



Memorandum of Understanding

between

Ministry of Education

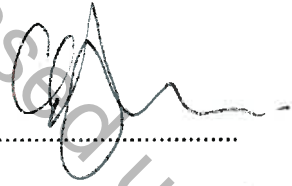
and

Health Quality & Safety Commission

For the purpose of providing education related information to Mortality
Review Committees

Signatories

Ministry of Education

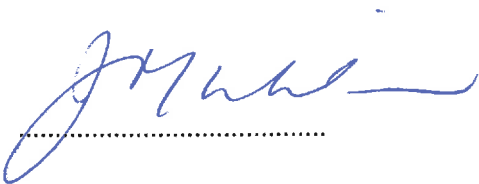


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DATE: 25/6/18

Craig Jones
Deputy Secretary Evidence, Data & Knowledge
Ministry of Education

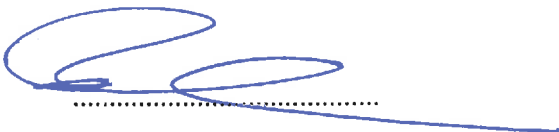
Health Quality & Safety Commission



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DATE: 22/8/18

Janice Wilson
Chief Executive
Health Quality & Safety Commission



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DATE: 22/8/18

Kiri Rikihana
Group Manager
Mortality Review Committees

Parties

1. The Ministry of Education (“the Ministry”).
2. The Health Quality & Safety Commission (“the Commission”), on behalf of the Mortality Review Committees (“MRCs”).

Background

3. The Commission was established in 2010. Under section 59E of the New Zealand Public Health and Disability Act 2000 (“the Act”), it was given responsibility for determining the direction, scope and implementation of national mortality review in New Zealand. This responsibility is enacted through MRCs (Appendix 1).
4. The MRCs are statutory bodies that are empowered by legislation to review and analyse the circumstances that result in preventable deaths, and provide evidence-based advice on how these deaths can be avoided. The MRCs report to the Commission and the Minister of Health, and publish reports summarising key findings and recommendations.
5. The Commission currently has five MRCs:
 1. Suicide Mortality Review Committee (SuMRC)
 2. Family Violence Death Review Committee (FVDRC)
 3. Child and Youth Mortality Review Committee (CYMRC)
 4. Perioperative Mortality Review Committee (POMRC), and the
 5. Perinatal and Maternal Mortality Review Committee (PMMRC).
6. To assist the MRC’s undertake their statutory functions, information from a variety of sources, including Ministry of Education is required.

Purpose

7. The purpose of this Memorandum is to record the understandings of the Parties about the disclosure of education data between the Ministry and the MRCs, and the use of that information by both Parties.
8. The purpose of that disclosure and the use of that information is to enable the MRCs to carry out effective death reviews by:
 - a. building a comprehensive history of the life of the deceased, at an individual level (note the MRCs collect identifiable data but only publish aggregated data), and
 - b. reporting on patterns across cases, and providing advice and making recommendations to prevent further deaths, at an aggregated level.

Legal Authority

9. Section 59E of the Act enables the Health Quality and Safety Commission to establish MRCs.
10. Schedule 5 of the Act details the provisions that apply to the operation of a MRC, including the ability of the MRC to collect identifiable information on those who have died, from any person. That person must take all reasonable steps to comply with a request to provide information.

Term

11. This Memorandum commences after it has been signed by both Parties and continues in effect until terminated in accordance with clause 66.

Review

12. The Parties Relationship Managers will meet at least two-yearly to review this Memorandum.
13. The Relationship Managers details are provided in Appendix 2.

Effect of the Memorandum

14. This Memorandum confirms the relationship between the Parties, based on a spirit of goodwill and co-operation.
15. This Memorandum does not constitute or create, and shall not be deemed to constitute, any legally binding or enforceable obligations on the part of the Parties.
16. Where there are changes to government policy which affect the purpose and functions of this Memorandum, each party agrees to inform the other of those changes at the earliest possible time thereafter and agrees to meet to renegotiate if necessary any aspects of this Memorandum.

Information to be provided

17. Under this Memorandum and in accordance with the Act, the Ministry and the MRCs may supply each other with information of individuals that are deceased, and are parents or caregivers of the deceased (where this information is held).
18. Details of information shared will be as required by an MRC in accordance with Schedule 5 of the Act - the MRC may request information from the Ministry on identifiable individuals; in accordance with the Act, the information supplied back to the Ministry will be aggregated and non-identifiable.

