

19 June 2020

Amy Lovatt

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

Dear Amy

Re Official Information Request – Fraud, unauthorisation incidents

I refer to your official information request dated 29 May 2020 to the MoH and transferred from the MoH to Auckland DHB on 12 June 2020 requesting Auckland DHB to respond to questions 4, 5 and 6 only. You requested the following:

Request 1: *(MoH to respond to this question)*

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: *(MoH to respond to this question)*

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: *(MoH to respond to this question)*

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.

Auckland DHB is unaware of any incidents involving an allegation that a member of the public had impersonated a physician between 1 May 2019 and 31 August 2019.

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.

There are no incidents in Auckland DHB's electronic incident monitoring system 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.

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.).

There are no incidents in Auckland DHB's electronic incident monitoring system 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.

You are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

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

Yours faithfully

A handwritten signature in blue ink that reads "pp RCI Percial".

Ailsa Claire, OBE
Chief Executive

