

Manatū Hauora Ngā Pirihimina o Aotearoa

Memorandum of Understanding
between the Ministry of Health and
New Zealand Police

2021

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Ministry of Health and New Zealand Police

Memorandum of Understanding between the Ministry of Health and New Zealand Police

This Memorandum of Understanding is made:

Between: The Director-General of Health and Chief Executive

And: The Commissioner of the New Zealand Police

Introduction

1. The Ministry of Health (the Ministry) administers the New Zealand Public Health and Disability Act 2000 and the Health Act 1956.

The Ministry has the functions of improving, promoting and protecting the public health and wellbeing of New Zealanders. It has overall responsibility for the management and development of New Zealand's health and disability system, acts as the Minister of Health's principal advisor on health policy, and serves as a funder, purchaser and regulator of health and disability services.

2. The New Zealand Police (the Police) is regulated by the Policing Act 2008. Key functions include:

- keeping the peace
- maintaining public safety
- enforcing the law
- preventing crime
- supporting and reassuring the community
- providing national security
- participating in policing activities outside of New Zealand
- managing emergencies.

3. The parties currently work together and offer advice to each other. They wish to formalise this relationship and specify the terms and conditions under which this will occur.

Interpretation

4. For this Memorandum of Understanding (MoU):
 - a. **areas of common interest** mean those matters where each party contributes to a shared outcome or has a shared role or interest. This includes international agreements and cooperation and coordination across the wider government sector
 - b. **senior management** means: within the Ministry of Health, the Deputy Director-General designated for the oversight of this MoU; and within the Police, the designated Deputy Commissioner.

Purpose

5. The purpose of this MoU is to work collaboratively in responding to situations involving the Police and health officials in order to achieve improved health and wellbeing for New Zealanders in a manner that best meets the clinical and safety needs of the person and their whānau and the safety of staff and others. Specifically, the areas of common interest cover:
 - a. consulting on strategic priorities and plans of each party
 - b. consulting on policy initiatives
 - c. sharing information
 - d. developing relevant operational initiatives that affect the other party, including responses to emergencies and combined responses to other risks such as those seen in the COVID-19 pandemic
 - e. communication and media strategies.

Effect of this Memorandum of Understanding

6. This MoU affirms the relationship between the parties as based on a spirit of goodwill and cooperation. The parties will work together to achieve the agreed objectives outlined in paragraph 5.

Schedules to the Memorandum of Understanding

7. The parties agree from time to time to develop protocols relating to specific procedures and activities involving the parties. These will be attached to the MoU as schedules. New agreements or protocols may supersede existing ones. All current agreements or protocols will be attached as schedules. New schedules may be developed and added with approval from the relevant Ministry senior manager and the Police Deputy Commissioner or their delegates.
8. Reviews, modifications or terminations of existing schedules may be undertaken with the mutual agreement of the parties. All changes to the schedules must be notified to the relevant Ministry senior manager and Police Deputy Commissioner or their delegates.
9. Schedules will be reviewed either:
 - initially, one year after the signing of this MoU, and then every two years, or
 - as agreed by the parties.

Consultation on policy initiatives

10. Nationally, both parties will inform each other, at the initial stage of development, of policy initiatives in areas of common interest as defined above (paragraph 5), including Cabinet submissions that either party is undertaking. Each party will take all reasonable steps to give the other adequate time to provide comment where appropriate.
11. At district or local level, both parties will inform each other, at the initial stage of development, of relevant initiatives that affect the other party. Each party will take all reasonable steps to give the other adequate time to provide comment where appropriate.

Communication and media strategies

12. At district or local level, both parties will inform each other of communication strategies in areas of common interest that they are undertaking, at the initial stage of development. They will take all reasonable steps to give adequate time for either party to provide comment where appropriate.
13. Where appropriate, opportunities for joint communication campaigns should be taken at national, district or local level.
14. Each party will consult with the other beforehand if either is considering providing information or comment to the media on a matter of common interest as defined above (paragraph 5).

15. Each party will raise any operational or policy concerns through appropriate channels with the other party and not through the news media.

Sharing information

16. Any disclosures of information between the parties will be in accordance with the current privacy and official information laws. This information sharing may include bail conditions where the failure to disclose could lead to a breach of those relevant conditions.

Review of memorandum of understanding

17. The parties' representatives will meet every two years, or as agreed by the parties, to review this MoU.
18. The parties' representatives are primarily responsible for ensuring that the intent of this MoU is followed.

Issue or dispute resolution

19. All issues, disputes and differences between the parties about the interpretation or performance of this MoU shall be resolved at the earliest opportunity by local representatives or managers of the parties in the first instance.
20. If matters remain unresolved or require further adjudication, the matters should be referred to the senior management for resolution.
21. If agreement cannot be reached within 28 days of referral under paragraph 20 above, the matter shall be referred in writing to the Director-General of Health and the Commissioner of Police for final resolution.

Costs

22. Unless the parties mutually determine otherwise, the cost of meeting the commitments of this MoU shall be met by the party incurring the cost.

Termination

23. Either party may terminate the MoU by giving three months' notice in writing to the other party.

Variations

24. The terms of this MoU can only be modified by written agreement signed by the persons authorised to sign on behalf of the parties.

Conditions

25. Nothing in this MoU shall make either party liable for the actions of the other or constitute any legal relationship between the parties.
26. The provisions in this MoU are to be read subject to any enactment or Cabinet directions.
27. Where changes to Government policy occur that affect the purpose and functions of this MoU, each party agrees to inform the other of those changes at the earliest possible time and meet the other party to renegotiate any aspects of this MoU if necessary.

Parties' representatives

28. The parties' specified addresses, facsimile numbers, email and party representatives are:

Ministry of Health

Name Te Tumu Whakarae mō te Hauora
 Director-General of Health

Address PO Box 5013
 Wellington 6104

Telephone (04) 496 2000

Email info@health.govt.nz

New Zealand Police

Name Commissioner of Police

Address 180 Molesworth Street
 Wellington

Telephone (04) 474 9499

Signed by

Signature Signed copy on file

Name Dr Ashley Bloomfield
(please print)

Te Tumu Whakarae mō te Hauora
Director-General of Health
Ministry of Health

Date 12 November 2021

Signature Signed copy on file

Name Andrew Coster
(please print)

Commissioner of Police
New Zealand Police

Date 12 November 2021

Schedule 1: Police and the Director of Mental Health

District mental health services and New Zealand Police Schedule for responding to a person in mental health crisis

This Schedule replaces the Schedule agreed by the New Zealand Police (Police) and the Director of Mental Health on 29 November 2012.

1 Overriding principle

- 1.1 The person in mental health crisis is at the centre of every response by district mental health services staff and Police. The parties will work collaboratively to ensure the best possible outcome for that person.

2 Parties to this Schedule

- 2.1 The Ministry of Health, through the Director of Mental Health and the Director of Addiction Services, is responsible for the administration of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the MH (CAT) Act) and the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (the SACAT Act).
- 2.2 Police operate under, and are regulated by, the Policing Act 2008 and Policing Regulations 2008. Police seek to work in partnership to assist New Zealanders to be safe and feel safe.
- 2.3 The parties have responsibilities relating to people with mental health and addiction problems, including under the New Zealand Bill of Rights Act 1990, the Crimes Act 1961, the SACAT Act, the MH (CAT) Act, the New Zealand Public Health and Disability Act 2000, the Criminal Procedure (Mentally Impaired Persons) Act 2003 and the Policing Act 2008.

3 Background

- 3.1 The roles and responsibilities of district mental health services and the Police are distinct and complementary. Both parties seek to protect the health and safety interests of individuals who may have mental health issues or problematic substance use and of the general public.
- 3.2 People who seek help may include a person with a current or emerging mental health crisis, mental distress or presentations as a result of substance use, their family or whānau or other support people such as flatmates or employers.
- 3.3 The work of district mental health and addiction services (the agencies providing public mental health and addiction services) and the Police intersects at certain points when people who may have a mental disorder or problematic substance use come into contact with Police. These points of overlap include when:
- a person threatens or attempts suicide
 - a person in a public place is reasonably believed to be 'mentally disordered' within the meaning of the MH (CAT) Act
 - Police respond to a request for assistance from a duly authorised officer, under the MH (CAT) Act, in a private place
 - Police call on mental health services when responding to a person, in a private place, who Police reasonably believe to be 'mentally disordered' within the meaning of the MH (CAT) Act
 - Police intervene with an individual suspected of committing an offence who may have a mental disorder
 - Police powers and/or expertise are required to assist mental health and addiction service providers to conduct a mental health practitioner examination on a person and/or to take people to or return them from places of treatment and/or assessment or Court.

4 Purpose

- 4.1 The purpose of this Schedule is to:
- define best practice
 - set a governance framework to enhance the parties' collaborative relationship with each other and encourage cooperation among staff at every level
 - clearly define the parties' roles and responsibilities
 - facilitate cooperation on the development of strategy and policy in areas of mutual interest
 - encourage partnerships in which staff work together to meet performance measures and achieve common outcomes.
- 4.2 This Schedule forms the basis for all service-level agreements between district health services and Police districts.

- 4.3 This Schedule sets out the responsibilities and expectations of district mental health services and Police when responding to people seeking help for a mental health crisis.
- 4.4 This Schedule does not attempt to provide a framework for a comprehensive resolution of mental health crises. Much of the work in this area takes place without Police involvement.
- 4.5 From time to time, new appendices will be added to this Schedule. This Schedule is available on the **Ministry of Health** website and New Zealand Police intranet.

5 Principles

- 5.1 This Schedule primarily relates to people who are believed to be mentally disordered as defined under the MH (CAT) Act. However, this Schedule also promotes the need for district mental health services and Police to work together to manage people who appear to have a mental illness but who may not be mentally disordered as defined by the Act.
- 5.2 The person in mental health crisis is central to every response by district mental health services staff and Police. The parties will work collaboratively to ensure the best possible outcome for that person.
- 5.3 Decision-making should involve the person in distress and, where practicable and appropriate, their support people such as family or whānau.
- 5.4 People who are thought to require compulsory assessment and treatment under the MH (CAT) Act must be treated in a way that supports their rights, protects them from harm and protects and enhances their mana and dignity. The MH (CAT) Act (Parts 5 and 6 and section 4) sets explicit responsibilities to uphold patients' rights; for example, because services are obliged to respect cultural identity and personal beliefs and apply the principles of Te Tiriti o Waitangi, services must deliver care in a way that prioritises and ultimately upholds the mana of whānau and the patient's right to tino rangatiratanga.
- 5.5 District mental health services are primarily responsible for helping people who are experiencing a mental health crisis. This may involve a mental health crisis team. When people seek help from a mental health service, Police should only be involved in limited circumstances such as where a person presents an imminent risk of harm to self or others, or if a crime has been committed. If the mental health crisis team considers that Police involvement is required, staff should consider liaising directly with Police to facilitate a joint Police and mental health response.
- 5.6 A response to people in mental distress that has reached a crisis level is given the same priority as any other health emergency.

- 5.7 If the person needs to be assessed under the MH (CAT) Act, this assessment should take place in the least restrictive environment that is possible. Mental health assessments should take place in the community (eg, in the distressed person's home) or in a health facility such as an emergency department. Police stations are only used for assessment as a last resort, such as to protect the safety of others, where a person's aggressive behaviour or potential for violence cannot be safely managed elsewhere.
- 5.8 The parties will take all reasonable steps to communicate effectively with and respond promptly to requests by the other party.
- 5.9 Police have no legal authority to hold a person once that person has been issued a certificate of preliminary assessment (section 10(1)(b)(ii) under the MH (CAT) Act) and will facilitate their removal to a health facility as soon as practicable.
- 5.10 The parties will inform one another about relevant work programmes, strategic or operational developments or initiatives and media issues that affect or involve the other party.

6 Responsibilities

6.1 District mental health services

- (a) District mental health services are responsible for leading any response to people seeking help for a mental health crisis. In some instances, Police may be the first point of contact and may ask for assistance from the mental health crisis service.
- (b) In recognition of the need to provide other emergency services, the parties should work to minimise the time either party has to wait for assistance in a crisis response.
- (c) The following sections summarise the roles, responsibilities and powers of the mental health crisis service and Police.
- (d) District mental health services are responsible for providing specialist mental health services, including responding to a mental health crisis.
- The MH (CAT) Act requires the Director of Area Mental Health Services for each district health board (DHB) to designate and authorise sufficient health professionals to perform at all times the functions and exercise the powers conferred on duly authorised officers (DAOs) by section 93 of the MH (CAT) Act.
 - While the MH (CAT) Act does not require crisis assessment teams to have DAOs as members, in practice these teams include one or more DAOs whose roles, responsibilities and powers are defined under the Act. DAOs may also work in other parts of a DHB mental health service.
 - Not all mental health crises are managed or attended by crisis assessment teams.

- (e) The MH (CAT) Act places the following requirements on a DAO.
- A DAO is required to 'act as a ready point of contact for anyone in the community who has any worry or concern about any aspect of this Act, or about services available to those who are or may be suffering from mental disorder; and, at the request of anyone, they shall provide all such assistance, advice, and reassurance as may be appropriate in the circumstances' (section 37).
 - A DAO can only arrange for an assessment under the Act if they consider that there are reasonable grounds to believe that the person may be mentally disordered.
 - If the DAO determines that the distressed person does not meet the criteria for an assessment under section 8 of the Act, or for consideration of an inpatient admission to a mental health service, the DAO must under section 37 and 38 of the Act:
 - advise the distressed person about alternative options that are available for support
 - provide information to others involved in supporting the distressed person, such as family, whānau and Police, about options that are available to assist them to support the wellbeing of the distressed person.

