Information for members of committees authorised under Part 7, Section 64 of the SA *Health Care Act* (2008)

New Committee members must complete the *Agreement form for committee members* prior to attending the Part 7 Committee (Attachment one).

This information is also applicable to invited experts who must complete the *Agreement form for experts invited to a Part 7 committee* prior to attending a Part 7 Committee meeting (Attachment two).

In health care, quality improvement refers to activities and programs intended to improve the quality of care in a health service.

The underlying aim of quality improvement legislation is to encourage clinicians, managers and others to communicate openly and honestly in assessing the management, processes and outcomes of health services.

What is quality improvement?

Quality improvement is a continuous cycle of evaluating care and services. An authorised quality improvement activity as described in the *Health Care Act 2008 (*the Act) involves:

- Assessing or evaluating the quality of services provided by a health service;
- Making recommendations about the provision of services provided by health services;
- Monitoring the implementation of any recommendations or other initiatives that are relevant to improving the quality of services provided by the health service.

*(*Part 7 S64 (2) of the Act*).*

Quality improvement does not involve:

- Apportioning blame, taking disciplinary action or punishing;
- Assessing competence;
- Making decisions or arrangements about a person's employment.

Alternative processes should be followed to manage these matters.

The effect of authorisation under Part 7 of the Act:

This Part of the Act provides for the authorisation of a person or persons involved in activities associated with undertaking or making assessments, evaluations or recommendations with respect to the practices, procedures, systems, structures or processes of a health service—

(a) where the purpose of any such activity is wholly or predominantly to improve the quality and safety of health services; and

(b) where the public disclosure of, or public access to, information is restricted in order to achieve the best possible outcomes associated with the improvement of health services.

(Part 7 s63 (2) of the Act).

A committee authorised under Part 7, s64 of the Act can only conduct activities for which the authorisation is provided.

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Why is statutory protection of confidential information important for quality improvement activities?

Part 7 Section 63 (1) of the Act defines confidential information as*:*

information relating to a health service in which the identity of a patient or person providing the service is revealed

Some people may be discouraged from participating in quality improvement activities because of concerns that:

- Information generated by these activities may be used in litigation;
- They may be embarrassed if information generated by the activities was disclosed;
- Legal action may be taken against them for participating in the assessment and evaluation of services provided by others.

Part 7 of the Act protects the confidentiality of some information generated by certain quality improvement activities.

The statutory protection of confidential information for authorised quality improvement activities is designed to encourage health practitioners to participate in the activity by providing for:

- Access to confidential information that could identify the patient or service provider without breach of the law or professional ethics;
- The protection of that information from being divulged outside of Part 7 committee processes, including in legal proceedings.

Membership responsibilities regarding confidential information

Only Part 7 Committee members can view confidential information.

Confidential information is protected by Part 7 committee authorisation and cannot be viewed by anyone who is not a committee member.

Information relating to Part 7 Committee activities must be de-identified prior to circulation outside of the committee or included in any reports.

Information discovered during Part 7 Committee activities cannot be used for conducting performance reviews of individual committee members [Section 64(7)].

Part 7 of the Act takes precedence over all other legislation and Part 7 committees cannot disclose any information of the conduct of individual health practitioners or undertake any reviews relating to individual health practitioners.

The *Health Practitioner Regulation National Law (South Australia) Act* 2010

The *Health Practitioner Regulation National Law (South Australia) Act* 2010 states that members of quality assurance committees cannot disclose information because Part 7 of the Health Care Act prohibits such disclosure.

For further details refer to in Schedule 2, Part 8, Division 2 of this legislation.

Part 8 of the Act

Part 8 of the Act refers to the analysis of adverse incidents.

A person who is a member of an authorised quality improvement committee may receive a Root Cause Analysis (RCA) report from a RCA team appointed under Part 8 of the Act containing:

- A description of the adverse incident;
- A flow diagram;
- A cause and effect diagram;
- A causation statement;
- The recommendations of the RCA team;
- The working documents associated with the RCA team's investigation and processes;
- Any other material considered relevant by the RCA team.

Members of the authorised quality improvement body receiving the above RCA report must abide by the protection of information provisions as detailed in Part 8 – Analysis of Adverse incidents s73 (2) of the Act.

