal records.
- If I have deliberately withheld or provided false information about convictions or pending charges that are subsequently identified as relevant to the inherent requirements of the role, my application may be rejected or if I have been appointed, it may be grounds for dismissal.

I make the following declaration in relation to criminal records recorded against my name:

I have had one or more of the following recorded against my name (including bonds but excluding minor traffic offences, matters that have been quashed, dismissed, withdrawn or which are otherwise spent):

- convictions in the last 10 years, or
- convictions for sexual offences, or
- convictions for which a prison sentence of more than 6 months was imposed, or criminal charges which are yet to be finalised or heard in court.

I confirm that the information I have given in this declaration is true and complete to the best of my knowledge and belief.

Name: ___________________________________________________________

Signature: _________________________________________________________

Date: ____________________________________________________________

Last reviewed September 2016

58(20/10/16)
STATUTORY DECLARATION
OATHS ACT 1900, NSW, EIGHTH SCHEDULE
(for overseas applicants or students)

I, ...........................................................................................................................................................................

[full name, address and occupation of declarant]
do solemnly and sincerely declare that I *do not have / have (listed below) any criminal convictions/pending
charges in my country of origin or any country, outside of Australia, which I have resided in or been a citizen of
since turning 16 years of age.

<table>
<thead>
<tr>
<th>Date of charge/conviction</th>
<th>Details of pending charge or conviction</th>
<th>Country</th>
<th>Penalty / Sentence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of
the Oaths Act 1900.
Declared at: .......................................................... on ......................................................
[place] [date]

[signature of declarant]
in the presence of an authorised witness, who states:

I, ...........................................................................................................................................................................

[name of authorised witness] [qualification of authorised witness]
certify the following matters concerning the making of this statutory declaration by the person who made it:

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face
covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have not known the person for at least 12 months, but I
have confirmed the person’s identity using an identification
document and the document I relied on was .......................................................... [describe identification document relied on]

[signature of authorised witness] [date]

* Cross out any text that does not apply

NOTE 1: A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment
for a term of 5 years – see section 25 of the Oaths Act 1900 (NSW).

NOTE 2: A statutory declaration under the Oaths Act 1900 (NSW) may be made only before a Justice of the Peace, a Legal Practitioner, a Judicial Officer,
or a person authorised to witness a declaration in the jurisdiction in which it is sworn.

NOTE 3 - *identification document means either a primary identification document within the meaning of the Real Property (Registration) Act 2006, or a
Medicare card, pensioner concession card, Department of Veterans’ Affairs entitlement card or other entitlement card issued by the Commonwealth or a
State Government, a credit card or account (or a passport or statement of account from a bank, building society or credit union, an electoral enrolment
card or other evidence of enrolment as an elector, or a student identity card, or a certificate or statement of enrolment, from an educational institution.

NOTE 4: Applicants for aged care work must use the Commonwealth Aged Care Statutory Declaration

September 2018

58(20/10/16)
# Code of Conduct Agreement
for Students undertaking Clinical Placements

**Instructions for Students:**
Complete this form and provide it to the NSW Health organisation when requested.

## SECTION A: PERSONAL DETAILS
*(Name details provided must be same as the details on the Student ID)*

<table>
<thead>
<tr>
<th>Family Name:</th>
<th>Given Names:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Student ID:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phone Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Birth:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gender:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>University/TAFE:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

## SECTION B:

I undertake that if I am charged or convicted of any criminal offence after the date of issue of my National Police Certificate or while I am completing my course, I will notify NSW Health before continuing with any clinical placement.

I have read and understood the NSW Health Code of Conduct, accessible at: [http://www.health.nsw.gov.au/policies/pages/default.aspx](http://www.health.nsw.gov.au/policies/pages/default.aspx) and agree to abide by the provisions set out in the Code of Conduct at all times during all of my clinical placements within NSW Health Facilities. Failure to do so may lead to withdrawal of my clinical placements within NSW Health.

Name: _______________________________ (please print)

Signature: __________________________

Date: ______________________________

September 2016
# NATIONAL CRIMINAL RECORD CHECK CONSENT FORM

Please read the General Information sheet attached and complete all sections of this Form. Provide all names which you are currently known by, or have ever been known by, including aliases and any name changes, including by Marriage or by Deed Poll. NSW Health is required to sight your original identifying documents as part of NSW Health's 100 point ID Checklist.

Is this a renewal check (Aged Care Only)  □ Yes  □ No

<table>
<thead>
<tr>
<th>Family Name</th>
<th>Given Name (Primary)</th>
<th>Given Name 2</th>
<th>Given Name 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary Name</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maiden Name</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous/ Alias Name 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous/ Alias Name 2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous/ Alias Name 3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous/ Alias Name 4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Gender  □ Male  □ Female  □ Other  Date of Birth  /  /  (dd/mm/yyyy)

Place of Birth
- Suburb/Town:
- State:
- Country:

Current Residential Address
- Suburb/Town:
- State:
- Postcode:
- Country:

Postal Address (If same as Residential Address, write "As Above")

Previous Address (over the last 5 years) - If full details of previous addresses are unavailable, names of towns and States/Territories of residence will suffice.

<table>
<thead>
<tr>
<th>Previous Address (if any)</th>
<th>No/Street:</th>
<th>Suburb/Town:</th>
<th>Period of Residence: Provide year only if full date unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State:</td>
<td>Postcode:</td>
<td>Country:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Previous Address (if any)</th>
<th>No/Street:</th>
<th>Suburb/Town:</th>
<th>Period of Residence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>State:</td>
<td>Postcode:</td>
<td>Country:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>From:</td>
</tr>
</tbody>
</table>

Email

Telephone No
- Mobile:
- Business:
- Private:

Type of Position  □ Paid  □ Volunteer  □ Other

Driver's Licence (Number)  Issuing State:

Firearms Licence (Number)  Issuing Agency:

Passport Details (Number)  Type:
- Private  □ Government  □ UN Refugee

Issuing Country:

---

1. I acknowledge that I have read the General Information sheet and understand that Spent Convictions Legislation, in the Criminal Records Act 1991 in the Commonwealth and many States and Territories protects "spent convictions" from disclosure and understand that the position for which I am being considered may be in a category for which exclusions from Spent Convictions legislation apply.

2. I have fully completed this Form, and the personal information I have provided in it relates to me, contains my full name and all names currently and previously used by me, and is correct.

3. I acknowledge that the provision of false or misleading information is a serious offence and acknowledge NSW Health is collecting information in this Form to provide to Australian Criminal Intelligence Commission (ACIC) (an Agency of the Commonwealth of Australia) and the Australian Police Agencies.

4. I consent to:
   - NSW Health forwarding details obtained from this form to ACIC and to Australian police agencies or other relevant law enforcement agencies, if required.

ESRJ74 Test Updated September 2016

58(20/10/16)
National Criminal Record Check Consent Form

5. I consent to:
   i. ACIC disclosing personal information about me to the Australian police agencies;
   ii. The Australian police agencies disclosing to ACIC, from their records, details of convictions and outstanding charges, including findings of guilt or the acceptance of a plea of guilty by a court, that can be disclosed in accordance with the laws of the Commonwealth and States and Territories and in the absence of any laws governing disclosure of this information, disclosing in accordance with the policies of the police agency concerned; and
   iii. ACIC providing the information disclosed by the Australian police agencies, to NSW Health in accordance with the laws of the Commonwealth so that NSW Health may assess my suitability in relation to my employment.

6. I acknowledge that any information provided by me on this form and information provided by the Australian police agencies or ACIC relates specifically to the position detailed above.

7. I acknowledge that it is usual practice for an applicant’s personal information to be disclosed to the Australian police agencies for them to use for their respective law enforcement purposes including the investigation of any outstanding criminal offences.
   I am aware that if any such records are identified, NSW Health may seek additional information relating to that record from sources such as courts, police, prosecutors and past employers. I understand that the purpose of seeking this information is to enable a full and informed employment risk assessment and that where other information is available, NSW Health will obtain that information for employment risk assessment purposes only. I acknowledge that any information obtained as part of this process may be used by Australian Police Services for law enforcement purposes including the investigation of any outstanding criminal offences.

Note: The information you provide on this form, and which ACIC provides to NSW Health on receipt of this Form, will only be used for the purposes stated above, unless statutory obligations require otherwise.

Applicant’s Name: __________________________ Signature: __________________________ Date: ________________

Parent/Guardian Consent - If you are under 18 years of age, a parent or guardian must provide consent.

Parent / Guardian Details

Name (printed in full): __________________________ Signature: __________________________ Date: ________________
GENERAL INFORMATION - National Criminal Record Check Consent Form

This Form is used by NSW Health as part of the assessment process to determine whether a person is suitable for employment or other engagement for work.

Unless statutory obligations require otherwise, the information provided on this Form will not be used without your prior consent for any purpose other than in relation to the assessment by NSW Health of your suitability for the position identified in the consent form. You may be required to complete another consent form in the future in relation to employment in other positions.

NATIONAL CRIMINAL RECORD CHECK

a) National criminal record checks are an integral part of the assessment of your suitability. You should note that the existence of a record does not mean you will be assessed automatically as being unsuitable. Each case will be assessed on its merit, so it is in your interest to provide full and frank details on this form. Information extracted from the Form will be forwarded to ACIC and to the Australian State and Territory police agencies for checking action. By signing this Form you are consenting to these agencies accessing their records to obtain and to disclose criminal history information that relates to you to NSW Health.

Criminal history information may include outstanding charges, and criminal convictions/findings of guilt recorded against you that may be disclosed according to the laws of the relevant jurisdiction and, in the absence of any laws governing the release of that information, according to the relevant jurisdiction’s information release policy.

SPENT CONVICTION SCHEMES

The aim of Spent Convictions legislation is to prevent discrimination on the basis of certain previous convictions. Spent conviction legislation limits the use and disclosure of older, less serious convictions and findings of guilt.

Spent convictions of specific offences will be released where the check is required for certain purposes regardless of how old the convictions are. Each Australian police agency will apply the relevant Spent Convictions legislation/information release policy prior to disclosure. Further information or clarification is required please contact the individual police agency directly for further information about their release policies and any legislation that affects them.

COMMONWEALTH

Part VIIIC of the Crimes Act 1914 (Cth) deals with aspects of the collection, use and disclosure of old conviction information. The main element of this law is a “Spent Convictions Scheme.” The aim of the Scheme is to prevent discrimination on the basis of certain previous convictions, once a waiting period (usually 10 years) has passed and provided the individual has not reoffended during this period. The Scheme also covers situations where an individual has had a conviction “quashed” or has been “pardoned.” A “spent conviction” is a conviction of a Commonwealth, Territory, State or foreign offence that satisfies all of the following conditions:

- It is 10 years since the date of the conviction (or 5 years for juvenile offenders); AND
- the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months; AND
- the individual has not reoffended during the 10 years (5 years for juvenile offenders) waiting period; AND
- a statutory or prescribed exclusion does not apply. (A full list of exclusions is available from the Office of the Australian Information Commissioner).

NEW SOUTH WALES

In New South Wales the Criminal Records Act 1991 (NSW) governs the effect of a person’s conviction for a relatively minor offence if the person completes a period of crime-free behaviour, and makes provision with respect to quashed convictions and pardons.

A “quashed” conviction is a conviction that has been set aside by the Court. A “pardon” means a free and absolute pardon that has been granted to a person because they were wrongly convicted of a Commonwealth, Territory, State or foreign offence.

In relation to NSW convictions, a conviction generally becomes a “spent conviction” if a person has had a ten year crime-free period from the date of the conviction. However, certain convictions may not become spent convictions. These include:

- where a prison sentence of more than 6 months has been imposed (periodic or home detention is not considered a prison sentence);
- convictions imposed against companies and other corporate bodies;
- sexual offences pursuant to the Criminal Records Act 1991; and
- convictions prescribed by the Regulations.

ESRU 7.4 last Updated September 2016

58(20/10/16)
GENERAL INFORMATION - National Criminal Record Check Consent Form

Queensland

Under the Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld) a conviction automatically becomes spent upon completion of the prescribed (rehabilitation) period. This period is:
- 10 years for convictions of indictable offences where the offender was an adult at the time of conviction; and
- 5 years for other convictions (summary offences or where the offender was a juvenile).

Where a person is convicted of a subsequent offence (an offence other than a simple or regulatory offence) during the rehabilitation period, the period runs from the date of the subsequent conviction. Convictions where the offender is sentenced to more than 30 months imprisonment (whether or not that sentence is suspended) are excluded from the regime.

Once the rehabilitation period has expired, it is lawful for a person to deny (including under oath) that the person has been convicted of the offence, and the conviction must be disregarded for occupational licensing purposes (subject to certain exceptions, see below). It is unlawful for any person to disclose the conviction unless:
- the convicted person consents;
- the Minister has granted a permit authorising disclosure (where there is a legitimate and sufficient purpose for disclosing);
- the disclosure is subject to an exemption.

South Australia

Release of information on a National Police Check is governed by the Spent Convictions Act 2009 (SA). It is an offence to release information regarding the convictions of a person if those convictions are deemed to be ‘spent’ under the Act.

A spent conviction is one that cannot be disclosed or taken into consideration for any purpose. Eligible convictions become spent following a 10-year conviction and proven offence-free period for adults, and a 5-year conviction and proven offence-free period for juveniles. The Act defines a conviction as:
- a formal finding of guilt by a Court;
- a finding by a Court that an offence has been proved.

Certain convictions can never be spent. These include but are not limited to:
- convictions of sex offences;
- convictions where a sentence is imposed of more than 12 months;
- imprisonment for an adult, or 24 months imprisonment for a juvenile.

Schedule 1 of the Act sets out a number of exceptions to the rule where spent convictions can be released. Some examples of this include: the care of children; the care of vulnerable people (including the aged and persons with a disability, illness or impairment); activities associated with statutory character tests for licensing.

Interstate offences are released in accordance with that State or Territory’s spent conviction / rehabilitation legislation and policy. Intelligence-type information is not released.

Victoria Police

For the purposes of employment, voluntary work or occupational licensing/registration, police may restrict the release of a person’s police record according to the Victoria Police “Information Release Policy.” If you have a police record, the “Information Release Policy” may take into account the age of the police record and the purpose for which the information is being released. If 10 years have elapsed since you were last found guilty of an offence, police will, in most instances, advise that you have no disclosable court outcomes. However, a record over 10 years may be released if:
- it includes a term of imprisonment longer than 30 months;
- it includes a serious, violent or sexual offence and the check is for the purpose of working with children, elderly people or disabled people;
- it is in the interests of crime prevention or public safety.

Findings of guilt without conviction and good behaviour bonds may be released. Recent charges or outstanding matters under investigation that have not yet gone to court may also be released.

Western Australia

Under Section 7(1) of the Spent Convictions Act 1988 (WA) only “lesser convictions” can be spent by Western Australia Police, after a time period of 10 years plus any term of imprisonment that may have been imposed. A lesser conviction is one for which imprisonment of 12 months or less, or a fine of less than $15,000 was imposed.

All other convictions, such as “serious convictions” applicable under Section 6 of the Act can only be spent by applying to the District Court. At the time of sentencing, the Court may make a “spent conviction order” under the Sentencing Act 1995 (WA) that the conviction is a spent conviction for the purposes of the Spent Convictions Act 1988 (WA).
GENERAL INFORMATION - National Criminal Record Check Consent Form

Northern Territory
Under the Criminal Records (Spent Convictions) Act 1992 (NT), a conviction becomes spent automatically (in the case of an adult or juvenile offender convicted in a Juvenile Court) and by application to the Police Commissioner (in the case of a juvenile convicted in an adult court) upon completion of the prescribed period. The prescribed period is:
- 10 years for offences committed while an adult; and
- 6 years for offences committed as a juvenile.
The period starts on completion of any sentence of imprisonment. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death).

