

SUBPOENAS, STATEMENTS AND MEDICO-LEGAL REQUESTS

PROCEDURE [®]

DOCUMENT SUMMARY/KEY POINTS

This document should be read in conjunction with: NSW Ministry of Health Policy Directive [PD2010_065 Subpoenas](#).

- The Sydney Children’s Hospitals Network (SCHN) regularly receives subpoenas, requests for staff to complete NSW Police Statements and medico-legal requests.
- If the matter could attract media attention, contact the Public Relations Department (ext. 53364: CHW) (ext. 23571: SCH) and/or the SCHN Director of Community Relations and Marketing on 9845 3648.
- NSW Health Policy Directive [PD2010_065 Subpoenas](#) – it is mandatory that SCHN has systems and procedures in place to ensure compliance with subpoenas.
- The SCHN recognises that many staff are already familiar with required processes associated with the subject matter of this policy, however, formal and standardised processes are required due the legislative nature of these matters.
- Support and counselling mechanisms are available for staff members who become involved in legal proceedings.
- Indemnity (insurance) coverage is provided by the NSW Treasury Managed Fund (TMF).
- All requests for Media Statements must go to the Director of Community Relations and Marketing for appropriate action.

Approved by:	SCHN Policy, Procedure and Guideline Committee	
Date Effective:	31 May 2016	Review Period: 3 years
Team Leader:	Network Manager, Medico-Legal	Area/Dept: Clinical Governance Unit

CHANGE SUMMARY

- New SCHN Document.
- Replaces CHW policy [O/A/06:8327-01:02] Summonses, Subpoenas and Legal Proceedings.

READ ACKNOWLEDGEMENT

- All staff need to be aware of their obligations and procedures relation to the receipt and response to subpoenas, police statements and medico-legal requests.

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Background

Purpose

To establish systems and procedures to ensure compliance with receipt and responses to subpoenas, police statements and medico-legal requests and proper governance of all such matters.

Scope

This policy applies to all the Sydney Children's Hospitals Network staff who are in receipt of - and/or must provide a response to- subpoenas, police statements and medico-legal requests.

The following information is referenced in **NSW Health Policy Directive [PD2010_065 Subpoenas](#)** and shall **not** be repeated in this SCHN policy: the validity and service of subpoenas; grounds on which to challenge a subpoena and general procedures for responding to and challenging a subpoena.

Related Documents

1. NSW Health Policy Directive [PD2010_065 Subpoenas](#).
2. NSW Health Policy Directive [PD2010_054 Coroners Cases and the Coroners Act 2009](#).
3. [Uniform Civil Procedure Rules 2005](#) (NSW)
4. [Evidence Act 1995](#) (NSW)
5. [Local Court Rules 2009](#) (NSW)
6. [Supreme Court Rules 1970](#) (NSW)
7. [Children and Young Persons \(Care and Protection\) Act 1998](#) (NSW)
8. [Coroner's Act 2009](#) (NSW)
9. [Service and Execution of Process Act 1992](#)

Abbreviations

The following abbreviations are used in this document:

- CHW – The Children's Hospital at Westmead
DCGMA - Director of Clinical Governance and Medical Administration
HIU- Health Information Unit
NETS – Newborn and paediatric Emergency Transport Service
NM – Nurse Manager
NUM – Nursing Unit Manager
SCH – The Sydney Children's Hospital, Randwick
SCHN – The Sydney Children's Hospitals Network (Randwick and Westmead)

Introduction

There are occasions when the SCHN staff, both clinical and non-clinical, may receive formal requests either through the service of a subpoena, a search warrant or a request by NSW Police, or directly from the Coroner's Court, to provide information. On many occasions, these requests are for patient-related information. There may, however, be times when the request for information is for non-patient related or non-clinical matters.

In this policy reference shall be made to requests for patient-related information, although in general, the same principles should be applied to non-patient matters.

This document should be read in conjunction with NSW Health Policy Directive [PD2010_065 Subpoenas](#).

“Proper Officer”

Sometimes Claims/ Subpoenas or letters of request, are addressed to “The Proper Officer”. Should you receive a document addressed in this manner you must scan it and email it without delay to schn-cgu@health.nsw.gov.au, so that it can be forwarded to the correct person within the organisation to process. If you are the correct person, this will be confirmed with you and it will be recorded in the correct internal database.