Part 7 Committee members

- Should note that the RCA team is responsible for the approval of their RCA report
- Should not unduly influence the outcome of RCA investigations
- Should not unduly delay the completion of RCA investigations

Further information can be obtained from **SA Health's RCA webpage**

Part 7 Committees and virtual meetings

If Part 7 Committees wish to conduct an online virtual meeting (i.e. Microsoft Teams) the following conditions are applicable:

- The Committee's Terms of Reference will need to be updated to include the responsibilities detailed below:
- Part 7 confidentiality agreements signed by each member of the committee will need to be updated to include a clause about virtual meetings and the responsibilities of confidentiality in that context.
- All members must use a camera when participating in the virtual meeting to confirm the participant identity
- All members who join the meeting virtually will not allow non-members to passively join the meeting out of camera view
- All members will ensure that virtual participation will occur in a room with a closed door so that the meeting details cannot be heard by others
- No member will share the teams link with a non- committee member
- Part 7 documents will not be stored on the Microsoft Teams platform. Documents must be stored in a secure password protected folder on a secure drive
- The meeting must not be recorded

Protection of Information

Committee members or persons assisting the committee are required to comply with Part 7, s66 of the Act as detailed below:

(1) This section applies to

(a) a person who is, or has been, an authorised person; or

(b) a person

(i) who provides, or has provided, technical, administrative or secretarial assistance to an authorised person or in connection with an authorised activity; or

(ii) who receives or gathers information on behalf of an authorised person in connection with an authorised activity.

(2) A person to whom this section applies must not—

(a) make a record of information gained as a result of, or in connection with, an authorised activity; or

(b) make use of or disclose information gained as a result of, or in connection with, an authorised activity,

except—

(c) to the extent necessary for the proper performance of the authorised activity; or

(d) in pursuance of any reporting requirements of a prescribed kind to a governing body of an entity; or

(e) as part of making a disclosure to another authorised person; or

(f) to the extent allowed by the regulations. Maximum penalty: $60, 000.

(3) Without limiting subsection (2), a person to whom this section applies cannot be required—

(a) to produce to a court, agency or other body any document that has been brought into existence for the purposes of an authorised activity; or

(b) to disclose to a court, agency or other body any information that has become known for the purposes of an authorised activity.

(4) Subsections (2) and (3) do not apply to any information or document that does not identify, either expressly or by implication, a particular person or particular persons.

(5) This section does not prohibit a disclosure of information if the person, or each of the persons, who would be directly or indirectly identified by the disclosure consents to that disclosure of the information.

The Act can be accessed at: http://www.legislation.sa.gov.au/LZ/C/A/HEALTH%20CARE%20ACT%202008.aspx

For further information:

Please refer to SA Health's Protected committees | SA Health

or email the Clinical Governance Unit:

Health.DHWClinicalGovernanceEnquiries@sa.gov.au

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Attachment one

Agreement form for Part 7 committee members

I ……..

Name

……

Position

have read, understand, acknowledge and accept the obligations outlined in the current version of the *Information for members of committees authorised under Part 7, section 64 of the SA Health Care Act (2008)* document without exception or condition.

I confirm that I will act in good faith and not divulge information obtained as a result of my membership of the

…….....

Committee, other than to those persons authorised by the Act to receive such information. By signing this document, I am formally agreeing to contribute as a member of the

……..

Committee.

The Committee is authorised under Section 64 of the *Health Care Act (2008)* (the Act) and I accept my obligations under Part 7 and Part 8 of the Act.

……..

[Signed] [Date]

Name of witness:

……

Position

……..

……..

[Signed] [Date]

Attachment Two

Agreement form for experts invited to a Part 7 committee

I,……

Name

……

Position

have read, understand, acknowledge and accept the obligations outlined in the current version of the *Information for members of committees authorised under Part 7, section 64 of the SA Health Care Act (2008)* document without exception or condition.

I confirm that I will act in good faith and not divulge information obtained as a result of my attendance at the

…….....

Committee, other than to those persons authorised by the Act to receive such information. By signing this document, I am formally agreeing to contribute as an invited expert of the

……

Committee.

The Committee is authorised under Section 64 of the *Health Care Act (2008* (the Act) and I accept my obligations under Part 7 and Part 8 of the Act.

Name of witness:

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Position

……..

……..

[Signed] [Date]