

CORPORATE OFFICE

Level 1
32 Oxford Terrace
Christchurch Central
CHRISTCHURCH 8011

Telephone: 0064 3 364 4160
Fax: 0064 3 364 4165
carolyn.gullery@cdhb.health.nz

30 May 2019

9(2)(a)

RE Official Information Act request CDHB 10086

I refer to your email dated 19 April 2019, and received 23 April 2019, requesting the following information under the Official Information Act from Canterbury DHB regarding the Minutes for the Hospital Advisory Committee meeting held on 4 April 2019 pertaining to the Intellectual Disability Service (IDS) (Page 90): Specifically.

1. The letter of concern sent from senior clinicians to the Ministry of Health.

Please find attached as **Appendix 1**.

2. Correspondence between the CDHB and the Ministry regarding funding for the intellectual disability service, specifically notification there would be no increase.

In terms of the correspondence, please provide any correspondence regarding funding for a month either side of the notification that funding would not be increased.

Please find attached as **Appendix 2**.

Please note we have redacted information under section 9(2)(a) of the Official Information Act i.e. *"...to protect the privacy of natural persons, including those deceased"*.

I trust that this satisfies your interest in this matter.

If you disagree with our decision to withhold information you may, under section 28(3) of the Official Information Act, seek an investigation and review of our decision from the Ombudsman. 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 Canterbury DHB website after your receipt of this response.

Yours sincerely



Carolyn Gullery
Executive Director
Planning, Funding & Decision Support

19 April 2017

Jill Lane
Director, Service Commissioning
Ministry Of Health
PO Box 5013
Wellington 6140

Dear Ms Lane,

Re: Critical under-resourcing in Regional Intellectual Disability Secure Care

As regional and national providers of secure care under the Intellectual Disability (Compulsory Care and Rehabilitation) Act (the IDCC&R Act), we have a strong commitment to the provision of appropriate care to one of the most disadvantaged and vulnerable populations of health care recipients in New Zealand: Patients under the IDCC&R Act or accepted as eligible for NIDCA funded services. However, in recent years we have collectively become increasingly concerned at the under resourcing of this sector. Our concerns have been expressed to the Ministry of Health previously, but there has been no substantive change to the volume of services purchased, and we therefore feel this correspondence is necessary to ensure you are properly appraised of the national picture, and sincerely hope that this leads to more productive discussions going forward.

By way of background, you will be aware that the IDCC&R Act establishes a legal framework which authorises the provision of compulsory care and rehabilitation to individuals with an intellectual disability who have been charged with, or convicted of, an imprisonable offence.

The stated purposes of the Act (as set out in section 3) are:

- *“To provide the courts with appropriate compulsory care and rehabilitation options for people who have an intellectual disability and who are charged with, or convicted of, an offence*
- *To recognise and safeguard the special rights of individuals subject to the Act*
- *To provide for the appropriate use of different levels of care for individuals who, while no longer subject to the criminal justice system, remain subject to this Act.”*

When the IDCC&R Act came into force the Ministry of Health’s guide to the Act said that it *“provides the courts with the ability to order individuals who have been charged with or convicted of an imprisonable offence to accept compulsory care and rehabilitation within the system created by the IDCC&R Act.”*

The different categories of individuals to which the Act applies are also described in the guide:

- *“individuals being held pending trial or sentence*

- *individuals who are undergoing assessments to allow the criminal courts to decide whether they should be subject to the IDCC&R and to help the court to determine what type of order is appropriate*
- *individuals who are subject to court orders made under the CP(MIP) Act*
- *individuals transferred from prisons and from the mental health services.”*

The resourcing challenges experienced by each regional provider are more fully discussed below, but in a general sense the following concerns are considered by those working in the sector to be widespread, affecting all aspects of secure service provision, both hospital based and in the community. The failure to ensure adequate capacity within the sector is such that there is now a serious and in some areas imminent risk of harm to those individuals unable to access the appropriate care, as well as to service providers and their staff who are attempting to provide care in existing services and the community. It is apparent that the current level of resourcing is not sufficient to enable the provisions within the IDCC&R Act to be fulfilled in accordance with the underlying purposes of the Act.

