

**INTERNAL ONLY**  
**ISLHD PROCEDURE**  
**COVER SHEET**



**Health**  
 Illawarra Shoalhaven  
 Local Health District

<b>NAME OF DOCUMENT</b>	Subpoenas – The Processing of
<b>TYPE OF DOCUMENT</b>	Procedure
<b>DOCUMENT NUMBER</b>	ISLHD CORP PROC 12
<b>DATE OF PUBLICATION</b>	November 2019
<b>RISK RATING</b>	Medium
<b>REVIEW DATE</b>	November 2022
<b>FORMER REFERENCE(S)</b>	Nil
<b>EXECUTIVE SPONSOR or EXECUTIVE CLINICAL SPONSOR</b>	ISLHD Chief Information Officer
<b>AUTHOR</b>	ISLHD Statutory Information Compliance Officer
<b>KEY TERMS</b>	Subpoena, compliance, court order, produce documents, give evidence, coronial inquest, scope of schedule, conduct money, grounds to object, privileges, sexual assault records, public interest immunity
<b>FUNCTIONAL GROUP OR HUB</b>	District Wide
<b>NSQHS STANDARD</b>	NSQHS Standard 1 and NMHS Standard 8
<b>SUMMARY</b>	Documented procedures for ISLHD to support NSW Health PD2019_001 on Subpoenas.

**COMPLIANCE WITH THIS DOCUMENT IS MANDATORY**

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**1. POLICY STATEMENT**

This procedure applies throughout the Local Health District and should be read in conjunction with the NSW Health Policy Directive PD2019\_001 on Subpoenas.

**2. BACKGROUND**

All NSW Health Agencies must have effective systems and procedures in place to ensure subpoenas are complied with appropriately, aligning with the NSW Health Policy Directive PD2019\_001 on Subpoenas, and alleged breaches of the Policy Directive are investigated and responded to.

**3. RESPONSIBILITIES**

**3.1 Chief Executive must ensure:**

- Principles and requirements of the Subpoena Policy Directive and procedures are applied, achieved and sustained.
- All staff are made aware of their obligations in relation to the Subpoena policy and procedures.

**3.2 Managers & Staff will:**

- Adhere to and promote compliance with the principles and requirements of the Policy Directive and procedure.
- Be aware of their obligations in relation to the Policy Directive and procedure.
- Understand the legislative requirements of a Subpoena.
- Adhere to the ISLHD Delegations Manual regarding the authorisation to coordinate responses to Subpoenas.
- Produce only the documents which are requested under the schedule of the subpoena.
- Apply any claim for privilege and/or public interest immunity over the relevant documents being produced and take appropriate action.
- Report and assist in the investigation of alleged breaches of the Policy Directive.

**4. PROCEDURE**

**4.1 Seeking advice regarding Subpoenas**

For all of the following matters, it is important that the employee, business unit or service liaise with the ISLHD Clinical Governance Unit (CGU) Legal team:

- Coronial cases and inquests
- Particular sensitive and/or contentious matters – CE and Executive may need to be notified of these matters
- Where ISLHD, the business unit and/or an employee is a party to the proceedings
- Requests for documents that may affect national security, the workings of the NSW Cabinet or some other extraordinary public interest

Contact CGU Legal Team on (02) 4221 6811 or via email:

[ISLHD-CGUTRIM@health.nsw.gov.au](mailto:ISLHD-CGUTRIM@health.nsw.gov.au).

General knowledge and support can be sought from the Statutory Information Compliance Officer ISLHD on (02) 4271 9670 or via email:

[ISLHD-GIPAPrivacyRTI@health.nsw.gov.au](mailto:ISLHD-GIPAPrivacyRTI@health.nsw.gov.au).

Advice can also be provided by the ISLHD's Medical Record Managers and Health Information Managers.

#### **4.2 Subpoenas to Give Evidence**

A subpoena to give evidence requires the named person/employee to attend a court on a certain date and time to be a witness in a hearing and give evidence.

This subpoena **must be** served by the Issuing Party upon the named person/employee personally.

