

Amy Van Wey Lovatt

By email: fyi-request-12108-26ab0a13@requests.fyi.org.nz
Ref: H202002129

Dear Ms Van Wey Lovatt

Partial transfer of request for official information to all New Zealand District Health Boards and proposed refinement of remaining part

Thank you for your request to the Ministry of Health (the Ministry) for official information, received on 3 April 2020 for:

“Request 1: Thus, I request, under section 13 and 14 of the OIA that your 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."

The Ministry does not hold the information you have requested in part one of your request. However, I have been advised that this information is held separately by each of the 20 New Zealand District Health Board's (DHB) respectively.

As a result, I have decided to partially transfer the first part of your request to each New Zealand DHB under section 14 of the Act. You can expect a response from each DHB in due course.

Regarding part two of your request, you appear to be asking how the Health and Disability Commissioner (HDC) ensures that DHB policies are consistent with legislation. We can provide you a response on this basis. However if this is not the case, in order to identify what the Ministry can provide, it would be useful for you to refine part two of your request. For your reference information about the functions and powers of the HDC can be found on the HDC website; <https://www.hdc.org.nz/about-us/>

If you wish to discuss the proposed refinement further, please do not hesitate to get in touch.

You have the right, under section 28 of the Act, to ask the Ombudsman to review my decision to transfer your request for information.

Yours sincerely



Zoe Royden
Manager (Acting) OIA Services
Office of the Director-General