6.2 New Zealand Police

- (a) Police are primarily responsible for assisting the district mental health services when needed for a mental health crisis response. Police should only be requested to assist health staff (such as mental health crisis teams, DAOs, emergency department staff, registered health practitioners and ambulance staff) to respond to a mental health crisis where specific Police expertise or powers are required under section 41 of the MH (CAT) Act.
- (b) If a person appears to be in a mental health crisis, or if they threaten or attempt suicide, Police should initiate a response from the district mental health services by calling the mental health crisis team and deciding collectively with the team where to take the person to. That decision might be to take them to the person's home or a health facility such as an accident and emergency service, community mental health team base or mental health unit, or might involve calling an ambulance. If possible, parties should start this discussion before considering the use of Police powers in relation to a person appearing mentally disordered in a public place under section 109 of the MH (CAT) Act. If this is not possible, however, Police should consider using those section 109 powers.
- (c) Please note the following.
- Police are not empowered to carry out the duties of health staff or act on their behalf.
 - Police can only enter a private dwelling when instructed to do so by a DAO who is present at the scene, or to avert an emergency where there is a risk to the life or safety of any person that requires an emergency response (the threshold for this test is high under the Search and Surveillance Act 2012).

- Every person is justified in using such force as is reasonably necessary in order to prevent the commission of suicide or the commission of an offence that would be likely to cause immediate and serious injury to the person or property of anyone (section 41 of the Crimes Act 1961).
- In exceptional circumstances, Police should discuss with the DAO or mental health practitioner and consider using audio-visual link (AVL) technology to facilitate situations where the DAO cannot attend in person due to time or distance constraints. In such situations, both Police and health staff should document the decision and reason for this, in their usual systems. The MH(CAT) Act requires the DAO or mental health practitioner to make the decision on the use of AVL technology. The matter should also be raised at the next local liaison meeting between Police and mental health services.
- Police can only detain a person in their own premises under the MH (CAT) Act when a DAO instructs them to do so (section 41), or in relation to the section 109 provisions where a person appears to be mentally disordered in a public place.

For more information on roles, responsibilities and powers, see:

- Ministry of Health. 2012. *Guidelines for the Role and Function of Duly Authorised Officers*
<https://www.health.govt.nz/system/files/documents/publications/guidelines-for-duly-authorized-officers-v2.pdf>
- Ministry of Health. 2020. *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992*
<https://www.health.govt.nz/system/files/documents/publications/guidelines-mental-health-compulsory-assessment-treatment-act-1992-jan2021.pdf>.

7 Relationships

- 7.1 Because district mental health services and Police often work together to respond to people in mental health crisis, both parties are required to:
- develop and regularly review a memorandum of understanding or a service-level agreement based on this Schedule, adding appendices related to the local circumstances
 - designate a liaison person within their management team who has the authority to take action to address issues arising from a joint response (see Table 1)
 - attend regular (suggested monthly) liaison meetings.

8 Performance indicators

- 8.1 National Mental Health and Addiction Performance Indicators have been developed (**Appendix 1 to Schedule 1**). It is recommended that district mental health services and Police regularly monitor the compliance with the performance indicators at the local level, through regular liaison meetings between Police and mental health services. In this way, staff will be able to identify key issues as they arise and gain support for continuous improvement. Indicators may include (but are not limited to) themes from this Schedule around:
- timeliness of response from both Police and crisis teams
 - place of assessment
 - advice to Police about intoxicated people presenting in mental health crisis
 - use of force by Police (section 122B of the MH (CAT) Act)
 - advice from mental health crisis services to the distressed person, to the person's support people who are seeking help and, if appropriate, to Police
 - Police transport of people to a health service for assessment or treatment (with or without a health professional in attendance).

9 Continuous quality improvement

- 9.1 District mental health services and Police are committed to the process of continuous quality improvement. Any problems in meeting the expectations of this Schedule should be brought to the attention of the designated staff (see Table 1), so that they are addressed promptly. Where a problem continues to be a matter of concern and cannot be addressed through the liaison relationships, it must be escalated to the District Commander and Chief Executive of the district health services (or their delegate).
- 9.2 In the rare event that staff cannot address an issue at a local level, the issue will be referred to the Director of Mental Health and the designated Deputy Commissioner at Police National Headquarters.

Table 1: Processes for continuous quality improvement

Process	Designated staff	
	Police	Health
Intersectoral meeting	Police Deputy Commissioner Iwi and Communities	Director of Mental Health
Strategic meeting quarterly	Police District Commander	Chief Executive: District Health Services or delegate
Problem-solve monthly	Police District Leadership Team Member – Mental Health Liaison	Director of Area Mental Health Services (DAMHS)
Resolve or raise daily, real time	Shift Commanders, District Command Centre Managers and Custody Centre Managers	Crisis Team Leader
Resolve or raise daily, case by case	Frontline Police staff	DAO or crisis team staff

9.3 National and local data will be reviewed regularly to monitor trends and explore opportunities for improvement.

10 Implementation

10.1 This schedule is to be implemented in conjunction with the policies, procedures and legislation of each party.

Signatories

Signature Signed copy on file

Name Dr John Crawshaw
(please print)
Director of Mental Health
Ministry of Health

Date 29 September 2021

Signature Signed copy on file

Name Wallace Haumaha
(please print)
Deputy Commissioner Iwi and Communities
New Zealand Police

Date 1 November 2021

Appendix 1 to Schedule 1: National Standards of Service Delivery

Glossary

Duly authorised officer (DAO): a person authorised by the Director of Area Mental Health Services to perform the functions of and exercise the powers conferred on DAOs by the MH (CAT) Act. DAOs must be competent and appropriately trained mental health professionals.

Mental disorder: an abnormal state of mind (whether of a continuous or an intermittent nature), characterised by delusions, or by disorders of mood or perception or volition or cognition, of such a degree that it:

- a. poses a serious danger to the health or safety of that person or of others; or
- b. seriously diminishes the capacity of that person to take care of himself or herself.

Mental distress: any thoughts, feelings and behaviours that negatively impact on the day-to-day wellbeing of a person.

Patient: a person who is required to undergo assessment under section 11 or 13, or subject to a compulsory treatment order made under Part 2 of the MH (CAT) Act; or a special patient.

Proposed patient: a person for whom an application is made under section 8A, and in respect of whom a finding under section 10 of the MH (CAT) Act is pending.

Registered nurse practising in mental health: a health practitioner who:

- a. is, or is deemed to be, registered with the Nursing Council of New Zealand continued by **section 114(1)(a)** of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice includes the assessment of the presence of mental disorder as defined under this Act; and
- b. holds a current practising certificate.

Police lead

National standards of service delivery for services provided between district mental health services and Police

Police lead: These are services provided by a district mental health service at the request of Police if an assessment under section 8 of the MH (CAT) Act is requested.

The assessment should take place in the least restrictive manner; and:

- in the person's own home if this is safe for all parties, practicable and acceptable to that person; or
- if the person's home does not satisfy the above condition, either:
 - at a health service facility; or
 - in a Police station only if it is necessary to do so for the safety of others, as a last resort if it is the only practicable option (eg, in remote communities) or if the person has already been detained in a Police station for another reason.¹

If the person in crisis needs to be seen in their home, and mental health staff are concerned about their own safety or the safety of the person or others and believe that they need Police expertise and powers, a DAO acting under section 41, a registered medical practitioner, registered nurse practitioner or a registered nurse who is practising in mental health acting under section 110C may ask Police to assist them to:

- enter private property in order to establish if a mental health assessment is required
- transport a person to a place of assessment or treatment.

If a crisis team or DAO is unable to attend within the agreed timeframes, they must notify Police and any other support people of the reason for the delay and an estimate of their arrival time. They should give advice to Police and support people to help manage the person in the interim.

If Police are unable to attend to a DAO request for assistance within the agreed timeframes, then they must notify the DAO of the reason for the delay and an estimate of their arrival time.

Note: The service descriptions below use the term DAO in line with its use in the MH (CAT) Act. They also use the term 'crisis team', which will include registered nurses who are practising in mental health as this is usually the first point of contact for Police. Note that district mental health services may use 'crisis team', 'crisis assessment team', 'acute mental health service' or other terms to refer to staff most often involved in working with people in mental health crisis.

¹ Other reasons the person may already be in Police custody can include that they have been detained for an offence, are temporarily in Police custody for transport and/or are intoxicated. Intoxication, under the Policing Act 2008, means observably affected by alcohol, other drugs or substances to such a degree that speech, balance, coordination or behaviour is clearly impaired.

Police requesting district mental health service assistance

Service description 1

Arrange for a mental health practitioner to assess a person who Police found wandering at large in a public place and consider may be mentally disordered (application for assessment).

Arrange for an assessment examination of a person who Police found wandering at large in a public place, who has been examined by a mental health practitioner and for whom an application for assessment has been made under section 8 of the MH (CAT) Act (certificate of preliminary assessment).

Note: In practice, a DAO or other mental health service staff member usually facilitates this service.

Performance indicators		Empowering legislation
Quality	Time	
Examination undertaken at an agreed location, with appropriate outcome for Police and person detained in the least restrictive manner.	Under the MH (CAT) Act, examinations are to be undertaken 'as soon as practicable'. Mental health service should attend within 1 hour of being notified. (Police and the DHB may agree on local variations to this timeframe, particularly for isolated communities.)	MH (CAT) Act, s 109
Assessment examination undertaken at an agreed location, with appropriate outcome for Police and proposed patient in the least restrictive manner.	Performance target is 3 hours for completion of each examination. Maximum period of detention is 6 hours for examination (application for assessment). Maximum period of detention is 6 hours for assessment examination (certificate of preliminary assessment).	

Service description 2

Request assistance from a DAO by contacting the local crisis/acute mental health service on the detention of a person who is suspected of committing an offence and who Police or a mental health practitioner also believe may be mentally disordered.

Note: In practice, a DAO or another mental health service staff member usually facilitates this service.

Attendance of DAO and determination of appropriate course of action. (Use of AVL technology may facilitate a timely response.)

Performance indicators		Empowering legislation
Quality	Time	
Attendance of mental health staff and determination of appropriate course of action, including assessment under the MH (CAT) Act if required.	Under the MH (CAT) Act, examinations are to be undertaken 'as soon as practicable'. Mental health service should attend within 1 hour of being notified. (Police and the DHB may agree on local variations to this timeframe, particularly for isolated communities.) Performance target is 3 hours for completion of assessment. Maximum period of detention is 6 hours.	MH (CAT) Act, s 38

Service description 3

Request assistance from a DAO by contacting the local crisis/acute mental health service when Police or a mental health practitioner believes that a victim of, or witness to, an offence may be mentally disordered and needs urgent assistance from a DHB mental health service.

Performance indicators		Empowering legislation
Quality	Time	
Attendance of mental health staff and determination of appropriate course of action, including assessment under the MH (CAT) Act if required.	Under the MH (CAT) Act, examinations are to be undertaken 'as soon as practicable'. Mental health service should attend within 1 hour of being notified. (Police and the DHB may agree on local variations to this timeframe, particularly for isolated communities.) Performance target is 3 hours for completion of assessment. Maximum period of detention is 6 hours.	MH (CAT) Act, s 38

Service description 4

Call DAO for assistance when Police are dealing with a person who may be mentally disordered and is at a private property.

Note: Without informed consent, Police have no power to enter premises or detain the person if:

- no crime is being, or is likely to be, committed or
- there is no likelihood of immediate and serious injury to a person or property or
- the person is not subject to a compulsory treatment order and absent without leave.

Performance indicators		Empowering legislation
Quality	Time	
DAO must investigate the matter and decide what response is necessary. If there is a reasonable belief that the person may be suffering from a mental disorder, the DAO will arrange an assessment examination by a mental health practitioner. A DAO may seek assistance from Police to enter premises, if the DAO considers the person may be mentally disordered and needs assessment.	Under the MH (CAT) Act, examinations are to be undertaken 'as soon as practicable'. Mental health service should attend within 1 hour of being notified. (Police and the mental health services may agree on local variations to this timeframe, particularly for isolated communities.) Performance target is 3 hours for completion of assessment. Maximum period of detention for assessment is 6 hours.	MH (CAT) Act, ss 38 and 41

Service description 5

General information and intelligence sharing – Police seek information from a mental health service to help determine the best way to respond to offending by a particular individual with mental disorder (eg, adult diversion).

Performance indicators		Empowering legislation
Quality	Time	
Mental health service responds on a case-by-case basis, within lawful parameters. Police requests are for specific information, rather than for patient files. Formal reports on disposition of offenders are subject to the Criminal Procedure (Mentally Impaired Persons) Act 2003.	Within requested timeframe where possible.	Health Act 1956, s 22C Health Information Privacy Code 2020, Rule 11(2)(j)(i)

Service description 6

Police ask a DAO or a mental health crisis staff member to arrange an assessment for a person who appears to be mentally disordered but who is also intoxicated by alcohol and/or drugs.

A person may or may not be charged with an offence at this point.

