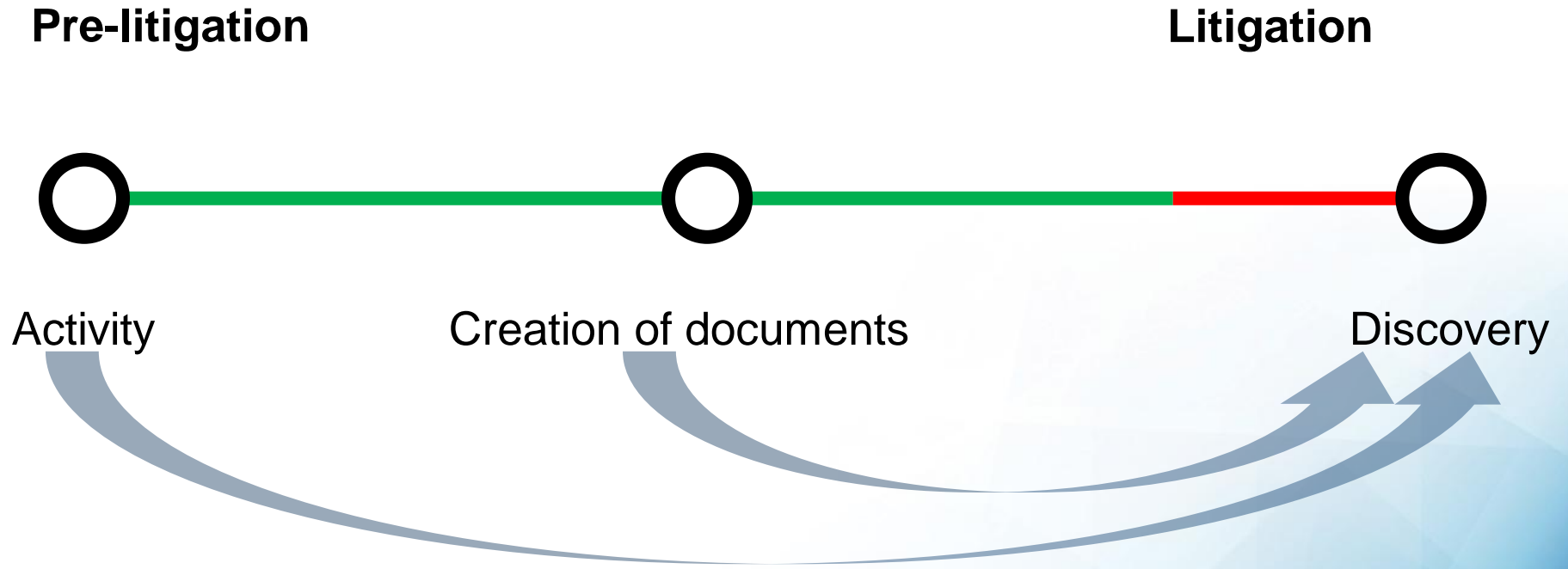


Managing access to patient records after adverse outcomes

24 October 2016

What we will cover today

Document access over time



Freedom of Information



**Slater
Gordon**

12 January 2015

RECEIVED BY
FOI
13 JAN 2015

485 La Trobe Street
Melbourne VIC 3000
Ph: (03) 9602 6885
Fax: (03) 9602 0269
<http://www.slatergordon.com.au>

Correspondence to:
Lawyer: Rachael Nevill
Legal Assistant: Kaiti Graham

I have been consulted by my client to investigate and advise in relation to a potential claim for damages.