Indemnity

SCHN staff, both clinical and non-clinical, is provided with indemnity (insurance) coverage by the NSW Treasury Managed Fund (TMF). Staff who receive formal requests for information as described above, or who are named parties in a claim (lawsuit), can access legal advice and/or support from the Clinical Governance Unit by emailing schn-cgu@health.nsw.gov.au and their immediate senior management

Medical and Dental Staff Specialists Levels 2- 5, Visiting Dental Officers and Visiting Medical Officers may be covered under TMF, depending on the insurance coverage elected by them in the employment contract from time to time.

If staff members require further information on their indemnity coverage, please contact the Director of Clinical Governance and Medical Administration (DCGMA), or his nominee, on schn-cgu@health.nsw.gov.au. In addition, medical staff can review the following document [Insurance Coverage: Information for Medical Staff](#).

1 Statements of Claim

A **Statement of Claim** is a formal Court document encountered **in civil** (non-criminal) matters which sets out detailed allegations claiming that an institution and/or named person has **failed in their duty of care**, or has been **otherwise negligent** toward an individual, giving rise to a **claim for compensation** in law. The **alleged negligence** is usually detailed in the **Statement of Claim**. A **Claim** is also commonly known as a “**lawsuit**”.

The claim is brought by the **Plaintiff** and an institution or person against whom a Claim is made is the person "being sued" as the **Defendant**. The Plaintiff may be the aggrieved person, or the Plaintiff may be a person claiming on behalf of the aggrieved person: for

example, a parent claiming on behalf of their child. In some instances, the parent(s) and the child, or only the parent(s) will be named as Plaintiff(s).

The **Defendant** is afforded the opportunity to provide a **written response** setting out the **defence** to the allegations of negligence.

A hearing, in the form of a **trial**, will follow in due course in the appropriate court, which is usually determined by the amount being claimed, or the legal and factual complexity of the matter. This is where the oral evidence of witnesses is lead before the court will hand down its decision on the matter, including the compensation to be paid, if any.

To secure the attendance of witnesses to give evidence, **subpoenas** are usually issued.

Statements of Claim addressed to the SCHN or a facility of the SCHN (for example, a named Hospital, NETS, or a Department) must **ONLY** be accepted by authorised staff members (*members of the Executive or their authorised delegates*) as the Statements of Claim must be recorded as an official SCHN document (that is it needs to be put into TRIM records management).

If an individual person is named as a Defendant in a Statement of Claim, the Statement of Claim will be delivered to that person and receipt, acknowledging delivery, has to be signed by him/her. This is known as “accepting service” of the process.

2 Subpoenas

2.1 Definition

A **subpoena** is an official document issued by a court or a tribunal, at the request of one of the parties in legal proceedings. It has the same effect as a court order and must therefore be obeyed. A **subpoena** directs someone, on/by a **specified date**, to:

1. Attend a named court and to appear and give evidence as a witness in a hearing; or
2. Produce, by effecting delivery, to a named court, specified documents. These may include photographs, images, film, emails, tapes, digital discs and electronic medical records, as well as any other form of written or electronic documents, which will be specified in the Schedule to the subpoena, for use in legal proceedings. Only documents that already exist need to be produced. New documents must not be specially created to meet the request in the subpoena; or
3. Do both (attend court and produce evidence).

In some courts and tribunals a subpoena may be called a “*Summons to produce documents*” or an “*Order to produce documents*”. All of these documents are the same and require **mandatory compliance: subpoenas cannot be ignored.**

If the person named in the subpoena does not comply with the request in the subpoena, the court can issue a warrant for their arrest and they can be charged with Contempt of Court.

Subpoenas **MUST** be served on or before the last date for service and this date is always specified in the subpoena. “**Conduct money**” is money given to the person/organisation receiving the subpoena. It is usually in the form of an attached cheque. It should be a

reasonable amount to cover the cost of travelling to and from the court, or in the case of a subpoena to produce documents, it should cover the cost of searching for the document(s), copying and sending them to court. If the amount is insufficient, then this must be brought to the attention of the party who has issued the subpoena at the earliest opportunity. Insufficient conduct money does not excuse attendance at Court. The same will apply if it is impossible to comply with the subpoena. Contact must be made with the solicitor for the party who has issued the subpoena, or failing that, with the Registrar of the Court which issued the subpoena. These details will all be apparent from a reading of the subpoena itself. This can be done directly by the recipient, or through the office of the SCHN Medico-Legal Manager who should be contacted on schn-cgu@health.nsw.gov.au.