Performance indicators		Empowering legislation
Quality	Time	
In situations where a person may be both mentally disordered and intoxicated, a DAO or crisis staff member should attend when requested, and then may advise that a comprehensive assessment of the individual cannot be undertaken because of their degree of intoxication. In such instances, the DAO or crisis staff member should advise Police on whether it seems likely that the person will need to be assessed once they are less intoxicated and discuss how and where to manage that person until an appropriate comprehensive assessment can be undertaken. Section 36 of the Policing Act 2008 (Care and protection of intoxicated people) cannot be used for the purpose of extending the maximum time of detention for an assessment under the MH (CAT) Act.	Mental health service should attend within 1 hour of being notified. (Police and the DHB may agree on local variations to this timeframe, particularly for isolated communities.) Maximum period of detention for assessment is 6 hours under the MH (CAT) Act. Maximum period of detention for assessment is initially 12 hours and then, if still intoxicated, the person may be held for a further 12 hours under section 36 of the Policing Act 2008.	MH (CAT) Act, s 38; s 109 may apply Policing Act 2008, s 36

Service description 7

DAO requests Police assistance when the DAO believes that a person is suspected to have mental disorder and requires Police support for transporting them to a suitable place for a mental health assessment.

Performance indicators		Empowering legislation
Quality	Time	
Attendance of Police staff and determination of appropriate course of action, including transport to a nominated place for mental health assessment. The DAO arranges for a suitably qualified health professional to accompany Police with transport. Whether or not to use restraints (ie, handcuffs) should be a Police decision, taking into account advice from the DAO.	Under the MH (CAT) Act, examinations are to be undertaken 'as soon as practicable'. Police should attend within 1 hour of being notified. (Police and the mental health services may agree on local variations to this timeframe, particularly for isolated communities.)	MH (CAT) Act, s 41

Mental health service lead

National standards of service delivery for services provided between district mental health services and the Police

Mental health services lead: These are services provided by the Police at the request of the appropriate health professional. If someone contacts mental health services for a crisis response, they should not be referred to Police unless there is a clear reason to consider that the specific powers of Police are required (eg, the person is presenting an immediate risk of harm to others). Police should not be engaged unless there is a risk of harm to the person or other individuals or the use of force is required, beyond what would ordinarily be expected of a DAO or another health professional. See **excerpt from DAO guidelines** below.

The DAO is responsible for arranging the transport of people requiring assessment under the MH (CAT) Act. The DAO can request Police assistance only when Police powers and expertise are required. If Police assistance is required, a DAO is to accompany the person or arrange for another suitable mental health professional to accompany them unless there is an exceptional reason why this cannot occur. In such exceptional cases, the DAO or another delegated mental health professional will provide advice on how to transport the person safely, considering restraints such as handcuffs, but Police will make the final decision. Police need to balance the dignity of the person with any risk of harm that the person presents to themselves or others. The decision should be based on such considerations as the clinical condition of the person, the potential for harm to themselves or others, the need for restraints, the types of vehicles available and the distance to be travelled.

Service description	Performance indicators		Empowering legislation	
	Quality	Time		
DAO requests Police assistance to:				
1	Ensure that a registered mental health practitioner who attends a person for the purpose of carrying out an urgent examination is able to carry out the examination.	Police respond when assistance requested.	MH (CAT) Act refers to 'urgent' examination; therefore, within emergency timeframe as defined by local agreement.	MH (CAT) Act, ss 38(4)(b) and 41
2	Take a person to a registered mental health practitioner for an urgent examination if the person has refused to go and ensure that the registered mental health practitioner is able to conduct the examination.	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, ss 38(4)(d) and 41
3	Take a proposed patient or a patient to a place for any of the following purposes, if the proposed patient or the patient has refused to go to the place: <ul style="list-style-type: none"> • an assessment examination under section 9 • an assessment pursuant to a notice under section 11 or section 13 • an examination pursuant to a notice under section 14A(3)(b) • a hearing pursuant to a notice under section 14A(3)(c) • a review pursuant to a notice under section 76(1)(a). 	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, ss 40(1) and 41
4	Take a patient to a place for treatment if they are subject to a community treatment order and they have refused to attend the place.	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, ss 40(1)(b) and 41
5	Take a patient back to hospital if the patient is subject to an inpatient order and the leave of absence has expired or been cancelled.	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, ss 40(2) and 41
6	Return a patient who is absent without leave to hospital.	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, ss 40(2) and 41

	Service description	Performance indicators		Empowering legislation
		Quality	Time	
7	<p>Locate a person with mental health issues who is missing from a health facility. (Note: District mental health services should call 111 if urgent – that is, they have serious concerns about the welfare of the patient or others. In all other cases, contact Police only when a risk assessment has been carried out and there are genuine concerns for the safety of the person or another and initial enquiries to locate the person have been completed.)</p> <p>In deciding whether or not to issue a media statement about a person missing from an inpatient mental health service, Police should work with the service to ensure information in the statement is appropriate and accurate.</p>	Police respond according to Police operational procedures when assistance requested.		
8	Mental health services must consider advising Police if they have concerns that a person under the care of the service owns or has access to firearms (Arms Act 1983, s 92).	Any sharing of information must be clearly documented.	As soon as possible, depending on assessed urgency.	Health Act 1956, s 22C Health Information Privacy Code 2020, Rule 11(2)(j)(i)
9	Mental health services call Police in response to an (alleged) offence in an inpatient service.	Police respond according to Police operational procedures when a complaint is laid.	Police consult with mental health service on the most appropriate course of action.	Policing Act 2008
Registered mental health practitioner requests Police assistance under MH (CAT) s 110(C) to:				
10	<p>Conduct an examination of a person who may be mentally disordered.</p> <p>Note: Police should not be engaged unless the request is urgent and there is a need for the use of force (see excerpt from DAO guidelines below).</p>	Police respond when appropriate.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	MH (CAT) Act, s 110(4)

	Service description	Performance indicators		Empowering legislation
		Quality	Time	
11	<p>A medical practitioner (mental health practitioner) may administer a sedative drug to a person who they have assessed under section 110 and for whom they have completed a certificate under section 8B(4)(b).</p> <p>Note: Police should not be engaged unless there is a need for the use of force beyond that ordinarily used by a health professional (see excerpt from DAO guidelines below).</p>	Police respond when assistance requested.	Presumption of urgency; therefore, within emergency timeframe as defined by local agreement.	MH (CAT) Act, s 110A(5)
12	<p>Conduct an assessment examination of a proposed patient.</p> <p>Note: Police should not be engaged unless there is a need for the use of force beyond that ordinarily used by a health professional (see excerpt from DAO guidelines below).</p>	Police respond when assistance requested and there is a risk that the health professionals present cannot manage.	Maximum 6 hours Performance target is 3 hours for completion of assessment.	MH (CAT) Act, s 110B(4)
Criminal Procedure (Mentally Impaired Persons) Act 2003				
Director of Area Mental Health Services requesting assistance to:				
13	Transfer of a person detained for the purpose of an assessment report into Police custody for the purpose of attending hearing, sentencing or appeal (power of Police to detain clearly given in s 42(4)).	Police respond when assistance requested.	Within timeframe specified in order to appear for hearing.	Criminal Procedure (Mentally Impaired Persons) Act 2003, s 42

Key points from Guidelines for the Role and Function of Duly Authorised Officers (Ministry of Health 2012)

1.2 Role of duly authorised officers

DAOs are health professionals designated and authorised by a DAMHS [Director of Area Mental Health Services] to perform certain functions and use certain powers under the [MH (CAT)] Act. DAOs must have appropriate training and experience to respond to concerns about a person's mental health and to contribute to the assessment and treatment of people with mental health problems. Section 93(1)(b) of the [MH (CAT)] Act assumes that DAOs will often be the first point of contact for members of the public seeking information or assistance when they are experiencing mental health difficulties or are concerned about someone else's mental health. DAOs are required to provide general advice and assistance under section 37.

3.3 Section 122B: Use of force in exercising powers

Section 122B allows a DAO to use reasonable force to exercise the following powers:

- taking a person for a mental health examination (section 38(4)(d))
- taking or returning proposed patient or patient to place of assessment or treatment (section 40(2))
- returning a special patient to hospital (sections 50(4), 51(3) and 53)
- detaining a person in hospital for an examination if they are thought to be mentally disordered (section 111(2))
- administering compulsory treatment (sections 58 and 59).

'Force' includes every touching of a person for the purposes of compelling or restricting movement or administering treatment. It will normally be appropriate for DAOs to use minimal force when exercising one of the powers above. 'Minimal force' means light or non-painful touching, for example to guide a person towards a building or room or help a person into or out of a vehicle.

A DAO should request assistance from Police whenever it is necessary to use more than minimal force when undertaking the functions under the Act, to minimise the risk of harm to the DAO or to the person on which a power is exercised.

The DAO should, if practicable obtain a warrant before asking Police to enter onto the premises. If, however, when assessing the situation, the level of urgency and/or the risk of harm to the person or someone else is significant, this may reach the threshold for not being reasonably practicable. Should this arise the rationale for the decision must be documented and involve the DAMHS.

A DAO must not use force to enter premises under the Act. The DAO can call a member of the Police for this purpose under section 38(4)(b) or (d), or section 40(2). If it is practicable to do so.

The extent of reasonable force depends on the circumstances of the situation. In all situations the DAO should not use any more force than is reasonably necessary to safely exercise the relevant power. Use of excessive force without reasonable justification is a criminal offence.*

The use of force should always be considered a last resort. DAOs should be able to demonstrate that conflict resolution and de-escalation approaches were considered and attempted before using coercion.

When more than minimal or inconsequential force is used while exercising a power under the Act, a log recording the circumstances must be completed by the DAO and forwarded to the DAMHS as soon as practicable. Depending on the circumstances of the use of force, the DAMHS may wish to discuss the situation with the DAO. A log for this purpose should include:

* Section 62 Crimes Act 1961.

- the date, time and place that force was used
- why force was required, including details of de-escalation attempts
- what type of force was applied and by whom
- any injury to patients or staff members involved
- any action or follow-up required as a result of force being used.

The requirement to log the use of force will normally be fulfilled through compliance with a **DHB reportable event notification system**.

3.6 Other relevant sections of the Mental Health (Compulsory Assessment and Treatment) Act 1992

DAOs must have a good working knowledge of the Act and other relevant legislation and of mental health, addictions and disability services available in their area, in order to fulfil their obligation under section 37 to provide general advice or assistance when necessary, and the obligations to supply general information to patients and proposed patients.

For example, DAOs will need to understand the details of the compulsory assessment and treatment requirements contained in sections 11 to 28 of the Act in order to answer specific questions. It will also be important for DAOs to understand the powers of Police if their assistance is requested, and the scope of the Memorandum of Understanding between the Ministry of Health and Police and any local agreements that apply.

Appendix 2 to Schedule 1: Section 122B of the Mental Health (Compulsory Assessment and Treatment) Act 1992

1. Section 122B of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act) outlines when force can be used and reporting requirements if force is used.

Section 122B provides:

- (1) A person exercising a power specified in subsection (2) may, if he or she is exercising the power in an emergency, use such force as is reasonably necessary in the circumstances.
 - (2) The powers are –
 - (a) a power to take or retake a person, proposed patient, or patient in any of sections 32(1), 38(4)(d), 40(2), 41(4), 41(5), 41(6), 50(4), 51(3), 53, 109(1), 109(4), 110C(2), 111(2), or 113A:
 - (b) a power to detain a person, proposed patient, or patient in any of sections 41(3), 41(4), 41(5), 109(4), 110C(2), 111(2), or 113:
 - (c) a power to enter premises in either of sections 41(2) or 110C(1).
 - (3) A person treating a patient to whom section 58 or section 59 applies may use such force as is reasonably necessary in the circumstances.
 - (4) If force has been used under this section, –
 - (a) the circumstances in which the force was used must be recorded as soon as practicable; and
 - (b) a copy of the record must be given to the Director of Area Mental Health Services as soon as practicable.
2. If the New Zealand Police (Police) have exercised any powers under section 122B, they have an obligation to report the use of force as soon as practicable and give a copy to the Director of Area Mental Health Services (DAMHS) as soon as practicable. The current Police practice for recording and reporting the use of force does not match exactly with the Ministry of Health’s guidelines for the reporting of force used pursuant to section 122B.
 3. The Ministry of Health (Director of Mental Health) and Police have agreed to an interim reporting solution until the provisions of the Act are amended.
 4. Police and the Ministry of Health agree that:
 - the current Police criteria for reporting force, as set out in the Police Tactical Options Report (TOR) form, are acceptable to use for section 122B reporting
 - the existing Police TOR form covers the information required –that is, the circumstances in which the force was used

- existing timeframes for the Police TOR form are acceptable for section 122B reporting – that is, officers must submit TOR forms within 72 hours of the incident, the supervisor reviews each TOR form within 72 hours of submission and Commissioned Officers review each one within 7 days of receiving it
- Police will collate the use of force data and forward it to the Director of Mental Health and to the DAMHS each year.
- if a fatality occurs while Police are exercising the section 122B powers, the Police District Commander will notify the DAMHS within 24 hours of the incident, via email. The email will briefly outline the time, date and place of the incident as well as the name and contact details of the officer in charge of the Police investigation. The email will also note the time and date when the Independent Police Conduct Authority and Coroner were advised of the event
- nothing in this appendix limits the ability of Police districts and district health board mental health services to discuss issues surrounding the use of force in any individual case.

Schedule 2: Preventing overseas travel by special patients

This schedule to the respective Memorandum of Understanding (the Schedule) is made on 22 September 2015.

BETWEEN the Director of Mental Health, **MINISTRY OF HEALTH**
AND the Deputy Commissioner, National Operations, **NEW ZEALAND POLICE**
AND the Deputy Comptroller, Operations, **NEW ZEALAND CUSTOMS SERVICE**
together referred to as 'the Parties'.