However, if the person/employee is not working on the day the subpoena is served or no longer employed by ISLHD, or the subpoena is received by mail, forward the subpoena immediately to the Statutory Information Compliance Officer ISLHD via email [ISLHD-GIPAPrivacyRTI@health.nsw.gov.au](mailto:ISLHD-GIPAPrivacyRTI@health.nsw.gov.au) to ensure the correct person/employee is provided with the subpoena as quickly as possible. If the person is no longer an ISLHD employee, the Statutory Information Compliance Officer must liaise with the Workforce or Medical Workforce Unit to obtain contact details of this employee so as to forward the subpoena to them.

If subpoena forwarded to the Statutory Information Compliance Officer it must be registered using the secured electronic document and records management system of HPE Content Manager (CM) /TRIM and scanned. A Release of Information (ROI) container (refer to Release of Information (ROI) Containers Work Instruction DT16/54811) will be created, the subpoena scanned, the metadata form completed with the details of the subpoena, including the court and the date of the hearing. This ROI container must be updated throughout the delivering of the subpoena to the correct person/employee to include all communications, notes and documents created (including relevant emails).

The employee who has been subpoenaed should notify their Manager/Supervisor as soon as practicable.

Once Manager/Supervisor advised of subpoena, employee should contact the Issuing Party (Solicitor/Police/Director of Public Prosecutions - DPP) to:

- Confirm their attendance is still required. If attendance is not required, this notification must be obtained in writing;
- Obtain further information and guidance in relation to court matter and hearing;

- Confirm if he/she is required to remain on 'standby' rather than attend court, with sufficient notice provided so as to make alternative work arrangements;
- Arrange, and possibly negotiate, the receiving of conduct money and reasonable expenses prior to attending court. Medical Officers to refer to AMA published guidelines relating to reasonable expenses.

#### **4.3 Subpoenas to Produce Documents**

Subpoenas for the production of documents may be served upon the Local Health District or health care facilities/services directly.

Documents produced under NSW subpoenas must be forwarded to the court at the address referred to in the subpoena, addressed to the Registrar, Exhibits Clerk or Clerk of the Court in question. Documents produced under NSW subpoenas must not be sent to any other party, such as the Issuing Party.

Upon receipt of a Subpoena to Produce Documents, the authorised designated senior officer as noted in the ISLHD Delegations Manual must ensure the following procedures are adhered to, with the coordination of and final sign off for the production of documents to court:

##### **4.3.1 Determine if the subpoena is valid and authentic, ensuring the following is evident:**

- **Addressed correctly** to 'The Proper Officer' of Illawarra Shoalhaven Local Health District (ISLHD) or business unit/service, or name of the employee. NSW Health defines the Proper Officer as a person within the organisation who will have access to the records pertained in the subpoena.
- **Approved court form** with a **court and date stamp** (either manual or electronic) **or signature** of a court officer.  
Exception being local court subpoenas issued by Police or Public Officers (eg, DPP).
- **Name of the court** where matter is being held and the **identities of the parties**.
- **Last date of service and court return date** to determine the urgency of the matter.  
If subpoena is served/received after the last date of service and there is no note advising that the time for service has been shortened (ie, short service subpoena), then the subpoena need not be complied with by the due date, however contact the Issuing Party to seek a further return date (an adjournment/extension) to allow sufficient time for the production of the documents.  
Even if subpoena has been served before the last date of service, an extension may be requested and negotiated with the Issuing Party if more time is required.
- **Authenticity of the subpoena.**  
All reasonable attempts should be taken to ensure the **original** subpoena (exception being Coroner's Court) is served. If in doubt, verify with the Issuing Party and/or court.

All questions, including concerns relating to the above named issues, should be promptly directed to the Issuing Party.

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- 4.3.2 Register the subpoena using the secured electronic document and records management system of HPE CM/TRIM. A ROI container will be created, the subpoena scanned, and the metadata form of the container completed with the details of the subpoena, including the court to which the documents are being sent to and the date of the hearing. The ROI container number will be the unique allocated number. The container must be updated throughout the processing of the subpoena to include all communications, notes and documents created (including relevant emails).
- 4.3.3 For any conduct money, ensure cheque is made payable to Illawarra Shoalhaven Local Health District / ISLHD as per ISLHD District Finance guidelines.

