

From: Amy S Van Wey Lovatt <fyi-request-12108-26ab0a13@requests.fyi.org.nz>
To: Craig Goodwillie <Craig.Goodwillie@hdc.org.nz>
Date: 08/03/2020 11:27 a.m.
Subject: Re: Information Request

Dear Craig Goodwillie,

Thank you for your response.

Section 18(g) of the OIA states that a request may be refused on the grounds:

(g) that the information requested is not held by the department or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is either—
(i) held by another department or Minister of the Crown or organisation, or by a local authority; or
(ii) connected more closely with the functions of another department or Minister of the Crown or organisation or of a local authority:

The MoH Operational Policy Framework 2019/20, available through Nationwide Service Framework Library <<https://nsfl.health.govt.nz>>, states under section 7.5.2 "Regions should ensure that clear referral pathways are in place and known to all clinicians."

Given that every DHB must "ensure that clear referral pathways are in place and known to all clinicians", clearly such policies must exist, and thus section 18(g) cannot apply to my request.

Request 1:

Thus, I request, under section 13 and 14 of the OIA that you please assist me in obtaining these policies even if it requires transferring my request to each and every DHB or another relevant agency, which would have the required information.

Request 2:

In terms of clarification of how the policies are consistent with legislation, please explain who other than the HDC would be the most relevant to provide such information.

According to section 14 of the Health and Disability Commissioner Act 1994, (1)The functions of the Commissioner are as follows:

(a) as a first priority, to prepare a draft Code of Health and Disability Services Consumers' Rights in accordance with section 19:

(b) in accordance with section 21, to review the Code and make to the Minister any recommendations for changes to the Code:

(c) to promote, by education and publicity, respect for and observance of the rights of health consumers and disability services consumers, and, in particular, to promote awareness, among health consumers, disability services consumers, health care providers, and disability services providers of the rights of health consumers and disability services consumers and of the means by which those rights may be enforced:

(d) to make public statements and publish reports in relation to any matter affecting the rights of health consumers or disability services consumers or both, including statements and reports that promote an understanding of,

and compliance with, the Code or the provisions of this Act:

(da) to act as the initial recipient of complaints about health care providers and disability services providers, and to ensure that each complaint is appropriately dealt with:

(e) to investigate, on complaint or on the Commissioner's own initiative, any action that is or appears to the Commissioner to be in breach of the Code or, in the case of conduct that occurred before the enactment of the Code, in breach of certain disciplinary standards:

(f) to refer complaints, or investigations on the Commissioner's own initiative, to the Director of Proceedings for the purpose of deciding whether or not any further action should be taken in respect of any such breach or alleged breach:

(g) subject to section 15(2), to make recommendations to any appropriate person or authority in relation to the means by which complaints involving alleged breaches might be resolved and further breaches avoided:

(h) to prepare guidelines for the operation of advocacy services in accordance with section 28:

(i) to make suggestions to any person in relation to any matter that concerns the need for, or the desirability of, action by that person in the interests of the rights of health consumers or disability services consumers or both:

(j) on the Commissioner's own initiative or at the request of the Minister, to advise the Minister on any matter relating to-

(i) the rights of health consumers or disability services consumers or both; or

(ii) the administration of this Act:

(k) to report to the Minister from time to time on the need for, or desirability of, legislative, administrative, or other action to give protection or better protection to the rights of health consumers or disability services consumers or both:

(l) to receive and invite representations from members of the public and from any other body, organisation, or agency on matters relating to the rights of health consumers or disability services consumers or both:

(m) to gather such information as in the Commissioner's opinion will assist the Commissioner in carrying out the Commissioner's functions under this Act:

(ma) to monitor mental health and addiction services and to advocate improvements to those services:

(n) [Repealed]

(o) to perform such functions as the Commissioner is for the time being directed to perform by the Minister in accordance with section 112 of the Crown Entities Act 2004:

(p) to exercise and perform such other functions, powers, and duties as are conferred or imposed on the Commissioner by or under this Act or any other enactment.

Thus, the information I have requested is consistent with the function of the HDC, which is "in relation to any matter affecting the rights of health consumers or disability services consumers or both, including statements and reports that promote an understanding of, and compliance with, the Code or the provisions of this Act".

Thank you for your assistance with my request. I trust that the information

will be provided in a timely manner.

Kindest regards,
Amy S Van Wey Lovatt