If a conviction becomes spent:
- a person is not required to disclose the existence of the conviction;
- questions relating to convictions and a person’s criminal record will be taken only to apply to unspent convictions;
- it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- spent convictions are not to be taken account in making decisions about the convicted person’s character or fitness.

Australian Capital Territory
Generally, under the Spent Convictions Act 2000 (ACT), a conviction becomes spent automatically at the completion of the prescribed (crime-free) period.
This period is:
- 10 years for convictions recorded as an adult; or
- 6 years for convictions recorded as a juvenile.
The period begins to run from the date a sentence of imprisonment is completed, or, where no sentence of imprisonment is imposed, from the date of conviction. A person must not be subject to a control order or convicted of an offence punishable by imprisonment during this period. If a person is convicted of an offence, which was committed during the crime-free period, the spent conviction may be revived and will not become spent again until the offender has achieved the relevant crime-free period in respect of the later offence.
The effect of conviction becoming spent is that:
- the convicted person is not required to disclose any information concerning the spent conviction;
- any question concerning criminal history is taken only to apply to unspent convictions;
- references in Acts or statutory instruments to convictions or character or fitness do not include spent convictions, and it is an offence to disclose information regarding spent convictions. It is unlawful for a person who has access to a person’s criminal record held by a public authority to disclose a spent conviction; it is unlawful for a person to fraudulently or dishonestly obtain information about a spent conviction from records kept by a public authority.

Tasmania
Under the Anulled Convictions Act 2003 (Tas) a conviction is annulled upon completion of the prescribed period of good behaviour. This period is:
- 10 years where the offender was an adult at the time of conviction; or
- 5 years where the offender was a juvenile at the time of conviction.
A person is taken to be of good behaviour for the required period if, during that period, he or she is not convicted of an offence punishable by a term of imprisonment. If the person is so convicted, the qualifying period (for the original offence) starts to run from the date of the subsequent conviction. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death).

Only “minor” convictions can become annulled. A minor conviction is a conviction other than one for which a sentence of imprisonment of more than 6 months is imposed, a conviction for a sexual offence or a prescribed conviction.
A minor conviction is also annulled if the offence ceases to be an offence. Once an offence is annulled the convicted person is not required to disclose any information concerning the spent conviction. Any question concerning criminal history is taken only to apply to unspent convictions, and references in Acts or statutory instruments to convictions or character or fitness do not include spent convictions. An annulled conviction or the non-disclosure of the annulled conviction is not grounds for refusing the person any appointment, post, status or privilege or revoking any appointment, post, status or privilege.
- a person is not required to disclose the existence of the conviction;
- questions relating to convictions and a person’s criminal record will be taken only to apply to unspent convictions;
- it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- spent convictions are not to be taken account in

PROVISION OF FALSE OR MISLEADING INFORMATION
You are asked to certify that the personal information you have provided on this form is correct. If it is subsequently discovered, for example as a result of a check of police records, that you have provided false or misleading information, you may be assessed as unsuitable or, if already employed, may lead to your dismissal.

It is a serious offence to provide false or misleading information.

ESR17.4 rev Updated September 2016
100 Point Identification Checklist

Appendix 8

Instructions

(a) The 100 point identification check must be completed and checked against the applicant’s completed NSW Health National Criminal Record Check Consent Form prior to lodgement of a National Criminal Record Check (or National Criminal Record Check for Aged Care purposes).

(b) Employers are required to sight original identifying documents (scanned or photocopied certified copies are not acceptable), as listed on page 2, and ensure that an appropriately delegated officer checks the details and completes the record of identifying documents below. There is no requirement to retain copies of the identifying documents.

(c) Identification must be current and must include at least one type of photographic ID and identification that contains a signature and date of birth. Passport and/or Driver’s License are preferred.

(d) The point score of documents produced must total at least 100 points (refer to page 2).

(e) The applicant must provide evidence of ability to work in Australia: If their documents do not include an Australian or New Zealand passport or an Australian birth or citizenship certificate, an appropriate visa or work permit allowing the person to work in Australia must be sighted.

Applicant’s Full Name: ________________________________

<table>
<thead>
<tr>
<th>Description of document</th>
<th>Full name on document</th>
<th>Date issued</th>
<th>Place/Office of issue/issuing organisation</th>
<th>Expiry date</th>
<th>Checked Against Consent Form</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mandatory record of document sighted that confirm person’s ability to work in Australia

|                         |                       |             |                                           |             |                             |        |

| Mandatory record of identifying documents sighted: | |

Total points

I have checked the details provided above against the applicant’s National Criminal Record Check consent form as required at point (a) above, and I confirm:
- The names in the ID documents are included in the consent form,
- Any reference numbers for documents detailed in the consent form match those I have sighted today, and
- The applicant has provided evidence that they are allowed to work in Australia, as required at point (e) above.

I have also confirmed with the applicant that all aliases / former / middle names are included in the consent form. (Note: Failure to include all names may warrant the check invalid).

Name: ________________________________

Position: ________________________________

Signature: ________________________________ Date: ____________________

100 Point ID Checklist September 2016
# 100 Point Identification Checklist

## Appendix 8

### DOCUMENTS

<table>
<thead>
<tr>
<th>Primary - Only one form of identification accepted from this category:</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Certificate / Birth Extract</td>
<td>70</td>
</tr>
<tr>
<td>Australian Citizenship Certificate</td>
<td></td>
</tr>
<tr>
<td>Australian passport (current or expired within the past two years but not cancelled)</td>
<td></td>
</tr>
<tr>
<td>International passport (current or expired within the past two years but not cancelled)</td>
<td></td>
</tr>
<tr>
<td>Other document of identity having same characteristics as a passport e.g. diplomatic refugee (Photo or signature)</td>
<td></td>
</tr>
</tbody>
</table>

### Secondary - the initial secondary document will score 40 points, any additional documents will be awarded 25 points each:

<table>
<thead>
<tr>
<th>Secondary - the initial secondary document will score 40 points, any additional documents will be awarded 25 points each:</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Licence or Permit (Government issued)</td>
<td></td>
</tr>
<tr>
<td>Current driver photo licence issued by an Australian state or territory</td>
<td></td>
</tr>
<tr>
<td>ASC/NCIC Card</td>
<td></td>
</tr>
<tr>
<td>Working with Children / Teachers Registration Card</td>
<td></td>
</tr>
<tr>
<td>Public Employee Photo ID (Government issued)</td>
<td></td>
</tr>
<tr>
<td>Department of Veterans Affairs Card</td>
<td></td>
</tr>
<tr>
<td>Centrelink Pensioner Concession Card or Health Care Card</td>
<td></td>
</tr>
<tr>
<td>Current Tertiary Education Institution Photo ID, Reference from a Doctor (must have known the applicant for a period of at least 12 months)</td>
<td></td>
</tr>
<tr>
<td>Foreign driver’s licence</td>
<td></td>
</tr>
<tr>
<td>Proof of aged card (Government issued)</td>
<td></td>
</tr>
<tr>
<td>Medicare Card / private Health Care Card</td>
<td></td>
</tr>
<tr>
<td>Council rates notice</td>
<td></td>
</tr>
<tr>
<td>Property Lease/rent agreement</td>
<td></td>
</tr>
<tr>
<td>Property Insurance Papers</td>
<td></td>
</tr>
<tr>
<td>Tax Declaration</td>
<td></td>
</tr>
<tr>
<td>Superannuation Statement</td>
<td></td>
</tr>
<tr>
<td>Seniors Card</td>
<td></td>
</tr>
<tr>
<td>Electoral roll compiled by the Australian Electoral Commission</td>
<td></td>
</tr>
<tr>
<td>Motor Vehicle Registration or Insurance Documents</td>
<td></td>
</tr>
<tr>
<td>Professional or Trades Association Card</td>
<td></td>
</tr>
</tbody>
</table>

### If more than one of these documents are used, they must be from different organisations:

<table>
<thead>
<tr>
<th>If more than one of these documents are used, they must be from different organisations:</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Utility bills (e.g. telephone, water, gas or electricity)</td>
<td>25</td>
</tr>
<tr>
<td>Credit / Debit card</td>
<td></td>
</tr>
<tr>
<td>Bank Statement / Passbook</td>
<td></td>
</tr>
</tbody>
</table>

### SPECIAL PROVISIONS ONLY TO BE USED IF 100 POINT CHECK ABOVE CANNOT BE MET

The full 100 point check is required when the applicant has been in Australia for longer than 6 weeks.

For recent arrivals in Australia (5 weeks or less – proof of arrival date required) current passport: 100

Aboriginal person or Torres Strait Islander resident in remote area: 100


Identity of applicant ordinarily resident in an isolated area verified by TOW persons recognised as ‘Community Leaders’ of the community to which the applicant belongs

Child under 18 years of age: 100

<table>
<thead>
<tr>
<th>Child under 18 years of age</th>
<th>POINTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth Certificate / Birth Extract</td>
<td></td>
</tr>
<tr>
<td>Australian Citizenship Certificate</td>
<td></td>
</tr>
<tr>
<td>Australian passport (current or expired within the past two years but not cancelled)</td>
<td></td>
</tr>
<tr>
<td>International passport (current or expired within the past two years but not cancelled)</td>
<td></td>
</tr>
<tr>
<td>Other document of identity having same characteristics as a passport e.g. diplomatic refugee (Photo or signature)</td>
<td></td>
</tr>
<tr>
<td>Statement from an educational institution, signed by the principal or deputy principal, confirming that the child attends the institution (statement must be on the institution’s letterhead)</td>
<td></td>
</tr>
</tbody>
</table>

---

100 Point ID Checklist  
September 2018
STUDENT CLINICAL PLACEMENT CHECKLIST
CRIMINAL RECORD CHECKS AND IMMUNISATION STATUS
for NSW Health

Appendix 9

Student Name:  Student ID:  University/TAFE:

Section 1: Complete either Part A or Part B

<table>
<thead>
<tr>
<th>Criminal Record Checks</th>
<th>Reference Number</th>
<th>Expiry Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian National Police Certificate with no convictions / charges</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dated within the last three years.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>For Overseas Students</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Along with the Australian National Police Certificate, an original of one of the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>following has also been sighted and a copy is attached for the records:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Police Certificate with no convictions / charges from their home country or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>any country that they have resided in (translated into English); or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Signed Statutory Declaration with no convictions / charges complete and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>signed in Australia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bfäll</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Clinical Placement Authority card issued by NSW Health pre 1 June 2010 (no expiry</td>
<td></td>
<td></td>
</tr>
<tr>
<td>date) but which is valid for the duration of the course; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Clinical Placement Authority card issued by NSW Health post 1 June 2010 (with expiry</td>
<td></td>
<td></td>
</tr>
<tr>
<td>date); or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Conditional letter issued by NSW Health (with expiry date).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conditions on student’s placement 1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 2: Code of Conduct

<table>
<thead>
<tr>
<th>Code of conduct</th>
<th>Date signed</th>
</tr>
</thead>
<tbody>
<tr>
<td>The student has signed the NSW Health Code of Conduct Agreement.</td>
<td></td>
</tr>
</tbody>
</table>

Section 3: Complete either Part A or Part B

<table>
<thead>
<tr>
<th>Immunisation</th>
<th>Date assessed/sighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>The student has been assessed by the LHD for compliance with the requirements of the</td>
<td></td>
</tr>
<tr>
<td>Occupational assessment, screening and vaccination against specified diseases policy directive: Information Sheet 2</td>
<td></td>
</tr>
<tr>
<td>B</td>
<td>A Certificate of Compliance has been sighted.</td>
</tr>
</tbody>
</table>

Section 4: To be completed by the person sighting the documents

I confirm that I have sighted original documents as detailed above and kept copies.

Name:  Position Title:  
Signature:  Date:  

Organisation:  Health Facility:  

Note: Police certificates are valid for three years from the date they were issued. All other documents are valid for the duration of the student’s course unless otherwise stated on the document.

Updated September 2016
Workplace Relations

58(20/10/16)
Appendix 10

Application for authority to undertake clinical placements in NSW Health facilities

Students must apply to NSW Health for authority to undertake Clinical Placements within the NSW Health Service, or authority to continue with Clinical Placements if they:

- have offences or pending charges disclosed in their National Police Certificate, Overseas Police Certificates or Statutory Declaration; or
- have been charged or convicted of offences after the issuing of their Police Certificate.

The following documents must be submitted:
- a completed ‘Application for Clinical Placement Authority’ form;
- a certified copy of the National Police Certificate (issued within last 3 years);
- a certified copy of overseas Police Certificate(s) and/or Statutory Declaration (for overseas students only);
- a certified copy of the Student ID issued by the Tertiary Education Institution;
- relevant supportive documents such as independent references, evidence that you have successfully completed relevant training, education or treatment courses etc.

Students are required to send the required documentation to:

Employment Screening and Review Unit
Westmead Service Centre
NSW Health (HealthShare NSW)
PO Box 292
WESTMEAD NSW 2145

Ph: (02) 8848 5175
Fax: (02) 8848 5188
Email: hsnsw-ecruenquiries@health.nsw.gov.au

Criminal history does not necessarily constitute a barrier to clinical placement. Each application is considered on its merits, and its relevance to undertaking clinical placement in NSW Health facilities. Mitigating factors, including but not limited to the length of time since the convictions, the nature of the convictions and action taken since by the student will be considered.

If the risks relating to the criminal history are not relevant or are considered sufficiently mitigated, NSW Health will provide a Clinical Placement Authority Card or a Conditional Letter with authority to undertake clinical placement subject to certain conditions.

If the risks relating to the criminal history are unacceptable, or the student has not provided the required documentation, NSW Health may decline the application and withdraw such authority if it had been previously provided. The student will be informed of this decision in writing and of the requirement to inform the educational institution’s Clinical Placement Supervisor or Facilitator.

Students should allow sufficient time (a minimum of 15 working days) for NSW Health to process the Clinical Placement Authority Card or the Conditional Letter.


September 2016

58(20/10/16)
### SECTION A: PERSONAL DETAILS

<table>
<thead>
<tr>
<th>Family Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Given Names:</td>
</tr>
<tr>
<td>Other Name/s:</td>
</tr>
<tr>
<td>(including alias and previous)</td>
</tr>
<tr>
<td>Home Address:</td>
</tr>
<tr>
<td>Country:</td>
</tr>
<tr>
<td>Date of Birth:</td>
</tr>
<tr>
<td>Email:</td>
</tr>
<tr>
<td>Postal address if different from home address:</td>
</tr>
<tr>
<td>University/TAFE:</td>
</tr>
<tr>
<td>Student ID:</td>
</tr>
<tr>
<td>National Police Certificate No:</td>
</tr>
<tr>
<td>Previous Risk Assessment Completed:</td>
</tr>
</tbody>
</table>

### SECTION B – PLEASE CIRCLE WHICH BEST REPRESENTS YOU

- **Australian Student**: Enrolled in Australian Tertiary Institution
- **Overseas Student**:
  1. On Exchange Program; or
  2. Enrolled in Australian Tertiary Institution

September 2016
SECTION C – STATEMENT AND CONSENT

Instructions:
- For additional offences, photocopy and complete Section E as required and attach additional pages if there is insufficient space.
- If assistance is required in completing the statement, please contact Employment Screening & Review Unit on (02) 8848 5175 or email hsnsw-esreouenquiries@health.nsw.gov.au.

Charge / Conviction (No.1)

1. Details of the charge/conviction (e.g. drink driving – High PCA; Shoplifting, etc) including the court date.

2. Please describe the event/s that led to you being charged:

3. Were there any mitigating circumstances at the time of the offence/s (i.e. personal difficulties, relationship issues etc) that you think should be considered as part of this risk assessment? If so, describe them:

4. State how your life has changed or what action you have taken that demonstrates your commitment to avoiding criminal charges in the future.

