

23 August 2021

Amy Van Wey Lovatt

By email: fyi-request-16190-d418ccc6@requests.fyi.org.nz
Ref: H202109412

Tēnā koe Amy

Response to your request for official information

Thank you for your requests under the Official Information Act 1982 (the Act) to the Ministry of Health (the Ministry) on 26 and 27 July 2021 for information regarding critical incident reporting at district health boards (DHBs), including specifically Waikato DHB.

On 26 July 2021, you requested:

I am requesting copies of ALL critical incidents reported to the MoH by Waikato DHB, between 1 January 2018 to 26 July 2021.

I also request copies of ALL critical incidents reported to the MoH in which the critical incident occurred at Waikato DHB, yet was submitted by another agency or person, between 1 January 2018 to 26 July 2021.

On 27 July 2021, you requested:

(1) Must DHBs use the Critical Incident Reporting form on the MoH website to report incidents to you, the Director General, as mandated under section 31(5) of the Health and Disability Services (Safety) Act 2001?

(2) If DHBs do not use this form, I request the documents, policies, guidelines, etc, which provide information on how DHBs must report critical incidents to you, the Director-General, as mandated under section 31(5) of the Health and Disability Services (Safety) Act 2001.

(3) I also request copies of the forms the DHBs must use to report incidents to you, the Director-General, as mandated under section 31(5) of the Health and Disability Services (Safety) Act 2001.

(4) I request documents on how critical incidents are handled by the Ministry of Health, where those documents are stored, and for the length of time in which they are stored.

*(5) I request communications from the Ministry of Health to the Office of the Ombudsman which stated that DHBs do not need to report critical incidents to the Ministry of Health, even though this is mandated by parliament in section 31(5) of the Health and Disability Services (Safety) Act 2001. I reference the response from the Ombudsman dated 23 July 2021 (complaint# 529968) which may be accessed here:
<https://scanmail.trustwave.com/?c=15517&d=lfX->*

4F9pZ7tZNeuTvkXaKQ5sOtqsLXScJohsfqlkQA&u=https%3a%2f%2fdrive%2egoogole%2ecom%2ffile%2fd%2f1AMO2oK7xNdBlrCEa1X5jl9fD9vVYmjJT%2fview%3fusp%3dsharing

On 27 July 2021, you also requested:

I am writing to request the documents of the client's who are Disability Support Services (DSS) funded.

On 30 July 2021, you requested:

Are DHBs required to submit the Critical Incident Report form to you or do they follow a different process to report incidents to the Director General in accordance with section 31 of the Health and Disability Services (Safety) Act 2001?

*I note that the Critical Incident Report form on the MoH website specifically references this section of the aforementioned Act. The website is as follows:
<https://www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/reporting-critical-incidents-and-death-service>*

I note that according to the MoH website, HealthCERT is responsible for ensuring hospitals, rest homes, residential disability care facilities and fertility providers provide safe and reasonable levels of service for consumers, as required under the Health and Disability Services (Safety) Act 2001.

I also note that HealthCERT's contact details are within the Ministry of Health. To clarify, is HealthCERT a division of the Ministry of Health, or do they report to the Ministry of Health, or Director-General Bloomfield?

As you have been previously advised, there is also no prescribed list of agencies that DHBs are required to contact to report unlawful acts. As Crown entities, 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. The 2019/20 OPF is publicly available at: www.nsf.health.govt.nz/accountability/operational-policy-framework-0/operational-policy-framework-201920.

As the Ministry also previously advised you, Critical Incidents are reported by the disability service providers to the Ministry of Health, not individual DHBs.

Information on reporting critical incidents can be found on the Ministry's website at: www.health.govt.nz/our-work/disability-services/contracting-and-working-disability-support-services/reporting-critical-incidents-and-death-service.

I can confirm that HealthCERT are a team within the Ministry's Health System Improvement and Innovation Directorate. Further information about HealthCERT can be found on our website: www.health.govt.nz/our-work/regulation-health-and-disability-system/certification-health-care-services

Information in scope of your request for:

documents of the client's who are Disability Support Services (DSS) funded

Is withheld in full under section 9(2)(a) of the Act, to protect the privacy of natural persons.

Please note, if you continue to make the same or similar requests for information regarding critical incidents such requests may be refused under section 18(h) of the Act as vexatious.

As you are aware, under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'Nick Allan', with a long horizontal stroke extending to the right.

Nick Allan
Manager, OIA Services
Office of the Director-General