

17<sup>th</sup> July 2020

Amy S Van Wey Lovatt

By email: [fyi-request-12922-4e5afdf5@requests.fyi.org.nz](mailto:fyi-request-12922-4e5afdf5@requests.fyi.org.nz)

Dear Ms Amy Van Wey Lovatt

### **Official Information Act (1982) Request**

I write in response to your Official Information Act request, received by us on 23 June 2020, via transfer from the Ministry of Health under section 14 of the Act. You requested the following information.

- **I respectfully request a list of all of the "relevant authorities" to which physicians must report "unsafe or unethical practices", with the understanding that criminal behaviour would be included under either "unsafe or unethical practices".**
- **I also request a copy of all DHB policies in regards to reporting unsafe, harmful, criminal behaviour, including the re-routing and interception of private communications, and policies on how they document such incidents and how they are to safeguard against such incidents, as the Operational Framework does indeed require every DHB to have such policies.**

For context Counties Manukau Health (CM Health) employs over 7,500 staff and provides health and support services to people living in the Counties Manukau region (approx. 569,400 people). We see over 118,000 people in our Emergency Department each year and over 2,000 visitors daily through Middlemore Hospital.

Our services are delivered via hospital, outpatient, ambulatory and community-based models of care. We provide regional and supra-regional specialist services i.e. for orthopaedics, plastics, burns and spinal services. There are also several specialist services provided including tertiary surgical services, medical services, mental health and addiction services.

Our responses to your questions are below.

We cannot provide a single list of 'all relevant authorities' across all potential concerns of unsafe or unethical behaviours, as relevance will be informed by circumstances.

Our expectation is that any employee with a concern about another employee's behaviour initially raises these concerns within our DHB line management (Service and General Managers) and/or professional leadership (Chief Medical Officer, Chief Nurse, Chief Midwife, or Director - Allied Health).

This expectation is described in employee orientation, their professional codes of ethics, and supported via our "Speak Up" programme. Health Practitioners can seek independent assistance or refer matters directly to their professional Council, Registration Board or union with addressing a concern.

An allegation from an employee received by the DHB will first be investigated by the DHB, applying the principles of a Just Culture (*attached*); including relevant DHB management expertise and additional advice (such as privacy, human resources, and cultural advisors), in alignment with our expectations of the DHB Code of Conduct (*attached*) and Human Resource Discipline & Dismissal Policy (*attached*).

Concerns can be raised and responded to within systems outlined Incident Reporting Policy and Procedures, or via employee supervision processes (*attached*). If allegations are considered to be sufficiently serious, these can also be escalated to the Human Resources services as a formal employee complaint or via a Protected Disclosure process (*attached*).

Should allegations be substantiated by an internal investigation, the DHB will then give formal consideration as to appropriate sanction, and to further referral of the matter to external NZ regulatory agency(ies), for any further censure appropriate to the issue. This may include referral of the matter to a Professional Board, such as NZ Nursing Council or Medical Council (where the Health Practitioner Competency Assurance Act is relevant). These bodies make publicly available their Conduct procedures, and the outcomes of investigations.

Regarding Physicians specifically, The New Zealand Medical Association provides a set of professional expectations, and further guidance on medico-legal matters, and Physicians can seek the NZMA's independent advice as to appropriate actions related to these situations.

Other government statutory agencies, including the Office of the Privacy Commissioner, Ombudsman, Health and Disability Commission or Office of the Auditor General may also be notified or engaged to consider a complaint from health practitioners – and they independently determine if further investigations or action is required.

New Zealand legislation mandates that health practitioners must report relevant information related to situations impacting Child Protection, Mental Health safety/wellbeing, Elder Abuse and Partner Violence to statutory agencies. These arrangements are defined in law, and DHB policies align to this guidance. Please advise us further if your query seeks these policies related to disclosure of this type.

Regarding your request for copies of all DHB policies in regards to reporting unsafe, harmful, criminal behaviour, and policies on how they document such incidents, we provide the following Policy, Procedure and Guideline documents (**Appendix 1**). We believe these are relevant to the scope of your request. These documents need to be considered in the overall context of our employer obligations, and NZ Legislation.

Name	CM Health document owner
Policy – Just Culture	Deputy Chief Medical Officer (Dep CMO) & Clinical Director Patient Safety, Quality Assurance
Policy – Code of Conduct	Director - Human Resources
Policy – Bullying & Harassment Prevention & Response	Director - Human Resources
Policy – Protected Disclosure	Chief legal advisor
Policy – Discipline & Dismissal	Director - Human Resources
Policy – CM Health Incident Reporting & Investigation	Chief Medical Officer (CMO) – Exec Management
Procedure – Patient Related Incident Reporting & Management	Chief Medical Officer (CMO) – Exec Management
Policy – Privacy - Protecting & respecting personal information	Risk & Privacy Manager - Strategy & Infrastructure
Procedure – Managing privacy breaches	Risk & Privacy Manager - Strategy & Infrastructure
Procedure – Storage & Security of Electronic & Paper Clinical Records	Risk & Privacy Manager - Strategy & Infrastructure
Policy – Clinical Audit	Research Office - Health Intelligence & Informatics
Policy – Auditing Access to Electronic Patient Records	Chief legal advisor
Policy – Fraud Monitoring and Management	Chief legal advisor

We include a Transparency Statement and information for patient/public on requesting access to their personal health information on our website. <https://countiesmanukau.health.nz/about-us/transparency-statement/>

I trust this information satisfactorily answers your query. If you are not satisfied with this response you are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act.

Please note that this response or an edited version of this may be published on the Counties Manukau DHB website.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. Apa'.

Fepulea'i Margie Apa  
Chief Executive Officer  
**Counties Manukau Health**