2.2 Receipt of a Subpoena: “Being served”

Addressee of a subpoena – An individual, SCHN, CHW, SCH or specific Departments

Subpoenas may be addressed to the SCHN, or the Hospital concerned (either Randwick or Westmead), NETS, a Department, or an individual member of the clinical or non-clinical staff. On receiving a subpoena a copy should immediately be scanned and sent to the office of the DCGMA on schn-cgu@health.nsw.gov.au, unless the subpoena is received by the Health Information Unit at either CHW or SCH. It will then be recorded in TRIM as an official SCHN document to ensure appropriate records management and it will be allocated to either:

- i. the appropriate Health Information Unit, who will collate responses where documents are requested; or
- ii. the SCHN Medico-Legal Manager, who is part of the Clinical Governance Unit, for appropriate management and support.

There may be times where a subpoena is addressed to “**The Proper Officer**” or “**The Registrar**”. If you are in receipt of such a subpoena, forward this immediately to the SCHN Medico Legal Manager at schn-cgu@health.nsw.gov.au.

Addressee of a subpoena – an individual

If a **subpoena is addressed to a staff member**, it will usually be **personally served** (by a Process Server) **on the person** it is addressed to, or it may be served by leaving a copy of the document, addressed to the person:

- i. at the person's address for service, or
- ii. at the person's business (or residential) address,

with a person who is apparently of or above the age of 16 years and apparently employed or residing at that address. Where it is therefore received on behalf of an individual by a SCHN member of staff, it should be scanned without delay to schn-cgu@health.nsw.gov.au and the original should be sent to the Clinical Governance Unit (CGU) who will ensure that it is correctly dealt with on behalf of the named individual. The person so named will be contacted directly by the SCHN Medico-Legal Manager and provided with an emailed copy, followed by the original. Details of the steps to be taken to acknowledge receipt of the subpoena will be provided. These should be promptly complied with by any person receiving such a request. Details of the support being offered will also accompany notification of receipt of such emailed service.

If the subpoena is a “**subpoena to produce**” (a document) only, it may be served by post to the residential or business address of the person being subpoenaed. Where the subpoena concerns patient-related matters this will usually be received by the person at their work address. In most cases the person may be asked to produce documents pertaining to a particular patient for whom they have provided care in the past, or in respect of whom they have authored a report, taken a photograph, or made a report to FACS, as part of a larger treating team.

If a subpoena is addressed to a staff member it does not mean that they are accused of having done anything wrong, or that they are being criticised for the treatment which they have provided. It is rare that someone will be subpoenaed to Court to give evidence regarding the standard of care provided to a patient. In those instances where individual or organisational performance is in issue in the Court proceedings, staff would invariably already have prior knowledge of this long before any subpoenas are received and legal representation for the SCHN and/or the staff member will usually already be in place.

The SCHN Medico-Legal Manager should always be contacted in the event that a staff member requires any form of assistance or support in matters involving the receipt of a subpoena which is causing concern.

If the staff member named in the subpoena is not on the premises (for example, off duty or on leave), then the Process Server must be informed of their expected date of return to duty by the relevant manager.

Do not accept the subpoena on behalf of another employee: if the Process Server insists on effecting service, please refer them to the Office of the Director of Clinical Governance & Medical Administration on 98453475

2.3 Responding to a Subpoena

Documents

Legal representatives and the NSW Police may contact staff directly to advise of their intention to serve a subpoena on the individual concerned.

- Do not provide any documents to any party without a subpoena.
- Do not respond directly to any request for documents under subpoena.
- The documents which have been subpoenaed for production should be gathered together if they are in the possession of an individual, or a Department and do not form part of the eMR. They should then be provided, together with a copy of the subpoena, in a timely manner to the local HIU for their scrutiny, collation and delivery to the Court which has issued the subpoena.
- Delivery to the appropriate Court will occur after a careful review by the HIU team of all confidential/sensitive information to ensure that there is due compliance with prevailing privacy or other applicable legislation and the terms of the subpoena.
- No records should ever be sent directly to patients/solicitors or the NSW Police by any employee unless, in exceptional circumstances, it is expressly requested in writing that this should be done by the DCGMA, the Manager of the local HIU, or the SCHN Medico-Legal Manager.