If cheque is not made payable to Illawarra Shoalhaven Local Health District, confirm with District Finance if cheque can be accepted. If not acceptable, advise Issuing Party by phone or email that cheque will be returned to them via external post and an invoice raised by the service(s) producing documents. Return cheque to Issuing Party.

Write up cheque in Remittances by Post or equivalent register in line with section 2 Receipting & Banking Procedures of the NSW Health Accounting Manual for Public Health Organisations, allocate it to the correct business unit cost centre code, using Account Code 420840, intercompany code 0000 with GST- Out of Scope – Sales, and receipt the cheque at the appropriate Reception, Cashiers or with District Finance.

**NOTE:**

If the subpoena schedule is too broad and/or oppressive, requiring multiple documents and some time to search and coordinate, the compliance cost should be estimated and the Issuing Party advised of this costing *prior* to the production of records and raising of any invoice. Negotiation may be required with the Issuing Party around the narrowing of the scope of the Subpoena versus the paying of the production expenses.

For further information regarding the raising of invoices for compliance costs please refer to **section 4.5 Conduct Money and Costs of Compliance**.

- 4.3.4 Determine the scope of the schedule of the subpoena, noting if clinical and/or corporate records are required.

If the schedule requests Workforce/Human Resources documents, such as employment, leave and wage records, forward the subpoena immediately via email to [ISLHD-GIPAPrivacyRTI@health.nsw.gov.au](mailto:ISLHD-GIPAPrivacyRTI@health.nsw.gov.au). The Statutory Information

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Compliance Officer ISLHD to notify ISLHD Workforce via the Workforce Operations Executive Officer.

For subpoena schedules requesting documents not held by your service email the subpoena immediately to [ISLHD-GIPAPrivacyRTI@health.nsw.gov.au](mailto:ISLHD-GIPAPrivacyRTI@health.nsw.gov.au). The Statutory Information Compliance Officer ISLHD to notify the relevant business unit/s, service/s and Issuing Party in writing.

Perform extensive searches to locate the required documents via relevant paper and/or electronic information systems and databases, such as shared drives, archival spreadsheets, iPM, eMR/CHOC, CHIME, SCI MH-OAT, MOSAIQ, Content Manager/TRIM, Stafflink, HealthRoster, archived payroll systems, injury Connect / Workers Compensation Record Systems, ROB, etc.

Liaise with Issuing Party if scope of subpoena is unclear, too broad or resource intensive, with confirmation in writing from the Issuing Party as to the documents required.

If there are no documents, records or information, or if the record has been lost, misplaced or destroyed, a letter must be written to the Court advising the Registrar/Clerk of the Court of same and a copy of this letter forwarded to the Issuing Party. If the record was destroyed in accordance with the relevant NSW State Archives & Records general disposal authority (GDA/GA), and with an approved disposal authorisation, include a copy of the disposal authorisation with the letter and cite the relevant disposal category. Furthermore any conduct money paid should be refunded.

4.3.5 Coordinate the retrieving, uploading, printing and/or photocopying of all relevant documents in line with the scope of the subpoena.

4.3.6 Review all records to remove those documents that are not within the scope of the subpoena. Wherever necessary, remove/redact portions of the copied documents if there is unrelated, irrelevant or privileged information contained, including information of third parties not represented in the proceedings.

However, ***please note*** documentation should not be redacted, a subpoena challenged or a notice of objection raised merely because the records contain sensitive information or information pertaining to other persons other than the patient. Compliance with a subpoena is required by law and will not breach the services' obligations under the *Health Records and Information Privacy Act 2002* and *Privacy and Personal Information Protection Act 1998* as it is lawfully permitted to release information provided it is within the scope of the subpoena.

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Determine if there are any grounds on which to reduce the scope of the subpoena schedule, challenge or set aside the subpoena, raise an objection, or claim one of the privileges:

