

**INFORMATION SHARING PROTOCOL**  
**(section 76J of the *Mental Health (Forensic Provisions) Act 1990*)**

**BETWEEN**

**DIRECTOR-GENERAL, NSW DEPARTMENT OF HEALTH**

**AND**

**DIRECTOR-GENERAL, NSW DEPARTMENT OF HUMAN SERVICES**

**IN RELATION TO**

**JUVENILE FORENSIC PATIENTS AND JUVENILE CORRECTIONAL PATIENTS**

**Date: 2009**

## 1. PARTIES

- 1.1 Director-General, NSW Department of Health ("DOH")
- 1.2 Director-General, NSW Department of Human Services ("DHS")

## 2. REFERENCES TO DIRECTOR-GENERAL

- 2.1 The references to the Director-General of the Department of Juvenile Justice in the *Mental Health (Forensic Provisions) Act 1990* are to be construed as references to the Director-General of the Department of Human Services in accordance with the *Public Sector Employment & Management (Departmental Amalgamation) Order 2009*.

## 3. APPLICATION OF THE PROTOCOL

- 3.1 Section 76J(1) of the *Mental Health (Forensic Provisions) Act 1990* authorises the Director-General of DOH and the Director-General of DHS to enter into an information sharing protocol with each other to enable information held by their Departments and by associated agencies to be shared or exchanged between those Departments and agencies.
- 3.2 This Protocol does not limit the operation of any Act under which DOH, DHS or an associated agency is authorised or required to disclose information to another person or body.
- 3.3 This Protocol applies to associated agencies, including but not limited to Justice Health, the Royal Alexandra Hospital for Children and Area Health Services, when they provide health care to juvenile correctional patients and juvenile forensic patients. These associated agencies are listed in Schedule A to this Protocol.
- 3.4 This Protocol does not apply to an inmate detained in a correctional centre or a juvenile correctional centre (for example, Kariong Juvenile Correctional Centre) or to an inmate transferred from a correctional centre or a juvenile correctional centre to a mental health facility.

## 4. DEFINITIONS

- 4.1 **Area health service** means an area health service constituted under section 17 of the *Health Services Act 1997* and specified from time to time in Schedule 1 to that Act.
- 4.2 **Associated agency** has the same meaning as in s. 76J(6) of the *Mental Health (Forensic Provisions) Act 1990*. A list of associated agencies is included in Schedule A to this Protocol.
- 4.3 **Department of Health ("DOH")** means the NSW Government Department specified as such in Schedule 1 of the *Public Sector Employment and Management Act 2002*.
- 4.4 **Department of Human Services ("DHS")** means the NSW Government Department specified as such in Schedule 1 of the *Public Sector Employment and Management Act 2002*.
- 4.5 **Detainee** has the same meaning as in s. 3 of the *Children (Detention Centres) Act 1987*.
- 4.6 **Justice Health** means the statutory health corporation constituted by section 41 of the *Health Services Act 1997*.

- 4.7 **Juvenile correctional patient** means a correctional patient as defined in section 41 of the *Mental Health (Forensic Provisions) Act 1990* who is a detainee.
- 4.8 **Juvenile forensic patient** means a forensic patient as defined in section 42 of the *Mental Health (Forensic Provisions) Act 1990* who is a detainee.
- 4.9 **Juvenile Justice** means the persons employed by DHS to carry out functions with respect to detainees.
- 4.10 **The Royal Alexandra Hospital for Children** means the statutory health corporation constituted by section 41 of the *Health Services Act 1997*.

## 5. INFORMATION SHARING ARRANGEMENT

- 5.1 The Director-General of DOH and the Director-General of DHS agree that access to appropriate health, legal, and administrative information is essential in ensuring the provision of appropriate care to juvenile correctional patients and juvenile forensic patients.
- 5.2 In accordance with this protocol, DOH, JJ, and associated agencies are authorised:
- (a) to request and receive information held by DOH, JJ or associated agencies the subject of the arrangement, and
  - (b) to disclose information to DOH, JJ or associated agencies.
- 5.3 The request for, receipt of and disclosure of the information referred to in clause 5.2 may be done without the consent of the person to whom the information relates, but only to the extent that the information is reasonably necessary to assist in the exercise of functions under the *Mental Health (Forensic Provisions) Act 1990* or the functions of DOH, JJ or associated agencies concerned.
- 5.4 The following types of information may be exchanged:
- (a) information concerning juvenile forensic patients and juvenile correctional patients;
  - (b) information concerning former juvenile forensic patients or juvenile correctional patients transferred, or proposed to be transferred, to Juvenile Justice Centres;
  - (c) information concerning persons (other than juvenile forensic patients and juvenile correctional patients) who are, or may be, subject to forensic community treatment orders ("CTOs");
  - (d) information concerning persons (other than juvenile forensic patients and juvenile correctional patients) who were formerly subject to forensic CTOs and who have been released from a Juvenile Justice Centre and are subject to CTOs;
  - (e) information concerning visitors to juvenile forensic patients and juvenile correctional patients who are reasonably believed to pose a security risk to the good management and order of a Juvenile Justice Centre or mental health facility.
- 5.5 Information that falls within the types of information specified in clause 5.4 that may be exchanged includes but is not limited to:
- (a) offence details;
  - (b) sentence administration;
  - (c) security classification;
  - (d) leave entitlements;