My client was admitted to your hospital for treatment. Under the Freedom of Information Act, I request a copy of my client's complete hospital record and any health information relating to, or relating to my client, including, but not limited to complete copies of:

- all pathology investigations
- Incident reports
- Root cause analyses
- all incoming, outgoing and internal correspondence (including all reports to and from all specialists, health professionals and/or health service providers as well as correspondence or information shared between hospital departments)
- all patient liaison records
- all theatre logs
- all records and notes of any meetings regarding mortality or morbidity reviews
- all copies of any photographs and videos (including those taken on smart phones)
- all radiological investigations and reports

Please ensure that your response includes any radiological images, ideally via CD. If such copies are not available please forward the original films. If the information is not available please contact my assistant on (03) 9602 6885.

Current FOI applications

CONTACT:
CONTACT EMAIL:
BRANCH MANAGER:
OUR REF:

Naty Guerrero Diaz
nguerrero-diaz@shine.com.au
Bill King
BKDJOAY: D2D-6340538

Please provide us, pursuant to the provisions of the Freedom of Information Act 1982, with a complete copy of your medical records. Please include all of the following:

1. All medical or health record;
2. All digitally or electronically records information, including radiological imaging, scope images, photographs and diagnostics;
3. All emails or correspondence generated by clinicians in the treating team whether past or present employees of the health service through health service email addresses or any other private email address;
4. All photographs taken by clinicians in treating team whether past or present by any device with camera functionality;
5. All emails or correspondence to Directors, Executives and Chief Executive, other persons who fulfils complaints;
6. All emails or correspondence from health services to its insurers;
7. All emails or correspondence from health service complaints management person or present employee of the health service and his or her private medical defence insurer health or health or
8. All notifications and correspondence from or between a clinician whether past or present employee of the health service staff whether past or present employees of the health or where such notification or correspondence relates to
9. All statements made by health service in the course of an investigation or management of health service;
10. Any investigation reports;
11. Root cause analysis (RCA) reports and supporting documentation;
12. Any reports, correspondence and power point presentations to peer review groups including Mortality and Morbidity meetings, Adverse Outcome meetings, Quality meetings or any other meeting that has reviews or been presented with our clients health or personal information;
13. All briefing papers or reports to the Board or a Board Committee of the Health Service including quality reports, investigation reports, in depth investigation reports and IPM reports or reports in or generated by a like incident management data system or reports/screen shots or reports/screen shots from a patient booking data base.

Current FOI applications

Current FOI applications

Accessed

- Hospital record
- Pathology investigations
- Incident reports
- Patient liaison records
- All theatre logs
- Copies of photographs and videos
- All radiology investigations and reports

Freedom of Information Act

Section 25A

- Would 'substantially and unreasonably' divert resources

Section 25

- Information in the document is irrelevant to the request

Freedom of Information Act

Section 30(1)

- disclosure; would disclose matters in the nature of opinion, advice or recommendation prepared by hospital staff or consultation or deliberation that has taken place between hospital staff
- deliberative processes involved in the functions of the hospital or the government disclosure would be contrary to the public interest

Section 35(1)

- disclosure; would divulge information communicated in confidence
- such disclosure would be contrary to the public interest
- reasonably likely to impair the ability of the hospital to obtain similar information in the future.

A grayscale image of a human hand, palm facing forward, with fingers spread. A bright red rectangular stamp is placed on the palm. The stamp has a white border and contains the words "ACCESS" and "DENIED" in bold, sans-serif font. "ACCESS" is in red text on a white background, and "DENIED" is in white text on a red background.

**ACCESS
DENIED**

Case studies



Case studies



Case studies



Protection of documents



Coronial processes

Image source: philipdalidakis.com.au



Root Cause Analyses



Incident reports vs Incident investigations

Key messages

- persons participating expressly given the assurance information they provide will be confidential
- those participating actively sought a confidentiality guarantee before participating
- documents are kept separate from other medical records
- marked as CONFIDENTIAL
- no prior publication, e.g. through an FOI request or otherwise
- that the 'open disclosure' policy does not result in such disclosure that would prevent public interest immunity been claimed
- does not involve all RCA documents being released
- that disclosure will impair the ability of the hospital and risk management team to investigate and identify causation and system factors for specific adverse events

Thank you