- **Subpoena too wide and/or oppressive** – this includes schedules that would impose an onerous obligation on the service and are too broad, are “fishing” for information, request medical records relating to multiple and/ or unrelated patients, and request for documents with little or no relevance to the issues in the proceedings. Negotiation may be required with the Issuing Party around the narrowing of the scope of the Subpoena or compromising on the range/types of documents required. If the Issuing Party refuses to negotiate, your service may need to consider the setting aside of the subpoena, seeking advice from CGU.
- **An abuse of process or lacks legitimate forensic purpose** – refers to a subpoena issued for reasons other than for the purpose of obtaining relevant evidence. Legal advice must be sought from CGU in order to argue that the documents have no legitimate forensic purpose.
- **Public interest immunity** – applies to limited documents including those that may affect national security, the workings of the NSW Cabinet or some other extraordinary public interest. CGU Legal team to contact the NSW Health Legal Branch on (02) 9391 9606 to challenge a subpoena based on this.
- **Client legal privilege** – covers confidential communications between a client and another person, between a legal representative of the client and another person, or if the communication was for the dominant purpose of the client being provided with professional legal services. Evidence will be required if the claim is contested.
- **Qualified privilege** – Division 6B of the Health Administration Act 1982 provides protection to documents produced and under the control of approved quality assurance committees and other specially approved committees as listed in Section 23 of this Act. The Executive must be contacted to confirm if the records are of an approved quality assurance committee.
- **Sexual Assault communication privilege** – applies to sexual assault counselling communications and can be claimed in criminal proceedings, Apprehended Violence Orders (AVOs) and civil proceedings in NSW Courts, as well as federal court matters being heard in NSW. This privilege may not apply for all Family Courts or Federal Circuit Courts of other states. Contact the Sexual Assault Communications Privilege Service (SACPS) of Legal Aid NSW on (02) 9219 5888 or emailing [sacp@legalaid.nsw.gov.au](mailto:sacp@legalaid.nsw.gov.au) for further guidance.
- **Professional confidential relationship/communications privilege** – may be claimed in NSW courts, as well as federal and family courts, for information provided in confidence under an expressed or implied obligation not to disclose the contents of the communication.

Other than the sexual assault and professional confidential relationship/communications privileges, a solicitor’s assistance will be required if any of the other privileges are claimed. Liaise with the **Clinical Governance Unit (CGU)** Legal team to seek legal advice or gain approval for appointing a Solicitor if necessary as per ISLHD Delegations Manual.

If the service decides to challenge, set aside or raise an objection to the subpoena, with or without legal representation, the NSW Health Subpoena Policy must be adhered to when producing the documents to court.

Where sexual assault and professional confidential relationship/communications privileges are being applied, or if the person is not a party to the proceedings, the service should take reasonable steps to contact the person advising them that the subpoena has been served and to seek support from relevant services, such as SACPS and/or their legal representative.

Risk of harm and mandatory reports, including other related documents provided to Family and Community Services (FACS), now known as Department of Communities & Justice (DCJ) or a Royal Commission, must not be produced except when requested by the Judge/Magistrate for the following matters and with the name of the mandatory reporter removed:

- Children's Court – care proceedings
- Family Court of Australia/Federal Circuit Court of Australia/Supreme Court of NSW/NSW NCAT – proceedings in relation to a child or young person
- NSW NCAT – Guardianship Division – proceedings commenced under the Victims' Rights and Support Act 2013
- Coroner's Court of NSW – proceedings under Coroners Act 2009.

### **Documents containing sensitive information**

Where a privilege cannot be claimed and concern is raised regarding the **sensitive** nature of the information being produced, additional precautions can be taken:

- If not relevant, obtain agreement with the Issuing Party to exclude the document/s from production.
- Produce copies of records with redaction of the names of the affected people.
- Send the documents to court as 'sensitive records', with a covering letter requesting the court limit access to the documents to the Judge/Magistrate and certain people who would be prepared to give confidentiality undertakings (eg, legal representatives). Also provide an explanation as to why the documents are considered sensitive (eg, concerns of risk of harm to person/s) and should not be publically shown, photocopied and/or released. Also state why certain information has been removed (eg, names of persons not party to the proceedings, certain information redacted under sections 27 (A)(7) and 29 of the Children and Young Persons (Care and Protection) Act 1988, etc).  
The documents should be placed in a separate envelope marked "*Sensitive – access restricted*".

However this does not guarantee that the Court will treat these records differently.



