

2 December 2013

Lance-Desmond Lavery
Email: Fyi-request-1269-6b405d78@requests.fyi.org.nz

Ref: H201304485

Dear Mr Lavery

Official Information Request

Thank you for your Official Information Act request of 2 November 2013 concerning a Memorandum of Understanding between Child Youth and Family, New Zealand Police and District Health Boards.

I have attached a response to your questions. Please note that some of your questions have required a partial transfer to Child, Youth and Family which you have been advised about.

Please contact Mr Grant Pollard, Group Manager, Public Health, National Services Purchasing, National Health Board on 04 816 3428 if you have any queries regarding the response to your request for official information.

You have the right, under Section 28(3) of the Act, to ask the Ombudsman to investigate and review my decisions.

Yours sincerely



Michael Hundleby
Acting National Director
National Health Board

Attachment: Ministry of Health Response

1. Does the Ministry of Health offend any of the prescribed provisions of the Privacy Act 1993, whilst operating under the MoU between the New Zealand Police, Child Youth and Family and themselves?

No. The Ministry is not a party to the Memorandum of Understanding (MoU). Therefore, the Ministry does not offend any of the prescribed provisions of the Privacy Act 1993 concerning the (MoU).

The MoU signed in August 2011 is a joint agreement between Child Youth and Family (CYF), New Zealand Police and District Health Boards. It replaces previous MoUs to create a nationally consistent agreement to work together and offer advice to each other in the management and safety of children and young people with suspected or confirmed abuse or neglect.

2. What is the Ministry of Health's policy pertaining to breaches of privacy complaints?

The Ministry takes privacy complaints very seriously. When an affected individual or the Office of the Privacy Commissioner (the OPC) notifies the Ministry of a complaint regarding a possible breach of privacy, the Ministry investigates the complaint and reports its findings to the notifier or the OPC.

Each complaint is dealt with on a case by case basis. In general, where a complaint is substantiated, the Ministry will take steps to improve processes surrounding the management of personal information, and, where appropriate, notify and apologise to individuals affected by the breach.

If you require information about the factors in which the Ministry considers a privacy complaint, you can view the OPC's Privacy Breach Guidelines on their website at <http://privacy.org.nz/news-and-publications/guidance-notes/privacy-breach-guidelines-2/>.

3. Does CYF encourage the Ministry of Health to make notifications concerning suspicions of child abuse to them?

This question has been transferred to CYF for a response.

4. Are Ministry of Health agents held responsible for unfounded notifications?

The Ministry does not make notifications to CYF.

This question has also been transferred to CYF for a response.

5. Can a person acting within their private capacity request information pertaining to all information shared between agencies concerning themselves?

Principle 6 of the Information Privacy Principles set out in section 6 of the Privacy Act 1993 states that:

Where an agency holds personal information in such a way that it can be readily retrieved, the individual concerned shall be entitled to obtain from the agency confirmation of whether or not the agency holds such personal information; and to have access to that information.

A person is therefore entitled to request his or her personal information, including any records of his or her information being shared between agencies, subject to any exceptions which may apply under Parts 4 and 5 of the Privacy Act 1993.

6. How many notifications to CYF by the Ministry of Health have been found groundless and untrue?

This question has been transferred to CYF for a response.

7. Is there a breakdown analysis of notifications per each ethnic group?

This question has been transferred to CYF for a response.

8. What is the percentage of notifications that are made about Maori families?

This question has been transferred to CYF for a response.

9. Is the information held by the Ministry of Health private or available to anyone upon official request?

Any information held by the Ministry is "official information" under section 2 of the Official Information Act 1982.

Some of the information held by the Ministry is "personal information" which is defined in section 2 of the Privacy Act 1993 as "any information about an identifiable individual". When a person requests their personal information from the Ministry, that request will be processed in accordance with the Privacy Act 1993. The purpose of the Privacy Act 1993 is "to promote and protect individual privacy". In practice, this means that the Ministry endeavours to give individuals access to their personal information while protecting that information from unauthorised access by others.

Where anyone requests information from the Ministry about another individual, that request will be processed in accordance with the OIA. The OIA is based on the principle of availability: "information shall be made available unless there is good reason for withholding it". However, the OIA provides a number of grounds for withholding official information, one of which is to "protect the privacy of natural persons, including that of deceased natural persons" (section 9(2)(a)). This provision allows the Ministry to withhold personal information about an individual when it is requested by others.

10. Is the Minister of Health or the Chief Executive of the Ministry of Health responsible for the actions of the principal of the Ministry of Health and all sworn agents that are subject to the Health Act 1956.

The Minister of Health is responsible for the statutory functions he exercises under the Health Act 1956, including the actions of any persons to whom he has delegated his authority. The Chief Executive Officer of the Ministry is also responsible for the statutory functions he exercises under the Health Act and any actions exercised by his delegates and persons appointed by him under the Health Act to carry out certain statutory functions.