

16 June 2020

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Amy S Van Wey Lovatt

By email: fyi-request-12922-4e5afdf5@requests.fyi.org.nz  
Ref: H202003922

Dear Ms Van Wey Lovatt

### **Response to your request for official information**

Thank you for your request of 29 May 2020 under the Official Information Act 1982 (the Act) for:

*“Incident reporting by DHB - standards, requirements, policies*

*Request 1:*

*Please describe the best practice for a DHB to document any unlawful acts, such as acts which are consistent with crimes under the Crimes Act, or incidents, which have the potential to cause harm to a patient or DHB employee (i.e., internal reports, eye-witness sworn statements, CCTV footage, etc.).*

*Request 2:*

*To which agency or agencies must DHB’s report unlawful acts, such as acts which are consistent with crimes under the Crimes Act, which are committed by either DHB employees, members of the DHB governance, or members of the public.*

*Request 3:*

*To which agency or agencies must DHB’s report incidents, which have the potential to cause harm to a patient or DHB employee.*

*Request 4:*

*Impersonation of a physician is fraud, and thus a crime. Further, the impersonation of a physician in a medical setting would be consistent with an incident which has the potential to cause harm to a patient. I request, for each DHB, the total number of incidents involving an allegation that a member of the public had impersonated a physician, between 1 May 2019 and 31 August 2019, and in the event there were such incidents reported, the date of the alleged incident, the names of the agencies the incidents were reported to, and a description of the evidence provided to support the allegation of the incident.*

*Request 5:*

*Unauthorised access, by a patient, to secure and restricted areas which require employee key-card access, such as surgical theatres and pathology laboratories,*

*where diagnostic and biohazardous material are kept, would be an incident which has the potential to cause harm to a patient or DHB employee. Such an incident has the potential to be a crime, if it involved breaking and entering or theft of an employee key-card. I request, for each DHB, the total number of incidents involving an allegation that a member of the public had gained unauthorised access to a surgical theatre or pathology laboratory, between 1 May 2019 and 13 August 2019, and in the event there were such incidents reported, the date of the alleged incident, the names of the agencies the incidents were reported to, and a description of the evidence provided to support the allegation of the incident.*

*Request 6:*

*According to the MoH standards and legal precedent, patients' medical records are confidential and access is restricted to the purpose in which they were obtained (for the care and treatment of the patient) and may only be accessed with the patients consent. Please refer to HISO 10064 and the Health Information Privacy Code 1994]. MoH standards (HISO 10029:2015 Health Information Security Framework) requires DHB's to take steps to protect against re-routing or interception of private (email) communications, as the interception of private communications is a crime under section 216B of the Crimes Act. I request, for each DHB, the total number of incidents involving an allegation that a DHB employee had engaged in the interception of private email communications between a patient and a DHB employee, between 1 January 2019 and 29 May 2020, and in the event there were such incidents reported, the dates of the incidents, the names of the agencies the incidents were reported to, a description of the evidence provided to support the allegation of the incident, and the outcome of the investigation into the incidents (e.g., District or High Court Case Number, Privacy Commissioner ruling, Ombudsman decision, Human Rights Tribunal ruling, etc.)."*

A response in relation to parts 1, 2 and 3 of your request is outlined below.

There is no best practice for a district health board (DHB) to document any acts as described in your request. There is also no prescribed list of agencies that DHBs are required to contact to report unlawful acts. As Crown Entities, the DHB's accountability for managing appropriate policies and processes is contained in the 'Operational Policy Framework' (OPF).

The OPF is a schedule to the DHB Crown Funding Agreement that sets out specific legislative requirements, business rules and policy/guideline principles for DHBs to adhere to. For your reference, the 2019/20 OPF is publicly available at the following link: <https://nsfl.health.govt.nz/accountability/operational-policy-framework-0/operational-policy-framework-201920>.

On 12 June 2020, parts 4, 5 and 6 were transferred to all DHBs in accordance with section 14 of the Act. You can expect a response from the DHBs in due course.

You have the right under section 28 of the Act to ask the Ombudsman to review any decisions made in your request for information.

Please note that this response, with your personal details removed, may be published on the Ministry website.

Yours sincerely

A handwritten signature in cursive script, appearing to read "M Arrowsmith".

Michelle Arrowsmith  
Deputy Director-General  
**DHB Performance, Support and Infrastructure**