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- 4.3.7 Once documents for production have been determined, a clear record of which documents will and will not be produced to Court should be kept by the service. This may involve making a detailed note or keeping an additional copy of the records being sent to court (if the records are a small extract from the medical or corporate records) and saving the document/s within the relevant registered ROI container of HPE Content Manager/TRIM, marking them as Confidential with restricted access control.
- 4.3.8 Determine how the documents will be forwarded to the Court, in other words the format of the documents.
- Unless a subpoena specifically requires the production of original documents, the documents can be forwarded to court in one of the following formats:
- A photocopy/printed copy
  - PDF format on a CD-ROM
  - USB device
  - Any other acceptable electronic form.

Confirm acceptance of format with issuing party if not indicated in subpoena.

**NOTE:**

Sending sensitive subpoenaed material in an electric format to destinations external to NSW Health should be encrypted using approved encryption technologies or passwords in line with the NSW Health Privacy Manual for Health Information.

If the **original documents/records** are produced to Court, the business unit or service must keep a **complete copy of the documents** and advise the Court and Issuing Party in their covering letters that the documents **must be returned** following the closure of the matter. Place an alert in CM/TRIM as a reminder to liaise with the Issuing Party and/or Court to ensure the original documents are returned.

- 4.3.9 Authorised designated senior officer to sign the covering letter to the Registrar or Clerk of the Court, attaching a copy of the subpoena and any correspondence regarding the scope of the subpoena schedule.

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Place signed letter, copied subpoena and relevant documents/electronic device within a sealed envelope addressed to the relevant court. Adhere another copy of the Subpoena and covering letter to the outside of the sealed envelope.

To protect and secure the documents, place the sealed envelope enclosing the documents within another sealed envelope.

Ensure the following is recorded on the outside envelope:

- At the top left hand corner:
  - "Produced under Subpoena"
  - File or Case Number
  - Court return date / hearing date
  - the unique number issued by CM/TRIM with the creation of the ROI container, ie, the ROI container number
  
- Centre of the envelope or approved section:
  - Attention: The Registrar / Exhibits Clerk / Clerk of the Court
  - Name and address of the Court the documents are being sent to

4.3.10 Forward documents to Court at least 2 clear working days before the court return date specified in the subpoena by way of:

- Post – registered or express post (or any other method providing tracking service)
- Courier
- Hand delivery by authorised assigned employee

Update and complete details in CM/TRIM for the relevant ROI container, including registered/express post numbers.

Whenever possible obtain a receipt from the court to prove the documents were produced to court.

**NOTE:** If ISLHD (or one of its health care facilities) is a party to the proceedings, or legal advice has been sought, **the collated documents should be forwarded to CGU Legal team**, who will send them onto the solicitor who is acting on behalf of ISLHD. That solicitor will be responsible for reviewing the documents and arranging for them to be forwarded to the court on behalf of ISLHD.

#### **4.4 Coronial Matters**

A subpoena for production [Form 14 – Coroners Act 2009, Section 66(1)(b)] or an order for production [Form 9 – Coroners Act 2009, Section 53] must be signed by the NSW Coroner or Assistant Coroner issuing it. It should provide a date and place where the documents are to be produced, as well as a schedule listing the documents required.

For coronial matters outside NSW, refer the requestor and/or subpoena/order to the NSW State Coroner's Court, 1A Main Avenue, Lidcombe NSW 2141, telephone

02 8584 7777, facsimile 02 8584 7788 or email:

[lidcombe.coroners@justice.nsw.gov.au](mailto:lidcombe.coroners@justice.nsw.gov.au). If the documents are required, the NSW State Coroner will serve a subpoena/order, requesting the documents on behalf of the other state or country.

NSW State Coronial subpoenas/orders may be served by way of facsimile or email.

Conduct money is not required and no fee or charge should be raised for the production of documents. Please refer to **section 4.5 Conduct Money and Costs of Compliance**.

Upon receipt of the subpoena or order, notify and seek direction from the ISLHD Clinical Governance Unit (CGU) Legal team. If the matter requires ISLHD to have legal representation, CGU will refer the subpoena or order to the appointed ISLHD solicitor and seek guidance.

Process subpoena/order as per **4.3 Subpoenas to Produce Documents**.

#### **4.5 Conduct Money & Costs of Compliance**

Conduct money and costs of compliance should be a sufficient amount to meet the 'reasonable expenses' of attending the court (under Subpoena to Give Evidence) or complying with the subpoena (Subpoena to Produce Documents).