Background

- A. The Ministry of Health oversees the assessment, treatment and detention of mental health special patients and restricted patients under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act). This includes occasions where special patients and restricted patients may be granted leave of absence from the health facility.
- B. The New Zealand Customs Service (NZ Customs) border management system has an alert feature whereby passengers of interest arriving or departing from New Zealand can be intercepted or monitored. NZ Customs uses this facility to intercept or monitor people of interest to multiple New Zealand government agencies. The Ministry of Health would like to make use of this facility to prevent identified special patients from departing New Zealand where they do not have permission to do so.
- C. New Zealand Police (Police) has a role under the Act to return to hospital any special or restricted patient who has escaped or is absent without leave (AWOL). Police through Interpol Wellington has access to the Customs border management system. Police is responsible for entering and maintaining Police initiated border alerts on wanted persons as well as the prevention of removal of children throughout New Zealand under the provisions of the Hague Convention. Police has access to officers at every New Zealand international airport and proactively monitors the incoming and outgoing flights. If a border alert that has been entered on a special patient activates, Police has the capacity to respond and return the individual to an appropriate facility.

- D. There are five categories of special patient under the Act:
- people found unfit to stand trial under section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 (CP (MIP) Act)
 - people found not guilty by reason of insanity and made a special patient under section 24(2)(a) of the CP (MIP) Act
 - people found guilty of a charge and both sentenced to a term of imprisonment and detained as a special patient under section 34(1)(a)(i) of the CP (MIP) Act
 - remanded or sentenced prisoners who require treatment for mental disorder in a forensic facility under section 45 or 46 of the CP (MIP) Act
 - people remanded for a court report, or pending trial or sentencing, under section 23, 35, 38(2)(c) or 44(1) of the CP (MIP) Act.
- E. Mental health restricted patients are not subject to the criminal justice system but are detained by a court order under sections 54 and 55 of the CP (MIP) Act because of the special difficulties they present from the danger they pose to others.
- F. The term 'special patient' used in this Schedule refers to categories in D and E.
- G. The processes described in this Schedule may also be used for Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 special care recipients as there may be a need for emergency alerts for this group. In this situation, the Ministry of Health contact person will be the Director ID (CC&R). Planned alerts for these people are unlikely as leave is usually escorted.
- H. A special patient is only allowed to leave hospital grounds if they are granted a leave of absence by the Minister of Health or the Director of Mental Health.
- I. Any leave of absence granted to a special patient may be subject to such conditions as the Minister or Director of Mental Health (depending on who granted the leave of absence) thinks fit. Such conditions for special patients will include no overseas travel, except where overseas travel is expressly permitted, and then only in exceptional circumstances. In the latter case the border alert will be removed.
- J. There is a risk that a special patient might breach their leave conditions by either making preparations for overseas travel or actually travelling overseas, while on leave. Further, there is a risk that a special patient who has escaped or who fails to return on the expiry or cancellation of leave (absent without leave) may attempt to travel overseas.

The parties agree:

1 Purpose

- 1.1 The purpose of this Schedule is to outline processes between the Parties and enable the transfer of information between the Parties, to achieve the following objectives:
- (a) to identify any special patient at the border who is in breach of their leave conditions or court order (planned border alerts), or who has escaped or is absent without leave (emergency border alerts)
 - (b) to prevent the special patient from leaving New Zealand
 - (c) to facilitate the return of the special patient to the forensic mental health facility or hospital facility (health facility).
- 1.2 Achieving these objectives will involve an exchange of personal and health information about certain special patients.

2 Roles and responsibilities

Under this Schedule, the Ministry of Health will provide Police with a list of all current special patients who are on ministerial long leave or unescorted short leave. Police (through Interpol) will load a border alert on those special patients. Urgent emergency border alerts will be placed by NZ Customs at the request of the Ministry of Health for any special patient who escapes or is absent without leave. NZ Customs will notify Police of any special patient who attempts to travel overseas. In turn, Police and the Ministry of Health will work together to retake the special patient where such travel is a breach of their leave conditions or treatment order, or that special patient has escaped or is absent without leave.

See also **Appendix 2 to Schedule 2**.

The Parties will try to develop a report that shows the number of false hits against these border alerts, as the number of positive identifications will already be well known to the Ministry of Health.

2.1 Ministry of Health

The Ministry of Health will:

- provide accurate and up-to-date information to Police on special patients for planned alerts, as and when any special patient is warranted to go on ministerial long leave or permitted to go on unescorted short leave in the community, as soon as possible but no longer than five days after the leave has been granted
- as part of the information, provide photographs of those people to Police, where a photograph is available

- provide guidance to district health services advising them to contact the NZ Customs Integrated Targeting and Operations Centre (ITOC) where an urgent emergency alert is required for a special patient and to provide relevant, accurate and up-to-date information
- provide Police, or NZ Customs on request, with a photograph if available for an AWOL special patient. A separate national AWOL process is in development to augment the procedures of individual forensic services
- take responsibility for providing a photograph and/or identifying information to be available when a border alert is triggered
- advise a Director of Mental Health or Director of Area Mental Health Services (DAMHS), who will cancel leave once Police have made a positive identification at the border
- advise Police on where the special patient is to be taken (which forensic mental health facility or which hospital facility)
- provide guidance, in conjunction with NZ Customs and Police, for frontline staff.

2.2 Police

Police will:

- receive information from the Ministry of Health on those special patients for whom planned alerts will be placed
- load a border alert based on the information received from the Ministry of Health
- receive a notification from NZ Customs to attend a border alert
- arrive at, and attend, the alert hit within five minutes
- make a determination as to whether the identification is positive or false positive
- if a planned alert is triggered for a special patient on ministerial long leave, call the DAMHS so they may give permission for the person to be temporarily returned to the specified hospital
- if a planned alert is triggered for a special patient on unescorted short leave, call the Director of Mental Health so they may cancel leave and advise where to take the special patient
- call the Director of Mental Health if in doubt or if the DAMHS cannot be contacted
- where an urgent emergency alert is in place and NZ Customs has notified Police, and the Ministry of Health has not forwarded a photograph, use a photograph from the Police system at the time of the alert creation, if available
- where identifying information is insufficient and/or a photograph is not available for either a planned or urgent emergency alert, let the person proceed back to the Customs area so they may travel
- if there is an emergency alert, check the AWOL notification received from the Ministry of Health or the district health services to ascertain where to take the special patient (AWOL notification will have been phoned through to Police 111). If in doubt, call the Director of Mental Health or the DAMHS
- return the special patient to the health facility.

2.3 NZ Customs

NZ Customs will:

- receive information from Police regarding special patients for whom planned alerts are placed. For this process, Police load the alerts on the Customs border management system. No action by Customs is necessary at this stage
- receive information from the district health service or the Ministry of Health regarding any special patient for whom an urgent emergency alert is to be placed, and load this alert
- contact Police if an alert is triggered, refer the passenger to Police and provide Police with details of the special patient and the alert and the details of the passenger who has hit the alert
- process the passenger on release by Police if the alert match is deemed to be a false positive.

3 Cancelling leave and retaking special patients

- 3.1 The Parties consider that the cancelling of leave and the retaking of special patients is permitted as follows.
- (a) Special patients who have been granted leave remain special patients regardless of being on that leave.
 - (b) For those special patients on ministerial long leave, section 51(1) of the Act allows for temporary return to a hospital specified by the DAMHS.
 - (c) For those special patients on unescorted short leave, section 52(2) of the Act allows for cancellation of leave by the Director of Mental Health.
 - (d) In cases of (a) and (b) above, the person can be retaken by the Director of Mental Health, the DAMHS or a duly authorised officer (DAO), constable or any person to whom the charge of the patient has been entrusted during the period of leave.
 - (e) Section 53 of the Act provides for retaking a special patient who has escaped or who fails to return on the expiry or cancellation of their leave. The retaking can be undertaken by the Director of Mental Health, the DAMHS, a DAO, a constable or any person to whom the charge of that patient has been entrusted.
 - (f) Section 122B of the Act authorises a person who is exercising a specified power in an emergency to use such force as is reasonably practicable. These powers extend to taking and retaking a person.

4 Information to be transferred

- 4.1 The Ministry of Health will supply Police (through Interpol) with details of all current special patients who are on either ministerial long leave or unescorted short leave who do not have permission to travel overseas, within five days of the leave being granted. Information will include name, category of special patient, date and place of birth (if known), any aliases and a photograph where this is available.
- 4.2 The Ministry of Health will ensure that the district health services, immediately on becoming aware, notify NZ Customs (through ITOC) with details of any current special patient who has escaped or is absent without leave along with identifying information, including date and place of birth, any aliases and a photograph where this is available.
- 4.3 The Ministry of Health will promptly notify Police (through Interpol) of any special patient whose status has changed, that is, they are no longer a special patient or if they have permission to travel.
- 4.4 Police (through Interpol) will supply the information provided under 4.1 above to NZ Customs through the process of loading a border alert for that special patient.
- 4.5 As required by the rules processes that provide for expiry and update of border alerts, Police will review and update or cancel border alerts in consultation with the Ministry of Health.
- 4.6 **Appendix 1 to Schedule 2** describes the information to be exchanged. If any of the Parties identifies that further information is required for the purpose of this Schedule, then they may exchange further data by prior written agreement. Any amendments or variations to the information must be consistent with the purpose of this Schedule.

5 Use of information

- 5.1 The Parties will exchange information as outlined in clause 4 above.
- 5.2 The Parties consider that the use or disclosure of personal information under this Schedule is permitted, under Information Privacy Principles 11(e)(i) and 11(f)(i) of the Privacy Act 2020 and Rules 11(2)(d)(i) and 11(2)(i)(i) of the Health Information Privacy Code 2020, for the purposes of:
 - (a) avoiding prejudice to the maintenance of the law (Information Privacy Principle 11(e)(i) and Rule 11(2)(i)(i))
 - (b) preventing or lessening a serious threat to public safety (Information Privacy Principle 11(f)(i) and Rule 11(2)(d)(i)).

- 5.3 The Parties may use the information to:
- (a) place a border alert on a special patient
 - (b) remove a border alert for a special patient
 - (c) identify that a special patient is at the border
 - (d) verify a special patient's identity at the border
 - (e) retake any special patient who is in breach of, or who intends to breach, their leave conditions or court order or who has escaped or is absent without leave.
- 5.4 Where available, contextual information from all Parties' data may be used to strengthen or confirm partial matches. The process of matching information may include collation or data cleansing activities by Employees to ensure the data is fit for the intended purpose.

6 Accuracy of information

- 6.1 In accordance with Principle 8 of the Privacy Act 2020 and Rule 8 of the Health Information Privacy Code 2020, all three Parties will ensure that information shared under this Schedule is accurate before using or disclosing it.

7 Security of information

Secure transfer

- 7.1 All Information supplied under this Schedule is confidential and shall be supplied by way of secure encrypted medium.
- 7.2 Any staff (Employees) of the Parties handling the data will comply with the Privacy Act 2020, any relevant Approved Information Sharing Agreement, and any applicable Code of Practice made under that Act (including the Health Information Privacy Code 2020) at all times.
- 7.3 Further, the Parties will ensure that:
- (a) all information is protected from unauthorised access, use and disclosure
 - (b) all information is stored on a securely managed computer system with policies on access and use of information. All Employees dealing with the information are aware of their responsibilities in relation to this Schedule and the strict limitations on the use and disclosure of information
 - (c) no information will be used, shared or destroyed other than as allowed under this Schedule.

8 Destruction of information

- 8.1 Subject to the provisions of the Public Records Act 2005, the Parties will ensure that all information that has been retained only for the purposes of this Schedule will be permanently deleted as soon as it is no longer required for the purposes of this Schedule.

9 Term

- 9.1 This Schedule commences on the date it is signed by all three Parties and continues in effect until terminated in accordance with clause 14.

10 Effect of the schedule

- 10.1 This Schedule confirms that the relationship between the Parties is based on a spirit of goodwill and cooperation. The Parties will work together to achieve the purpose and terms of this Schedule.
- 10.2 This Schedule does not constitute or create, and shall not be deemed to constitute or create, any legally binding or enforceable obligations on the part of any of the Parties.

11 External communications

- 11.1 The Parties are responsible for complying with their respective obligations under the Privacy Act 2020, Health Information Privacy Code 2020, Official Information Act 1982 and any other applicable legislation.
- 11.2 In the event that any of the Parties receives a complaint or a request under either the Official Information Act 1982 or the Privacy Act 2020 for information relating to this Schedule, the Party that received the request will consult with the other Parties on the proposed response prior to making a decision on the request.
- 11.3 Police and NZ Customs will refer any enquiries from the media relating to this Schedule to the Ministry of Health. The Ministry of Health will consult the Police and NZ Customs on draft responses to media enquiries before making the response.

12 Breaches of security or confidentiality

- 12.1 A Party must immediately notify the other Parties of any actual or suspected unauthorised use or disclosure of any information exchanged pursuant to this Schedule.
- 12.2 The Parties must also investigate any actual or suspected unauthorised use or disclosure of information.
- 12.3 If any Party has reasonable cause to believe that a breach of any other security provision in this Schedule has occurred or may occur, that Party may undertake such investigation as it deems necessary.
- 12.4 Where a Party undertakes an investigation under this clause, the other Parties will provide the investigating Party with reasonable assistance, and the investigating Party will keep the other Parties informed of progress.
- 12.5 If there has been a security breach by a Party, any of the Parties may suspend this Schedule by written notice to give the Party responsible for the breach time to remedy the breach.

