Justice Health and
Forensic Mental Health Network

# Justice Health NSW Policy

## Assisted Reproductive Technology and Parentage Testing

Issue Date: 01 January 2026

Together for
Healthier Tomorrows

# Assisted Reproductive Technology and Parentage Testing

**Policy Number** 1.438

**Policy Function** Continuum of Care

**Issue Date** 01 January 2026

**Next Review Date** 01 January 2030

**Risk Rating** Medium

**Summary** This procedure provides directions on the roles and responsibilities of Justice Health and Forensic Mental Health Network (Justice Health NSW) staff in assisting patients undergoing Assisted Reproductive programs if undergoing medical procedures that may render them infertile or requesting Parentage Testing.

**Responsible Officer** General Manager Primary Care

**Applies to**
- ☐ Administration Centres
- ☐ Community Sites and programs
- ☒ Health Centres - Adult Correctional Centres or Police Cells
- ☒ Health Centres - Youth Justice Centres
- ☒ Long Bay Hospital
- ☒ Forensic Hospital

**CM Reference** POLJH/1438

**Change summary** Minor link updates

**Authorised by** Chair, Policy Steering Committee

**Revision History**

| # | Issue Date | Number and Name | Change Summary |
|---|---|---|---|
| 5 | Jan 26 | 1.438 Assisted Reproductive Technology and Parentage Testing | Minor link updates |
| 4 | Sep 22 | 1.438 Assisted Reproductive Technology and Parentage Testing | Update approval pathway<br>Removal of IVF description and definition<br>Inclusion of pathway for children and adult forensic patients |

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|---|---|---|---|
| | | | Updated links to new documents<br>Updated Justice Health NSW branding |
| 3 | 23 Apr 18a | 1.438 Assisted Reproductive Technology and Parentage Testing | Updated title<br>Update information re parentage testing<br>Additional information regarding private requests for assisted reproductive technology/parentage to be managed as a private health service |
| 2 | 23 April 18b | 1.438 Assisted Reproductive Technology and Parentage Testing | Updated title<br>Update information re parentage testing<br>Additional information regarding private requests for assisted reproductive technology/parentage to be managed as a private health service |
| 1 | Dec 15 | 1.438 Assisted Reproductive Technology and Parentage Testing | New policy |

**PRINT WARNING**

Printed copies of this document, or parts thereof, must not be relied on as a current reference document.

Always refer to the electronic copy for the latest version.

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# 1. Preface

Justice Health NSW appreciates that Assisted Reproductive Technology (ART) in the custodial environment is a complex issue; however, Justice Health NSW will only consider ART for patients undergoing medical procedures that (as a side effect of that treatment) may render them infertile.

DNA testing to determine parentage can be requested where parentage of a child may be in doubt. In most cases it takes place pursuant to a court order, although it can also be a private arrangement. Arrangements to facilitate DNA testing for patients in custody are managed by Corrective Services New South Wales (CSNSW), Private Operators or Youth Justice New South Wales (YJNSW).

Arrangements to facilitate DNA testing for patients in the Forensic Hospital are managed by Justice Health NSW.

# 2. Policy Content

## 2.1 Mandatory Requirements

### 2.1.1 Objectives

- To ensure the correct approval process is followed when persons in custody are undergoing medical procedures that render them infertile and seek Justice Health assistance with ART procedures.

### 2.1.2 Outcomes

- Patients who obtain approval of the Justice Health NSW Executive Medical Director to undertake ART receive appropriate and timely assistance.
- Correct approval processes are followed prior to any offer of advice to the patient.
- Parentage testing procedures are managed by CSNSW, the private operators or YJNSW.

## 2.2 Implementation – Roles & Responsibilities

It is the responsibility of all clinical staff to follow this policy and to ensure that any requests for assistance with gamete collection related to ART are referred to the Executive Medical Director

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# 3. Procedure Content

## 3.1 Assisted Reproductive Technology (ART)

Justice Health NSW staff must not engage in assisting patients with ART procedures except where the patient is to undergo a medical procedure that may render them infertile, the treating specialist has recommended consideration of collection of gametes, and the patient has received approval from the Executive Medical Director.