The list of concerns summarised below for each of the groups of individuals to which the Act applies (see above), all stem from the manifestly inadequate number of assessment and care and rehabilitation beds for individuals who are either under, or who arguably should be under, the IDCC&R Act:

- *Individuals being held pending trial or sentence:*

Prisoners on remand with known or possible intellectual disability (ID) have little prospect of being able to access a hospital secure bed. Periods on remand can be lengthy due to the slow nature of the pre-IDCC&R Act court processes (assessments of fitness to stand trial, ascertaining criminal involvement, remand pending trial for those found fit). In these pretrial or presentencing stages of the criminal justice process, remand prisoners, even those who have previously been accepted under compulsory care orders, are not officially under NIDCA or any other oversight and appropriate care and rehabilitation cannot be accessed.

- *Individuals who are undergoing assessments to allow the criminal courts to decide whether they should be subject to the IDCC&R Act and to help the court to determine what type of order is appropriate:*

The limited bed capacity means that assessments of this population must happen in prison (at the assessment of fitness stage) or a community secure residence, neither of which may be clinically appropriate in many cases.

- *Individuals who are subject to court orders made under the CP(MIP) Act:*

Recommendations to Courts and Parole Boards are increasingly framed by real world availability of resources, rather than by principled argument. This has the effect of burying the true size of unmet need, while also exposing the individual, the sector and providers to risk.

- *Individuals transferred from prisons and from the mental health services:*

Sentenced prisoners with an ID have very little realistic prospect of admission to a care and rehabilitation bed. The lack of screening within corrections limits the identification of prisoners with ID and those who have been identified are subject to lengthy delays due to a lack of provision in secure ID services. The prison system is populated with many intellectually disabled persons who have limited access to appropriate interventions. It is evident that they do not have equal access to the healthcare that every other disabled citizen of New Zealand has access to.

- *Individuals with an intellectual disability inappropriately admitted to Forensic Mental Health Services*

Forensic Mental Health services are admitting significant numbers of ID patients to beds that have been set up for individuals who are mentally ill rather than ID. These individuals tend to be extremely complex clinically, and cause huge disruption to the clinical care in the units they are admitted to. Although there has been a willingness to assist where possible, it is not clear that service providers will continue to provide this manifestly unsatisfactory 'solution' without a clear commitment from the Ministry of Health to increase the volume of Forensic ID beds purchased.

There is a lack of transparency or visibility of the scope of these issues as no 'waiting lists' formally exist and no tracking of placement breakdowns at lower levels of security or recidivism whilst under orders or following the end of orders is tracked. There is consequently no way of knowing the true extent of the unmet need.

Northern Region Issues (Waitemata DHB)

Dr Jeremy Skipworth, Clinical Director, Auckland Regional Forensic Psychiatry Service, Waitemata DHB

At the Hospital Secure level of care, Waitemata DHB is funded to provide 10 care and rehabilitation beds, and 2 assessment beds. The Northern Region (Taupo to Northland, including Auckland) is the largest of the NIDCA regions by population, but unlike the Central and Southern regions in New Zealand, Waitemata DHB has no access to step-down beds on the hospital campus. This region also lacks access to local hospital level youth or women's services to manage people with ID before they reach the point of qualifying for the beds available in Porirua. This creates a major gap in the necessary continuum of care, as patients rehabilitating back to the community must at some stage move from a secure hospital bed to a community residence without any possibility of testing rehabilitative gains in a step-down hospital level environment. The risks of this process have been exposed by a number of serious incidents at the point of transition.

The existing WDHB beds became operational in 2006. Since that time the Auckland population increased by well over 10% and the regional prison population has increased by more than 50%. At the same time there has been no increase in hospital secure bed provision.

In 2015 WDHB signaled to the Ministry that at a minimum an additional 8 step-down care and rehabilitation beds were required immediately. We were advised that a funding allocation

would be sought, but were then further advised that this was unsuccessful. At this point a proposed review of the availability of spare hospital capacity in other parts of the country was commissioned. This review has subsequently identified a national crisis in available hospital level ID secure beds and has further identified a growing issue around the need for long stay provisions for a group of high risk service users requiring hospital level oversight rather than transition through step down facilities.

New Zealand's only high secure prison (Auckland Regional Prison at Paremoremo) lies within the Northland DHB catchment area. Sentenced prisoners with high security classifications including prisoners on indeterminate sentences are disproportionately over-represented in the Northern Region. A number of very long serving sentenced prisoners with ID have been identified whose passage through Corrections has been impeded by lack of access to suitably adapted ID offence related rehabilitation programmes in Corrections, and a lack of bed availability for transfer to a hospital level secure ID facility.

The lack of beds contributes also to a lack of flexibility which arguably slows rehabilitative progress. This is seen for example in a single unit catering to a spectrum of levels of cognitive disabilities and to a range of underlying contributory causes of the intellectual disability and is most apparent in the difficulty in managing people on the autistic spectrum of disorders alongside people with ID not on the spectrum.