19. Aside from the data needed to match cases, none of the information shared with the Ministry will contain identifiable information.
20. Any information obtained from the Ministry by the MRCs that is used in any report or composite story or communication will be discussed with the Ministry as to the framing reference and findings within, and potential learnings for the Ministry.
21. No information obtained from the Ministry will be published without prior consultation with the Ministry.
22. The MRCs will supply the Ministry with the information necessary for the Ministry to respond to a request on the deceased and parents of the deceased. This information may include:
- names (including any alternative names if applicable)
 - gender identity
 - date of birth, and
 - date of death.
23. The Ministry will supply MRCs with the information required on the deceased and parents or caregivers of the deceased (where this information is held). This information may include:
- demographics
 - o names (including any alternative names if applicable)
 - o gender identity
 - o date of birth
 - o ethnicity, and
 - o address (the two most recent addresses, if known).
 - attendance
 - o number of stand-downs, suspensions, exclusions, expulsions
 - o if the young person left school before aged 16 years
 - o whether they were granted an early leaving exemption
 - o name of last ECE and/or school attended (including school type)
 - o total number of ECEs attended
 - o total number of schools attended (including school type (ie, ECE, primary, intermediate, secondary))
 - highest qualification gained, and
 - enrolment status at time of death.
24. Following analysis of data relating to the individuals, the MRCs will provide to the Ministry the aggregated information and advice to enable system- and policy-relevant learnings from these deaths, which may include:
- expert mortality review evidence-based opinion and advice on systems and risk factors
 - epidemiological data and population based information, and
 - draft public reports and recommendations for review and advice.

Use of information

25. The Ministry will use the information provided by the MRCs for the sole purpose of matching this with the information on these individuals that is held by the Ministry. Where a match is found, the Ministry will provide the MRCs with relevant education related information held for those matched individuals.
26. The MRCs will use the information provided by the Ministry to build a comprehensive picture of the deceased and their whānau in order to highlight any patterns across these deaths and any system improvements that may prevent further deaths.
27. Under the Act, confidentiality of information provided to MRCs is protected, as MRCs and their agents are legally prohibited from releasing any information on any individual case, or identifiable information. As per the MRC information sharing process, this also applies to any third parties whom the MRCs may engage for the purpose of data analysis or processing.
28. MRCs will only report on multiple (aggregated) cases to ensure that cases are not identifiable.
29. If the Commission, an MRC, or the Ministry has concerns about sharing data, it is expected that this is discussed in a timely manner, and that all options and safeguards to facilitate sharing would be fully explored and agreed by representatives of the parties.

Frequency of information exchange

30. Information exchange will only be initiated when the MRCs send an electronic request.
31. Information exchange will occur on a three-monthly basis, unless agreed otherwise by representatives of the parties.

Method of information exchange

32. The Parties agree that the information to be exchanged under this Memorandum will be done so by way of Information Requests from the MRC to the Ministry.
33. The MRC will provide the Ministry with an Information Request in writing using an agreed Information Request template.
34. The MRC will send the Information Request to the Liaison Officer (or their delegate).
35. The request should allow sufficient time for the Ministry to retrieve the requested information from its systems and relevant databases.

36. The Information Request should include the following information:
- a. The purpose for which the information is required
 - b. the legislative provision authorising the sharing of that information
 - c. the timeframe in which a response is required
 - d. any other administrative considerations, and
 - e. reference to this Memorandum.
37. Each Party is responsible for ensuring that each Information Request is assessed, approved and disclosed in accordance with its own internal policies.
38. For the purposes of this Memorandum, each party shall have and maintain one point of national contact and a nominated Liaison Officer.
39. Each party may change its nominated Liaison Officer on written notice from time to time. At the commencement of this Memorandum, the Liaison Officers details are as provided in Appendix 2.
40. The information to be provided shall be provided by direct electronic request via secure file transfer between the nominated Liaison Officers of the Ministry and the MRCs, to be received via one secure portal at the Commission (Health Quality Intelligence Team) on behalf of the MRCs.
41. Every three months [or as agreed] the MRC Liaison Officer will provide information about the deceased in the previous three months to enable the Ministry to match cases. Using the automated system, the Ministry will match the cases and send the information to the MRC Liaison Officer. MRCs require this data to be identifiable (not aggregated).

Security and Confidentiality of information

42. All information supplied under this Memorandum is confidential information.
43. The agents of the MRCs will ensure that information provided to MRCs from the Ministry will not be disclosed to any other agency outside of the mortality review process, with the consideration that this information is sensitive.
44. Disclosure of MRC identifiable information is only permitted under the exceptions to prohibition of disclosing information in Schedule 5(5) of the Act.
45. The parties will ensure that:
- a. all information is protected from unauthorised access, use and disclosure

- b. all information is stored on the parties own securely managed computer systems with password and firewall protection with access allowed only to employees doing work directly relating to this Memorandum
- c. all Ministry and MRC employees dealing with the information are aware of their responsibilities in relation to this Memorandum and the strict limitations on the use and disclosure of information
- d. where information is kept or stored in any form that might be easily portable (for example, printed material, laptop computer, Portable Digital Assistant, DVD, CD, memory card, USB portable storage device) appropriate safeguards will be put in place to guard against any unauthorised access, use and disclosure of information. If information is stored or kept on such a device for the purpose of transfer of source or comparison information, it will be permanently destroyed once that transfer has been completed
- e. information from MRCs will not be passed onto anyone outside of the Ministry, and information from the Ministry will not be passed on to anyone outside of the MRCs who is not an agent.