I give consent to NSW Health to obtain any additional information, relating to any offences or pending charges shown on the National Police Certificate that I have provided, from sources such as courts, police and prosecutors. I understand that the purpose of seeking this information is to enable a full and informed risk assessment and that where other information is available, NSW Health will obtain that information for clinical placement risk assessment purposes only.

Signature: ___________________________ Date: ___________________________

September 2016
SECTION D – ATTACH DOCUMENTS

Please attach original certified copy (photocopied or emailed certified copies are not acceptable) of the following documents where applicable, that have been certified as a true copy of an original by a person listed in Schedule 2 of the Statutory Declarations Regulations 1993 (Cth) which is available from www.comlaw.gov.au.

(Do not send original Police Certificates / Statutory Declaration and Student ID Card)

- Valid National Police Certificate (issued within last 3 years) *
- Overseas Police Certificate/s or Statutory Declaration (for overseas student) *
- Student ID card *
- Additional pages for statement (if applicable)
- Character reference (optional)
- Evidence of relevant training, education or treatment courses completed following the offence/s that demonstrate your commitment to avoiding criminal charges in the future (optional)

Please send the completed documentation to:

Post: Employment Screening and Review Unit
Westmead Service Centre
NSW Health (HealthShare NSW)
PO Box 292
WESTMEAD NSW 2145

Fax: 02 8848 5188

Email: hsnsw-esruenquiries@health.nsw.gov.au

* Compulsory documents to be attached with your application. The name on your National Police Certificate must match the name on your Student ID card. Your application will not be processed if the name on your National Police Certificate does not match the name on your Student ID card and you will not be allowed to commence clinical placement with a NSW Public Health Facility.
Charge / Conviction (No. ___)

1. Details of the charge / conviction (e.g. drink driving – High PCA; Shoplifting, etc) including the court date.

2. Please describe the event/s that led to you being charged:

3. Were there any mitigating circumstances at the time of the offence/s (i.e. personal difficulties, relationship issues etc) that you think should be considered as part of this risk assessment? If so, describe them.

4. State how your life has changed or what action you have taken that demonstrates your commitment to avoiding criminal charges in the future.

I give consent to NSW Health to obtain any additional information, relating to any offences or pending charges shown on the National Police Certificate that I have provided, from sources such as courts, police and prosecutors. I understand that the purpose of seeking this information is to enable a full and informed risk assessment and that where other information is available, NSW Health will obtain that information for clinical placement risk assessment purposes only.

Signature: __________________    Date: __________________

September 2016
Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

I,

make the following declaration under the Statutory Declarations Act 1959:

1. I declare that (place a tick or cross in applicable box):

☐ Since turning 16 years of age, I have been a citizen or permanent resident of a country/countries other than Australia.

☐ Since turning 16 years of age, I have never been a citizen or permanent resident of a country/countries other than Australia.

2. I declare that I have never been:

(a) convicted of murder or sexual assault; or

(b) convicted of, and sentenced to imprisonment for, any other form of assault.

I acknowledge that continued employment with a NSW Health agency is conditional upon a satisfactory outcome of the check which I have consented to.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act 1959, and I believe that the statements in this declaration are true in every particular.

Declared at  on of

Before me,

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the Statutory Declarations Act 1959.

Note 2 Chapter 2 of the Criminal Code applies to all offences against the Statutory Declarations Act 1959 — see section 5A of the Statutory Declarations Act 1959.
A statutory declaration under the Statutory Declarations Act 1959 may be made before:

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

- Chiropractor
- Dentist
- Legal practitioner
- Medical practitioner
- Nurse
- Optometrist
- Patent attorney
- Pharmacist
- Physiotherapist
- Psychologist
- Trade marks attorney
- Veterinary surgeon

(2) a person who is entitled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

- Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
- Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the Consular Fees Act 1955)
- Bailiff
- Bank officer with 5 or more continuous years of service
- Building society officer with 5 or more years of continuous service
- Chief executive officer of a Commonwealth court
- Clerk of a court
- Commissioner for Affidavits
- Commissioner for Declarations
- Credit union officer with 5 or more years of continuous service
- Employee of the Australian Trade Commission who is:
  - (a) in a country or place outside Australia; and
  - (b) authorised under paragraph 3 (d) of the Consular Fees Act 1955; and
  - (c) exercising his or her function in that place
- Employee of the Commonwealth who is:
  - (a) in a country or place outside Australia; and
  - (b) authorised under paragraph 3 (c) of the Consular Fees Act 1955; and
  - (c) exercising his or her function in that place
- Fellow of the National Tax Accountants' Association
- Finance company officer with 5 or more years of continuous service
- Holder of a statutory office not specified in another item in this list
- Judge of a court
- Justice of the Peace
- Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the Marriage Act 1961

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at all the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Forces who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the Marriage Act 1961

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution.

58(20/10/16)
<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Sub category of work (includes paid and unpaid work)</th>
<th>Category of worker</th>
<th>New Workers</th>
<th>Declaration &amp; WWCC Probity flag</th>
<th>Existing workers</th>
</tr>
</thead>
</table>
| Child related work | Work involving face to face or physical contact with under 18 year olds for:  
- health practitioners in wards of hospitals where children are treated or elsewhere if the work includes the provision of health services to children,  
- non health practitioners providing health and care services in paediatric or adolescent services  
- administrative, clerical, maintenance or ancillary workers in paediatric or adolescent services only where the work involves contact with children for extended periods  
For full list of other workers refer to Section 2 | Staff members & volunteers (not VMOs)  
VMOs  
Overseas applicants | Policy section  
New WWCC  
NCRC  
Declaration & WWCC Probity flag | Requirements |
|-------------|-------------------------------------------------------|-------------------|-------------|--------------------------------|-----------------|
| All paid staff members aged 16 years or over and relevant volunteers in NSW Health services and aged care facilities that receive Australian Government funding.  
Refer to Section 6.1 | Staff members, including VMOs & volunteers  
Applicants who have resided overseas | Policy section  
New WWCC  
NCRC  
Declaration & WWCC Probity flag | Requirements |
| Non child related work | Non child related work is any work that is not child related or aged care work and includes, but is not limited to:  
- any non health practitioners, administrative, clerical, maintenance, corporate, ancillary or volunteer work in adult health services or in the Ministry of Health, or  
- administrative, corporate, clerical, maintenance, or other ancillary or work in paediatric or adolescent services where the work does not involve contact with children for extended periods.  
Refer to Section 7. | Staff members or volunteers  
Students on clinical placements  
Students on work experience  
Student Supervisors /facilitators | Policy section  
New WWCC  
NCRC  
Declaration & WWCC Probity flag | Requirements |

This table should be read in conjunction with the relevant sections of the NSW Health Policy Employment Checks – Criminal Record Checks and Working With Children Checks available from [http://www.health.nsw.gov.au/policies/Pages/default.aspx](http://www.health.nsw.gov.au/policies/Pages/default.aspx). Refer to Appendix 13 for Locum and Nursing and Midwifery agency requirements. Last reviewed September 2016

58(20/10/16)
### Employment Checking – National Criminal Record Check (‘NCRC’) & Working with Children Check (‘WWCC’) requirements for locum and nursing and midwifery agency staff in NSW Health facilities

<table>
<thead>
<tr>
<th>Type of work</th>
<th>WWCC requirement</th>
<th>Information required by NSW Health</th>
<th>NCRC</th>
<th>Information required by NSW Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child related work</td>
<td>NSW Health WWCC clearance obtained pre March 2012</td>
<td>Copy of NSW Health WWCC clearance</td>
<td>No additional requirement as included in WWCC</td>
<td>N/A</td>
</tr>
<tr>
<td>Work involving face to face or physical contact with under 18 year olds for all health practitioners in wards of hospitals where children are treated or elsewhere if the work includes the provision of health services to children</td>
<td>NSW Health WWCC clearance obtained between March 2012 and June 2013</td>
<td>Copy of NSW Health WWCC clearance (which states no NCRC included)</td>
<td>A National Police Certificate (under three years old) plus a declaration of any convictions/pending charges if the Certificate was obtained before registration with agency or a NCRC by the agency</td>
<td>The NCRC/Police Certificate number, the date it was conducted and confirmation that the agency is satisfied that there is no information on the person’s record (or in any declaration provided by the person) to indicate any risks preventing them from undertaking work in NSW Health facilities.</td>
</tr>
<tr>
<td></td>
<td>WWCC clearance obtained from Children’s Guardian from 15 June 2013 validated by the agency</td>
<td>The WWCC number, the date of its clearance and its expiry date</td>
<td></td>
<td>In addition, if the role is in aged care work, the date of expiry of the Police Certificate NCRC is required and confirmation that the person does not have any convictions precluding them from working in facilities that receive aged care funding from the Australian Government.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NSW Health also validates the number with the Children’s Guardian</td>
<td></td>
<td>Confirmation that overseas clearances or Statutory Declarations have been completed as required.</td>
</tr>
</tbody>
</table>
PROCEDURE MANUAL FOR COMMUNITY HEALTH FACILITIES

NON-ADMITTED PATIENT DATA COLLECTION: CLASSIFICATION AND CODE STANDARDS FOR REPORTING SERVICES PROVIDED FROM 1 JULY 2016 IN A WEBNAP EXTRACT FORMAT (IB2016_039)

PURPOSE
The purpose of this Information Bulletin is to inform NSW Health service providers and source system administrators of changes to the classification and code set standard for reporting non-admitted patient service provided from 1 July 2016.

KEY INFORMATION
Due Dates for Reporting
Non-admitted patient activity data must be submitted and of acceptable quality by the 10th calendar day of the month after the month the service was delivered.

Patient or summary level non-admitted patient activity reporting
Patient level non-admitted patient activity is to be reported for in scope activity.

Where the requirement to report patient level activity data cannot be met summary level data must be reported.

The following services are only required to report non-admitted patient activity at the summary level.

1. Group immunisation services (Service Type 023 Immunisation – On Mass (no patient level data)
2. Group diagnostic screening services
3. Needle exchange services and supervised injecting room services (including service units classified to Service Unit Establishment Type 11.04 Needle Exchange Allied Health / CNS Unit).
4. Crisis line counselling telephone services.

This data is to be reported by WebNAP, or by mLoad when that capability is provided.

Summary level must not be reported for any service unit reporting activity at the patient level.

There is no longer a requirement to advise the Executive Director, Health System Information and Performance Reporting Branch of the Local Health Districts (LHDs) and Specialist Health Networks (SHNs) intention to decommission summary level reporting for those service units reporting at the patient level.

Reporting of Services with Multiple Providers
When reporting non-admitted patient services in a WebNAP extract via mLoad each individual service provider should be reported, even if two or more providers have the same provider type code.

Occasion of Service Record Identifier
Each occasion of service must be reported with a unique record identifier in the ‘Service Event Record ID’ field. When resubmitting an occasion of service record the same record identifier must be reported so that the original record is identified and updated.

Where a record identifier is not unique within a single submission to EDWARD, mLoad will prevent the entire file from loading.

Data element classifications subject to change
The requirements for reporting non-admitted patient activity to the Non-Admitted Patient Data...
Collection will change for the following data elements:

1. Provider Type
2. Setting Type
3. Financial group.

The changes are of the following type:

1. Some new categories will become effective from 1 July 2016
2. Some existing categories will expire on 30 June 2016
3. Some continuing categories have descriptive label changes.

**Implementation**

The classification changes must be implemented for the reporting of non-admitted patient services provided on or after 1 July 2016 where they are reported via a WebNAP extract format.

These changes will require LHDs / SHNs to:

- Modify local source system classifications
- Map the local source system categories to the appropriate WebNAP alias code values
- Modify WebNAP Service Options for the service units reporting summary level data and impacted by the changed classifications

This involves:

- End dating existing service options containing expired reference codes effective 30 June 2016
- Establishment of new service options containing the new reference codes effective from 1 July 2016.

LHD / SHNs must advise and instruct their source system vendors of the changed requirements and any subsequent need to modify systems. Where a source system is shared between multiple LHDs / SHNs; are compliant with a State Based Build; and / or are subject to application support services provided by eHealth NSW, it is the responsibility of each LHD / SHN to ensure the technical implementation of the modified reporting requirements are raised through the appropriate application support mechanisms. This includes:

- The LHD / SHN Application Advisory Group (AAG) representative ensuring that the change requirements are on the AAG meeting agenda, discussed at the AAG meetings and are approved within a time frame that will enable the implementation due date to be met.
- Directing and authorising eHealth NSW to make the application build change by raising the request for change on the State-wide Service Desk and tracking the change through to its delivery.

**Clarification Advice**

The NSW Ministry of Health will provide clarification advice regarding the changed reporting requirements outlined in the attachments. Requests for advice should be directed to the Health System Information and Performance Reporting Branch, NSW Ministry of Health.

**Primary Contact:**

Position: Data Integrity Officer, Non-admitted Activity  
Contact: Jill Marcus  
Email: jmarc@moh.health.nsw.gov.au  
Telephone: (02) 9391 9897
PROCEDURE MANUAL FOR COMMUNITY HEALTH FACILITIES

Escalation Contact:
Position: Manager, Data Integrity and Governance
Contact: David Baty
Email: dbaty@moh.health.nsw.gov.au
Telephone: (02) 9391 9828

LINK TO ATTACHMENTS:

ATTACHMENT 1
Non-admitted Patient Activity Reporting – Changes to Classification and Code Standards for Reporting Services Provided from 1 July 2016 via a WebNAP Extract Format.
This attachment outlines changes to Non-admitted Patient Data Collection (NAPDC) data elements domains, in scope of the existing WebNAP extract, for services provided on or after 1 July 2016.

The final classifications for each data element reported in a code format, incorporating the changes applicable from 1 July 2016, are provided Attachment 2.

The NAPDC WebNAP Data Dictionary in HIRD provides detailed information pertaining to the concepts and classification, including the new and changed category definitions. Links to this data dictionary are provided on the following NSW Ministry of Health Intranet page:

ATTACHMENT 2
Non-admitted Patient Activity Reporting – Classification and Code Standards for Reporting Services Provided from 1 July 2016 via a WebNAP Extract Format.

This document provides the NSW Health State classification and code standards applicable to services provided from 1 July 2016 for data elements in scope of the Non-admitted Patient Data Collection Core Minimum Data Set and reported via the legacy WebNAP patient level extract.

The NSW Health State classification and code standards applicable to services reported in the EDWARD extract format are provided at the following NSW Ministry of Health intranet page:

60(18/8/16)

NON-ADMITTED PATIENT DATA COLLECTION TRANSITION FROM WEBNAP TO EDWARD REPORTING (GL2015_012)

PURPOSE

The purpose of this Guideline is to advise NSW Health non-admitted patient service providers and non-admitted patient activity source system support staff of the changes in requirements involved in the transition from reporting via WebNAP to reporting via the EDWARD.

An understanding of these differences, and the three phases of implementation, is required to reconfigure source system builds and patient level activity extracts, and redesign non-admitted patient activity reporting business processes.

59(8/10/15)
KEY PRINCIPLES

In line with NSW Health’s strategic direction and the significantly increased volumes of non-admitted patient services being reported at the patient level by NSW Health services the Non-Admitted Patient Data Collection will transition to be reported via EDWARD rather than the interim system WebNAP.

The migration of the data collection to EDWARD will have significant benefits for Local Health Districts (LHDs) / Specialist Health Networks (SHNs) and other NSW Health agencies. LHDs / SHNs should expect higher data availability, more efficient data loading and resubmission processes, significantly improved data error reporting functionality and appropriately secured access to activity data.

When reported via EDWARD the non-admitted patient, admitted patient and emergency department activity data will be automatically allocated the appropriate National Weighed Activity Unit (NWAU) and integrated into a single data mart that supports full patient journey analysis utilising the Enterprise Patient Registry unique identifier.