13 Dispute resolution

- 13.1 Should any dispute or difference of opinion arise out of or in connection with this Schedule, the Relationship Manager of each Party will use their best endeavours to resolve the dispute within 28 working days of receiving notice of the dispute.
- 13.2 If the Relationship Managers cannot reach a resolution within 28 days, then the matter will be referred in writing to the Chief Executives of the Parties for their resolution.
- 13.3 The Chief Executives of the Parties, or their delegates, will meet as soon as practicable in order to resolve the dispute.

14 Termination

- 14.1 This Schedule may be terminated at any time by agreement in writing between the Parties.
- 14.2 The obligations in this Schedule concerning the security, use and destruction of information shall remain in force notwithstanding the suspension or termination of this Schedule.

15 Variation

This Schedule may only be varied with the agreement of all Parties, and any such variation shall be set out in writing and signed by all Parties.

16 Relationship management

To facilitate this relationship, each Party has nominated a Relationship Manager for the operation of this Schedule and the communication between the Parties. Each Party may change its Relationship Manager on written notice from time to time. At the commencement of this Schedule, the Relationship Managers' details are:

Ministry of Health	NZ Police	NZ Customs Service
Team Leader, Mental Health Protection, Office of the Director Mental Health	National Manager, Response and Operations	Senior Advisor, Relationship Management Intelligence, Investigations and Enforcement Group

Execution of Schedule

.....
Signed by John Crawshaw, Director of Mental Health, Ministry of Health
Date: 28/09/2015

.....
Signed by Malcolm Burgess, Deputy Commissioner, National Operations, NZ Police (Acting)
Date: 09/10/2015

.....
Signed by Bill Perry, Deputy Comptroller, Operations, New Zealand Customs Service
Date: 12/10/2015

Appendix 1 to Schedule 2: Information to be supplied under this Schedule

This appendix provides a non-exhaustive list of examples of the types of information to be exchanged. The fields below generally describe the information to be supplied but

all Parties will supply any contextual or descriptive information associated with the data.

1 Ministry of Health information description

To Interpol.wellington@police.govt.nz

Field name	Comments
Status	Mental health special patient
Type of leave	Ministerial long leave or unescorted short leave
Action required	Put on planned border alert or remove planned border alert
Any permission to travel granted and nature of travel	None or details of dates and destination
Name and number of the person who should be called if alert triggered	Director of Mental Health or Director of Area Mental Health Services
Name registered at birth or when on first entering the country	
Date of birth	DD-MM-YYYY
Place of birth (if known)	
Surname	
First name	
Middle name(s)	
Alias(es)	
Gender	
Last known address	
Photograph attached	
Photograph taken on	DD-MM-YYYY

Along with the above information, include instructions as to one of the following:

- (a) Please put a planned border alert on for this special patient.
- (b) Please remove the planned border alert for this special patient and destroy any identity information **solely** relating to the planned border alert, which includes any photograph.

In the instructions in (a) and (b) above, please state either (a) why a planned border alert needs to be put on, for instance the person is on unescorted short leave in the community; or conversely (b) why the planned border alert needs to be taken off, for instance the person is no longer a special patient.

Please request Police to advise when the actions have been taken, including destroying any information as requested.

On the accompanying email, please make the mandate clear for this request as follows:

The person is a special or restricted patient detained under court orders under the Criminal Procedure (Mentally Impaired Persons) Act 2003 and/or the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH (CAT) Act). All special patients granted ministerial leave under section 50 of the MH (CAT) Act or unescorted short leave in the community under section 52 of the MH (CAT) Act are subject to the condition that they do not travel outside New Zealand.

If an alert is activated (positive identification)

For an urgent emergency alert, the subject of the alert is to be retaken under section 53 of the MH (CAT) Act as the person will either have escaped or be absent without leave. Call the contact **immediately** and they will arrange for the transfer of the person back to a forensic mental health facility.

For a planned alert where the person is on leave, call the contact **immediately**. The contact will direct the temporary return to the forensic mental health facility (where the person is on ministerial long leave) or cancel any unescorted short leave in the community and direct the return to the forensic mental health facility under section 51 or 52 of the MH (CAT) Act respectively.

Section 122B of the MH (CAT) Act authorises a person who is exercising a specified power in an emergency to use such force as is reasonably practicable. These powers extend to taking and retaking a person.

2 District health service information description

To Customs Integrated Targeting and Operations Centre (ITOC)
0508 ITOC OPS or ITOCOperationsCentre@customs.govt.nz

Field name	Comments
Status	Mental health special Patient
Action required	Put on emergency border alert or remove emergency alert
Name and number of the person who should be called if alert triggered	Director of Mental Health or Director of Area Mental Health Services
Name registered at birth or when on first entering the country	
Date of birth	DD-MM-YYYY
Place of birth (if known)	
Surname	
First name	
Middle name(s)	
Alias(es)	
Gender	
Last known address	
Photograph attached	
Photograph taken on	DD MM YYYY

Along with the above information, include instructions as to one of the following:

- (a) Please put an emergency alert on for this special patient.
- (b) Please remove the emergency border alert for this special patient and destroy any identity information solely relating to the planned border alert, which includes any photograph.

In the instruction in (a) and (b) above, please state either (a) why an emergency border alert needs to be put on, for instance the person has escaped or has not come back from leave; or conversely (b) why the emergency border alert needs to be taken off, for instance the person has been found and returned to the health facility.

Please request Police to advise when the actions have been taken, including destroying any information as requested.

On the accompanying email, please make the mandate clear for this request as follows.

The person is a special or restricted patient detained under court orders under the Criminal Procedure (Mentally Impaired Persons) Act 2003 and/or the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH (CAT) Act). All special patients granted ministerial leave under section 50 of the MH (CAT) Act or unescorted short leave in the community under section 52 of the MH (CAT) Act are subject to the condition that they do not travel outside New Zealand.

If an alert is activated (positive identification)

For an urgent emergency alert, the subject of the alert is to be retaken under section 53 of the MH (CAT) Act as the person will either have escaped or be absent without leave. Call the contact **immediately** and they will arrange for the transfer of the person back to a forensic mental health facility.

For a planned alert where the person is on leave, call the contact **immediately**. The contact will direct the temporary return to the forensic mental health facility (where the person is on ministerial long leave) or cancel any unescorted short leave in the community and direct the return to the forensic mental health facility under section 51 or 52 of the MH (CAT) Act respectively.

Section 122B of the MH (CAT) Act authorises a person who is exercising a specified power in an emergency to use such force as is reasonably practicable. These powers extend to taking and retaking a person.

3 Police information description

Police:

- (a) will load a border alert using the information in 1 (a) and (b) above
- (b) when a special patient is at the border attempting to travel and the Ministry of Health has not provided a photograph of them, may provide a photograph from

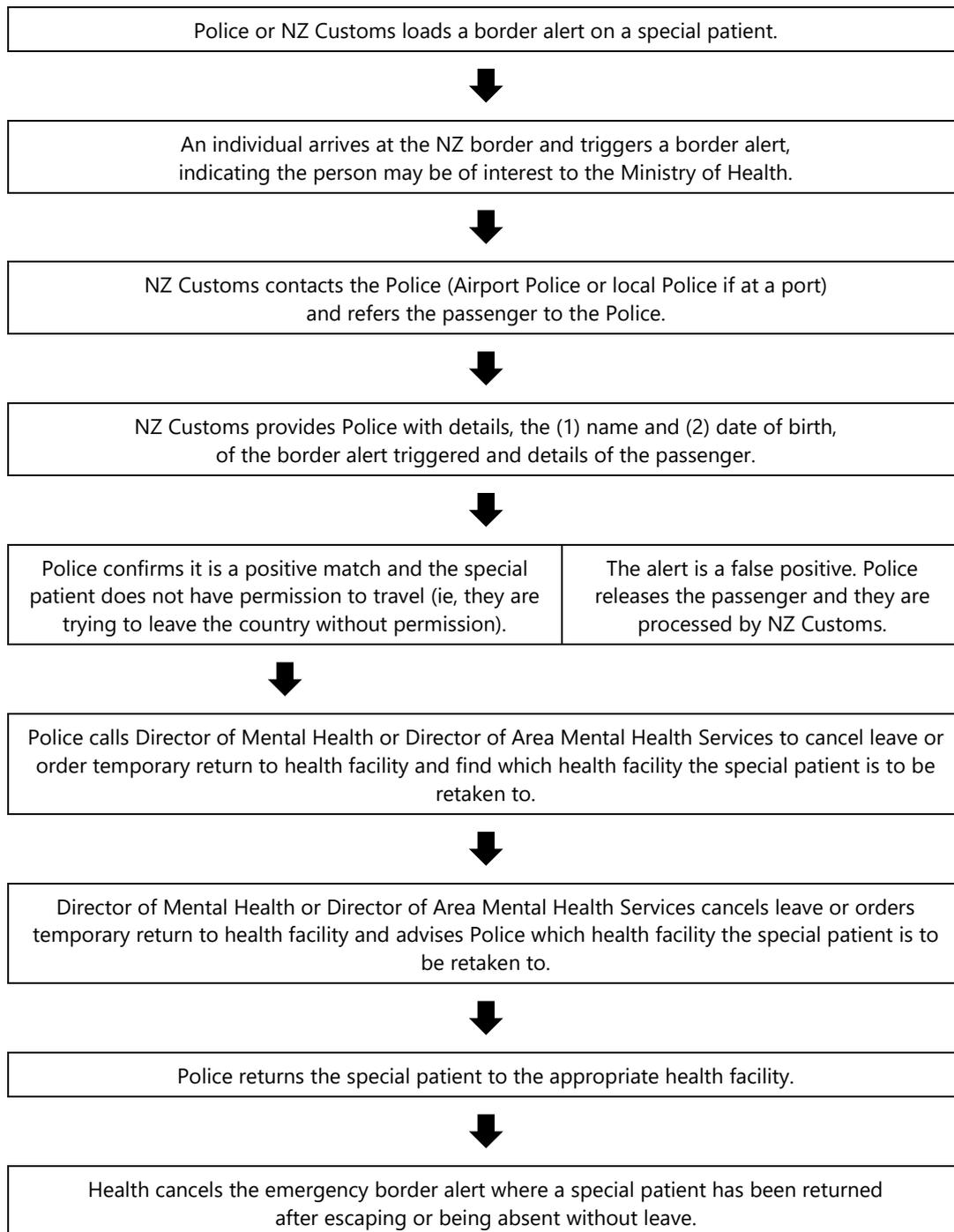
the Police system of that special patient for the purposes of verifying their identity with NZ Customs.

4 NZ Customs Service information description

NZ Customs Service will:

- (a) receive information from the district health services as in 2 (a) and (b) above
- (b) when an alert is triggered, refer the passenger to Police and provide Police details of the triggered border alert with the (1) name and (2) date of birth as well as details for the passenger.

Appendix 2 to Schedule 2: Border alerts process



Schedule 3: Substance Addiction (Compulsory Assessment and Treatment) Act 2017: National Standards of Service Delivery

This Schedule is agreed by the New Zealand Police (Police) and the Director of Addiction Services on Date: 12 November 2021

Together referred to as 'the Parties'.

Purpose

The purpose of this Schedule is to outline processes between the Parties and enable the mental health and addiction services to undertake the functions of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (SACAT Act) when requested. These functions include assisting a person to get an assessment, assisting to take a person to a treatment centre and returning a person to a treatment centre.

Introduction

The purpose of the SACAT Act is to enable people to receive compulsory treatment if they have a severe substance addiction and their capacity to make decisions about treatment for that addiction is severely impaired, so that the compulsory treatment may:

- (a) protect them from harm; and
- (b) facilitate a comprehensive assessment of their addiction; and
- (c) stabilise their health through the application of medical treatment (including medically managed withdrawal); and

- (d) protect and enhance their mana and dignity and restore their capacity to make informed decisions about further treatment and substance use; and
- (e) facilitate planning for their treatment and care to be continued on a voluntary basis; and
- (f) give them an opportunity to engage in voluntary treatment.

The SACAT Act is not a comprehensive framework for addictions treatment, and it is not the preferred way for people to access addiction treatment services. Compulsory treatment under the Act provides an opportunity for services to work intensively and in a mana-enhancing way with a small proportion of people and their whānau to meet the intent of the Act.

Criteria for compulsory treatment

A person may be subject to compulsory treatment under this Act only if:

- (a) the person has a severe substance addiction; and
- (b) the person's capacity to make informed decisions about treatment for that addiction is severely impaired; and
- (c) compulsory treatment of the person is necessary; and
- (d) appropriate treatment for the person is available.

Definitions

Approved specialist

A health professional designated by the Director who has significant experience in the treatment of severe substance addiction and is suitably qualified to conduct specialist assessments and to fulfil the duties of a responsible clinician as set out in the SACAT Act.

Authorised officers

Authorised officers are health professionals with appropriate training and appropriate competence in working with people and their whānau who have a severe substance addiction. They must exercise their powers under the general direction of the Area Director. Authorised officers must be able to respond to concerns about a person's substance addiction and to give advice and assistance to a person making an application for assessment, including by providing advice about options other than compulsory treatment.

Director of Addiction Services

The Director of Addiction Services is responsible for the general administration of the SACAT Act under the direction of the Minister of Health and the Director-General of Health.