46. The data will be stored in a secure database at the Commission.

Destruction of information

- 47. Subject to the provisions of the Public Records Act 2005, the parties will ensure that the Source Information is permanently deleted as soon as it is no longer required for the purposes of this Memorandum.
- 48. The Ministry will delete the information received from the MRC from its systems once it has provided the relevant information to the MRC. The Ministry may keep an administrative record that the information for that individual has been passed onto the MRCs.

Breaches of security or confidentiality

- 49. The parties must immediately notify the other party of any actual or suspected unauthorised use or disclosure of any information exchanged pursuant to this Memorandum.
- 50. The parties must also investigate any actual or suspected unauthorised use or disclosure of information.
- 51. If either party has reasonable cause to believe that a breach of any other security provision in this Memorandum has occurred or may occur, that party may undertake such investigation as it deems necessary.
- 52. Where investigation is undertaken under this clause, the other party will provide the investigating party with reasonable assistance, and the investigating party will keep the other party informed of progress.

53. If there has been a security breach, either party may suspend this Memorandum by notice in writing to give the other party time to remedy the breach.
54. If the Memorandum is broken by either party, either party may choose to immediately terminate the Memorandum.

External communications

55. The parties are responsible for complying with their respective obligations under the NZ Health and Disability Act 2000, the Privacy Act 1993, the Health Information Privacy Code 1994 and the Official Information Act 1982 and any other applicable legislation.
56. People affected by this Memorandum can complain to the MRCs or the Ministry, or the Privacy Commissioner if they have concerns about how it is administered. Both parties to this Memorandum will give reasonable assistance to the Privacy Commissioner or an individual who wishes to make a complaint about an interference with privacy arising from this Memorandum to help them determine against whom the complaint should be made and to support the investigation of the complaint.
57. In the event that either party receives a complaint or a request under the Official Information Act 1982, the Health Information Privacy Code 1994 or the Privacy Act 1993 for information relating to this Memorandum, the party which received the request will consult with the other party on the proposed response prior to making a decision on the request.
58. The MRCs will refer any enquiries from the media relating to this Memorandum to the Ministry, and the Ministry will inform the MRCs of any media enquiries received.

Relationship management and oversight

59. To facilitate and support the relationship under this Memorandum, and to provide operational oversight of the information sharing activity, each party has nominated a Relationship Manager for oversight and communication between the parties. Each party may change its Relationship Manager on written notice from time to time.

Dispute resolution

60. Should any dispute or difference of opinion arise out of or in connection with this Memorandum, the parties will use their best endeavours to resolve the dispute within ten (10) working days of receiving notice of the dispute.
61. If the parties are unable to resolve the dispute after that time, either party may serve upon the other party notice in writing requiring the dispute to be escalated.

62. The parties shall agree upon a written summary of the basis of the dispute, the issues involved, and the reasons(s) for the dispute not being resolved, or failing agreement on such a summary, prepare separate written summaries of these matters.
63. The summary or summaries shall be submitted to each Party's respective Chief Executive within five (5) working days of receiving written notice of the escalation.
64. The Chief Executives, or their representatives, will meet as soon as practicable after the preparation of the summary or summaries in order to resolve the dispute.
65. If the dispute remains unresolved after twenty (20) working days from receipt of written notice of the escalation, the termination provision in clause 58 will apply.

Termination

66. This Memorandum may be terminated at any time by agreement in writing between the parties.
67. Where there is a dispute and the dispute resolution procedure has not produced an outcome satisfactory to both parties, either party may terminate this Memorandum by giving notice in writing to the other party.
68. The obligations of this Memorandum concerning the security, use and destruction of information shall remain in force notwithstanding the suspension or termination of this Memorandum.

Costs

69. Unless the parties mutually determine otherwise, each party will bear their own costs in relation to this Memorandum.

Variation

70. This Memorandum may only be varied with the agreement of both parties, and any such variation shall be set out in writing and signed by both parties.

Conditions

71. Nothing in this Memorandum shall make either party liable for the actions of the other or constitute any legal relationship between the parties.
72. The provisions in this Memorandum are to be read subject to any chief executive, or Cabinet directives, and any enactment.