USE OF THE GUIDELINE

In order to minimise the transition burden, requirements have been prioritised across three phases:

- **Phase 1**: Report current scope via EDWARD and decommission WebNAP
- **Phase 2**: Convert source system extracts and classifications to the EDWARD format
- **Phase 3**: Integrate additional reporting requirements for specific clinical streams

The EDWARD Business Implementation (EBI) Program collaborating with the NSW Ministry of Health’s Health Systems Information and Performance Reporting (HSIPR) Branch will establish a small project team to support transition, testing and address queries as they arise during the migration period.

**Phase 1**

Implementation of phase 1 requires LHDs/SHNs to load WebNAP patient level and summary level extracts into EDWARD and to cease reporting to WebNAP.

To support the transition to EDWARD reporting during Phases 1 and 2, a file upload, conversion and transfer tool, the EDWARD mLoad Tool, will be available for LHDs/SHNs to upload patient level and summary level data extracts from source systems in either the WebNAP extract format, or the EDWARD extract format.

The tool will apply the necessary file format conversions to WebNAP extracts compliant with the 2015/16 WebNAP reporting requirements and file format. It will also produce a container header file (based on user inputs) for both WebNAP and EDWARD flat file formats, and transfer files to the EDWARD drop zone where they will be automatically loaded into EDWARD.

During this phase LHDs / SHNs:

1. Must build EDWARD extracts for non-admitted patient source systems that are not yet reporting at the patient level
2. Must commence the reconfiguration of WebNAP extracts such that the source system can report activity directly in the EDWARD extract format
3. May cease reporting summary level data for services reporting at the patient level once reporting through the EDWARD mLoad Tool
4. May commence (or fully implement any) transition steps outlined in later phases.

Phase 1 must be completed by **30 June 2016**, to enable the decommissioning of WebNAP.
**Phase 2**

Implementation of Phase 2 requires LHDs / SHNs to complete the reconfiguration of WebNAP source system extracts into the EDWARD extract format and source systems to be fully aligned with the EDWARD classification standards.

During this phase any changes effective from 1 July 2016 will also need to be incorporated into the EDWARD extracts.

During this phase LHDs/SHNs may implement Phase 3 implementation steps.

Phase 2 must be completed by **30 June 2017**, to enable the decommissioning of the WebNAP patient level file conversion functionality, compliance with 2016/17 reporting requirements and to establish the foundations required for implementation of Phase 3.

**Phase 3**

Phase 3 involves reporting the additional data elements set aside in the EDWARD extract file format for the integration of other non-admitted patient data collections for specific clinical streams. It will involve decommissioning the legacy extracts and legacy data repositories (such as HIE and other disparate databases).

This phase may only impact selected source systems. For example, radiotherapy sources system would add data elements required for the integration of radiotherapy waiting times and non-admitted patient cancer notifications, while source systems used by Hepatitis, HIV/AIDS and sexually transmissible diseases services would add data elements pertaining to communicable diseases.

Phase 3 is expected to be completed by **30 June 2018**, to enable the decommissioning of the HIE and other legacy data repositories and to establish a single comprehensive non-admitted patient data collection.

**FURTHER INFORMATION**

The NSW Ministry of Health will provide advice and clarifications regarding the requirements for reporting non-admitted patient activity via EDWARD. Requests for advice should be directed to the Health System Information & Performance Reporting Branch, NSW Ministry of Health.

**Primary Contact:**

Position: Data Integrity Officer, Information Management & Governance Unit  
Contact: Jill Marcus  
Email: jmarc@moh.health.nsw.gov.au  
Telephone: (02) 9391 9897

**Escalation Contact:**

Position: Manager, Information Management and Governance Unit  
Contact: David Baty  
Email: dbaty@moh.health.nsw.gov.au  
Telephone: (02) 9391 9828

**ATTACHMENT**


**LINK TO COMPLETE GUIDELINE AND ATTACHMENT**:

Mandatory Policy

This document states the Department’s policy in relation to intellectual property arising from health research. Compliance with this policy is mandatory. The Minister for Science and Medical Research supports the policy. The policy may be amended or revoked from time to time.

Application

The policy applies to all public health organisations, Area Health Services, Statutory Health Corporations and Affiliated Health Corporations in respect of their recognised establishments and recognised services. Health research means laboratory, pre-clinical and clinical research and development in all its forms.

This policy does not apply to intellectual property which arises in the course of any other endeavour. It does not apply to commissioned works, that is, work that is specifically commissioned or contracted by public health organisations for a fee.

The main points of this policy are as follows:

- It requires public health organisations to establish intellectual property (IP) committees to manage their IP interests;
- It requires employees to notify any IP they create in the course of their employment to the committee;
- It sets up structures to deal with managing IP created by visitors (including visiting practitioners and conjoint employees such as clinical academics);
- It allows for the proceeds of the commercialisation to be shared between the creator(s) of the IP, the department or section of the public health organisation which originated the IP, and the public health organisation on a 1/3, 1/3, 1/3 basis.

1. Introduction

1.1 This policy recognises the value of health research undertaken within public health organisations. It recognises that the acquisition and dissemination of knowledge and skills in the area of research and clinical practice is of major public benefit and a primary role of public health organisations. Occasionally, the outcomes of health research may have a significant commercial value. The objectives of this policy are to:

- encourage health research in the public health system and the acquisition and dissemination of knowledge and skills;
- manage intellectual property with a potential commercial value in a manner which benefits the public health system as a whole;
- foster an environment within which intellectual property issues can be identified and developed; and
- recognise and reward innovation by staff of public health organisations.

2. Definitions

2.1 Intellectual property as it should be understood in this policy is the legally recognised outcome of creative effort and economic investment in creative effort. IP rights are rights to:

- the protection of intellectual activity or the protection of ideas and information that have been created;
• control the distribution of such activity, ideas or information;
• receive benefits from such activities, ideas or information by way of exploitation and commercialisation;
• recognition and acknowledgement.  

Intellectual property in a broad sense includes:
• inventions, and patents granted in respect of such inventions and applications for such patents;
• unpatented know-how, which comprise an invention or a way of doing something which is not public knowledge;
• confidential information and trade secrets;
• registered and unregistered designs and applications for registered designs;
• copyright;
• circuit layout rights;
• registered and unregistered trademarks and applications for registration of trademarks;
• get-up and trade dress associated with products and services;
• plant variety rights;
• all other rights resulting from intellectual activity in the scientific, industrial, literary or artistic fields; and
• any contractual rights to use or exploit any of these rights.

A brief description of some forms of intellectual property and the nature of intellectual property rights is to be found at Attachment A.

2.2 This policy also uses other defined terms set out below.

“Health research” means laboratory, pre-clinical and clinical research and development in all its forms. This includes:
• development of treatment procedures and methods;
• development of equipment or other goods which may have application in a clinical setting or a public health application;
• biomedical research;
• research and development of pharmaceuticals; and
• epidemiological and research methods.

“Committee” means an Intellectual Property Committee constituted in accordance with section 4 of this policy.

“Creator” in relation to any intellectual property means an employee(s) who made a significant contribution to the creation or invention of the subject matter (eg the work, product or process) in which the intellectual property subsists, or a visitor(s) or student(s) who made a significant contribution to the creation or invention of the subject matter (eg the work, product or process) in which the intellectual property subsists and assigned his or her rights and interests in the intellectual property to the public health organisation.

“Establishment costs” in relation to intellectual property means any costs paid by the public health organisation to establish and develop the intellectual property for protection or commercialisation, once it has been determined by the public health organisation that commercialisation of the intellectual property should take place. Establishment costs do not
include costs that the public health organisation would normally have incurred in carrying out the research as its core function, for example, the costs of employing/retaining the creators in their regular capacity or providing infrastructure for medical research. Examples of establishment costs would include:

- any costs paid to consultants or other professionals for advice on commercialisation or further development of the intellectual property for the purposes of commercialisation;
- any costs incurred in setting up a commercial vehicle for the purposes of developing or commercialising the intellectual property, or any costs paid to third parties for the purposes of commercialising the intellectual property, or further developing the intellectual property for commercialisation;
- legal costs incurred in relation to the intellectual property or its commercialisation, for example, in drafting joint venture agreements, licence agreements or assignments, or providing advice on the commercialisation of the intellectual property; and
- any taxes, or similar outgoings to third parties.

“Gross commercialisation proceeds” means all amounts receivable in consideration of the assignment or licensing of intellectual property rights. These amounts may be lump sum payments made up-front or periodically, or may be in the nature of royalties payable on the happening of future events such as product sales.

“Net commercialisation proceeds” means gross commercialisation proceeds received by the public health organisation, less establishment costs and protection costs.

“Protection costs” in relation to intellectual property means any costs incurred in taking any step towards obtaining registration or protection of the intellectual property including fees for preparing and filing patent applications, renewals, extensions, taxes, stamp duty, and legal and patent attorney’s fees expended in the course of obtaining protection.

“Visitor” means:

- any person providing services at a public health organisation other than as an employee in either a remunerated or honorary position (for example, visiting practitioners, visiting medical officers, honorary medical officers);
- any person (other than a student) not employed by a public health organisation who utilises the resources of a public health organisation at any time (for example, a visiting researcher).

3. Application

3.1 This policy applies to all public health organisations within the meaning of the Health Services Act 1997 (Area Health Services set out in Schedule 1 of the Act, statutory health corporations set out in Schedule 2 of the Act, and affiliated health organisations in respect of their recognised establishments and recognised services set out in Schedule 3 of the Act).

3.2 This policy applies to intellectual property which arises, or may arise, from health research. It does not apply to intellectual property which arises in the course of any other endeavour.

3.3 This policy does not apply to commissioned works, that is, any intellectual property arising from work specifically commissioned or contracted by the public health organisation for a fee. The intellectual property in such work is governed by the terms of the commissioning agreement.
3.4 All public health organisations which are involved in health research must have an intellectual property policy which is consistent with this policy. A public health organisation is involved in health research if:
- any of its employees or visitors carry out health research; or
- it is a party to any agreements, arrangements or collaborations with other bodies to carry out health research.

3.5 A copy of the intellectual property policy of the public health organisation must be provided to:
- all current employees and visitors who are, or may be, engaged in health research;
- all new employees who will be, or may be, engaged in health research, at the commencement of their employment;
- all visitors and students who will be, or may be, engaged in health research at the commencement of their association with the public health organisation.

The policy which is provided to the individuals listed above, must contain a clear statement to the effect that any or all of the provisions contained in the policy, including provisions relating to the sharing of any proceeds from the commercialisation of intellectual property, may be amended or revoked at anytime.

4. Intellectual Property Committee

4.1 Establishment

Each public health organisation involved in health research shall have an Intellectual Property Committee. Some public health organisations which do not undertake a significant amount of health research may:
- agree to utilise the Committee of another public health organisation;
- may constitute an ad hoc committee from time to time; or
- utilise an existing committee to carry out the IP Committee’s functions, such as the research committee, provided that the membership of such a committee is in accordance with this policy.

4.2 Composition

4.2.1 The composition of a Committee is a matter for the public health organisation and may include co-opted members appropriate to the matter under consideration. However, the standing membership is to include:
- the Chief Executive Officer or a senior executive nominated by the Chief Executive Officer;
- the Director Finance of the organisation or senior financial employee nominated by the Director Finance;
- a senior officer in charge of research within the organisation (except that such a senior officer shall not participate in the making of recommendations in relation to research in which he or she is directly involved or has an interest); and
- a person designated by the CEO of the public health organisation.

4.2.2 Specialist legal advice should be available to the Committee, either by having a legal adviser as a member, or by seeking advice as appropriate. Public health organisations may wish to include members with expertise in commercialising intellectual property.

4.2.3 The Committee shall have a secretariat or responsible officer who is available to coordinate the business of the Committee when it is not sitting, and to receive notifications.
4.2.4 Public health organisations may also have staff who are responsible for intellectual property matters within the organisation, such as IP identification, education, encouragement etc. Such staff may be members of the Committee.

4.3 Functions

4.3.1 The functions of the Committee shall include the receipt and consideration of notifications, the provision of advice, and the making of recommendations to the CEO of the public health organisation as set out in this policy. The Committee shall also act as a resource for staff on intellectual property matters, particularly in relation to the provision of advice on prior disclosure (see section 13).

4.3.2 The Committee may delegate any of its functions, except the function of making recommendations to the CEO of the public health organisation regarding protection and commercialisation of intellectual property.

4.4 Records

4.4.1 The proceedings of the Committee, and any records of those proceedings, shall be treated as commercial in confidence, in so far as they relate to the organisation’s intellectual property interests. See section 13 on prior disclosure.

5. Intellectual property created by employees

5.1 Ownership of intellectual property created by employees

5.1.1 As is the case under the general law, this policy mandates that all intellectual property created by employees of a public health organisation in the course of their employment, is owned by the public health organisation.

5.1.2 For the purposes of this policy, intellectual property which is created by an employee through any significant utilisation of the resources of the organisation (eg, funding, other employees, laboratory facilities, equipment, existing intellectual property of the organisation) is taken to be intellectual property created in the course of the employee’s employment. This shall be the case unless the employee has the prior written agreement of the Chief Executive Officer to utilise the organisation’s resources outside the course of his or her employment to perform the work in the course of which the intellectual property was created.

5.1.3 Public health organisations are not to assert ownership of any intellectual property in scholarly books, articles, audiovisuals, lectures or other such scholarly works (unless commissioned by the public health organisation). However, public health organisations may reserve the right to use such works or subject matter generated by employees.

5.1.4 Nothing in this policy shall be taken to detract from the moral rights conferred on creators under Part X of the Copyright Act 1968.

5.2 Notification by employees of intellectual property

5.2.1 An employee of a public health organisation is to notify the Committee as early as possible of the creation, or anticipated imminent creation, of any work, product or process as a result of, or in the course of, health research undertaken in the course of the employee’s employment which may have, or which the employee believes may have, commercial application.
5.2.2 Each notification must be in writing marked “confidential” and must identify:
• the work, product or process in detail;
• each person involved in the creation of the work, product or process;
• the period in which the work, product or process was created;
• the research project or program in the course of which the work,
• product or process was created; and
• any known details as to the likely commercial significance of the work, product or process.

5.2.3 Notifications are to occur whether the employee is carrying out the research alone or with other employees, or as part of a collaborative research project with visitors or persons from other organisations.

5.2.4 Only one notification need be made where the research is being carried out by more than one employee, or by employees from different areas of the organisation, provided the notification covers the whole of the research and identifies all employees and other persons involved in the research.

5.2.5 In no case is an employee to take steps to apply for any registration of intellectual property created in the course of their employment in his or her own name (eg file a patent application, or lodge an application for registration of a design etc), unless the intellectual property has been assigned to him or her by the public health organisation in accordance with this policy (see paragraph 5.3.7).

5.3 Role of the Committee on notification

5.3.1 The Committee shall examine and consider all notifications under paragraph 5.2. If a notification does not contain sufficient information about the work, product or process for the Committee to properly consider the notification, the notifying employee shall provide to the Committee such further information as the Committee requests.

5.3.2 After consideration of each notification, the Committee shall make a recommendation to the CEO of the public health organisation as to whether any steps toward protection and/or commercialisation of intellectual property notified to it should be undertaken. Such recommendation should be made in a timely manner without undue delay. Recommendations as to protection and commercialisation may not be made at the same time, or be decided upon at the same time. A recommendation may be made to take steps to protect the intellectual property, pending a later consideration and recommendation as to commercialisation.

5.3.3 The public health organisation’s approval is not required for every step of the commercialisation process. The public health organisation may approve a general commercialisation strategy, with details of the strategy to be implemented by the public health organisation (or persons engaged by them for that purpose).

5.3.4 Where protection and/or commercialisation is to proceed, the Committee shall consult the creators in relation to appropriate protection and commercialisation strategies.