In summary:

1. Provided that the procedure outlined in this document is followed the relevant organisational records will be appropriately produced and delivered to the registrar of the relevant court.
2. The HIU's on each campus will ensure compliance with the subpoena by the named entity/employee by the **due date** as it appears on the subpoena.
3. Proof of despatch and receipt of the documents is managed by the local HIU and can be obtained directly from the HIU concerned in the event of there being any further queries regarding the whereabouts of the documents.

Note: "Documents" will include organisational records such as medical records; departmental records; emails; reports; policies; photographs; images, tests and so on, depending on the details of the subpoena.

Subpoena to give evidence

- In most cases persons who receive a subpoena **to give evidence** will be asked to do so **with reference to a particular patient** for whom they have **provided care** in the past, or in respect of whom they have **authored a report, taken a photograph**, or made a **report to FACS**, as part of a larger treating team.
- **Occasionally the purpose of the request to appear as a witness will relate to events which are not clinically- related** and to which the individual may have been an eye witness due to the incident occurring in or on Hospital property or surrounding areas.
- If a subpoena is addressed to a staff member **it does not mean that they are accused of having done anything wrong**, or that they have in any way been remiss in the treatment which they have provided.
- Mostly witnesses are called as they are able **to assist the Court** in understanding complicated medical treatment, or they can shed light on an event or a series of events, which will enable the Court to have a better understanding of relevant matters upon which the Court is asked to make a decision.
- It is **rare that someone will be subpoenaed to Court to give evidence regarding the standard of care provided to a patient**. In those instances where individual or organisational performance is in issue in the Court proceedings, staff members would invariably already have prior knowledge of this long before any subpoenas are received and legal representation will be in place.
- The SCHN **Medico-Legal Manager should always be contacted in the event that a staff member requires any form of assistance**, or support in matters involving the receipt of a subpoena which is causing concern.
- Additional persons who can be contacted by clinical staff who have concerns would include the **NSW Nurses and Midwives Association**, or the individual's **private medical defence insurers**.
- If a staff member receives a **subpoena to give evidence** in court on a particular date and time, that person needs to do so as indicated on the face of the subpoena.

- The staff member must **inform their line manager** so that rosters can be adjusted to ensure coverage of service.
- The **Clinical Governance Unit should also be informed** about the staff member's subpoena to give evidence by emailing: schn-cgu@health.nsw.gov.au, so that appropriate legal support, or in rare instances, legal representation, can be arranged.
- All subpoenas will request that the witness should be in attendance for the duration of the matter. **In practice this is seldom, if ever, necessary.**
- **Witnesses should always contact the person who has subpoenaed them to appear at Court in order to discuss their availability and to establish when they will likely be called to give evidence.** If this is not possible to arrange, then the person who has received the subpoena must go to Court on the first day on which the matter is set down, as directed in the subpoena and they will either be called on that day, or be told when they will be called. If making these arrangements presents any difficulty, support from Clinical Governance can be obtained by emailing schn-cgu@health.nsw.gov.au
- **It is important to obey the terms of a subpoena** as should the person named in the subpoena not comply with court attendance, the court can issue a warrant for their arrest and they can be charged with **Contempt of Court** (failure to comply with a court order), which carries serious sanctions.

Do not respond to a subpoena if it is not addressed to you. If you should find yourself in receipt of a subpoena which is not intended for you, it **must be sent immediately** to the Clinical Governance Unit by emailing a scanned copy to schn-cgu@health.nsw.gov.au.

Going to court

If a staff member is subpoenaed to give evidence in court, the SCHN Medico-Legal Manager, or the SCHN's legal representative, should be asked to review any statement of evidence with the staff member ahead of the time.

When staff attend court, the following general guidelines will apply:

- Arrive at court at least **half an hour early**.
- **Wear professional/business attire or appropriate uniform** (e.g. nurses uniform)
- **Bring a support person** (e.g. manager, family member or friend)
- Bring along **relevant documentation** which you may need to refer to in your evidence and ensure that you are familiar with the contents of such documents, especially where to find any relevant entries in the Medical Record.
- **Bring along some refreshments** while waiting outside the court room – it may be a while until you are required in court to give evidence.
- **Announce to the person who has subpoenaed you**, or a relevant Court official, **that you are in attendance**, if at all possible.
- **Turn off all mobile devices** before entering the courtroom.

