

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

**BETWEEN**

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

**AND**

**COMMISSIONER OF CORRECTIVE SERVICES**

**IN RELATION TO**

**FORENSIC PATIENTS AND CORRECTIONAL PATIENTS**

**Date:**

**2011**

## 1. PARTIES

1.1 Director-General, NSW Department of Health ("DOH")

1.2 Commissioner of Corrective Services

## 2. APPLICATION OF THE PROTOCOL

2.1 Section 76J(1) of the *Mental Health (Forensic Provisions) Act 1990* authorises the Director-General of DOH and the Commissioner of CSNSW 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.

2.2 This Protocol does not limit the operation of any Act under which DOH, CSNSW or associated agencies is authorised or required to disclose information to another person or body.

2.3 This Protocol applies to all associated agencies, including but not limited to Justice Health and Local Health Networks, when they provide health care to correctional patients and forensic patients. These associated agencies are listed in Schedule A to this Protocol.

## 3. DEFINITIONS

3.1 **Associated agency** has the same meaning as in s. 76J(6) of the *Mental Health (Forensic Provisions) Act 1990* and as listed at Schedule A

3.2 **Correctional patient** means a correctional patient as defined in section 41 of the *Mental Health (Forensic Provisions) Act 1990*.

3.3 **Corrective Services NSW ("CSNSW")** means that part of the Department of Justice and Attorney General comprising the group of staff who are principally involved in the administration of the *Crimes (Administration of Sentences) Act 1999*.

3.4 **Department of Health ("DOH")** means the NSW Government Department specified as such in Schedule 1 of the *Public Sector Employment and Management Act 2002*.

3.5 **Forensic patient** means a forensic patient as defined in section 42 of the *Mental Health (Forensic Provisions) Act 1990*.

3.6 **Inmate** has the same meaning as in s. 3 of the *Crimes (Administration of Sentences) Act 1999* and includes a juvenile inmate and section 28 juvenile inmate as defined in s. 41A of the *Crimes (Administration of Sentences) Act 1999*.

3.7 **Justice Health** means the statutory health corporation constituted by section 41 of the *Health Services Act 1997* and specified in Schedule 2 of that Act.

3.8 **Local Health Network** means a local health network constituted under section 17 of the *Health Services Act 1997* and specified from time to time in Schedule 1 to that Act.

## 4. INFORMATION SHARING ARRANGEMENT

4.1 The Director-General of DOH and the Commissioner of CSNSW agree that access to appropriate health, legal, and administrative information is essential in ensuring the

provision of appropriate care and management to correctional patients and forensic patients.

4.2 In accordance with this protocol, DOH, CSNSW and associated agencies are authorised:

- (a) to request and receive information held by any other Department or associated agency the subject of the arrangement, and
- (b) to disclose information to any of those Departments or associated agencies.

4.3 The request for, receipt of and disclosure of the information referred to in clause 4.2 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 CSNSW, DOH or associated agencies concerned, including information required for, or relating to, the operation or granting of parole.

4.4 The following types of information may be exchanged:

- (a) information concerning forensic patients and correctional patients;
- (b) information concerning former forensic patients or correctional patients transferred, or proposed to be transferred, to correctional centres;
- (c) information concerning persons (other than forensic patients and correctional patients) who are, or may be, subject to forensic community treatment orders ("CTOs");
- (d) information concerning persons (other than forensic patients and correctional patients) who were formerly subject to forensic CTOs and who have been released from a correctional centre and are subject to CTOs;
- (e) information concerning visitors to forensic patients and correctional patients who are reasonably believed to pose a security risk to the good management and order of a correctional centre or mental health facility.

4.5 Information that falls within the types of information specified in clause 4.4 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 forensic patient or correctional patient;
- (g) list of booked visitors;
- (h) items or events denied to the patient;
- (i) outgoing telephone details including approved telephone numbers;
- (j) victims recorded on the CSNSW child contact assessment program victims register;
- (k) legal status, eg on remand, appellant;
- (l) alerts including risk of violence, self harm, escape, deportation/extradition;;
- (m) information relevant to consideration for the granting of parole

- (n) information relating to the proposed future management plans including possible proposals for imposing requirements for a community treatment order or classification as an involuntary patient.
- 4.6 CSNSW will disclose to the associated agency responsible for the mental health facility to which a forensic patient or correctional patient is transferred, information specified in clause 4.5 that relates to that patient.
- 4.7 The associated agencies will update information received from CSNSW concerning a correctional patient or forensic patient and will disclose the updated information to CSNSW on discharge of the patient back to the custody of CSNSW.
- 4.8 The associated agency responsible for the mental health facility where a correctional patient or forensic patient is detained will disclose information relating to ongoing case management and discharge planning for that patient to the relevant associated agency when the patient is transferred back to a correctional centre or is transferred to another mental health facility.
- 4.9 CSNSW and Justice Health will share information relating to a forensic patient detained in a correctional centre that is reasonably necessary to assist Justice Health or CSNSW in the exercise of functions under the *Mental Health (Forensic Provisions) Act 1990* and the *Crimes (Administration of Sentences) Act 1999*.
- 4.10 CSNSW and associated agencies will exchange the information specified in clause 4.5 that relates to:
- (a) persons (other than forensic patients and correctional patients) who are, or may be, subject to forensic community treatment orders; or
  - (b) a correctional patient or forensic patient who is subject to a community treatment order made by the Mental Health Review Tribunal; or
  - (c) a correctional patient or forensic patient who CSNSW or an associated agency considers is likely to be the subject of a community treatment order made by the Mental Health Review Tribunal.
- 4.11 Negotiations are ongoing to establish and allow for the electronic transfer of information between CSNSW and Justice Health.

## **5. REVIEWS**

- 5.1 The Director-General of DOH and the Commissioner of CSNSW will review this Protocol from time to time as necessary.

## **6. VARIATIONS**

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

## **7. REPORTING REQUIREMENTS AND CO-OPERATION BETWEEN PARTIES**

- 7.1 The Director-General of DOH and the Commissioner of CSNSW 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.

## **8. JOINT OBLIGATIONS**

- 8.1 Subject to this Protocol, the Director-General of DOH and the Commissioner of CSNSW 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.

**9. SIGNATURE**

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

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

Signed by: Ron Woodham, Commissioner of Corrective Services NSW

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

**SCHEDULE A – ASSOCIATED AGENCIES**

1. Justice Health
2. Forensic Mental Health Network
3. Sydney Local Health Network
4. South Western Sydney Local Health Network
5. South Eastern Sydney Local Health Network
6. Illawarra Shoalhaven Local Health Network
7. Western Sydney Local Health Network
8. Nepean Blue Mountains Local Health Network
9. Northern Sydney Local Health Network
10. Central Coast Local Health Network
11. Hunter New England Local Health Network
12. Murrumbidgee Local Health Network
13. Southern NSW Local Health Network
14. Western NSW Local Health Network
15. Far West Local Health Network
16. Mid North Coast Local Health Network
17. Northern NSW Local Health Network