Directors of Area Addiction Services (Area Directors) in specified areas

A person appointed as Area Director will be an experienced addiction treatment professional who also holds a senior role within a district health addiction treatment service. They are appointed and responsible for the statutory administration and clinical oversight of the SACAT Act in a specified geographical area. During the compulsory treatment journey, the Area Director must establish effective working relationships with a wide range of services and providers, including the New Zealand Police (Police).

District inspectors

District inspectors are lawyers, appointed as independent parties to protect the rights of patients and investigate any alleged breaches of those rights.

Responsible clinician

The responsible clinician, in relation to a patient, is the approved specialist who is assigned to that patient. The responsible clinician develops and arranges treatment plans and ensures patients receive appropriate mana-enhancing care while subject to the SACAT Act and for ongoing treatment or care.

Severe substance addiction

'Severe substance addiction' is defined in section 8 of the SACAT Act (see below). The addiction must be of such severity that it poses a serious danger to the health or safety of the person and seriously diminishes the person's ability to care for himself or herself.

Meaning of severe substance addiction

- (1) A severe substance addiction is a continuous or an intermittent condition of a person that –
 - (a) manifests itself in the compulsive use of a substance and is characterised by at least 2 of the features listed in subsection (2); and
 - (b) is of such severity that it poses a serious danger to the health or safety of the person and seriously diminishes the person's ability to care for himself or herself.
- (2) The features are –
 - (a) neuro-adaptation to the substance:
 - (b) craving for the substance:
 - (c) unsuccessful efforts to control the use of the substance:
 - (d) use of the substance despite suffering harmful consequences.

The definition of 'severe substance addiction' focuses on a degree of addiction that is clearly beyond problematic substance use and mild to moderate substance use disorders. The features of severe substance addiction can be assessed against internationally recognised criteria and are measurable over time.

The definition of severe substance addiction within the SACAT Act does not include posing a risk of 'harm to others'. While the actions of people with severe substance addiction can cause harm to others, the most significant harm is to themselves.

It is anticipated that most of the people who are likely to come within the scope of the SACAT Act will have a long history of attempts to engage in treatment. Despite incentives to undertake treatment, individuals subject to the Act previously have not been able to engage, or remain, in treatment or maintain changes to their addiction.

Under section 105 of the SACAT Act, Police assistance may include:

- (a) assistance in arranging specialist treatment (section 21)
- (b) assistance in detention and treatment in a treatment centre (section 30(4))
- (c) assistance in return of a patient (section 40)
- (d) apprehension of a patient who is not permitted to be absent from a treatment centre under the SACAT Act (section 106).

Capacity to make informed decisions

Section 9 of the SACAT Act sets out the conditions that constitute severe impairment of a person's capacity to make informed decisions about treatment for a severe substance addiction. Under section 9, a person's capacity to make informed decisions is severely impaired if the person is unable to:

- (a) understand the information relevant to the decisions; or
- (b) retain that information; or
- (c) use or weigh that information as part of the process of making the decisions; or
- (d) communicate the decisions.

The 'test' is not an assessment of general capacity and the SACAT Act does not apply to people who are acutely intoxicated, even if they temporarily lack capacity to consent to treatment.

Substance Addiction (Compulsory Assessment and Treatment) Act 2017

	Service description	Performance indicators		Empowering legislation
		Quality	Time	
Director of Area Addiction Services or authorised officer requests Police assistance to:				
1	Ensure that an approved specialist who attends a person for the purpose of carrying out an assessment is able to carry out the assessment.	Police respond when assistance requested.	As soon as practicable.	SACAT Act, s 21
2	Take a person to an approved specialist for assessment if the person has refused to go and ensure that the approved specialist is able to conduct the assessment.	Police respond when assistance requested.	Maximum 6 hours. Performance target is 3 hours for completion of assessment.	SACAT Act, s 21
3	Take a patient who is subject to a compulsory treatment certificate to a specified treatment centre.	Police respond when assistance requested.	As soon as practicable.	SACAT Act, s 30(4)
4	Return a patient who is absent without leave from the treatment centre in which that patient is required to be detained.	Police respond when assistance requested.	As soon as practicable.	SACAT Act, ss 40, 105 and 107

Section 105 Police assistance

Section 105 confers powers on constables to provide Police assistance, where authorised officers performing specified duties request assistance. This section also sets conditions and limits on the exercise of those powers. A constable must, before exercising a power under this section, obtain a warrant if it is reasonably practicable to do so.

Police should only be engaged where their specific powers (particularly regarding the use of force) are required.²

² For Warrants to Apprehend (s 105) forms, go to: <https://www.health.govt.nz/our-work/mental-health-and-addiction/mental-health-legislation/substance-addiction-compulsory-assessment-and-treatment-act-2017/substance-addiction-compulsory-assessment-and-treatment-act-2017-resources>.

Continuous quality improvement

District mental health services and Police are committed to the process of continuous quality improvement. Any problems in meeting the expectations of this Schedule should be brought to the attention of the designated staff (see Table 2) so that they are addressed promptly. Where a problem continues to be a matter of concern and cannot be addressed through the liaison relationships, it must be escalated to the District Commander and Chief Executive of the District Health Services (or their delegate).

In the rare event that an issue cannot be addressed at a local level, staff refer the issue to the Director of Addiction Services and the designated Deputy Commissioner at Police National Headquarters.

Table 2: Processes for continuous quality improvement

Process	Designated staff	
	Police	Health
Intersector meeting	Police Deputy Commissioner Iwi and Communities	Director of Addiction Services
Strategic meeting	Police District Commander	Chief Executive of District Health Services or delegate
Problem-solve as required	Police District Leadership Team Member – Mental Health Liaison	Director of Area Addiction Services
Resolution required at the time of event or for case-by-case issues	Shift Commanders, District Command Centre Managers & Custody Centre Managers or frontline Police staff	Approved specialist or responsible clinician

Execution of Schedule

Signature Signed copy on file

Name Dr John Crawshaw
(please print)

Director of Addiction Services
Ministry of Health

Date 29 September 2021

Signature Signed copy on file

Name Wallace Haumaha
(please print)

Deputy Commissioner Iwi and Communities
New Zealand Police

Date 1 November 2021

Schedule 4: Disclosure of newborn blood spot samples and related information

1 Introduction

1.1 Parties

The parties to this Schedule are the Ministry of Health (the Ministry) and the New Zealand Police (Police).

1.2 Background

Use of heel prick tests on newborns began in the 1960s for the purpose of identifying specific metabolic diseases that have high rates of morbidity and mortality. Heel prick tests continue to be used today as part of a national programme (the Newborn Metabolic Screening Programme) that involves testing, reporting and treatment for metabolic diseases. The programme screens over 60,000 newborns each year. The blood from the heel prick test is placed on a collection card and sent to LabPLUS at Auckland City Hospital for analysis. LabPLUS then stores the card with the residual blood spot sample and identifying details for an indefinite period (unless returned to families at their request). The National Screening Unit is responsible for the funding and strategic direction of the national programme.

In carrying out inquiries, the Police from time to time locate biological material. In some cases it is necessary to analyse such material to identify where it came from. The blood spot cards and other information held by Auckland City Hospital may assist with such analysis and therefore with the investigation and prosecution of offences and identification of human remains.

The Police, the Ministry and their agents are required to act at all times in accordance with all relevant laws including the Privacy Act 2020, the Official Information Act 1982, the Health Information Privacy Code 2020, the Code of Health and Disability Services Consumers' Rights 1996 and the Human Tissue Act 2008 (and any relevant Standards made under that Act). Nothing in this Schedule is intended to override or displace any other legal obligations or rights.

1.3 Purpose

This Schedule:

- (a) regulates requests from the Police to the Ministry for access to blood samples and other information relating to those samples
- (b) clarifies the circumstances in which such requests may be granted, with particular reference to the overarching interests of the individual concerned and the wider public interest in law enforcement and public safety.

1.4 Definitions

(a) Blood spot card

The card (commonly referred to as the Guthrie card) that is distributed by Auckland Hospital Services for the collection of blood. As well as containing the sample, it holds identifying details (name, date of birth, place of birth, birth mother's name, National Health Index number, sex, birthweight, name of lead maternity carer (LMC), registration number and contact details) of the newborn from whom the sample is taken.

(b) Information

Information held by Auckland Hospital Services (a) with the blood spot card and (b) in information systems. The types of information held identify individuals (names, NHI numbers, registration details for LMCs), hospital details (place of birth), and sample collection details³ (date and time of sample taken). The information supplied to the Police on acceptance of a request will include identifying details of the person from whom the sample was originally taken.

(c) Sample

The blood taken by the heel prick and stored on four rings on the absorbent panel at the top of the blood spot card. Note that only a portion of the sample will be provided to the Police if the request is accepted.

2 Principles

2.1 Overriding principle

The blood spot card and Information associated with it are collected for health purposes only. Any use of the blood spot card for any purpose that is not health related is exceptional. The Police should have recourse to the blood spot cards and associated Information only rarely, and as a last resort.

³ Many of the details on blood spot cards that date back to the 1960s and 1970s do not contain all this information. The older cards often have minimal identifying information such as baby's name, mother's name, general practitioner or midwife name and place of birth.

- 2.2 The Police may request access to a specified card:
- (a) where a body or body part is found and all other avenues for identifying the person (visual identification by next of kin, dental records, other biological samples etc) are either not practicable, or have failed; or
 - (b) where biological material requires a match to identify a specific person who is deceased or missing, and there are no practical alternative means of making the identification; or
 - (c) as part of, or in anticipation of, coronial inquiries that require analysis of samples; or
 - (d) where (a), (b) or (c) of this paragraph do not apply, and the Police have obtained a search warrant in accordance with clause 3.1.2 of this Schedule.

3 Responsibilities of the parties

3.1 Police responsibilities

3.1.1 Sample request

In requesting a sample, the Police will:

- (a) make an initial phone call to the Group Manager, National Screening Unit (NSU), Ministry of Health (see **Appendix 1 to Schedule 4**)
- (b) make a written request to the Group Manager, NSU, for a sample using the standard form (see **Appendix 2 to Schedule 4**)
- (c) ensure the request is made by the National Manager: National Criminal Investigations Group
- (d) in respect of requests of the sort referred to in clause 2.2(a) or (b) above, include with the written request, written consent from a person entitled to give consent on behalf of the person (a 'Request').

3.1.2 Warrant procedure

In applying for a warrant regarding a sample, the Police will:

- (a) provide in writing, to the National Manager: National Criminal Investigations Group, background information on the investigation and the reasons why it is necessary to access the sample
- (b) gain the written approval of the National Manager: National Criminal Investigations Group to proceed with an application for a search warrant
- (c) apply for a warrant in the normal way, specifically if the Police require a sample and/or information for any criminal investigation other than one in which the request relates to a victim and is for the purpose of identification

- (d) make applications for warrants to the appropriate issuing officer, where practicable, during normal working hours
- (e) accompany the application for a warrant with the statement set out in **Appendix 5 to Schedule 4**.

3.1.3 Sample acceptance

In accepting a sample, the Police will:

- (a) ensure the National Manager: National Criminal Investigations Group requesting the sample and/or information is responsible for maintaining the security of the sample(s) and/or information provided by LabPLUS
- (b) treat the sample(s) and/or information supplied in strictest confidence and take such steps as are reasonable in the circumstances to safeguard the sample(s) and/or information against loss and unauthorised access, use, modification, disclosure and other misuse
- (c) certify that the sample(s) and/or information required will be used solely for the purpose for which it was given, and not for any other purpose, and will not be disclosed to any other person or agency except for those purposes
- (d) where any part of the sample remains after DNA profiling, return that part to the Director of the Newborn Metabolic Screening Programme at LabPLUS as soon as practicable after a DNA sample has been obtained
- (e) apart from storage that may be necessary for the particular inquiry for which the sample was requested, not store any information derived from the sample(s) on any database or electronic device that is routinely available to other inquiries (eg, DNA database)
- (f) return the sample(s) and information provided within five days if a sample has been given to the Police with the consent of a person entitled to give consent on behalf of the individual and that consent is withdrawn, or where a sample is required for health purposes and the Ministry requests the return of the sample
- (g) inform the Director of the Newborn Metabolic Screening Programme at LabPLUS as soon as reasonably practicable whether they were able to extract DNA from the sample adequately for the Police purpose. If they had been unable to extract DNA from the sample supplied, Police may request from the Director of the Newborn Metabolic Screening Programme an additional sample for further DNA analysis.

3.2 Ministry of Health responsibilities

In response to a request, the Ministry of Health will:

- (a) not release a sample until it has received a written request
- (b) consider each request on its own merits
- (c) accept the request where the request is accompanied by written consent under clause 2 of this Schedule unless it is aware of some compelling reason why it should not accept the request

- (d) inform the Police in writing if it rejects the request
- (e) inform the Police of any costs associated with retrieval of the sample prior to retrieval
- (f) ensure the security of information Police provide in support of a request made under this Schedule
- (g) treat the request in strictest confidence and take such steps as are reasonable in the circumstances to ensure that any information supplied by Police under this Schedule is held in the strictest confidence, disclosed only as necessary to assess whether the request should be complied with and in any event not disclosed outside the Ministry or Auckland Hospital Services, and safeguarded against loss and unauthorised access, use, modification, disclosure and other misuse.

3.3 Joint responsibilities

The Ministry and the Police agree that any obligations of confidence on either party under this Schedule are subject to the Official Information Act 1982 and other legislation, or a court order, which may require the Ministry or Police to disclose information to any person.