Subpoenas addressed to Medical Records Department, Medical Photography Department or Child Protection Unit

The **Medical Records Department/ HIU, Medical Photography Department** and the **Child Protection Unit** regularly receive subpoenas to provide clinical records, or to give evidence, in various legal matters.

Upon receipt of a subpoena for a patient's medical records, images/photography, or child protection related matters, the named departments must prepare the relevant information for release and provide this to the local HIU in a timely manner.

In the event of the HIU having any concerns regarding the request set out in the subpoena, or the documents to be included in the response, they **MUST** obtain approval from the office of the DCGMA prior to the release of such information, by emailing schn-cgu@health.nsw.gov.au.

3 Requests for Staff Records

Legal requests for staff records may come from a law firm, or they may be requested in the via a subpoena. Staff records may include such things as employment contracts, performance and/or development plans, training records, leave forms and so on.

If the request for employee records is via subpoena, follow the procedures as documented above. **The SCHN must comply with the subpoena.**

If the request for employee records is not received in the form of a subpoena, the employee must consent to the release of such records. The request must be forwarded to the **Associate Director of Workforce** where the consent will be verified with the respective employee. If consent is confirmed, then the records will be released as per the consent. If the employee does not consent to the release of such records, then the **Associate Director of Workforce** will respond accordingly and no records will be released for the respective staff member, unless subsequently the SCHN is compelled to do so under subpoena.

4 Coroner's Cases

- Where NSW Police are acting on behalf of the NSW Coroner, or are assisting in a Coronial investigation, any requests made by NSW Police for information, medical records and/or statements from staff must be made in writing to **Office of the Chief Executive**, or their delegate, being the **DCGMA**. This will ensure that the request is recorded as an official SCHN document in TRIM. This can be done by emailing schn-cgu@health.nsw.gov.au, or sending the request to **Corner Hawkesbury Rd and Hainsworth St, Locked Bag 4001, Westmead, NSW, 2145**.
- Staff may be asked to assist Police in Coronial cases that **may or may not** be related to the death of a child who was previously a patient of the SCHN. Staff should **NOT** respond to a request for information from Police in Coronial matters unless the formal

request process has been complied with as described above. The [NSW Police Handbook](#) makes reference to and requires compliance with NSW Health's [PD2010_054 Coroners Cases and the Coroners Act 2009](#). The NSW Health Policy Directive PD2010_054 states that "*Police requesting information and/or medical records from frontline staff should be advised to make a formal request to the Area Health Service Chief Executive.*"

- The relevant persons from whom this information is requested will be informed of the request and the SCHN Medico-Legal Manager should be approached to offer appropriate assistance and/ or support in providing the Police with the statements which they require.

The **DCGMA must be informed** of any requests made by Police for employees or patients to provide either a Witness Statement or Victim Statement related to a SCHN clinical matter, as such statements may impact on the conduct of **Health Care Complaints Commission** claims, **Information and Privacy Commission** claims or **Medico legal claims** and may need to be notified to the **Treasury Managed Fund** ("TMF") as the SCHN's insurer.

5 Statements and Interviews

5.1 Providing Statements of Evidence to SCHN Legal Representatives

- In the course of responding to a Statement of Claim, it is necessary to obtain **statements of evidence** from the staff directly involved in the care of the relevant patient.
- The **SCHN's legal representatives and/or the SCHN Medico-Legal Manager** may approach the staff member and **request that they attend a meeting** for the purposes of minuting a statement to assist the Hospital in preparing a defence, or assessing the validity or the value of the claim.
- The **evidence of individual staff members is often crucial** in working out the correct response by the SCHN to the claim, including whether the claim should be defended, or not, at a court hearing.
- Staff will be requested to co-operate in providing a statement because they are potential witnesses to what took place.
- Staff also need to be aware that **if anyone other than the SCHN's Medico-legal Manager, SCHN-appointed lawyers, or a SCHN appointed investigator, approaches them for a statement, they are entitled to refuse** to meet with them or to provide them with a statement. This is a matter of individual choice.
- **If a staff member is subpoenaed by any party to the proceedings to appear in court** to give evidence, however, then they have **no choice but to appear** in accordance with the terms of the subpoena.