Midland Region Issues (Waikato DHB)

Derek Wright, Executive Director Mental Health and Addictions Services, Waikato DHB

The Midland region has experienced a significant population increase since the purchase of these services in 2003. In addition to the volume increase generated by population growth this region has also been impacted with the opening of a very large prison (Spring Hill). In contrast to the population increase the number of contracted ID beds for this region has reduced in volume over this time. The future growth in this area is also significant with a major prison development planned for the Waikeria site, which will impact on Forensic services and the care provisions required for the intellectually disabled population. Presently those requiring fitness assessments often remain in a prison environment which does not meet the care needs of their intellectual disability.

A significant challenge for Midland is the clinical and operational impact of delivery in a forensic acute inpatient mental health ward, a setting that is sub-optimal for those with ID. This environment also has no ability to separate youth or female patients. Without sufficient volume it is not possible to establish dedicated services or meet population needs. The challenge of having to provide a gender appropriate environment does mean that at times capacity is reduced in that environment to accommodate this and alternatives need to be found. This dilutes the population across multiple units, meaning that the ability to have the appropriate skilled staff available proves increasingly challenging. Individuals with an intellectual disability who require non-forensic care are admitted to adult acute psychiatric wards, again an environment which does not support best practice.

There is inadequate training of comprehensive nurses to support individuals with an intellectual disability both as an inpatient and in the wider community setting. It will be important in the

future to revisit what is required in terms of undergraduate or post graduate education to ensure that as psychopaedic nurses retire there are adequately trained nurses for the future.

Central Region Issues (Capital & Coast DHB)

Nigel Fairley, General Manager Mental Health and Addictions Services, Capital & Coast DHB

While having both a RIDSS with step down cottages and the National Youth Unit Central region is impacted slightly differently than the other major RIDSS, being Pohutukawa. The issues specific to Central are the volume pressures caused by being a repository for long stay individuals who often do not return to their region of origin. This generates an inability to transition and exit creating blocked beds. In addition a notable decline in the capability of mainstream NGO disability providers has impacted the hospital services with significantly increased numbers of existing DSS service users coming before the Courts and encountering ID High Complex Services and the NIDCA for assessment. This increased demand at hospital level is not always directed at inpatient ID services it has a collateral spill over impacting community and inpatient mental health services.

Upper South Island Region Issues (Canterbury DHB)

Dr Peri Renison, Chief of Psychiatry and Toni Gutschlag, GM mental health, Canterbury DHB

As a consequence of inadequate service planning and resourcing, the regional secure beds in Canterbury were placed in the AT&R unit (an Assessment Treatment and Rehabilitation unit for adults with an Intellectual Disability). It has become apparent in the years following the implementation of the Act, that those subject to an order under the IDCC&R Act have included both individuals known to disability services historically and a group of individuals not traditionally under the care of disability services. Despite this, there has not been a review of the resources required to provide services for the greater heterogeneity and clinical complexity of this group.

As a consequence the AT&R unit has experienced repeated crisis in relation to the risks associated with the care consumers, and staff, particularly in the area of assault, vulnerability (including those under 18) and gender. In the absence of a purpose built forensic Intellectual Disability unit, the AT&R unit which has a physical capacity of 10 beds (including assessment and rehabilitation beds), is typically limited to 7 consumers. Beyond this number the risks (including risk of violence) become unacceptably high for both consumers and staff.

Further, there is a funding discrepancy that does not reflect consumer care needs. Where a care recipient whose order under the IDCC&R Act ceases, transitions to the (lower funded) AT&R beds, despite their risks and care needs remaining unchanged.

In order to manage the escalating risks to consumers and staff, crisis responses are regularly deployed including increased staffing resource. You will be aware that two intellectually disabled patients have been placed in the forensic mental health service, reducing the capacity of the forensic service for forensic mental health patients and preventing the patients from receiving a disability- appropriate service. Their placement has also repeatedly been highlighted as a significant breach of rights by the district inspectors in their quarterly reports to the

Director of MH. One of these men has lived in the forensic unit for well over ten years despite many discussions with MOH about the need for a suitable placement for him.

The Canterbury RIDSS service has the capacity to instigate an escalation process through NIDCA in a crisis, however the lack of capacity in the National Units (Adult and Youth) means this is an impotent process in reality.

Canterbury, like Central and Northern Districts does not have access to step-down facilities and we have found it almost impossible to access the national youth secure unit. There are no clear guidelines on how districts can access the national units.