5.3.5 Prior to taking any step toward protection or commercialisation, the Committee is to ensure that all relevant creators have been identified.
5.3.6 Where there is more than one creator the Committee shall elicit as soon as possible a written agreement from each creator as to the relative contribution of each of them to the creation of the intellectual property.

5.3.7 If the public health organisation determines that no steps be taken toward protection and/or commercialisation of the intellectual property, the Committee is to consider making a further recommendation to the public health organisation that:

- the intellectual property be assigned to the creator(s) on appropriate terms and conditions (including any retention by the public health organisation of a share of the net proceeds of commercialisation appropriately reflecting the effort and risk taken by the creator in such commercialisation); OR

- the intellectual property be retained by the public health organisation, but that the creator(s) be allowed to act as agent for the public health organisation solely for the purpose of seeking commercial partners, with the public health organisation agreeing to participate in negotiations with such commercial partners (if found) regarding commercialisation.

5.3.8 The appropriate recommendation will depend upon the circumstances of the case and the creator should be consulted in this regard.

5.4 Distribution of proceeds of commercialisation

5.4.1 Where intellectual property developed by an employee is commercialised by, or on behalf of, a public health organisation, and such commercialisation gives rise to income or other benefits to the public health organisation, the benefits to the public health organisation shall be dealt with as outlined in section 5.5.

5.5 Formula for distributing proceeds of commercialisation

5.5.1 The public health organisation shall deduct all establishment costs and protection costs expended by the public health organisation as a first call on all gross commercialisation proceeds.

5.5.2 Following deduction by the public health organisation of establishment costs and protection costs any net commercialisation proceeds will be distributed as follows:

- one third to the creator(s) of the intellectual property;
- one third to the department or section of the public health organisation which originated the intellectual property; and
- one third to the public health organisation.

5.5.3 The public health organisation shall divide the one third share of net commercialisation proceeds payable to the creators amongst the individual creators in accordance with the contributions identified by them in the agreement referred to in paragraph 5.3.6. If no such agreement has been made, the public health organisation shall distribute the one third share in accordance with its own reasonable estimate of the relative contributions of each creator. In making such an estimate, consideration should be given to the role of any creators who have left the employ of the public health organisation. The estimate of the Committee shall be final and binding on the creators until such time as an agreement has been reached between them. This must be noted in the deed of release which is required by paragraph 9.1.

5.5.4 Monies paid to employees under this policy shall be paid as income.

21(11/05)
5.5.5 The eligibility of an employee under section 6 is conditional upon the employee having acted in good faith in accordance with the requirements of the intellectual property policy of the public health organisation.

6. Clinical academics and joint teaching hospital/University facilities

6.1 Significant issues arise in relation to intellectual property created by clinical academics, who work in both the University sector and the public hospital sector. Both the relevant university and the public health organisation are likely to have contributed significantly to the remuneration of the clinical academic, as well as providing the clinical academic with resources, support and infrastructure. It will not always be possible to determine which resources were utilised in the creation of intellectual property by clinical academics.

6.2 Similar issues arise in relation to joint teaching hospital/University facilities, where health research may be undertaken jointly by a mixture of University and hospital staff.

6.3 It is in the interests of both universities and public health organisations that issues regarding intellectual property created by clinical academics and at joint facilities be clarified as early as possible in the identification/protection/commercialisation process.

6.4 Public health organisations which have affiliations with universities are encouraged to negotiate fair and equitable agreements as to the rights of respective parties to the intellectual property created in joint facilities or by clinical academics. Such agreements should take into account the rights of creators as set out in both this policy and the university policy, and the equitable contributions of all parties to the creation of the intellectual property.

7. Intellectual property created by visitors

7.1 Ownership of intellectual property created by visitors

7.1.1 The ownership of intellectual property created by visitors will depend upon the terms of any agreements between the visitor (or the visitor’s employer) and the public health organisation. In general, however, intellectual property created by visitors is owned by the visitor or his or her employer (subject to any applicable agreements).

7.2 Agreements with visitors regarding intellectual property

7.2.1 Where a visitor is to use the resources of a public health organisation to carry out research which may result in the creation of commercially valuable intellectual property, it is appropriate for a prior written agreement to be reached regarding the basis upon which those resources are used. Where the visitor is an employee of another body (for example, an independent research institute or a practice company) the agreement will need to be between the public health organisation and that body. Heads of clinical and research departments of public health organisations should ensure that, where visitors are utilising the resources of their department to create potentially valuable intellectual property, the issue of an appropriate agreement is raised with the visitor and referred to the Committee at the earliest opportunity.

7.2.2 The Committee shall provide advice to the CEO of the public health organisation on appropriate agreements between the public health organisation and visitors who utilise the resources of the public health organisation to conduct health research.
7.2.3 Appropriate agreements may include an assignment of intellectual property by the visitor to the public health organisation on certain terms and conditions, or may include terms under which the public health organisation receives a share of the income of commercialisation of the intellectual property. Whether such terms are appropriate will depend upon a number of factors, including:

- the extent and nature of the research;
- the use of the resources of the public health organisation;
- the source of funding of the research;
- the involvement of other public health organisation staff; and
- any other relevant factors.

7.2.4 The visitor (and his or her employer, if any) is to be fully informed and consulted by the Committee when it considers these issues. Before entering into any agreements with a public health organisation regarding intellectual property, visitors should be given an opportunity to seek their own legal advice.

8. Intellectual property created by students

8.1 Students may be involved in health research utilising a range of resources of the public health organisation. Generally, public health organisations should not claim ownership over intellectual property created by students. However, it may be appropriate for public health organisations to assert rights over intellectual property created by students in the following circumstances:

- the intellectual property has been created utilising substantial resources of the public health organisation;
- the intellectual property is created as a result of pre-existing intellectual property owned by the public health organisation;
- the intellectual property has been created by a team of which the student is a member;
- the intellectual property has been created as a result of funding provided by or obtained by, the public health organisation.

8.2 Heads of research departments should be cognisant of any students undertaking health research within their department that may lead to the creation of valuable intellectual property. Appropriate agreements as to ownership should be concluded at that time, considering the same matters as set out in paragraph 7.2.3.

8.3 Where the student is a student of a University with which the public health organisation has an arrangement under paragraph 6.4, the public health organisation and the University may come to an agreement on how to equitably deal with the intellectual property of students, bearing in mind any claims the students may have under this Policy and the intellectual property policy of the University.

9. Payment of monies under this policy.

Where a share in the proceeds of commercialisation of intellectual property is to be paid to creators under this policy, no monies shall be paid unless the creator first signs a written agreement with the public health organisation acknowledging:

- that the creators’ rights to receive monies under the agreement is in full and final satisfaction of any rights or entitlement that the creator has in respect of the commercialisation of the intellectual property;
• his or her responsibility for any taxation obligations which may flow from the receipt of those monies; and
• that he or she has had the opportunity to seek his or her own advice in relation to the agreement.

9.2 Such agreements should not be signed or accepted by the public health organisation unless it appears to the public health organisation that the creator has been given an opportunity to seek his or her own advice in relation to the agreement.

10. Independent research institutes funded by public health organisations

10.1 Ownership of intellectual property created by independent research organisations

10.1.1 Public health organisations may house, or be associated with, independent research institutes which carry out health research. Public health organisations may support or resource the development of health research by such institutes in a number of ways, including through the provision of research and administrative staff, infrastructure and equipment, or direct funding. Where such institutes are independent legal entities, they will, generally speaking, be the owners of any intellectual property created by their employees (subject to the terms of the Institute’s constitution and any applicable agreements).

10.2 Agreements with independent research institutes

10.2.1 Public health organisations which provide substantial resources to independent research institutes should have in place agreements with the institute which make appropriate arrangements regarding the rights of the public health organisation in relation to intellectual property created by the institute, utilising the resources of the public health organisation.

10.2.2 Such agreements should ensure that the benefits of research undertaken by such institutes and funded or resourced by the public health organisation are preserved for the public health system. This may be achieved in a variety of ways including (but not limited to):
• provisions whereby the public health organisation is the owner of intellectual property generated by the institute utilising the resources provided by the public health organisation; or
• obtaining for the public health organisation a share of the proceeds flowing from the commercialisation of any intellectual property created by the institute utilising resources provided by the public health organisation; or
• ensuring that all proceeds flowing to the institute from the commercialisation of intellectual property are preserved for the continuing research of the institute.

10.2.3 The advice of the Committee may be sought in relation to such agreements.

11. Collaborative research, joint ventures, arrangements with third parties

11.1 Public health organisations may create intellectual property in conjunction with other organisations in the public or private sector, for example, under collaborative research projects or joint venture arrangements for specific research and development projects. The ownership of intellectual property which arises from such ventures will depend upon the contractual arrangements between the parties.
11.2 Where public health organisations enter into collaborative research activities, joint ventures, or similar arrangements with third parties, the public health organisation should ensure that there is a written agreement between the parties which sets out:
- the rights (if any) of each party to use the intellectual property which the other party brings to the project;
- the ownership of any intellectual property created by the research partners, both individually and jointly;
- where valuable intellectual property may arise, the rights and obligations of the parties regarding the protection and commercialisation of the intellectual property;
- the benefits flowing back to each of the parties with respect to any proceeds of commercialisation.

11.3 Any such agreement should protect the interests of the public health organisation proportionately to its contribution to the research project.

11.4 The public health organisation should obtain legal advice regarding proposed agreements on joint ventures and collaborative research projects.

11.5 The requirements of the Public Authorities (Financial Arrangements) Act 1987 in relation to joint ventures must be complied with (including the requirement that joint venture arrangements have the Treasurer’s approval).

12. Commercialisation by outside bodies

12.1 It is recognised that public health organisations may not have the expertise to undertake commercialisation of their intellectual property, and will contract with a third party to do so on their behalf.

12.2 Arrangements of this kind will vary in their terms and conditions, and may or may not involve the following aspects:
- Assignment of the intellectual property to the commercialising entity;
- Provisions for profit sharing with creators (rather than relying on the intellectual property policy of the public health organisation).

12.3 Where such arrangements are entered into, the public health organisation should ensure that the return to the organisation is equitable, and that any profit sharing arrangements with employees do not disadvantage employees by providing a lesser entitlement than that envisaged by this policy. The advice of the Committee may be sought in relation to such arrangements.

13. Need for confidentiality – prior disclosure

13.1 Much health research does not, and is not intended to, lead to commercial application. Researchers, however, should be cognisant of the possibility of research leading to a commercial application. Where a researcher is in doubt as to whether research may lead to a commercial application or have any possible commercial value, the advice of the Committee should be sought at the earliest opportunity.

13.2 The confidentiality provisions set out below do not apply to research which does not have a potential commercial application or commercial value. This policy is not intended to unnecessarily restrict the flow of information in the course of collaboration and communication between researchers and practitioners which this policy recognises is essential in health research.
13.3 Where it is considered that commercially valuable intellectual property has been created (in particular, patentable innovations, know-how or other secret information) it is critical that no disclosure, or publication of such innovation be made to any third party outside the public health organisation, until appropriate steps have been taken to secure statutory protection. Disclosure within the public health organisation should be kept on a “need to know” basis, and all Committees must have procedures in place to ensure that the confidentiality of information presented to them is preserved.

13.4 Prior publication of an innovation can be fatal to the ability to obtain a patent, as it may lead to the loss of “novelty” of an invention, a prerequisite for the granting of a patent. Prior publication can be fatal to a patent, whether the publication is made in Australia or overseas. Prior publication may include verbal and written disclosures made in any forum. The presentation of papers at scientific conferences, the publications of papers in peer journals, and the discussion of the innovation or aspects of it with colleagues who are not under obligations of confidentiality will generally constitute prior publication.

13.5 Where a creator wishes to make disclosure relating to an innovation which has potential commercial value (e.g., a publication or a presentation at a scientific conference), the creator must first seek the permission of the Committee. The Committee can obtain legal advice as to whether the nature of the publication will jeopardise patent or other intellectual property rights, and advise the creator appropriately regarding what disclosures may and may not be made. This advice may include appropriate amendments to the proposed publication or presentation. Researchers should ensure that the advice of the Committee is sought a reasonable time prior to the planned publication or presentation date.

13.6 Public health organisations must ensure that advice on prior disclosure is provided in a timely manner, so as not to unnecessarily prejudice appropriate publication of research results. Students should not be prevented from publishing a thesis under this policy for a period greater than two years.

14. Miscellaneous

14.1 Taxation matters

14.1.1 Public health organisations should ensure that they comply with any relevant taxation obligations which may flow from the commercialisation of intellectual property. Relevant taxation advice may be required in this respect.

14.1.2 Public health organisations should inform employees or visitors who receive a share in the proceeds of commercialisation of intellectual property under this policy that taxation obligations which flow as a result of the receipt of such money are a matter for them and that they should obtain their own taxation advice.

14.2 Audit matters

14.2.1 The audit treatment of any monies received as a result of the commercialisation of intellectual property (either by the Area alone, or as a result of a joint venture or similar arrangement) must be undertaken in accordance with the Department’s Accounts and Audit Determination for Area Health Services and Public Hospitals.
14.3 Risk Management

In commercialising intellectual property, public health organisations are not to incur undue risk of liabilities to the public health system. Legal and risk management advice must be obtained as part of the commercialisation process. Approval for incurring any risks as part of the commercialisation process must be obtained from the Department’s Chief Financial Officer prior to the commercialisation being commenced. No monies shall be paid by a public health organisation to creators of intellectual property where there are any extant risks outstanding to the public health organisation, unless the Chief Financial Officer has given approval in writing. Such approval shall only be given on the basis that the risks have been appropriately managed.

14.4 Variations from this policy

- Any arrangements in relation to intellectual property which depart from this policy must be approved in writing by the Director-General (or delegate). Such variations include:
- Any profit sharing arrangement which involves employees sharing in commercialisation other than by payment of monies (e.g., through equity in a start-up company);
- Any profit sharing arrangement that involves creators sharing the proceeds of commercialisation in greater share than envisaged in Para 5.5.2.

14.5 Dispute resolution

Public health organisations should agree on an appropriate dispute resolution process for disputes arising under this policy. Where public health organisations enter into individual agreements for the commercialisation of health research it is recommended that appropriate dispute resolution procedures are included in the agreement.

15. Review of this policy

15.1 It is proposed that this policy be reviewed within a reasonable period after its implementation by the Department of Health. Comments on the operation of this policy by public health organisations are encouraged.
ATTACHMENT A: DESCRIPTIONS OF INTELLECTUAL PROPERTY

This guide is designed to provide a simple outline of some types of intellectual property. It is not intended to be a comprehensive legal guide. The advice of the Committee should be sought for a more detailed understanding.

1. Copyright

There are three categories of protection under the Commonwealth Copyright Act 1968 being:
   a) literary, musical, dramatic and artistic works, including adaptations and arrangements of works;
   b) films, sound recordings, television broadcasts, radio broadcasts, published editions;
   c) performers’ protection (not strictly copyright but included in Copyright Act).

Copyright protection is automatic on the creation of a work. It gives the owner the exclusive right to do various acts in relation to the work, including reproducing the work.

There is no copyright in an “idea”. Copyright protects the author’s particular way of expressing an idea. An example of a work created through health research which may attract copyright would be a manual developed explaining a particular product or process, or diagrams and charts explaining a product or process. It is the expression of the product or process which is protected by copyright law, not the product or the process itself. Copyright law only gives protection against the copying of the work and does not protect against the independent creation of a similar work.

Moral rights also exist in relation to literary, musical, dramatic and artistic works and in relation to cinematograph films. Moral rights seek to protect the individual creator’s honour and reputation.

2. Patents

A patent is a right granted in respect of a method, process, device or substance that is new, inventive and useful. Patents are regulated by the Commonwealth Patents Act 1990. If it can be shown that the invention was already known publicly or that it was the subject of an earlier patent, a patent will not be granted. A patent gives the owner the exclusive right to commercially exploit the invention.

Unlike copyright, a patent must be applied for and protection is not automatic.

