

NSW POLICE REQUESTS FOR INFORMATION AND STATEMENTS

PROCEDURE [®]

DOCUMENT SUMMARY/KEY POINTS

SCHN staff should follow the procedures outlined in this Policy when dealing with requests from NSW Police in relation to information and statements.

- Requests from NSW Police to provide information in relation to SCHN patients should be directed to SCHN Release of Information Unit in a timely manner.
- Requests from NSW Police for statements should be directed to SCHN Release of Information team as soon as received. Upon receipt of the request, SCHN Release of Information team will direct the request to the appropriate SCHN staff and will provide appropriate assistance and support.

CHANGE SUMMARY

- Updated to outline the procedures to follow when NSW Police make a request for information in relation to a SCHN patient and when NSW Police make a request for the provision of a statement from a SCHN staff member.

READ ACKNOWLEDGEMENT

- All Clinical staff, Administration staff working in clinical areas and Managers are to read the contents of this document.

This document reflects what is currently regarded as safe practice. However, as in any clinical situation, there may be factors which cannot be covered by a single set of guidelines. This document does not replace the need for the application of clinical judgement to each individual presentation.

Approved by:	SCHN Policy, Procedure and Guideline Committee	
Date Effective:	1 st October 2023	Review Period: 3 Years
Team Leader:	SCHN Legal Manager	Area/Dept: Clinical Governance Unit

TABLE OF CONTENTS

Related Legislation and Policies	2
Abbreviations	2
Introduction	3
Requests from NSW Police for information.....	3
Requests from NSW Police for statements	3
Frequently asked questions.....	4
Coronial Inquest Matters	4
Expert Statements.....	5

Related Legislation and Policies

- [Children's and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#)
- [Criminal Procedure Act 1986 \(NSW\)](#)
- [Evidence Act 1995 \(NSW\)](#)
- [Children \(Criminal Proceeding\) Act 1987 \(NSW\)](#)
- [Young Offenders Act 1997 \(NSW\)](#)
- [SCHN Subpoenas, Statements and Medico-Legal Requests Procedure](#)
- [SCHN Information Sharing with other Agencies Policy](#)
- [NSW Health Patient Matters Manual](#)
- [NSW Health Code of Conduct](#)
- [NSW Health Privacy Manual for Health Information](#)
- [Law Enforcement \(Powers and Responsibilities\) Regulation 2005](#)

Abbreviations

The following abbreviations are used in this document:

HIU	SCHN Health Information Unit
ROI team	Release of Information team
SCHN	The Sydney Children's Hospitals Network
Staff	Includes all SCHN employees, VMO's, Contractors & Volunteers covered by TMF Insurance at the relevant time
TMF	Treasury Managed Fund

Introduction

This document describes the procedures that SCHN staff should follow when:

- NSW Police makes a request for information in relation to a SCHN patient
- NSW Police makes a request for the provision of a statement from a SCHN staff

Requests from NSW Police for information

NSW Police have broad investigative powers under legislation to investigate matters.

In the course of those investigations, NSW Police may seek information from SCHN by issuing a subpoena to produce for information relating to a patient.

NSW Police may also request information under Chapter 16A of *Children and Young Persons (Care and Protection Act) Act 1998* (The Care Act). The Care Act allows certain people and organisations to exchange information to facilitate services that promote the safety, welfare and well-being of children and young people. Chapter 16A allows information between prescribed agencies including:

- The Department of Communities and Justice (DCJ)
- Other government agencies including SCHN and non-government organisations

Requests for information from NSW Police should be directed to SCHN Release of Information (ROI) team via schn-roi@health.nsw.gov.au.

SCHN ROI team will action these requests. In doing so, SCHN ROI may consult with the SCHN Legal Manager in relation to these requests.

Requests from NSW Police for statements

In the course of investigations, NSW Police may also request statements from SCHN staff in relation to the treatment of patients. These requests may relate to a police investigation in relation to a child protection matter, motor vehicle accident, assault or an incident within a clinical setting.

All requests for witness statements from staff should be made in writing by the requesting Police Officer by email to the:

Office of the DMSCG by email: c/o schn-roi@health.nsw.gov.au

or via post: SCHN Health Information Unit

Sydney Children's Hospitals Network

Locked Bag 4001

WESTMEAD NSW 2145

The SCHN Health Information Unit will inform the relevant staff of the request and will provide appropriate assistance and support.

Frequently asked questions

Can an interview or statement be refused?