4 Disclosure of samples or information

- 4.1 Police may, without further reference to LabPLUS, disclose sample(s) and/or other Information supplied by LabPLUS to:
 - (a) the Institute of Environmental Science and Research (ESR) or any other suitably equipped laboratory whose technical assistance is required
 - (b) a Crown solicitor engaged to assist in a prosecution following from the investigation in connection with which the request is made
 - (c) a solicitor engaged by a defendant in such proceedings
 - (d) a coroner
 - (e) anyone as otherwise authorised or required by law.
- 4.2 If Police receive a request for sample(s) or information supplied by LabPLUS under this Schedule in any other circumstances, Police will immediately consult the Group Manager of the NSU. The request will then be dealt with in terms of Information Privacy Principle 6 of the Privacy Act 2020 and/or Part 2 of the Official Information Act 1982, and the Health Information Privacy Code 2020. Where appropriate, the Police will transfer a request to LabPLUS under those Acts.

- 4.3 If LabPLUS or the Ministry receives a request from the individual concerned, or the person who consented on their behalf, or someone purporting to act on their behalf, for Information supplied by Police in support of a request made under this Schedule, it will immediately consult the National Manager: National Criminal Investigations Group for Police. The request will then be dealt with in terms of Information Privacy Principle 6 of the Privacy Act 2020 and/or Part 2 of the Official Information Act 1982. Where appropriate, LabPLUS or the Ministry will transfer a request to Police under those Acts.
- 4.4 Neither party to this Schedule shall make comment in the media or any public forum about any sample(s) and/or information provided to Police under this Schedule, or any other matter relating to this Schedule, without first discussing it with the other party.

5 Problem resolution

All disputes and differences between the two parties in relation to the interpretation or performance of this Schedule shall be settled in the first instance by the Group Manager of the NSU and the National Manager: National Criminal Investigations Group. In the second instance, they will be settled by a forum mutually agreed to between the parties.

6 Variation

This Schedule can only be modified by a written agreement duly signed by persons authorised to sign agreements on behalf of the parties hereto.

7 Review

This Schedule shall be reviewed in three years or at such other time as may be agreed by the Director-General of Health and the Commissioner of Police.

8 Duration

This Schedule will stand until either party informs the other in writing about their intention to withdraw from the Agreement. The party intending to withdraw will give three months' notice.

9 Effective date

This Schedule came into force on 22 May 2014.

9.1 Execution of Schedule

Signed copy on file
Rod Drew
National Manager
National Criminal Investigations Group
New Zealand Police

Signed copy on file
Jill Lane
Director
National Services Purchasing
Ministry of Health

Dated: 22 May 2014

Dated 5 May 2014

Schedule 4 and appendices were reviewed in May 2019.

Appendix 1 to Schedule 4: Contact details of all parties

Title	Contact details
Group Manager National Screening Unit	Ministry of Health 133 Molesworth Street PO Box 5013 Wellington 6140 Phone: 04 816 4356
Programme Lead Newborn Metabolic Screening Programme, National Screening Unit	Ministry of Health 650 Great South Road Penrose Private Bag 92522 Auckland 1141 Phone: 09 580 9086
Director, Newborn Metabolic Screening Programme	Auckland District Hospital Services LabPLUS Building 31 Auckland City Hospital Grafton Rd PO Box 872 Shortland St Mail Centre Auckland 1140 Phone: 09 307 4949 ex 23019 Mobile: 021 720 705
National Manager: National Criminal Investigations Group, NZ Police	National Criminal Investigations Group Police National Headquarters 180 Molesworth Street PO Box 3017 Wellington 6011 Phone: 04 474 9499
Manager: National Forensic Services, NZ Police	National Forensic Services Police National Headquarters 180 Molesworth Street PO Box 3017 Wellington 6011 Phone: 04 474 9499 Mobile: 027 247 9873

Appendix 2 to Schedule 4: Request for a blood spot sample held by LabPLUS, Auckland District Hospital Services

Ministry of Health

Date.....

Phone call made to Group Manager, NSU date/time:

Sample request

Name of person at time of birth for whom sample is requested

Mother's name at time of birth

NHI number

Date and place of birth

Family doctor at time of birth (if known)

Birthweight (if known)

Any other identifying information

Please list reason(s) for requesting the sample (eg, victim identification); and confirm:

1. all other avenues for identifying the person are either not practicable, or have failed; and
2. the request for the sample is made by the Police as a last resort.

Signature

National Manager: National Criminal Investigations Group

Detective Superintendent (add in name)

Please attach a copy of next of kin/representative's consent or court order.

Send the original of this form (and accompanying consents/orders) to The Group Manager of the National Screening Unit, Ministry of Health, PO Box 5013, Wellington 6140. Please send a copy of this letter and accompanying consents/orders to The Director, Newborn Metabolic Screening Programme, LabPLUS, Auckland District Health Services, PO Box 872, Auckland.

Appendix 4 to Schedule 4: Acceptance and rejection letters, and details to be sent with sample

A Acceptance letter



Date

[Name]

National Manager: National Criminal Investigations Group

NZ Police

[Address]

Dear [name]

I am responding to your request dated [] for the release of a blood spot sample to the NZ Police for analysis.

I accept that this request is in line with the principles and requirements outlined in the Schedule between the NZ Police and the Ministry of Health, and therefore allow the release of a sample.

I have also attached the Schedule, which outlines the principles and processes regarding such a request.

Please inform the Director of the Newborn Metabolic Screening Programme at LabPLUS Phone: 021 720705 or 04 816 4356 of your requirements for the collection of the sample or details of where the sample is to be sent.

Yours sincerely,

Group Manager
National Screening Unit

cc Director, Newborn Metabolic Screening Programme, LabPLUS

B Rejection letter



Date

[Name]

National Manager: National Criminal Investigations Group

NZ Police

[Address]

Dear [name]

I am responding to your request dated [] for the release of a blood spot sample to the NZ Police for analysis.

This request has been rejected as being outside the principles and requirements of the Schedule between the NZ Police and the Ministry of Health, because:

- a) the request was not accompanied by an authorisation or a search warrant; or
- b) [specify reason for rejection].

Please get in touch with me if you would like to discuss this matter. You are of course welcome to submit a further request with the abovementioned defects remedied.

Yours sincerely,

Group Manager
National Screening Unit

cc Director, Newborn Metabolic Screening Programme, LabPLUS

C Details to be sent with sample

ADHB/LabPLUS logo

Disclaimer:

'This [*sample/information*] comes from LabPLUS, Auckland Hospital Services, and has been held by LabPLUS since [*insert date sample obtained*]. While all due care has been taken by the Ministry of Health and Auckland Hospital Services in the maintenance, storage and security of the [*sample/information*], the Ministry of Health and Auckland Hospital Services expressly disclaim to the fullest extent permitted by law, any liability to the Police or to any other person or agency arising from the provision of the [*sample/information*] to the Police, or any other matter associated with the Police request and the Ministry of Health and/or Auckland Hospital Services response.'

Identifying information for the attached sample:

Name

Date of birth

Place of birth

NHI

Appendix 5 to Schedule 4: Statement to accompany warrant request

Ministry of Health

To: District Court Judge/ an authorised issuing officer *[select one]*

Re: Warrant request regarding a newborn screening blood sample to be retrieved from LabPLUS, Auckland Hospital.

LabPLUS (part of Auckland Hospital Services) on behalf of the Ministry of Health holds cards containing drops of blood taken from newborns. These cards are known as 'Guthrie' cards. The Guthrie card has primarily been taken from a newborn for testing metabolic conditions that are rare but have high rates of morbidity and mortality if not detected within the first few weeks of life.

From time to time, the Police may request a warrant for the retrieval of a Guthrie card and/or associated information. The process for requesting the samples from LabPLUS is set out in a written Agreement Schedule between the New Zealand Police and the Ministry of Health (which funds and monitors the Newborn Metabolic Screening Programme).

Given the sensitive nature of health information generally, and of human biological material such as blood samples in particular, and the risks to the Newborn Metabolic Screening Programme if there is widespread use of Guthrie cards for non-health related purposes, the Ministry of Health and the New Zealand Police have agreed that recourse should be had to the cards only as a matter of last resort and in accordance with the principles and procedures set out in the Agreement Schedule. Among these principles and procedures is the need to bring these matters to the attention of any judge or authorised issuing officer from whom a warrant to obtain a sample is sought. For the Court's assistance, some extracts from the Schedule are set out below.

The Court's attention is also drawn to the approach to biological treatment in the Code of Health and Disability Services Consumers' Rights 1996, in particular, to rights 7(9) and (10):

- (9) Every consumer has the right to make a decision about the return or disposal of any body parts or bodily substances removed or obtained in the course of a health care procedure.
- (10) No body part or bodily substance removed or obtained in the course of a health care procedure may be stored, preserved, or used otherwise than –
 - (a) with the informed consent of the consumer; or
 - (b) for the purposes of research that has received the approval of an ethics committee; or
 - (c) for the purposes of 1 or more of the following activities, being activities that are each undertaken to assure or improve the quality of services: –

- (i) a professionally recognised quality assurance programme;
- (ii) an external audit of services;
- (iii) an external evaluation of services.

While it is acknowledged that the Code cannot affect the Court's jurisdiction on the issue of warrants, the provisions do highlight the exceptional nature of secondary uses of biological material in the health sector.

Details within the Agreement Schedule include:

2. Overriding principles

- The blood spot card and Information associated with it is collected for health purposes only.
- Any use of the blood spot card for any non-health related purpose is exceptional.
- The Police should have recourse to the blood spot cards and associated information only rarely, and as a last resort.

The Police may request access to a specified card:

- (a) where a body or body part is found and all other avenues for identifying the person (visual identification by next of kin, dental records, other biological samples etc) are either not practicable, or have failed; or
- (b) where a biological material requires a match to identify a specific person who is deceased or missing, and there are no practical alternative means of making the identification; or
- (c) as part of, or in anticipation of, Coronial inquiries which require analysis of samples; or
- (d) where (a), (b) or (c) of this paragraph do not apply, and the Police have obtained a search warrant in accordance with clause 3.1.2 of this Schedule.

3.1.2 Warrant procedure

In applying for a Warrant regarding a Sample, the Police will:

- (a) provide in writing to the National Manager: National Criminal Investigations Group, background information on the investigation and the reasons why it is necessary to access the Sample
- (b) gain the written approval of the National Manager: National Criminal Investigations Group to proceed with an application for a Search Warrant;
- (c) apply for a warrant in the normal way, specifically if the Police require a Sample and/or Information for any criminal investigation other than one in which the request relates to a victim and is for the purpose of identification;

- (d) make applications for warrants to an appropriate issuing officer, where practicable, during normal working hours;
- (e) accompany the application for a warrant with the statement set out in Appendix 5 (ie, this statement) of this Schedule.

If you have any queries regarding this letter, please contact the Group Manager, National Screening Unit, Ministry of Health, Wellington, Phone 04 816 4356 or the Manager; National Forensic Services, New Zealand Police, Phone 04 470 7263.

Schedule 5: Information sharing for contact tracing purposes

1 Introduction

1.1 Parties

- 1.1.1 The parties to this Schedule are the Ministry of Health (the Ministry) and New Zealand Police (Police).

1.2 Context

- 1.2.1 During the evolving response to the COVID-19 global pandemic, the opportunity was identified to provide a clearer basis for sharing information between the parties to support contact tracing activity, when contact details for a contact of a positive COVID-19 case could not otherwise be found. Development of a specific Schedule to the parties' Memorandum of Understanding is one means of providing greater certainty around the expected use of COVID-19 patient information in such situations.

1.3 Purpose

- 1.3.1 This Schedule relates to the sharing of information between the parties for contact tracing purposes. The provision of the information will allow contact tracers involved in the COVID-19 response to meet the following purposes as set out in section 92ZY of the Health Act 1956: to 'obtain information about the contacts of persons with infectious diseases or suspected of having infectious diseases in order to ... make the contacts aware that they too may be infected, thereby encouraging them to seek testing and treatment if necessary' and to 'limit the transmission of the infectious disease or suspected infectious disease'.
- 1.3.2 The information to be shared includes identification details such as name, date of birth, gender, address and contact details (including phone and email contacts) about identifiable individuals ('Information'). The Information is more fully described in **Appendix 1 to Schedule 5**.
- 1.3.3 The purpose of the Schedule is to set out the relevant Information and the controls in place to ensure that any Information is shared, used and handled responsibly and in accordance with the law.

- 1.3.4 The parties agree that this Schedule is not legally binding and does not create legal relations between the parties, but the parties confirm their commitment to working together in a spirit of goodwill and ensure that they will each act in a manner consistent and compliant with the legislation governing the parties, including the Health Act 1956, the Privacy Act 2020 and Health Information Privacy Code 2020⁴ (HIPC) (or any replacement of the Act or Code).

2 Background

- 2.1 Contact tracing processes involve a number of steps to attempt to identify and contact Contacts of each Case. Internal Ministry resources will be reviewed first (including National Health Index and National Enrolment Service).
- 2.2 The Finders Service is the specialist part of the Ministry's National Investigation and Tracing Centre (NITC) that manages location of hard to find Contacts involved in the COVID-19 pandemic. The Finders Service works to identify individuals where there may be limited information, and also to find contact details. It is important to obtain this information from the most up-to-date and reliable sources available, to enable the fastest and most efficient means of contact. Key contact details include the phone and email contacts of the individuals.
- 2.3 The impact of being unable to quickly locate a Contact could be a lost opportunity to deliver the information necessary to provide that individual with appropriate health advice, and to prevent further spread of COVID-19.⁵
- 2.4 Police has contact points with members of the community in the performance of its roles. If Police has up-to-date contact details for a Contact, this would assist the contact tracers to locate and speak with that Contact. Only when Ministry resources have not been successful in identifying contact details will a request be made to Police by the Ministry's Finders Service (part of the contact tracing process).