Patent rights are extremely fragile and can easily be lost if the nature of the invention is disclosed, published, sold or otherwise commercialised before a patent is applied for.

3. Registered Designs

Industrial designs can be protected by registration under the Commonwealth Design Act 1906. The visual appearance of articles is protected – a distinctive shape, configuration, ornamentation or pattern. This protection may protect a design in relation to all sorts of items eg computer keyboards, furniture, toys and spare parts. A design must be new or original in order to be registered. It will not be possible to obtain a registration where there has been prior publication or use of the design. A design registration gives the exclusive right to apply the design to the article in respect of which the design is registered.

4. Trade Marks

The relevant legislation is the Commonwealth Trade Marks Act 1995. A trade mark is a sign used to distinguish goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person. Trademarks include letters, words, names,
signatures, numerals, devices, brands, headings, labels, tickets, aspects of packaging, shape, colour, sound, scent or any combinations, e.g. “Vegemite”. Registration can be applied for under the Trade Marks Act. A registered trade mark gives the exclusive right to use the trade mark for the goods or services for which it is registered.

5. Trade Secrets

The protection of trade secrets is an aspect of the law of confidential information and this law tends to be used when traditional areas of intellectual property provide no relief. Trade secrets include manufacturing techniques, customer lists, engineering designs, marketing procedures and some government information.

Employees owe a duty of confidentiality to their employer. This does not mean that information cannot be transferred from one scientist or researcher to another. However, if the information is particularly sensitive or relates to potentially valuable intellectual property, the secrecy of the information can be maintained and protected by confidentiality agreements. Confidentiality is an important concept and is useful in research and development. It can be used to assist the flow of scientific or medical information while maintaining legal secrecy and safeguarding patenting rights.

6. Circuit Layout Rights

Circuit layout rights protect original layout designs for computer chips and integrated circuits. The owner of an original circuit layout has the exclusive right to copy and commercially exploit the layout in Australia. Protection is automatic.
STATE HEALTH FORMS (PD2009_072)

PURPOSE

This policy and attached procedures define the processes for the creation and management of State Health Record Forms incorporated in Health Care Records.

The scope of the policy is to have clinical statewide forms filed in the Health Care Record and the standardisation of the physical Health Care/Medical Record Cover as well as other health record documents such as labels and dividers. This policy includes but is not limited to Inpatient facilities, Community Health Centres and outpatient clinics/areas.

MANDATORY REQUIREMENTS

Health services are required to use standardised forms developed by the NSW Health State Forms Management Committee.

All State Health Record Forms for inclusion (or potential for inclusion) in the Health Care Record must be approved by the NSW Health State Forms Management Committee (SFMC) or Health Service forms for use only within the Health Service must be endorsed by the local forms committee.

Health Services must establish:

- A functional health service Health Records Forms Committee
- Processes to ensure all line managers are accountable for the effective implementation of standard health record forms across the health service, including Directors of Clinical Operations, Clinical Governance and Nursing and Midwifery Services, Health Information Management units and facility based Health Information services.

All NSW Health State Record forms can only be obtained from the State Print and Print Management contracted supplier.

IMPLEMENTATION

The Health Service Chief Executive is responsible for:

- Establishing a functional health service Health Records Forms Committee, a member of which must act as representative to the NSW Health State Forms Management Committee (SFMC).
- Establishing processes to ensure all line managers are accountable for the effective implementation of standard health record forms across the health service, including Directors of Clinical Operations, Clinical Governance and Nursing and Midwifery Services, Health Information Management units and facility based Health Information services.

The Health Service Records Forms Committee is responsible for:

- Reviewing clinical forms intended for statewide use.
- Approving all clinical forms to be used by its Health Service.
- Ensuring all clinical forms meet the requirements of relevant Australian Standards (e.g. AS2828), NSW Health Policy Directives, a Health Service and State Health Records Forms templates.
- Working with the NSW Health, appointed Print and Print Management Services contracted provider, to facilitate Statewide implementation of the Policy.
• To standardise clinical forms across their health service where possible.
• To provide a formalised communication network between Health Service forms users, Executive, the contracted Print Management Services provider and the SFMC.
• To make recommendations for ongoing introduction/amendment/deletion of forms.
• Ensuring that the terms of reference includes a requirement that direct clinical contribution is obtained as required.

The custodians and authors of Health Records Forms (including the NSW Department of Health) are responsible for:

• Ensuring all steps in the health record forms development processes adhere to policy.
• Submitting relevant forms through their health service representative to the SFMC for review and endorsement.
• If NSW Health Policy Directive or Guideline requires a Health Record form to be used or created in order to comply with that policy or guideline the form must be submitted directly to and processed through the NSW Health SFMC and form a part of that Policy Directive or Guideline before it is distributed for implementation.

Health Support is responsible for:

• Monitoring and Reporting:
  o Supplier (Print and Print Management Services) performance
  o Quality issues (product, artwork and supply)
  o Health Service usage and expenditure
  o Health Records Forms gallery
• Management and support of the SFMC.
• Implementation of a Communication Plan.
• Collaboration with Health Item Master File program.
• Maintenance of the State Health Record Forms and bar-code number allocation register.
• Management of print supplier contract and meeting costs associated with contract, (e.g. destruction of obsolete forms etc).

Persons undertaking the evaluation of forms are responsible for:

• Confirming that the form is compliant with the current Australian Standards on Hospital Medical Records (AS2828).
• Ensuring the form has a consistent format and template.
• Ensuring that the form meets the criteria as per stated throughout the Appendices to this policy.
• There is clear evaluation criteria against which the form is to be evaluated.
• A diverse group is selected to evaluate where applicable and possible and that consultation with any Health Service which is taking part in the evaluation has been consulted with at the highest level.
• Evaluation report is clearly documented and that any changes made to a form are within the boundaries of any policy directive which the form maybe written from.
• That any change which is outside a policy within which the form has been written from is referred back to the content owners for approval.
• That the form is in and remains in State Forms Management Committee State forms template.
1. BACKGROUND

1.1 About this document

In line with the strategic reform initiative, NSW Department of Health has instructed Health Support Services to include forms rationalisation and print management across NSW Health. This project will ultimately cover all forms however initially health records rationalisation is being addressed.

It is estimated that there are approximately 15,000 commercially printed health record forms being used across NSW Health. There is not a common Statewide process to develop or review health (clinical) record forms. Not all forms comply with current Australian standards (e.g. AS2828). NSW Department of Health develops policies and guidelines with health records forms incorporated for implementation across NSW Health without always making provision for:

- A co-coordinated implementation plan across all Health Services and agencies
- Compliance with the current Australian Standards (i.e. for paper-based health care records - AS2828)
- Review of the printing and distribution requirements and impact across all Health Services and agencies.

1.2 Key definitions

**Health Record Form:** A record of the provision of care, assessment, diagnosis, management and/or professional advice given to a person. This term is used interchangeably with clinical form. A Health Record Form is a Clinical form that is endorsed by Health Service Forms Committee for use within the area/service.

**State Health Record Form is considered to be a:**

- Clinical Form that is mandated by NSW Department of Health for statewide usage. See appendix 3 for the Statewide forms templates.
- Clinical Form that Health Services have devised for health service or agency use.
- Clinical Form that has undergone a NSW Health State Forms Management Committee (SFMC) approval process.

**Health Care Record:** A Health Care Record is a documented account of a patient’s/client’s health evaluation, diagnosis, illness, treatment, care, progress and health outcome that provides a means of communication for all health care personnel during each visit or stay at a health service. It is the primary repository of all information regarding patient/client care.

The record is used to care for the patient/client during an episode of care but may also be used for future episodes of care, communication with external health care providers and regulatory bodies, planning, research, education, financial reimbursement, quality improvement and public health. The health care record may also become an important piece of evidence in protecting the legal interests of a patient/client, clinician or Health Service.

The health care record may be in hard copy, electronic or other form, and unless otherwise indicated, the provisions of this policy directive apply equally to all health care records regardless of the media in which they are kept.

**Health Service:** a Health Service within the boundaries of the *Health Service Act 1997* (which includes Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Public Hospitals).
SFMC: NSW Health State Forms Management Committee.

Site: Physical facility or service e.g. Hospital, Community Health Centre, Renal Service, Justice Health site.

Location: Ward, Oral Health, Clinic, Unit e.g. ICU, ED.

1.3 Rationale

The introduction of statewide health records forms will assist in:

- Promoting quality processes through
  - Consistent business practices when designing and implementing clinical forms across NSW Health.
  - Statewide standardised document control for all Health Record Forms included in NSW Health Policies.
- Health Services and agencies transferring to electronic medical records systems.
- Streamlining the implementation of NSW Health Policy and forms at the Health Service and agency level.
- Supporting scanning of health care records, including a standardised bar-coding system and the maintenance of a State Health Record Forms Register.
- Promoting effective and efficient work practice by:
  - Decreasing the workload at Health Services and Agencies, who are currently responsible for the implementation of forms incorporated in NSW Health policies and guidelines.
  - Standardising information and formatting to assist staff across NSW Health to accurately and consistently collect patient information, regardless of the health care facility or service.

2. NSW Health State Forms Management Committee

2.1 Terms of Reference

The Committee has the following Terms of Reference:

- Co-ordinate the development of State Health Record Forms and documents.
- Standardise State Health Record Forms and documents and across the whole of NSW Health where possible.
- Ensure compliance with relevant Australian Standards where appropriate.
- Ensure liaison and co-ordination with the Electronic Medical Records Project (eMR) and other related electronic information systems.
- Provide a formalised communication network between form users, NSW Department of Health, Health Support and the contracted Print and Print Management Services Supplier.
- Disseminate forms and related information across NSW Health.
- Approve statewide health record forms and allocate a unique form number.
- Oversee the maintenance of the State Health Record Forms Register.
- Ensure actions and issues are assigned to the appropriate personnel either within Health Support, Health Services/Agencies, NSW Department of Health or the contracted Print and Print Management Services Supplier.
- Regularly review the statewide electronic forms web-site, when developed, for accuracy and initiate remedial action as required.
- Make recommendations for ongoing introduction/amendment/deletion of forms.
- To complement existing Health Service Forms Committees to ensure only endorsed approved (local or state) health record forms are produced for filing in the Health Care Record.
2.2 Governance

The Committee will be responsible to the Deputy Director-General, Health System Support.

2.3 Representation

NSW Health Services (NSCCAHS/HNEAHS/SESIAHS/SSWAHS/SWAHS/GSAHS/GWAHS/ NCAHS/CHW and Justice Health)

Health Support

By Invitation as required
- Standards Australia representative
- NSW Department of Health representative
- eMR Project Team representative
- Ambulance Service NSW representative
- MH-OAT representative
- Print and Print Management Services Contractor representative
- Other persons involved with special projects involving clinical forms and health records

3. Development of Statewide Health Record Forms

3.1 Identification of need for new or revised health record forms

Sources for identifying the need for the development or revision of a State Health record form include, but are not limited to:
- State executive sources including legislative requirements, NSW Health Policy Directives, Guidelines, Australian Standards and specific industry requirements, better practice or research evidence
- Service reviews, Incident Information Management System (IIMS), complaints, root cause analysis (RCAs) and peer review
- Internal and External audit reports

3.2 Development Stage

Custodians and authors of proposed State Health Record forms are required to:
- Search for an existing or similar form.
- Source relevant documentation where possible and ensure forms comply with Best Practice, both in forms design and clinical practice.
- Ensure compliance with NSW Health policy directives, guidelines and information bulletins.
- Ensure there is endorsement from Health Services and supply confirmation of this in writing to the SFMC.
- Ensure that the form utilises the SFMC Forms Template.
- Contact relevant Health Service Forms Committee to identify which form is to be replaced and provide reasons for replacement.
- Through their SFMC representative, send an electronic version of the form and completed application package for approval to the SFMC – see appendix 7 for application checklist.
- Consider usage when stock numbers are being established.
- Specify colour, print and other specifications at the time of form submission.
- Comply with relevant Australian Standards (e.g. AS2828).
PROCEDURE MANUAL FOR COMMUNITY HEALTH FACILITIES

- Ensure forms are developed in liaison with appropriate clinical representation at both State and Area level.
- Ensure forms meet medico-legal requirements.
- Ensure relevant stakeholders are alerted to form development.
- Ensure training and/or implementation guidelines and materials are developed and distributed to appropriate Area representatives prior to the introduction of the form.
- The AHS is to establish a single line of communication with the SFMC; and the process for submission to the SFMC should confirm the above has been undertaken and the proposal endorsed at an Area Health Service level, prior to submission.

3.3 Considerations

The impact of creating new Health Record forms is to be considered. This impact may include:
- Increased staff work load due to staff completing the form and Medical Record/Clinical/Health Information Department filing the form.
- Increased size of medical records, which may impact on storage space and have potential OH&S issues due to the weight.
- Costs – for example the colour of form or print, NCR paper, A3 size and booklets.

Instructions/protocols/checklists should not, as a general rule, be included on the back of forms. Rather, alternate approaches should be explored to minimize interference with clinical documentation and unnecessary space requirements in the health care record. For example, instructions can be laminated and placed in an obvious area when introducing the form and/or be included in a procedure.

Only Health Record forms endorsed by the SFMC (or Health Service Forms endorsed by the local Forms Committee) will be filed in the Health Care Record. If a Health Record form is released for use without an authorized form number and bar-code identifier when one is required, then it will be deemed ineligible to be filed into the Health Care Record.

Revised forms, once approved, will be printed for use when the current supply is depleted. If a form is deemed to pose a clinical risk it is to be destroyed at the contracted printers and the artwork removed.

Photocopying of blank State Health Record forms for use and filing in the Health Care Record is not permitted.

3.4 Validation Stage

The NSW Health State Forms Management Committee (SFMC) will review the proposed Health Record form based on the following criteria:
- Form must comply with NSW Health State templates and current Health Record Standards (e.g. AS2828).
- A unique form number must be allocated from the State Forms Register.
- A bar code identifier must be allocated based on the determined state form number.
- Working with the NSW Health contracted Print and Print Management supplier, to manage printing of the form using the approved SFMC template.
- Informing author or custodian of approval or non-approval
- Managing the gallery of State Health Record Forms.
- Provide support to authors in design and concepts (e.g. colours of print, paper, scanning requirements).
3.5 Consultation Phase

A consultation phase will occur for a two week period from the time the form is released to the AHS’s or relevant Health Bodies for comments to be received back.

3.6 Evaluation Criteria

All Health Record Forms will be evaluated on:

- best practice through
  - Consistent format and standardised template.
  - Compliance with current Australian Standards on Hospital Medical Records (AS2828)
- provision of supporting policy and guidelines
- current clinical policy
- clinical work flow
- financial resources
- implementation requirements and the provision of training materials
- decrease in duplication of data items
- decrease in space requirements of health records i.e. storage requirements.

The evaluation process shall include consultation with the Health Services.

3.7 Transition Period

Implementation

High usage clinical forms will be identified for standardisation into the NSW Health statewide template. It is expected that this is where the greatest impact should be gained for cost saving and standard work practice. Examples of these forms are; Medical record covers, Progress notes, Fluid Balance charts, etc.

Phased Transition

The SFMC will determine based on usage and/or clinical criteria the priority for the standardisation of Statewide forms. If more than one form exists then there will need to be consultation with the key stake holders via the members of the SFMC about the design of the most clinically functional and cost effective solution.

Once the SFMC has developed a new form the Print Management Services vendor will be advised not to replace current stock of previous old forms. When the stock is low or no longer available the “Flag” on the Print Management Services vendor’s web site will direct users to the NSW Health Statewide standardised form that must be used.

The replacement Statewide form must be available on the Print Management Services vendor’s web site before old stock is depleted to ensure continuity of supply.