Generally, there is no legal obligation upon SCHN staff to provide a statement pursuant to a request from NSW Police. However, SCHN staff are encouraged to comply with such requests in order to assist NSW Police with their investigations.

Who will support me?

- SCHN staff are entitled to seek their own independent legal advice or speak to their private medical indemnity insurer, professional association, or Union before providing a statement to NSW Police.
- SCHN staff may contact the SCHN Legal Manager for support, advice or if they have any queries regarding requests for a statement or interview.
- If NSW Police request a statement or an interview with an staff member for the purpose of taking a statement, this request should be referred to:
 - Department Head or Nurse Manager and
 - Director Medical Services, Director of Nursing or Director Allied Health
- For an interview a senior clinician will be arranged to attend the interview to support you and witness the interview. Additionally, it is recommended that the SCHN Legal Manager and Director Medical Services and Clinical Governance be notified via email to [schn- legalservices@health.nsw.gov.au](mailto:schn-legalservices@health.nsw.gov.au)

Will I be required to attend Court if I provide a statement?

You may still be required to attend Court to provide evidence even if you have provided a statement.

What if I get a subpoena to attend Court?

If your attendance at Court is required, you will be issued with a subpoena to attend to give evidence. In New South Wales, failure to comply with a subpoena without lawful excuse may be considered contempt of court and may lead to serious consequences under section 97 of the Civil Procedure Act 2005 (NSW).

If there are any concerns with regards to a subpoena to attend to give evidence, the SCHN Legal Manager should be consulted via [schn- legalservices@health.nsw.gov.au](mailto:schn-legalservices@health.nsw.gov.au).

Coronial Inquest Matters

SCHN staff may be asked to NSW Police to provide a statement in a coronial inquest matter which relates to the death of a child. Such requests should be in writing from NSW Police. They should be emailed to SCHN Legal Manager [schn- legalservices@health.nsw.gov.au](mailto:schn-legalservices@health.nsw.gov.au). Upon receipt of a request, the SCHN Legal Manager will contact the staff member to provide support and to discuss the arrangements for responding to the request.

Requests for statements in coronial inquest matters should comply with - [NSW Health's PD2010 054 Coroners Cases and the Coroners Act 2009](#).

Expert Statements

There may be occasions where SCHN clinicians are asked to provide expert evidence in legal matters. If a SCHN clinician is asked and agrees to provide an expert report in a legal matter, they should provide the expert statement in compliance with the Expert Witness Code of Conduct, Schedule 7 of the Uniform Civil Procedure Rules (NSW).

Under Rule 31.27 of the UCPR, the expert report must include the following:

- (a) the expert's qualifications as an expert on the issue the subject of the report,*
- (b) the facts, and assumptions of fact, on which the opinions in the report are based (a letter of instructions may be annexed),*
- (c) the expert's reasons for each opinion expressed,*
- (d) if applicable, that a particular issue falls outside the expert's field of expertise,*
- (e) any literature or other materials utilised in support of the opinions,*
- (f) any examinations, tests or other investigations on which the expert has relied, including details of the qualifications of the person who carried them out,*
- (g) in the case of a report that is lengthy or complex, a brief summary of the report (to be located at the beginning of the report).*

Additionally, the expert witness should note:

- If an expert witness who prepares an expert's report believes that it may be incomplete or inaccurate without some qualification, the qualification must be stated in the report.
- If an expert witness considers that his or her opinion is not a concluded opinion because of insufficient research or insufficient data or for any other reason, this must be stated when the opinion is expressed.
- If an expert witness changes his or her opinion on a material matter after providing an expert's report to the party engaging him or her (or that party's legal representative), the expert witness must forthwith provide the engaging party (or that party's legal representative) with a supplementary report to that effect.

An expert witness is not an advocate for a party and has a paramount duty, overriding any duty to the party to the proceedings or other person retaining the expert witness, to assist the court impartially on matters relevant to the area of expertise of the witness.

Copyright notice and disclaimer:

The use of this document outside Sydney Children's Hospitals Network (SCHN), or its reproduction in whole or in part, is subject to acknowledgement that it is the property of SCHN. SCHN has done everything practicable to make this document accurate, up-to-date and in accordance with accepted legislation and standards at the date of publication. SCHN is not responsible for consequences arising from the use of this document outside SCHN. A current version of this document is only available electronically from the Hospitals. If this document is printed, it is only valid to the date of printing.