73. Where there are changes to Government policy which affect the purpose and functions of this Memorandum, each party agrees to inform the other of those changes at the earliest possible time thereafter and agrees to meet to re-negotiate if necessary any aspects of this Memorandum.

Released under the Official Information Act 1982

Appendix 1

Schedule 5 of the New Zealand Public Health and Disability Act 2000

1. Interpretation

In this schedule, unless the context otherwise requires—

document has the same meaning as in section 2(1) of the Official Information Act 1982

judicial proceeding means a proceeding that is judicial within the meaning of section 108 of the Crimes Act 1961

ministerial authority means an authority—

- (a) given by the Minister under clause 6(1); and
- (b) in force for the time being

serious offence means an offence punishable by imprisonment for a term of 2 years or more.

Compare: 1995 No 95 s 66

2. Chairperson may require person to give information

(1) If a mortality review committee gives its chairperson, or an Agent the committee appoints for the purpose, authority in writing to do so, the chairperson or agent may, by notice in writing to any person, require the person to give the committee information in the person's possession, or under the person's control, and relevant to the performance by the committee of any of its functions.

(2) Examples of the information the chairperson or agent may require are—

- (a) patient records, clinical advice, and related information:
- (b) answers to questions posed by the chairperson in the notice, and that the person is able to answer:
- (c) information that became known solely as a result of a declared quality assurance activity, within the meaning of Part 6 of the Medical Practitioners Act 1995, or a protected quality assurance activity within the meaning of section 53(1) of the Health Practitioners Competence Assurance Act 2003.

(3) The person must take all reasonable steps to comply with the notice.

Schedule 5 clause 2(2)(c): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

3. Meaning of information

In clauses 4 to 6, **information** means any information—

- (a) that is personal information within the meaning of section 2(1) of the Privacy Act 1993; and
- (b) that became known to any member or executive officer or agent of a mortality review committee only because of the committee's functions being carried out (for example, because it is contained in a document created, and made available to the member or executive officer or agent, only because of those functions being carried out), whether or not the carrying out of those functions is completed.

4. Prohibitions on production, disclosure, and recording of information

- (1) A member or executive officer or agent of a mortality review committee must not produce or disclose information to another person or in any judicial proceeding, or make any record of it, unless the production, disclosure, or record, is—
 - (a) for the purposes of carrying out the committee's functions; or
 - (b) in accordance with an exception stated in clause 5; or
 - (c) in accordance with a ministerial authority
- (2) In any judicial proceeding, a member or executive officer or agent of a mortality review committee must not be required to produce information if under subclause (1) he or she is prohibited from doing so.

Compare: 1995 No 95 s 70

5. Exceptions to prohibitions

Clause 4 does not prohibit—

- (a) the production, disclosure, or recording of information if the information does not identify, either expressly or by implication, any particular individual;
- (b) the disclosure of information—
 - (i) with the consent of every person who would be directly or indirectly identified by the disclosure;
 - (ii) to the Minister, or a person authorised by the Minister, for the purpose of enabling the Minister to decide whether or not to issue a ministerial authority;
 - (iii) for the purposes of the prosecution of an offence against section 18(7) (disclosure of information contrary to this schedule).

Compare: 1995 No 95 s 71.

6. Minister may authorise disclosure of information

- (1) If the Minister is satisfied that information relates to conduct (whenever occurring) that constitutes or may constitute a serious offence, the Minister may, by notice in writing signed by the Minister, give a ministerial authority authorising the disclosure of the information, in the manner, and subject to any conditions, specified in the notice, for 1 or more of the following purposes:
 - (a) for the purposes of the investigation and prosecution of offences:
 - (b) for the purposes of a Royal Commission, or a commission of inquiry appointed by an Order in Council made under the Commissions of Inquiry Act 1908:
 - (c) for the purposes of an inquiry to which section 6 of the Inquiries Act 2013 applies.
- (2) However, a ministerial authority may be given for information of a non-factual nature (for example, expressions of opinion) only if that information consists only of matter contained in a report or advice prepared by the mortality review committee.
- (3) The Minister may at any time—
 - (a) revoke a ministerial authority; or
 - (b) revoke, amend, or add to any condition or conditions to which a ministerial authority is subject.
- (4) A ministerial authority authorising the disclosure of information does not of itself—
 - (a) require the disclosure of that information; or
 - (b) create a duty to disclose that information.

Appendix 2: Contact Details

Relationship Managers

Health Quality & Safety Commission

Kiri Rikihana

Group Manager

Mortality Review Committees

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Ministry of Education

Clare Todd

Principle Information Management Analyst

Information Management Team

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Liaison Officers

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