If old stock is still available after 6 months the Print Management Services vendor will identify this issue with the SFMC for a decision to either:

- Contact the owner of the form and advise them of “The option to write off old stock”.
- Make the stock redundant.
- Discuss with the relevant Health Service to determine who will bear this cost.

23(02/10)
The Option to Write Off Old Stock

If a Health Service or NSW Department of Health Division needs to write off excess “old” stock (in order to introduce “new” stock rapidly), they must be advised that:

a. The Service Level Agreement Contract allows that the Print Management Services vendor is responsible for the (write off) cost of the first 3 months of stock held.
b. The Health Service would be responsible for the cost of the remaining (unused) “old” stock, and the costs of destruction.
c. Where there is stock held which has not moved in the last 12 months, the Print Management Services contractor would notify the owner of the stock of their intent to write off and destroy (noting the above incurred costs), unless advised otherwise within 2 months time.
d. If no response or advice is given after that period, then the stock will be written off and the entire cost of the stock and destruction costs will be invoiced to the initiating source.

State Mandated Forms (those included in a NSW Health Policy Directive)

a. If the form is Print on Demand (POD), it can be transitioned to the NSW State Forms Template immediately as there is no stock on hand.
b. If the form is warehoused existing stock will be run out and the form transitioned into the NSW State Forms Template ready to be printed on the next reprint.
c. New forms required by Policy Directives in the process of formulation will follow the requirements of this policy elsewhere described.

3.8 Health Record forms that require a trial

The following guidelines are to be followed for introduction of a new State Health Record Forms which are not available in the NSW Health Print and Print Management Contractor’s State Health Record Forms Library:

a. Complete the request and forward it to the Health Service Forms Committee Representative advising of the need to develop/introduce a State Health Record Form. See Appendix 7 for the Application Checklist.
b. The Health Service or agency Forms Representative is to advise the NSW Health State Forms Management Committee (SFMC) Convenor of the proposed form.
c. The SFMC is to formulate the appropriate Working Party who will be responsible for co-ordinating, providing education and supervising the form trial.
d. The time period required for the trial of a form will be dependent on the usage of form. For forms that have a high usage, a minimum trial period of up to 3 months may be required, whilst forms that have a low usage may require up to a 12 month trial period.
e. During the trial period, stocks of the “old” form (if a revised form) must be withdrawn from circulation, to enable a true and accurate trial of the “new” form to occur.
f. All trial forms to adopt the State Forms Template and to be allocated a ‘Trial State Forms Number category and barcode’.
g. At the end of the trial period, the outcome of the trial must be evaluated to determine whether the new form has been accepted by users (results of a compliance audit). If the trial is unsuccessful the current version should be deleted from the State Health Record Forms website as a State form or re-designed. If a local area wishes to continue using the trial form they must give it a local form number.
h. The final form to be registered with State Forms Number, category and barcode.
3.9 Low Usage Forms

Those forms that are identified by the SFMC as extremely low usage can be made available via the relevant website (primarily the NSW Health authorised Print and Print Management suppliers’ website). These forms can be viewed and printed direct from the website. These forms must adhere to this policy including usage of the approved NSW Health clinical forms artwork and must be approved by the NSW Health SFMC. As identified by the SFMC by usage at the present time this is expected to be in the realm of 100 per annum per site.

4. REFERENCES

4.1 External

Australian Standard AS2828 - Paper Based Health Care Records

4.2 Internal

Electronic Information Security Policy – NSW Health (PD2013_033)
Health Care Records – Documentation and Management (PD2012_069)
NSW Health Patient Matters Manual

4.3 Glossary

SFMC = NSW Health Statewide Forms Management Committee
HIMS = Health Information Managers
HS = Health Service
PD = NSW Health Policy Directive
POD = Print On Demand
HSS = Health Support
MHOAT = Mental Health Outcomes Assessment Tool

4.4 Appendices

Appendix 1 - Forms Committee Process and Procedure
  a – State Health Care Record Form Process – New Form Process
  b – State Health Care Record Form Process – Targeted Form standardisation
Appendix 2 - Health Forms Design
Appendix 3 - State Forms Templates
Appendix 4 - State Health Care Record Cover Artwork
Appendix 5 - Terminal Digit Colours for Health Care Record Covers
Appendix 6 - Strip Colours and Patterns
Appendix 7 - NSW Health State Health Record Form Design Checklist
HEALTH CARE RECORDS – DOCUMENTATION AND MANAGEMENT (PD2012_069)


PURPOSE

The purpose of this policy is to:
- Define the requirements for the documentation and management of health care records across public health organisations (PHOs) in the NSW public health system.
- Ensure that high standards for documentation and management of health care records are maintained consistent with common law, legislative, ethical and current best practice requirements.

MANDATORY REQUIREMENTS

Documentation in health care records must provide an accurate description of each patient/client’s episodes of care or contact with health care personnel. The policy requires that a health care record is available for every patient/client to assist with assessment and treatment, continuity of care, clinical handover, patient safety and clinical quality improvement, education, research, evaluation, medico-legal, funding and statutory requirements.

Health care record management practices must comply with this policy.

IMPLEMENTATION

Chief Executives are responsible for:
- Establishing mechanisms to ensure compliance with the requirements of this policy.
- Ensuring health care personnel are advised that compliance with this policy is part of their patient/client care responsibilities.
- Ensuring line managers are advised that they are accountable for implementation of this policy.
- Ensuring implementation of a framework for auditing of health care records and reporting of results.
- Ensuring health care records are audited and results reported within the PHO.

Facility/service managers are responsible for:
- Ensuring the requirements of this policy are disseminated and implemented in their hospital/department/service.
- Ensuring health care personnel within their facility/service have timely access to paper based and electronic health care records.
- Monitoring compliance with this policy, including health care record audit programs, and acting on the audit results.

Health care personnel are responsible for:
- Maintaining their knowledge, documentation and management of health care records consistent with the requirements of this policy.
- Ensuring they are aware of current information about the patient/client under their care including where appropriate reviewing entries in the health record.
1. OVERVIEW

1.1 Introduction

This standard sets out the requirements for documentation and management for all models of health care records within the NSW public health system. Health care records promote patient safety, continuity of care across time and care settings, and support the transfer of information when the care of a patient/client is transferred eg. at clinical handover, during escalation of care for a deteriorating patient and transfer of a patient/client between settings.

1.2 Key definitions

| Attending medical practitioner | Visiting Medical Officer or Staff Specialist responsible for the clinical care of the patient for that episode of care. |
| Approved clinician | A clinician, other than a medical practitioner, approved to order tests eg Nurse Practitioner. |
| Health care personnel | A person authorised to provide assessment, diagnosis, treatment/care, observation, health evaluation or professional advice or those personnel who have access to the patient/client health care records on behalf of the NSW public health system to facilitate patient/client care. Health care personnel include clinicians (and students) and clinical support staff. Clinicians include registered health practitioners and others including Assistants in Nursing, social workers, dieticians, occupational therapists and Aboriginal Health Workers. Clinical support staff include Health Information Managers, Clinical Governance and Patient Safety staff, ward clerks, health care interpreters and accredited chaplains. |

| Health care record | The main purpose of a health care record is to provide a means of communication to facilitate the safe care and treatment of a patient/client. A health care record is the primary repository of information including medical and therapeutic treatment and intervention for the health and well being of the patient/client during an episode of care and informs care in future episodes. The health care record is a documented account of a patient/client’s history of illness; health care plan/s; health investigation and evaluation; diagnosis; care; treatment; progress and health outcome for each health service intervention or interaction. The health care record may also be used for communication with external health care providers, and statutory and regulatory bodies, in addition to facilitating patient safety improvements; investigation of complaints; planning; audit activities; research (subject to ethics committee approval, as required); education; financial reimbursement and public health. The record may become an important piece of evidence in protecting the legal interests of the patient/client, health care personnel, other personnel or PHO. The health care record may be paper, electronic form or in both. Where a health care record exists in both paper and electronic form this is referred to as a hybrid record. Where PHOs maintain a hybrid record health care personnel must at all times have access to information that is included in each part. This policy applies to health care records that are the property of, and maintained by, PHOs, including health care records of private patients seen in the PHO. The policy does not apply to records that may be maintained by patients/clients and records that may be maintained by clinicians in respect of private patients seen in private rooms. |

| Must | Indicates a mandatory action required by a NSW Health policy directive, law or industrial instrument. |

67 Health practitioners registered under the following National Boards - Chiropractic, Dental, Medical, Nursing and Midwifery, Optometry, Osteopathy, Pharmacy, Physiotherapy, Podiatry and Psychology – are required to comply with the health care records section of their relevant code of conduct/guidelines/competency standards. On 1 July 2012 the following healthcare personnel will be represented by a national registration board – Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners, and occupational therapists http://www.ahpra.gov.au/.
Medical Practitioner: A person registered under the Health Practitioner Regulation National Law (NSW) in the medical profession.

Public health organisation (PHO):
- a) Local health district
- b) Statutory health corporation that provides patient/client services,
- c) Affiliated health organisation in respect of its recognised establishment or recognised service that provides patient/client services, or
- d) Ambulance Service of NSW.

Should: Indicates an action that ought to be followed unless there are justifiable reasons for taking a different course of action.

1.3 Privacy and confidentiality

All information in a patient/client’s health care record is confidential and subject to prevailing privacy laws and policies. Health care records contain health information which is protected under legislation. The requirements of the legislation, including the Privacy Principles, are explained in plain English in the NSW Privacy Manual for Health Information. Health care personnel should only access a health care record and use or disclose information contained in the record when it is directly related to their duties and is essential for the fulfilment of those duties, or as provided for under relevant legislation.

1.4 Auditing

Health care records across all settings and clinical areas must be audited for compliance with this policy. PHOs must establish a framework and schedule for auditing of records and approve and designate audit tools and processes.

Clinical audits of documentation in health care records should involve a team based approach with the clinical team consisting of medical practitioners, nurses, midwives, allied health practitioners and other health care personnel, as appropriate.

Health care record audit results should be:
- a) Provided to relevant clinical areas and health care personnel.
- b) Included in PHO performance reports.
- c) Referred to PHO quality committees to facilitate quality improvement.

1.5 Education

PHOs must establish a framework for the development and delivery of suitable education on documentation and management of health care records. All health care personnel who document or manage health care records must be provided with appropriate orientation and ongoing education on the documentation and management of health care records.

The content and delivery of education programs should be informed by health care record audits. The results of such audits should be used to target problem areas relating to particular health care personnel groups or facets of documentation and management.
Specific education must be conducted for the introduction of any new complex health care record forms and for changes in documentation models.

2. **DOCUMENTATION**

2.1 **Identification on every page/screen**

The following items must appear on every page of the health care record, or on each screen of an electronic record (with the exception of pop up screens where the identifying details remain visible behind):

a) Unique identifier (e.g. Unique Patient Identifier, Medical Record Number).

b) Patient/client’s family name and given name/s.

c) Date of birth (or gestational age/age if date of birth is estimated).

d) Sex. The exception is ObstetriX records where sex of the mother is not recorded.

2.2 **Standards for documentation**

Documentation in health care records must comply with the following:

a) Be clear and accurate.

b) Legible and in English.

c) Use approved abbreviations and symbols.

d) Written in dark ink that is readily reproducible, legible, and difficult to erase and write over for paper based records.

e) Time of entry (using a 24-hour clock – hhmm).

f) Date of entry (using ddmmyy or ddmmyyyy).

g) Signed by the author, and include their printed name and designation. In a computerised system, this will require the use of an appropriate identification system eg. electronic signature.

h) Entries by students involved in the care and treatment of a patient/client must be co-signed by the student’s supervising clinician.

i) Entries by different professional groups are integrated ie. there are not separate sections for each professional group.

j) Be accurate statements of clinical interactions between the patient/client and their significant others, and the health service relating to assessment; diagnosis; care planning; management/treatment/services provided and response/outcomes; professional advice sought and provided; observation/s taken and results.

k) Be sufficiently clear, structured and detailed to enable other members of the health care team to assume care of the patient/client or to provide ongoing service at any time.

l) Written in an objective way and not include demeaning or derogatory remarks.

m) Distinguish between what was observed or performed, what was reported by others as happening and/or professional opinion.

n) Made at the time of an event or as soon as possible afterwards. The time of writing must be distinguished from the time of an incident, event or observation being reported.

o) Sequential - where lines are left between entries they must be ruled across to indicate they are not left for later entries and to reflect the sequential and contemporaneous nature of all entries.

36(10/01/13)

---


71 Each registered health practitioner is required to comply with the health care records section of the code of conduct/guidelines/competency standards under their relevant National Board

p) Be relevant to that patient/client.
q) Only include personal information about other people when relevant and necessary for the care and treatment of the patient client.
r) **Addendum** – if an entry omits details any additional details must be documented next to the heading ‘Addendum’, including the date and time of the omitted event and the date and time of the addendum. For hardcopy records, addendums must be appropriately integrated within the record and not documented on additional papers and/or attached to existing forms.
s) **Written in error** - all errors are must be appropriately corrected.

No alteration and correction of records is to render information in the records illegible.

An original incorrect entry must remain readable ie. do not overwrite incorrect entries, do not use correction fluid. An accepted method of correction is to draw a line through the incorrect entry or ‘strikethrough’ text in electronic records; document “written in error”, followed by the author’s printed name, signature, designation and date/time of correction.

For electronic records the history of audited changes must be retained and the replacement note linked to the note flagged as “written in error”. This provides the viewer with both the erroneous record and the corrected record.

### 2.3 Documentation by medical practitioners

Documentation by medical practitioners must include the following:

a) Medical history, evidence of physical examination.
b) Diagnosis/es (as a minimum a provisional diagnosis), investigations, treatment, procedures/interventions and progress for each treatment episode. A principal diagnosis must be reported for every episode of admitted patient care.
c) Medical management plan.
d) Where an invasive procedure is performed and/or an anaesthetic is administered, a record of the procedure including completion of all required procedural checklists. Where a general anaesthetic is administered, a record of examination by a medical practitioner prior to the procedure is also required.
e) Comprehensive completion of all patient/client care forms.
f) A copy of certificates, such as Sick and Workers Compensation Certificates, provided to patients/clients must be retained in the patient/client’s health care record.

#### 2.3.1 Attending Medical Practitioner

The Attending Medical Practitioner (AMP) is responsible for the clinical care of the patient/client for that episode of care and is responsible for ensuring that adequate standards of medical documentation are maintained for each patient/client under their care.

When documentation is delegated to a medical practitioner e.g. Intern, Resident, Registrar, the AMP remains responsible for ensuring documentation is completed to an appropriate standard that would satisfy their professional obligations.

The AMP should review the preceding medical entries and make a written entry in the health care record (print name, signature, designation and date/time) to confirm they have been read at the same time as they are reviewing the medical management plan for the patient/client to ensure it remains current and clinically appropriate, consistent with the AMP’s duty of care to the patient/client.
2.4 Documentation by nurses and midwives

Documentation by nurses and midwives must include the following:

a) Care/treatment plan, including risk assessments with associated interventions.

b) Comprehensive completion of all patient/client care forms.

c) Any significant change in the patient/client’s status with the onset of new signs and symptoms recorded.

d) If a change in the patient/client’s status has been reported to the responsible medical practitioner documentation of the name of the medical practitioner and the date and time that the change was reported to him/her.

e) Documentation of medication orders received verbally, by telephone/electronic communication including the prescriber’s name, designation and date/time.

2.5 Frequency of documentation

The frequency of documentation entries should conform to the following as minimum requirements.

2.5.1 Acute Care Patient/clients

a) Registered Nurse/Midwife, Enrolled/Endorsed Nurse should make an entry in the patient/client’s health care record a minimum of once a shift. An entry by an Assistant in Nursing should not be the only entry for a shift. Entries should reflect in a timely way the level of assessment and intervention. The results of significant diagnostic investigations and significant changes to the patient/client’s condition and/or treatment should be documented as these occur.

b) Medical practitioners should make an entry in the health care record at the time of events, or as soon as possible afterwards, including when reviewing the patient/client.

c) Other health care personnel should make entries to reflect their level of assessment and intervention consistent with the medical management plan.