Conduct money and compliance costs do not need to be paid in relation to the following proceedings:

- NSW Civil and Administrative Tribunal (NCAT)
- NSW Coroner's Court
- Local Court proceedings where a Police Officer or Public Officer (ie, Director of Public Prosecutions - DPP) has issued the subpoena
- SafeWork NSW

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- NSW Justice Victims Services
- Government Insurance Office (GIO) or (Employers Mutual Limited (EML) as Managers, Treasury Managed Funds (TMF) or Solicitors acting for the GIO or EML, in respect of claims for workers compensation for Employees of Public Hospitals, NSW Ambulance Service and NSW Ministry of Health (MoH)

For any conduct money, ensure cheque is made payable to Illawarra Shoalhaven Local Health District / ISLHD.

Refunding of conduct monies to Issuing Parties should occur when:

- a. The minimum amount is provided and the cost of producing the records is less than the amount provided. The excess amount is refunded.
- b. The records have been lost, misplaced or destroyed. The amount paid is refunded.

When raising/requesting an invoice for compliance costs, the rates/charges to be applied are located in the NSW Health policy directive PD2006\_050 titled **Health Records and Medical/Clinical Reports – Charging Policy** and information bulletin titled **Health Records and Medical/Clinical Reports – Rates** (updated annually as required).

When working out the compliance costs, ISLHD should charge for each record searched/produced by each service/business unit for each person listed in the subpoena schedule, using the current NSW Health Policy Directive and Information Bulletin on Health Records and Medical/Clinical Reports - Rates.

Therefore, the following fees should be considered and documented by each service/business unit when raising an invoice:

- Subpoena fee per record searched/produced for each person listed in schedule:
  - At least 5 working days' notice given
  - Less than 5 working days' notice given
- Photocopying/printing charges for each record produced
- Deduct any conduct monies already paid to the nominated health care facility

**Please also refer to the note in section 4.3.3.**

When raising/requesting an invoice, please also refer to the ISLHD Release of Reports & Copied Documents – Clinical & Corporate Records – Rates & Charges Guide (DT19/10082 - updated as required) and the General Information tab located with the Request for Invoice excel spreadsheet of the Single Debtor Invoice Request form.

#### 4.6 Alleged Breaches of the NSW Health Policy Directive

Weekly audits conducted by the Statutory Information Compliance Officer ISLHD to ensure compliance.

Report to the Statutory Information Compliance Officer ISLHD if any known or alleged breaches of the Policy Directive are detected for investigation and notification to the Manager Corporate Records & Archival Services and Chief Information Officer.

#### 5. DOCUMENTATION

Appendix A – Generic Compliance Checklist ISLHD Subpoenas – for use by individual services

#### 6. AUDIT

Compliance audit conducted by Statutory Information Compliance Officer ISLHD and results reported to Executive via Manager Corporate Records & Archival Services and Chief Information Officer. Refer to Records Management Unit (RMU) Audit Log – DT19/71236.

#### 7. REFERENCES

[NSW Health Policy Directive PD2019\\_001 Subpoenas](#) NSW Ministry of Health

[NSW Health Privacy Manual for Health Information](#) NSW Ministry of Health

[NSW Health Policy Directive PD2006\\_050 Health Records and Medical/Clinical Reports - Charging Policy](#) NSW Ministry of Health

[NSW Health Information Bulletin IB2019\\_036 Health Records & Medical/Clinical Reports - Rates](#) NSW Ministry of Health

[Legal Aid NSW Subpoena survival guide - website.](#)

[Subpoena Survival Guide - Sexual Assault Communications Privilege Service SACPS](#) Legal Aid NSW

[ISLHD Delegations Manual](#)

[NSW Health Accounting Manual for Public Health Organisations](#) NSW Ministry of Health

#### 8. REVISION & APPROVAL HISTORY

Date	Revision No.	Author and Approval / Date
November 2019	0	<b>Author:</b> Statutory Information Compliance Officer
		<b>Approval / Date:</b> Policy Recommendation Committee – November 2019
		<b>Approval / Date:</b> ISLHD Chief Information Officer – November 2019

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**9. APPENDIX A – Compliance Checklist ISLHD – Subpoenas**