- (e) non-association conditions (provided on a case by case basis);
  - (f) the names and telephone numbers of visitors prohibited from visiting or not approved to visit a juvenile forensic patient or juvenile correctional patient;
  - (g) list of booked visitors;
  - (h) prohibited items;
  - (i) outgoing telephone details including approved telephone numbers;
  - (j) victims recorded on the JJ victims register;
  - (k) legal status, eg on remand;
  - (l) alerts including risk of violence or escape.
- 5.6 JJ will disclose to the associated agency responsible for the mental health facility to which a juvenile forensic patient or juvenile correctional patient is transferred, information specified in clause 5.5 that relates to that patient.
- 5.7 The associated agencies will update information received from JJ concerning a juvenile correctional patient or juvenile forensic patient and will disclose the updated information to JJ on the discharge of that patient back to the care of JJ.
- 5.8 The associated agency responsible for the mental health facility where a juvenile correctional patient or juvenile forensic patient is detained, will disclose information relating to ongoing case management and discharge planning for that patient to Justice Health when the patient is transferred back to a Juvenile Justice Centre.
- 5.9 JJ will disclose to Justice Health information relating to a juvenile forensic patient detained in a Juvenile Justice Centre that is reasonably necessary to assist Justice Health in the exercise of functions under the *Mental Health (Forensic Provisions) Act 1990*.
- 5.10 JJ and associated agencies will exchange the information specified in clause 5.5 that relates to:
- (a) a former juvenile correctional patient or a former juvenile forensic patient who has been released from a Juvenile Justice Centre or mental health facility and remains subject to a community treatment order made by the Mental Health Review Tribunal; or
  - (b) a juvenile correctional patient or juvenile forensic patient who is subject to a community treatment order made by the Mental Health Review Tribunal; or
  - (c) a juvenile correctional patient or juvenile forensic patient who JJ or an associated agency considers is likely to be the subject of a community treatment order made by the Mental Health Review Tribunal.
- 5.11 Negotiations are ongoing to establish and allow for the electronic transfer of information between JJ and Justice Health.

## **6. REVIEWS**

- 6.1 The Director-General of DOH and the Director-General of DHS will review this Protocol from time to time as necessary.

## **7. VARIATIONS**

- 7.1 Any variations to this Protocol must be agreed, recorded in writing and signed by the Director-General of DOH and the Director-General of DHS. Any variations that are not so documented and signed will have no effect.

**8. REPORTING REQUIREMENTS AND CO-OPERATION BETWEEN PARTIES**

- 8.1 The Director-General of DOH and the Director-General of DHS will each nominate a liaison officer who will have responsibility for facilitating effective management of this Protocol and the resolution of issues which may arise from this Protocol.

**9. JOINT OBLIGATIONS**

- 9.1 Subject to this Protocol, the Director-General of DOH and the Director-General of DHS agree to do all things reasonably necessary and execute all documents required to obtain, facilitate and to give effect to each Department's obligations pursuant to this Protocol.

**10. COUNTERPARTS**



- 10.1 This Protocol may be signed in any number of counterparts which, when taken together, will constitute the one instrument.

**11. TERMINATION**

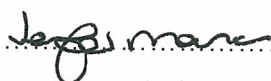
- 11.1 Either party may, at any time, terminate this Protocol by giving 28 days' notice to the other party, without the need to give reasons, such termination being effective upon expiry of this time period.

11. SIGNATURE

Signed by: Professor Debora Picone, Director-General, NSW Department of Health

Signature: ..... Date: .....

Signed by: Jennifer Mason, Director-General, NSW Department of Human Services

Signature: ..... Date: 14.10.09.....

**SCHEDULE A – ASSOCIATED AGENCIES**

1. Justice Health
2. Greater Southern Area Health Service
3. Greater Western Area Health Service
4. Hunter and New England Area Health Service
5. North Coast Area Health Service
6. Northern Sydney and Central Coast Area Health Service
7. South Eastern Sydney and Illawarra Area Health Service
8. Sydney South West Area Health Service
9. Sydney West Area Health Service
10. The Royal Alexandra Hospital for Children