Patients undergoing a medical procedure that may render them infertile should be counselled by the treating specialist and any collection and storage of gametes will be the responsibility of the treating specialist team. If the patient has a disability, knowledge regarding their disability and any support and communication needs must be considered when providing counselling.

Where the collection of gametes has been recommended by a treating specialist, and collection is to occur within the custodial environment, the patient will be required to make a request to the Executive Medical Director for approval. Some patients with disability may need assistance to make the request to the Executive Medical Director. If approved, Justice Health NSW staff should then facilitate the gamete collection, including transfer of the gametes to the treating hospital as needed. All gamete collection for adolescent patients must occur in the treating hospital.

For all adults detained under mental health legislation in Long Bay Hospital and the Forensic Hospital, section 102 Mental Health Act applies, and accordingly, consent to the procedure is required by the Mental Health Review Tribunal (MHRT).

For children in the Forensic Hospital, section 175 Children and Young Persons (Care and Protection) Act 1998 (YPCPA) applies, and accordingly, consent to the procedure is required by the New South Wales Civil and Administrative Tribunal (NCAT).

Justice Health NSW staff members must not engage in assisting a patient with the collection of gametes for any purpose other than as defined in this procedure.

Patients who wish to engage in ART as part of an In Vitro Fertilisation (IVF) program that is not related to infertility due to a medical condition/intervention must engage external health service providers and negotiate with CSNSW/private operators/YJNSW for access to facilitate the private collection of gametes. Justice Health NSW staff must not be involved in this process.

Patients and/or partners of patients who commenced an IVF program in the community prior to incarceration, and who wish to continue in the program, are required to make a request to the Commissioner CSNSW or the Executive Director YJNSW for approval. Justice Health NSW staff must not provide any expert opinion or input into decisions regarding ongoing participation in external IVF programs.

## 3.2 Parentage Testing – Court Ordered Legal DNA Testing

Court Ordered Parentage Tests or Legal DNA Testing for Parentage are not an essential health requirement and are not services provided by Justice Health NSW. For patients in custody, Court Ordered Parentage Tests or Legal DNA Testing for Parentage are facilitated and managed by CSNSW/private operators/YJNSW. Justice Health NSW may facilitate a court ordered test for Forensic Hospital patients.

Any requests for the collection of pathology for parentage testing should be referred to the Justice Health NSW Legal Advisor or Forensic Legal Advisor, as appropriate, for advice.

The DNA laboratory should liaise directly with CSNSW/private operator/YJNSW regarding an appointment for collection to ensure that a justice of the peace or solicitor is present as well as appropriate client's photo ID. Specimen collection involves two mouth swabs.

# 4. Definitions

**Assisted Reproduction Technology (ART)**
ART Includes a range of methods used to circumvent human infertility, including IVF, embryo transfer (ET), gamete intra-fallopian transfer (GIFT), artificial insemination (AI) and all manipulative procedures involving gametes, embryos, and treatment to induce ovulation or spermatogenesis when used in conjunction with the above methods.

**Must**
Indicates a mandatory action to be complied with.
**Should**
Indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

# 5. Legislation and Related Documents

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|---|---|
| Legislation | Assisted Reproductive Technology Act 2007 No 69 - NSW<br>Children and Young Persons (Care and Protection) Act 1988<br>Mental Health Act 2007 |
| Justice Health NSW Policies, Guidelines and Procedures | Policy 1.253 Access to Private Health Services<br>9.036 Guidelines on Use and Disclosure of Health Information |
| NSW Health Policy Directives and Guidelines | GL2006_011 Assisted Reproductive Technology – Ethical Guidelines<br>Assisted Reproductive Technology Regulations 2024 |
| Other documents and resources | National Health and Medical Research Council -Ethical Guidelines on the use of assisted reproductive technology in clinical practice and research (2017) |
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