2.5.2 Long Stay or Residential Patients/Clients

Depending on the health care setting and the length of stay (or expected length of stay) of the patient/client, health care personnel should make an entry at least weekly in the health care record particularly when warranted by the patient’s medical condition or frailty. Additional entries should be made to reflect changes in the patient/client status, condition and/or treatment or care plan as these occur.

2.5.3 Non-Admitted Patient/Clients

An entry must be made in the health care record for each patient/client attendance (including video conference sessions) and for failures to attend.

Entries should reflect the level of assessment and intervention. The results of significant diagnostic investigations and significant changes to the patient/client’s condition and/or treatment should be documented.

Attendance of individual patient/clients at sessions of a formal multiple session group program should be noted. Such attendances may be documented in an attendance register or scheduling system rather than the patient/client’s health care record. Where a patient/client receives specific individual care or treatment in addition to the group session interaction, this care or treatment should be documented in their health care record.

36(10/01/13)

2.6 Alerts and allergies

Clinicians must flag issues that require particular attention or pose a threat to the patient/client, staff or others including:

a) Allergies/sensitivities or adverse reactions, and the known consequence.
b) Infection prevention and control risks.
c) Behaviour issues that may pose a risk to themselves or others.
d) Child protection/well being matters including
   i. alerts and flags for High Risk Birth Alerts or prenatal reports
   ii. children at risk of significant harm
   iii. where NSW Police or the Department of Family and Community Services have issued a general alert to a PHO.
e) Where patients/clients have similar names and other demographic details.

PHOs must implement systems for the identification of such alerts and allergies. If a label is used on the outside folder of a paper based health care record this does not negate the need for documentation in the health care record of the alert/allergy, and known consequence.

Any such issue should be ‘flagged’ or recorded conspicuously on appropriate forms, screens or locations within the health care record. Where alerts relate to behaviour issues or child protection matters the alert should be discreet to ensure the privacy and safety of the patient/client, staff or others.

These flags, especially where codes or abbreviations are used, must be apparent to and easily understood by health care personnel; must not be ambiguous; and should be standardised within the PHO.

A flag should be reviewed at each admission. When alerts and allergies are no longer current this must be reflected in the health care record and inactivated where possible.

2.7 Labels

Non-permanent adhesive labels should be avoided. Where considered essential the label must be relevant to the patient/client and placed so that all parts of the health care record are able to be read and patient/client privacy maintained. State approved labels must be used.

2.8 Tests – requests and results

The health care record must document pathology, radiology and other tests ordered, the indication and the result.

When tests are ordered the name of the ordering medical practitioner/approved clinician and their contact number must be clearly printed (if written) or entered (if computerised) on the request form.

Pathology, radiology and other test results must be followed up and reviewed with notation as to action required. The results must be endorsed by the receiving medical practitioner/approved clinician, with endorsement involving the name, signature, designation of the medical practitioner/approved clinician, and date/time.

36(10/01/13)
PHOs must develop local procedures, including steps to be taken, when:

a) Relevant details on the request form are incomplete or illegible.
b) The ordering medical practitioner/approved clinician is not on duty or contactable.

**Critical/unexpected/abnormal results** should be documented in the patient/client’s health care record by the responsible medical practitioner/approved clinician as soon as practicable and any resultant change in care/treatment plans documented.

### 2.9 Patient/client clinical incidents

All actual clinical incidents must be documented in the patient/client’s health care record.\(^\text{74}\)

Staff must document in the health care record:

a) Incident Information Management System (IIMS) identification number.
b) Clinically relevant information about the incident.
c) Interactions related to open disclosure processes.\(^\text{75}\)

### 2.10 Complaints

Complaint records are not to be kept with the patient’s health care record.\(^\text{76}\)

### 2.11 Emergency Department records

Emergency Department records must include the following:

a) Date and time triaged including triage score.
b) Presenting problem and triage assessment.
c) Date and time seen by a medical practitioner, other clinicians such as a Clinical Initiatives Nurse, Nurse Practitioner, nursing, midwifery and allied health staff.
d) Medical, nursing, midwifery and allied health assessment.
e) Pathology, radiology and other tests ordered. Pathology, radiology and other test results must be followed up and reviewed with notation as to action required.
f) Description of critical/unexpected/abnormal pathology, radiology and other test results. If the patient/client has left the Emergency Department and not been admitted, document the steps taken to contact the patient/client or their carer if the test results indicate that urgent treatment/care is required.
g) Details of treatment.
h) Follow up treatment where applicable.
i) Transfer of care date and time, destination (eg. home, other level of health care) method and whether accompanied.

### 2.12 Anaesthetic reports

Anaesthetic reports must include the following:

a) Pre-operative assessment, including patient anaesthetic history.
b) Risk-rating eg. American Society of Anaesthesiologists (ASA) score.
c) Date and time anaesthetic commenced and completed.
d) Anaesthesia information and management ie. medications, gases, type of anaesthetic.
e) NSW safety checklists including patient assessment and equipment checklists consistent with Australian and New Zealand College of Anaesthetists requirements.
f) Operative note/monitor results.
g) Post-operative notes/orders.
2.13 Operation/procedure reports

Operation/procedure reports must include the following:

a) Date of operation/procedure.
b) Pre-operative and post-operative diagnosis.
c) Indication for operation/procedure.
d) Procedure safety checklist.
e) Surgical operation/procedure performed.
f) Personnel involved in performing the operation/procedure.
g) Outline of the method of surgery/procedure.
h) Product/device inserted and batch number.
i) Changes to, or deviations from, the planned operation/procedure, including any adverse events that occurred.
j) Operative/procedural findings.
k) Tissue removed.
l) Pathology ordered on specimens.
m) Post-operative orders.

2.14 Telephone/electronic consultation with patient/clients

When clinical information is provided to a patient/client, or their carer/guardian/advocate, the consultation must be documented in the health care record. The identification of the caller must be documented.

Where the caller is not the patient/client, or their carer/guardian/advocate obtain consent from the patient/client, or their carer/guardian/advocate prior to the consultation. Document the

a) Caller’s name,
b) Relationship to the patient/client, and
c) That the patient/client, or their carer/guardian/advocate has consented to the caller seeking clinical information about the patient/client in the patient/client’s health care record.

2.15 Telephone/electronic consultation between clinicians

Where a clinician involved in the care and treatment of a patient/client formally consults another clinician, via telephone/electronic means, about the patient/client and the consulted clinician provides advice, direction or action, that advice, direction or action must be documented in the health care record by the clinician seeking the advice. The name and designation of the consulted clinician, and the date/time of the consultation must also be documented as soon as practical following consultation with the other clinician and in a manner as to ensure continuity of care for patients.

2.16 Leave taken by patients/clients

Any leave taken by the patient/client should be documented in their health care record with the date/time the patient/client left and returned. The patient/client should be assessed before proceeding on leave and the outcome of that assessment documented in the health care record, together with the documented approval of the AMP noting the assessment.
2.17 Leaving against medical advice

A patient/client who decides to leave the health service/program against medical advice must be asked to sign a form to that effect with the form filed in the patient/client’s health care record. If the patient/client refuses to sign the form this must be documented in the health care record, including any advice provided.

Examples of advice that could be provided to the patient/client include:

a) The medical consequences of the patient’s decision, including the potential consequences of no treatment.

b) The provision or offering of an outpatient management plan and follow-up that is acceptable and relevant to the patient.

c) Under what circumstances the patient should return, including an assurance that they can elect to receive treatment again without any prejudice.

3. MANAGEMENT

3.1 Responsibility and accountability

The Chief Executive of the PHO must comply with the State Records Act and its regulation in respect of health care records.77

Responsibility for the maintenance of appropriate health care records must be included in the terms and conditions of appointment (including position descriptions) for all health care personnel as defined in this policy.

Documentation must be included as a standing item in annual performance reviews of clinicians. Failure to maintain adequate health care records will be managed in accordance with current NSW Health policies and guidelines for managing potential misconduct.

3.2 Individual health care record

An individual health care record with a unique identifier (eg unique patient identifier, medical record number) must be created for each patient/client who receives health care. Every live or still born baby must be allocated a unique identifier that is different to the mother.

Where multiple patient identifiers exist for the same patient/client within a PHO there must be processes established for their reconciliation and linkage, with the ability to audit those processes.

A reference notation should be placed on the health care record to identify any relevant other documents that relate to the patient’s health care. Index or patient administration systems must reference the existence of satellite/decentralised health care records that address a specific issue and that are kept separate from the principal health care record. Due to the nature of the information contained in sexual assault records these must be maintained separately from the principal health care record and be kept secure at all times; as should child protection/wellbeing and genetics records.

Staff screening and vaccination records are considered as personnel rather than health care records and must be maintained separately.

36(10/01/13)

3.3 Access

Health care records should be available at the point of care or service delivery. Health care records must not be removed from the campus unless prior arrangements have been made with the PHO eg. required for a home visit, required under subpoena.

Health care records are only accessible to:78

a) Health care personnel currently providing care/treatment to the patient/client.

b) Staff involved in patient safety, the investigation of complaints, audit activities or research (subject to ethics committee approval, as required).

c) Staff involved in urgent public health investigations for protecting public/population health, consistent with relevant legislation.79

d) Patient/client to whom the record relates, or their authorised agent, based on a case by case basis in accordance with health service release of information policies and privacy laws.

e) Other personnel/organisations/individuals in accordance with a court subpoena, statutory authority, valid search warrant, coronial summons, or other lawful order authorised by legislation, common law or NSW Health policy.

All requests for information, that is contained in a patient/client’s health care record, from a third/external party should be handled by appropriately qualified and experienced health care personnel, such as Health Information Managers, due to the sensitive nature of health care records; the special terminology used within them; and regulatory requirements around access to, and disclosure of, information.

3.4 Ownership

The health care record is the property of the PHO providing care, and not individual health care personnel or the patient/client.

Where shared care models or arrangements exist for clinicians to treat private patient/clients within PHO facilities/settings, responsibility for the management of those health care records must be included in the terms of the arrangement between the PHO and the clinician.

3.5 Retention and durability

Health care records must be maintained in a retrievable and readable state for their minimum required retention period.80

Entries should not fade, be erased or deleted over time. The use of thermal papers, which fade over time, should be restricted to those clinical documents where no other suitable paper or electronic medium is available e.g. electrocardiographs, cardiotocographs.

Electronic records must be accessible over time, regardless of software or hardware changes, capable of being reproduced on paper where appropriate, and have regular adequate backups.

3.6 Storage and security

The *Health Records and Information Privacy Act 2002* establishes statutory requirements for the storage and security of health care records, which are also included in the [NSW Privacy Manual for Health Information](http://www.health.nsw.gov.au/policies/manuals/Pages/patient-matters-manual.aspx). A summary of these requirements is provided below. However, the Privacy Manual should be consulted for further detail in this area.

Personal health information, including healthcare records, must have appropriate security safeguards in place to prevent unauthorised use, disclosure, loss or other misuse. For example, all records containing personal health information should be kept in lockable storage or secure access areas when not in use.

Control over the movement of paper based health care records is important. A tracking system is required to facilitate prompt retrieval to support patient/client care and treatment and to preserve privacy.

A secure physical and electronic environment should be maintained for all data held on computer systems by the use of authorised passwords, screen savers and audit trails. If left unattended, no personal health information should be left on the screen. Screen savers and passwords should be used where possible to reduce the chance of casual observation. Consideration may be given to providing staff with different levels of access to electronic records where appropriate (i.e. full, partial or no access).

Details of the roles and responsibilities of staff, including system administrators and IT technical and support staff, concerning the protection of health care records held on electronic information systems are given in the [NSW Health Electronic Information Security Policy](http://www.health.nsw.gov.au/policies/pd/2013/PD2013_033.html).

3.7 Disposal

Health care records, both paper based and electronic, must be disposed of in a manner that will preserve the privacy and confidentiality of any information they contain.

Disposal of data records should be done in such a way as to render them unreadable and leave them in a form from which they cannot be reconstructed in whole or in part.

Paper records containing personal health information should be disposed of by shredding, pulping or burning. Where large volumes of paper are involved, specialised services for the safe disposal of confidential material should be employed.

The disposal of health care records must be documented in the PHO’s Patient Administration System and undertaken in accordance with the relevant State General Disposal Authority.

---

4. IMPLEMENTATION SELF ASSESSMENT CHECKLIST

An Implementation Self Assessment Checklist is provided to support implementation of this policy.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Self Assessment:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Nil</td>
</tr>
</tbody>
</table>

A. STRATEGIC FUNDAMENTALS

PHO has documented processes to manage health care records

PHO uses an approved abbreviation list

There are resources and support to implement the Health Care Records policy and regular monitoring of progress by a responsible officer

Key performance indicators are developed to monitor and measure implementation of the Health Care Records policy in the PHO

Examples of performance measures:

1. Patient identification is on every page of the health care record or on each screen of the electronic record.

2. Handwritten entries are legible to a reader other than the author.

B. INTEGRATION INTO NORMAL BUSINESS SYSTEMS

Responsibility and accountability for documentation and management of health care records is clearly stated in position descriptions and incorporated into performance review for all relevant health care personnel.

The design, approval and implementation of health care records forms (including electronic systems) is consistent with state policies and procedures.

36(10/01/13)
C. ORGANISATIONAL IMPLEMENTATION

A schedule is in place for auditing of health care records across clinical settings. This should include both record completeness and clinical audits.

All clinical areas are audited for compliance with the Health Care Record policy according to the schedule noted above.

Results and analysis of health care record audits are provided to clinicians and managers, and are used to inform remedial quality improvement activities.

Results and analysis of health care record audits are used to inform education on clinical documentation.

There is a process for recognition of excellence in the documentation and management of health care records.

Health care records key performance indicators are monitored at ward/unit, hospital/service and PHO level and benchmarked with appropriate peers.
NOTIFICATION OF ACUTE RHEUMATIC FEVER AND RHEUMATIC HEART DISEASE – THE NSW PUBLIC HEALTH ACT 2010 (IB2015_057)

PURPOSE

This Information Bulletin provides guidance on the addition of Acute Rheumatic Fever (ARF) and Rheumatic Heart Disease (RHD) to the list of medical conditions in Schedule 1 of the NSW Public Health Act, and to the list of notifiable diseases in Schedule 2 of the Act.

Under the provisions of the Public Health Act 2010 and the Public Health Regulation 2012, doctors, hospital chief executive officers (or general managers), pathology laboratories, directors of child care centres and school principals are required to notify certain medical conditions listed on the NSW Ministry of Health website.

KEY INFORMATION

On 2 October 2015 the NSW Public Health Act 2010 was amended to add ARF and RHD in a person under the age of 35 to:

a) The list of medical conditions in Schedule 1 to that Act:
   i. That must be notified by medical practitioners to the Secretary of the NSW Ministry of Health, and

b) The list of notifiable diseases in Schedule 2 to that Act:
   i. That must be notified by health practitioners providing care in hospitals to the chief executive officer of the hospital concerned, and
   ii. That must be notified by the chief executive officer of a hospital to the Secretary of the NSW Ministry of Health.

NOTIFICATION MECHANISMS

Information on the notification of infectious diseases under the Public Health Act 2010 is detailed in the Information Bulletin IB2013_010.

Infectious disease notifications should be directed to the local Public Health Unit, and should be initiated as soon as possible within 24 hours of diagnosis.

In order to protect patient confidentiality, notifications must not be made by facsimile machine except in exceptional circumstances and when confidentiality is ensured.

Disease notification guidelines and notification forms for notifiers are available at: www.health.nsw.gov.au/Infectious/Pages/notification.aspx

51(01/10/15)