- If in matters to which the SCHN is a party, a staff member is requested to **attend an interview convened by the Plaintiff's legal representatives**, the staff member should inform the SCHN Medico-Legal Manager via email on schn-cgu@health.nsw.gov.au of such request.
- **Staff may seek legal advice internally**, or they may choose to seek legal advice through their private **Medical Defence provider**, or the **NSW Nurses and Midwives Association**, or their relevant **Union**, before responding to such a request.
- Any **requests for statements should always be made in writing** so that the identity of the requester can be verified.

5.2 Staff Providing Statements to Police

Other than statements which the Police request on behalf of the Coroner, there are mainly two types of statements made to Police: a **Witness Statement** and a **Victim Statement**.

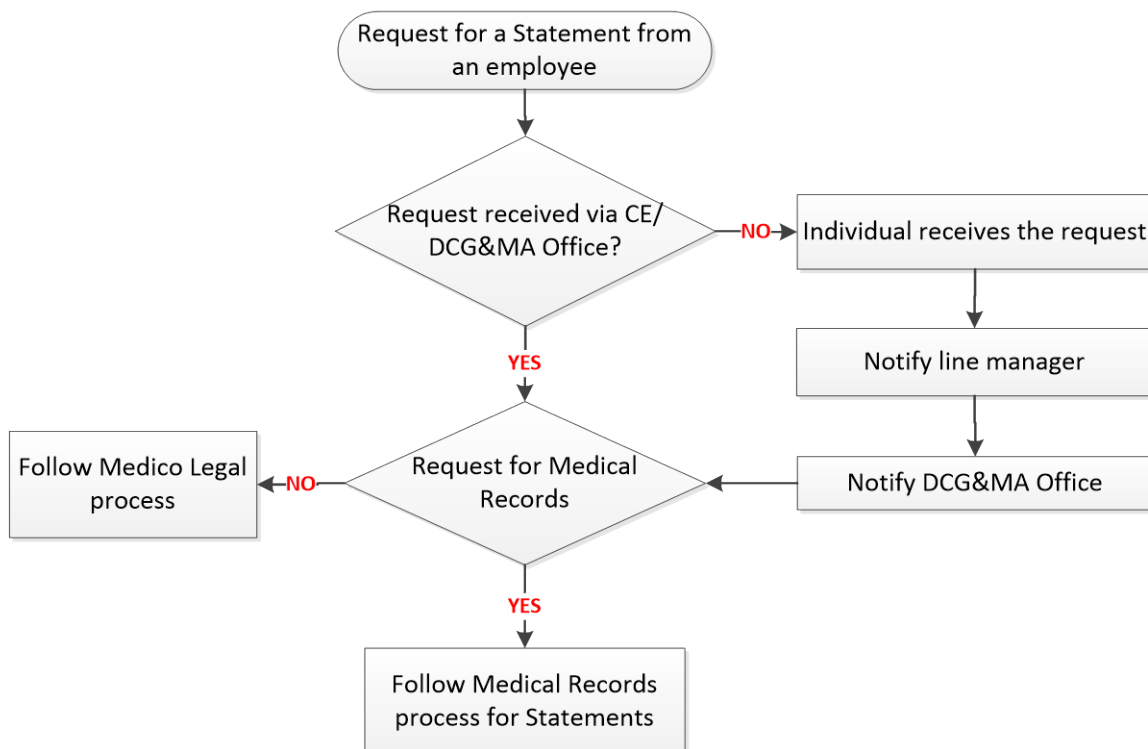
The SCHN Medico-Legal Manager must be informed (schn-cgu@health.nsw.gov.au) of any requests made by Police for employees or patients to provide either a Witness Statement or Victim Statement related to a SCHN clinical matter, as such statements may impact on the conduct of Health Care Complaints Commission matters, Information and Privacy Commission matters, or Medico-Legal claims.