Requirement	Section/s of NSW Health PD2019_001
<b>1. Subpoena must be valid &amp; authentic:</b>	
1.1 Addressed correctly to ISLHD / Business Unit / Employee	3.1
1.2 On an approved Court form with a court stamp (manual/electronic) or signature of a court officer (exception local court subpoenas issued by Police or Public Officers)	3.2, 3.5, 3.6, 3.10.1
1.3 Check Court is clearly identified where the matter is being held & the identities of the parties	3.6
1.4 Note last date of service & court return date - negotiate if insufficient time provided	3.7, 3.9
1.5 If applicable, confirm authenticity with issuing party or court	3.8
<b>2. Register Subpoena</b> with name of Person, Court and date of hearing, and allocate a unique number via HPE Content Manager/TRIM.	8.3
<b>3. Conduct the following notifications if applicable:</b>	
3.1 If ISLHD / Business Unit / Employee is a party, notify CGU	2.2, 3.3
3.2 If Coronial Case and/or Inquest, notify CGU	3.4
3.3 For particularly sensitive matters, seek advice from CGU	2.2
3.4 Where appropriate, advise senior health care provider/treating health care provider	8.1
3.5 If person whose documents have been subpoenaed is not named on the Subpoena as a party to the proceedings, notify them either by letter or telephone	8.1
<b>4. If no documents or information to be produced</b> (ie, no records OR lost, misplaced or destroyed records), send letters to Court and Issuing Party notifying them of same	5.5
<b>5. Provide only copied documents</b> which are requested under the Schedule (ie, scope of the subpoena) & <b>seek clarification of scope</b> in writing from Issuing Party if necessary	Implementation, 5.1, 6.1, 8.1, 8.2, 8.3, 11

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<b>6. A clear record of which documents have and have not been produced</b> , with a copy of the subpoena, must be kept by the Business Unit	5.1
<b>7. Documents to be produced must be reviewed</b> prior to release to determine if:	
7.1 Fall within scope of the schedule	5.1, 5.2
7.2 Risk of harm reports have been made with supporting evidence/documents	5.3
7.3 A report to the Royal Commission into Institutional Responses to Allegations of Child Sexual Abuse has been made	5.3
7.4 Public interest immunity and privilege claims must be applied	6 , 7, 13, 14
7.5 Sensitive information is enclosed	5.4
7.6 Exchange of information under Chapter 16A & Section 248	10
<b>8. Produce all required documents directly to the Registrar or Clerk of the Court (not the Issuing Party) and deliver to correct Court:</b>	8.3, 8.4
8.1 Documents placed in a sealed envelope along with a copy of the Subpoena & covering letter with registered unique number noted on envelope	8.3
8.2 If delivery is by registered mail/courier - ensure documents are received by Court Registry at least 2 clear working days before Return Date	3.9, 3.10, 8.3
8.3 If delivery is in person - deliver to Court Registry by attending the Court at the date, time & place specified	3.1, 8.3
8.4 If delivery is via electronic means (Email/DVD/CD/USB device) - delivery method must be accepted by the Court and/or Issuing Party, classified as 'sensitive' & sent using approved encryption technologies or passwords in accordance with relevant regulations & Privacy Manual for Health Information	3.10.1
8.5 If practicable, obtain a receipt from the Court with signature of the Court Official	8.3
8.6 <b>If ISLHD party to the proceedings</b> , CGU to forward collated documents to Solicitor acting on behalf of ISLHD, to review and make arrangements for documents to be forwarded to Court	8.3
8.7 If a <b>privilege is being claimed</b> , correct procedures must be followed	6 , 7, 13, 14

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8.8 If Risk of harm and mandatory report(s)/ response(s) to Chapter 16A & Section 248 Request(s)/ report to Royal Commission exist, correct procedures must be followed	5.3
8.9 For <b>sensitive</b> documents and where there are no grounds to claim privilege, correct procedures must be followed	5.4, 8.4
<b>9. Subpoena to Give Evidence</b> must be served directly upon the named person.	12
<b>10. Obtain conduct money and other costs</b> (eg, photocopying, cost recovery, etc) if applicable in line with the NSW Health Charging Policy Directive & annual Information Bulletin - negotiation with Issuing Party maybe required	4.1, 4.2, 4.3, 4.4

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