

Internal Use Only

**GUIDELINES FOR THE RELEASE OF INFORMATION WHERE  
NECESSARY IN THE PUBLIC INTEREST**

**2003**

Approved by Jane Halton, Secretary  
Commonwealth Department of Health and Ageing,  
on 11 June 2003

Reference File: 2002/080488  
Folio: 120















## Internal Use Only

**PART 3  
GENERAL GUIDELINES****1. Introduction**

- 1.1 The power under the Health Insurance Act and the National Health Act, to disclose information with respect to the affairs of a third person where necessary in the public interest, and the power in the Aged Care Act to disclose protected information where necessary in the public interest, should generally not be used where that information can be disclosed under a power contained in a more specific provision of those Acts.
- 1.2 It should be noted that what can be done with the information disclosed under the public interest provisions is generally more limited than what can be done with the information disclosed in the performance of duties, or in the exercise of powers or functions under the relevant Act. An authority or person to whom information is divulged under the public interest provisions in the Health Insurance Act, the National Health Act and paragraph 28(5)(a) of the Disability Services Act, will be subject to the same obligations and liabilities under subsections 130(1) and (2), 135A(1) and 28(2) of those Acts, respectively, as if the authority or the person were a person performing duties under the relevant Act and had acquired the information in the performance of those duties. Under the Aged Care Act, the purpose for which a person makes a record of, discloses or otherwise uses the information must be the purpose for which the information was disclosed under the public interest provisions. Release of information in the performance of a person's duties, or in the exercise of powers or functions under the relevant Act, however, has no such restrictions.

22

Internal Use Only

## Internal Use Only

**4 General Principles**

- 4.1 In all cases the delegate must consider whether the disclosure of the information is “necessary”, and not merely convenient or helpful.
- 4.2 In considering whether the release of information is “necessary”, the delegate should take into account:
- (a) whether the information is available from some other source outside the Department of Health and Ageing (‘the Department’) or the Health Insurance Commission (‘the HIC’). Where there is an alternative source of information, the delegate could direct the person to that source and/or invite the person seeking the information to make submissions as to why the disclosure of information from a Departmental or HIC source is “necessary” rather than desirable or convenient;
  - (b) the extent to which the disclosure of information will benefit the public (or a substantial proportion of the public) as distinct from any private interests of the person seeking the information; or
  - (c) whether it could be argued that non-disclosure would be obstructing the administration of justice.
- 4.3 Australian courts have identified a number of grounds as being of sufficient gravity to warrant disclosure in the public interest:
- (a) relating to a breach of national security;
  - (b) relating to major crime;
  - (c) where failure to disclose the information would obstruct the administration of the criminal law;
  - (d) disclosure of a breach of statute;
  - (e) where failure to disclose would involve danger to the public;
  - (f) some other misdeed of public importance.
- 4.4 Examples of circumstances in which release of information may be certified as necessary in the public interest are outlined in Part 4. These examples are not to be read as in any way limiting the circumstances in which the release of information may be regarded as necessary in the public interest.

22

Internal Use Only

## Internal Use Only

**PART 4**  
**SPECIFIC EXAMPLES****1.**

- 1.1 Circumstances in which disclosure of information may be regarded as being necessary in the public interest include, but are not limited to, disclosure to:

22

## Internal Use Only

22

- (k) assist the police and/or coroner:
- (i) in establishing whether a person was alive at a particular time and to provide information relating to their last known location, where the person is missing and grave fears are held for their safety, and/or someone has been, or is likely to be charged, with the person's murder (information on witness locations clearly should not be disclosed);
  - (ii) in establishing the whereabouts of a suspect in a murder investigation where that person has been charged, or is likely to be charged, with a person's murder;
  - (iii) with major criminal investigations (such as murder, abduction, sexual assault, child molestation, serious drug offences, and major fraud). The information released may include the names and addresses of treating practitioners of individuals and/or details of services for which medical and pharmaceutical benefits had been paid;
  - (iv) in identifying a deceased person. The information to be released may include the person's last known location, names and addresses of treating practitioners and/or details of services for which medical benefits may have been paid;

## Internal Use Only

- (v) in determining whether a missing person is deceased and the cause and circumstances of the death where appropriate. In this case the information to be released may include:
- (A) whether or not a person had claimed a medical benefit or has been supplied a pharmaceutical benefit after a certain date;
  - (B) the names and practice addresses of doctors who rendered services or wrote prescriptions to the missing person over a specified period;
  - (C) the names and practice addresses of doctors who rendered services to a missing person over a specified period and a description of the medical service rendered where an MBS item number has been claimed;
  - (D) where relevant, the names and quantities of pharmaceutical benefits supplied to the missing person over a specified period and the names and addresses of the pharmacies from which the pharmaceutical benefit were supplied; and
  - (E) where appropriate, the MBS item number and the date of the service rendered;

22