3 Provision of data

3.1 General process

- 3.1.1 The Ministry will provide to Police Information available to the Ministry about any Contact it cannot locate in accordance with **Appendix 1 to Schedule 5**. Police will then check the records it holds to identify if it has any relevant contact details (address, phone or email) or additional identification details.

⁴ The HIPC is relevant as the disclosures are directly concerned with contacts who may have been exposed to COVID-19 even though only identity and contact details are being shared under this Schedule.

⁵ This will include by assisting the individual to manage their self-isolation or assisting them to move to a facility if necessary.

- 3.1.2 If Police has any relevant Information, it will provide it to the Ministry promptly, in the manner described in **Appendix 1 to Schedule 5**.

3.2 Collection and disclosure of Information

- 3.2.1 The purpose for which this Information will be shared under this Schedule is to support contact tracing purposes.
- 3.2.2 The authority on which the Ministry relies to obtain this information from Police rather than the individual Contact is Rule 2(2)(c) of the HIPC, as compliance with Rule 2 would prejudice the interests of the individual concerned and prejudice the safety of other individuals they may come in contact with (as suspected Contacts of a Case). In addition, it is not reasonably practicable to comply with Rule 2 when the Ministry has been unable to make contact with the individual in question (as per Rule (2)(d)).
- 3.2.3 The authority on which each party will exchange the limited information set out in **Appendix 1 to Schedule 5** with each other is, for the Ministry, Rule 11(2)(d) of the HIPC and, for Police, Information Privacy Principle 11(f) within section 22 of the Privacy Act 2020. The disclosure of the information is necessary to prevent or lessen a serious threat to public health and safety, and potentially to the life or health of the individual concerned and their Contacts.
- 3.2.4 The Information the parties will provide to each other is set out in the technical specification at **Appendix 1 to Schedule 5**. The parties have resolved that the Information referred to in Appendix 1 is necessary to meet the purposes for which the Information will be shared.

3.3 Use of information

- 3.3.1 Each party is supplying the Information on the conditions that it will:
- only be disclosed to those persons who must see it to achieve the purpose(s) for which it has been supplied
 - only be used for the purposes set out in this Schedule and not for any other purposes
 - only be used where the parties are confident that the Information is accurate, up-to-date, complete and relevant. Future use of the Information not directly related to the Schedule purpose(s), or outside the timeframes authorised by this Schedule is prohibited
 - be managed and maintained so that each party can be fully compliant with any request for access to the Information or correction of the Information by any identified individual for Information about themselves (and agree to promptly transfer the request to the other party where appropriate, including where Police transfers requests to the Ministry as Police is required to delete the Information promptly).
- 3.3.2 Both parties will comply with the conditions regarding the Information set out in **Appendix 1 to Schedule 5**, including the method of transferring Information.

4 Destruction of information

- 4.1 Each party will retain a record of the request made and the response provided in accordance with the requirements of the Public Records Act 2005 and the Privacy Act 2020.
- 4.2 Each party will retain the information provided no longer than 20 working days after the COVID-19 Public Health Response Act 2020 is repealed under section 3 of that Act. Each party will make sure that the Information is securely destroyed and, if requested, will provide the other with evidence of that destruction.

5 Responsibility for acts and omissions of employees

- 5.1 Each party will be responsible for the acts and omissions of its employees, contractors and agents. In particular, each party will:
 - ensure access to Information is not available to any employee, contractor or agent who is not covered by **Appendix 1 to Schedule 5**
 - keep those employees informed of all obligations concerning security and confidentiality of Information including the requirements of the Privacy Act 2020 and the Official Information Act 1982, and the HIPC
 - ensure they are adequately trained to perform agreed tasks
 - ensure that they comply with all of the requirements of this Schedule
 - ensure that they comply with the provisions of section 92ZZG(2) of the Health Act 1956 that 'information provided or obtained by a contact tracer under this Part may not be used or disclosed by anyone except for the effective management of infectious diseases'.

6 Breaches of security or confidentiality

- 6.1 Each party must ensure that the information (and any product of the use of that information) is protected from unauthorised access, use and/or disclosure.
- 6.2 A party must immediately notify the other party in writing of any actual or suspected unauthorised use or disclosure of any information supplied by either party pursuant to this Schedule.
- 6.3 The parties must investigate any actual or suspected unauthorised use or disclosure of information.
- 6.4 If either party has reasonable cause to believe that a breach of any security provision in this Schedule has occurred or may occur, that party may undertake such investigation as it deems necessary.

- 6.5 Where a party undertakes an investigation 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.
- 6.6 Where an investigation confirms a privacy breach, each party will follow its policy and procedures in dealing with privacy breaches. In addition, if it is considered necessary or it is required by law, the responsible party will notify the individuals whose information is the subject of the privacy breach and the Office of the Privacy Commissioner as soon as possible.
- 6.7 If a security breach has occurred, either party may suspend the operation of this Schedule by notice in writing, to give the other party time to remedy the breach.

7 Termination

- 7.1 This Schedule may be terminated at any time by one month's notice in writing given by one party to the other or when the COVID-19 Public Health Response Act 2020 is repealed (whichever is sooner).
- 7.2 Where there is a dispute and the dispute resolution procedure, as set out in the Memorandum of Understanding at clauses 19 to 21, has not produced an outcome satisfactory to both parties, either party may terminate this Schedule by giving five days' notice in writing to the other party.

8 Representatives

- 8.1 The parties designate the following person as their representative for the administration of this Schedule, provided that the name and/or contact details listed below can be changed by written notification to the other party (and the replacement employee is to be an equivalent level to that of any individual being replaced).

For the Ministry of Health	For New Zealand Police
Name: Maria McKelvey	Name: Mike Webb
Role: Data Quality Analyst / Auditor	Role: Director: Assurance
Phone: 04 816 3351	Phone: 021 192 2811
Email: Maria.McKelvey@health.govt.nz	Email: mike.webb@police.govt.nz

9 Definitions and interpretation

9.1 In this Schedule, terms have the meanings set out in the table below.

Term	Meaning
Case	A case of a person who has had a positive laboratory test for COVID-19. See a Case definition of COVID-19 infection .
Casual Contact	Any person with exposure to the Case who does not meet the criteria for a Close Contact.
Close Contact	Any person who has been exposed to a confirmed or probable case of COVID-19 during the Case's infectious period without appropriate personal protective equipment. For more details on types of contacts, go to the Ministry's website: https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-novel-coronavirus-health-advice-general-public/contact-tracing-covid-19
Contact	Includes a Close Contact and a Casual Contact.
Contact tracer	An individual who is authorised to fulfil the role of contact tracer in accordance with section 92ZZA of the Health Act 1956, and includes those assisting in Finders Services from the National Investigation and Tracing Centre operated by the Ministry. All contact tracers are subject to an obligation of confidentiality. If working in a public health unit, contact tracers are commonly referred to as case investigators.
Contact tracing	The process used to find people who may have been exposed to an infectious disease, which is aligned with the provisions of the Health Act 1956 in Part 3A, subpart 5. If a person is identified as a Close Contact of someone with COVID-19, they can expect to be contacted by a contact tracer, generally by telephone.
Finders Service	The NITC Finders Service works to identify Contacts where there may be limited information and also to find contact details.
Information	The personal and other information to be shared under this Agreement as further described in Appendix 1 to Schedule 5 . It includes identification details such as name, date of birth, gender, address and contact details (including phone and email contacts) about identifiable individuals.
NCTS	National Contact Tracing Solution. The IT solution the Ministry uses to securely record and support contact tracing activities.
NITC	National Investigation and Tracing Centre. The Ministry centre assisting with contact tracing, particularly in conducting Close Contact calling and providing the Finders Service.

10 Signatories



Authorised Signatory for the Ministry

Position DCE Covid Response

Date 04 August 2021



Authorised Signatory for Police

Position: Deputy Commissioner: Strategy and Service

Date: 3 August 2021

Appendix 1 to Schedule 5: Technical specification

1 Ministry information request information fields and format

The Ministry will supply the Information set out in section 1.2 below for all individuals who meet the criteria listed in section 1.1.

1.1 Selection criteria and relevant time periods

The information to be supplied will relate only to those Contacts that the Ministry has been unable to promptly identify contact details for, or the full identity of those individuals as part of contact tracing activities.

1.2 Data elements – Ministry

Information to be sent from the Ministry to Police will include the information elements that the Ministry holds about the Contact (blank fields will be supplied for missing information), as follows.

Field	Length	Notes
Contact ID field. Each record's ID field. This MUST be unique to the request. (Preferable to have the file sorted by this ID, and to have all IDs the same length.)	14 characters maximum (Truncated if > 14)	eg, CC-12345. To keep track of record through the process
Date of birth	8 characters in format YYYYMMDD	eg, 19951024
Gender	1 character, M, F or U	
Family name	Maximum 25 characters	May include: single ordinary quote marks, eg, O'Brien, Leo'o; hyphens, eg, Smith-Brown; spaces, eg, Smith Brown. Should not include any other punctuation or special characters
First given name	Maximum 20 characters	As for family name, but should be a single name
Second given name	Maximum 20 characters	As for first given name, or leave empty
Third given name	Maximum 20 characters	As above, or leave empty
Address line 1	Maximum 35 characters	Street address
Address line 2	Maximum 30 characters	Street address
Address line 3	Maximum 30 characters	Suburb

Field	Length	Notes
Address line 4	Maximum 30 characters	City
Address line 5	Maximum 30 characters	Country. NEW ZEALAND assumed if not supplied
Phone numbers	Free text	eg, +64276354256 – unsuccessful attempts so far
Email address (if known)	Free text	eg, John.Smith@gmail.com
Other information relevant to identification or up-to-date contact details	Free text	eg, Was in Managed Isolation at Hotel A, Christchurch, Room Number: 101

1.3 Data elements

Information to be returned by Police to the Ministry will include the information held by Police where Police holds additional information or alternative information to that sent to it by the Ministry, as follows.

Field	Length	Notes
Contact ID field	14 character maximum (Truncated if > 14)	To keep track of record through the process
Date of birth	8 characters in format YYYYMMDD	eg, 19951024
Gender	1 character, M, F or U	
Family name	Maximum 25 characters	May include: single ordinary quote marks, eg, O'Brien, Leo'o; hyphens, eg, Smith-Brown; spaces, eg, Smith Brown. Should not include any other punctuation or special characters
First given name	Maximum 20 characters	As for family name, but should be a single name
Second given name	Maximum 20 characters	As for first given name, or leave empty
Third given name	Maximum 20 characters	As above, or leave empty
Address line 1	Maximum 35 characters	Street address
Address line 2	Maximum 30 characters	Street address
Address line 3	Maximum 30 characters	Suburb
Address line 4	Maximum 30 characters	City
Address line 5	Maximum 30 characters	Country. NEW ZEALAND assumed if not supplied
Contact phone number		
Contact alternative phone number		
Contact email address		

Field	Length	Notes
Other information	Free text	Additional information, eg, a residential address of a family member (this will not include any financial information or sensitive information – only details that may assist in contacting the person)

1.4 Ministry responsibility for verification

Both parties acknowledge that it is the responsibility of the Ministry (or its contracted agent) to verify the accuracy of the information returned by Police as the contact details of that person. The Ministry will enter contact details into the National Contact Tracing Solution (NCTS) and endeavour to contact the individuals in question. The Ministry will retain the information provided no longer than 20 working days after the COVID-19 Public Health Response Act 2020 is repealed under section 3 of that Act.

2 Staff involved in the information exchange

The Ministry staff involved in making the requests to Police will be authorised National Investigation and Tracing Centre (NITC) or Finders Service staff involved in contact tracing processes.

Police staff involved will be specialist file management personnel, in the Service Group, who will process these requests. The information will be analysed by a limited number of Service Group staff who have been assigned responsibility for responding to Ministry requests under this Schedule.

Each party will ensure that all personnel who are working with the information are aware of and comply with their responsibilities under this Schedule, including the requirements to protect the information from unauthorised access, use and/or disclosure.

3 Data security

All exchanges will be by secure encrypted medium or via SEEMail.

The information transferred between the Ministry and Police will be securely stored within each party's respective computer network with access limited to the party's personnel who are approved to work directly with this information.

No information will be kept or stored in any form that might be easily portable, such as printed material, laptop computer, Portable Digital Assistant (PDA), DVD, CD, memory card or USB portable storage device.

Individual personal computers will be secured by standard security for each party respectively, including password and firewall protection, and ensuring only the approved users under this Schedule are able to access the drives containing the information.

Any verified information that the Ministry uses to contact the Contact will be recorded in the secure NCTS environment and subject to security for the NCTS – Contact Tracing as set out in the relevant Privacy Impact Assessment for that NCTS Application.

The data security provisions will remain in force notwithstanding the termination of this Schedule.

4 Unique identifiers

Each request by the Ministry will contain a unique identifier created by the Ministry Finders Service to enable Police to respond, incorporating the unique identifier to maintain consistency in recording the details. The unique identifier will not be used for any purposes other than as specified under this Schedule.