Witness Statements

- If a Police Officer requests a witness statement from a member of staff with regards to a patient, the officer should be informed that **the request should be formally made via the Chief Executive's office, or the DCGMA, or their delegate**, in all but the most urgent of matters. This can be done by emailing schn-cgu@health.nsw.gov.au, or sending the request to **Corner Hawkesbury Rd and Hainsworth St, Locked Bag 4001, Westmead, NSW, 2145**.
- All **records of formal requests should be maintained** by either the local HIU, or in TRIM.
- It should be noted that it has become practice for many of these requests to be sent directly by the requesting police officers to the Medical Records Department (HIU). Whilst the HIU will continue to process such requests, the procedure outlined above should be followed where oral requests for statements are made by Police to staff members directly.
- If the request has not been made formally as described above, the staff member must immediately inform their line manager, who should inform the SCHN Medico-Legal Manager via email on schn-cgu@health.nsw.gov.au, or by calling 9845 3475.
- **No employee is compelled to provide a statement to a police officer or to the Coroner**. To assist the proper administration of justice and to limit the need to be subpoenaed to give evidence in Court, staff members are, however, encouraged to assist in providing statements of this kind.

- **All employees are entitled to first seek legal advice or speak to their professional association / organisation before providing a statement.**
- If a staff member agrees to provide a statement they are encouraged to **seek support and to have another person present**, such as the line manager, SCHN Medico-Legal Manager, or their Union or private insurer representative, to act as a witness **during the face to face the interview.**
- **All requests for a Statement from members of the SCHN staff MUST be in writing.** Members of staff must NOT provide a witness statement to a Police Officer if such a request is made verbally (e.g. via telephone).
- If a request is made by the Police for a staff member to provide a **witness statement that is not related to a SCHN matter**, then the respective staff member must do so outside of working hours.

Flowchart - Request for a Statement from an employee



5.3. Providing Expert Witness Statement Evidence

- There may be times where staff members are asked to provide **expert evidence** in legal matters.
- This evidence can be given either **in court**, or via a **Certificate of Expert Evidence**, or **both**.
- If a staff member is required to attend court to provide this evidence, they will usually also be issued with a subpoena to attend court.
- S177 of the [Evidence Act 1995](#) (NSW) provides for the use of **Certificates of Expert Evidence** to avoid, where possible, the unnecessary attendance of expert witnesses at court where their evidence is not contested by the defence.
- Should staff receive a request or a subpoena, the DCGMA Office should be advised immediately by sending a full scanned copy to schn-cgu@health.nsw.gov.au. The SCHN Medico- Legal Manager will provide appropriate support and assistance.

Expert witness report or Certificate of Expert Evidence in District and Supreme Court prosecutions

Staff members requested to provide **expert witness statements** should also receive a copy of the **Expert Witness Code of Conduct, Schedule 7** of the [NSW Uniform Civil Procedure Rules 2005](#), which they should read and retain for their records.

All expert statements should be drafted in accordance with the **Code of Conduct** as prescribed on the appropriate template form which will usually accompany the request.

Directions on the completion will similarly accompany the request in most instances. Where this does not occur, staff members should either click on the link provided above, or contact their local HIU, or email the SCHN Medico-Legal Manager on schn-cgu@health.nsw.gov.au for assistance.

In providing an Expert Statement the expert agrees to be bound by **the Expert Code of Conduct** which should be included as a statement in all such Expert Statements by including words to the effect of: ***“I acknowledge that I (i) have read the Expert Witness Code of Conduct in Schedule 7 of the NSW Uniform Procedure Rules 2005, and (ii) agree to be bound by the Code.”***

On completion of the **Certificate of Expert Evidence**, the staff member should retain a copy of the certificate for their records, provide the original to the local HIU who will send it to the requesting person, or body, including where applicable, the police and provide a scanned copy of the signed document to the SCHN Medico Legal Manager via email: schn-cgu@health.nsw.gov.au for record retention purposes and access when needed at any later date.

Victim Statements

- If a staff member has been a victim of crime while on the premises of the SCHN, and the staff member agrees to provide a statement to Police, the statement must be made in the presence of a police officer.
- The staff member may have a support person present during the interview, such as a Manager or Union representative, if the interview is conducted on the premises of the SCHN.
- An employee may refuse to provide a victim statement to Police, however, it should be remembered that failure to provide a statement will curtail the ability of the Police to take further investigative action.

Police Requests to provide a non-expert verbal or written Statement – Patients

If the proposed police interview concerns a patient, or a statement of a non-expert nature is requested from a staff member who may have been an eyewitness to an event concerning a patient, the patient's privacy must be maintained at all times.

For specific details of police requests for interviews with patients, please refer to the [Subpoenas, Statements and Medico-Legal Requests Policy](#).

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