Although both MOH and NIDCA have acknowledged that three current inpatients should not be in our services based on their risk and/or age related needs, there has been no urgent action, which one assumes is a consequence of the lack of services across the country. The regular admissions of youth under 18 to the AT&R unit by NIDCA is not consistent with the need for care to be provided in a youth service, in accordance with the Ministry of Health's expectation that we meet the requirements of the United Nations Convention for the Rights of Children (UNCROC). Young people have experienced fear and harm in the AT&R service, often being witness to violence.

The levels of concerns in Canterbury are such that we are preparing to close other mental health inpatient services in case we need to divert staff from one service to another should AT&R staff refuse to take the floor due to safety issues (as being advised to by their unions). Alternatively all patients would need to be transferred to Police or another facility. This is an unacceptable situation for patients, our staff and our community and it appears we are in the midst of a national system failure for RIDSS and possibly RIDCA.

The MOH is responsible for the planning and funding of appropriate services for disabled people however we don't see any movement in terms of expanding these services or any urgency with responding to the issues we are raising.

Lower South Island Region Issues (Southern DHB)

Steve Bayne, Acting GM Mental Health and Addictions, Southern DHB

The Otago and Southern regions have not experienced the volume pressures experienced by the other four regions; however we are significantly impacted by the issue of managing youth in a complex adult inpatient setting.

These include the increasingly complex mix of patients on the ward and particularly the issue of managing youth in a complex adult inpatient setting (as noted by Canterbury there are no ID youth beds purchased regionally); there is a lack of local capacity by local RIDSAS services resulting in significant delays in discharge; the ward environment is not purpose built and increasingly unsuitable given the changing patient mix contributing to increased difficulty managing patient aggression on the ward; there is limited capacity to transfer patients to more secure inpatient settings.

Summary

All DHBs involved in the provision of care under the IDCCR Act are very concerned at the current under-funding for this important area of healthcare. We believe statutory obligations under the IDCC&R Act are not being met nationally, and the population intended to benefit from this legislation are being so poorly served that we are now at a crisis point.

The impact this is currently having on individuals who ought to be able to access these services, on staff attempting to provide appropriate care, and on related Forensic Services which are increasingly being asked to accommodate the current service gap is not appropriate or sustainable.

There are systematic capacity failures affecting large parts of the national service provision including the number of hospital and community secure beds for adults, and youth beds. The failure to provide adequate numbers of extended care beds and step down beds, compounds the crisis by preventing the 'flow' through the system.

A comprehensive independent review of the sector is urgently needed so that the current deficits and concerns identified can be formally described, quantified, and a plan for their remedy supported by Ministry of Health.

We would welcome the opportunity to be involved in any such review, and look forward to your response to the issues raised. We are also available to meet with you as we work to resolve these issues.

Yours sincerely

Dr Jeremy Skipworth
DAMHS and Clinical Director ARFPS
Waitemata DHB

Nigel Fairley
Managing Director MHAIDs
Capital Coast DHB

On behalf of Waitemata DHB, Waikato DHB, capital and Coast DHB, Canterbury DHB, Southern DHB

CC:

Dr John Crawshaw Director of Mental Health, Ministry of Health
David Rutherford, Human Rights Commission
Judge Andrew Beacroft, Children's Commission
Office of Disability Issues
Anthony Hill Health and Disability Commissioner
Judge Peter Boshier, Office of the Ombudsman

RELEASED UNDER THE OFFICIAL INFORMATION ACT

From: Tina_Ririnui@Moh.govt.nz
Sent: Tuesday, 2 April 2019 12:42 p.m.
To: Toni Gutschlag
Subject: RE: ATR and RIDSS request for increased funding

Hi Toni

Sorry I don't know what I have done to my laptop all of a sudden the keyboard and laptop had a mind of its own and you got the HI TONI sorry about that, I swear technology hates me at times lol.

Anyhow my email to you was to reassure you that I would be looking at past correspondence and will ensure that the new CRM, Prema Mani, who has worked for the Ministry previously and who starts this week makes contact with you once she has settled into the role.

Kind regards

Tina Ririnui
 Manager, Community Living Team
 Ministry of Health

9(2)(a)

From: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
 To: "Tina_Ririnui@Moh.govt.nz" <Tina_Ririnui@Moh.govt.nz>
 Date: 02/04/2019 12:18 p.m.
 Subject: RE: ATR and RIDSS request for increased funding

?

From: Tina_Ririnui@Moh.govt.nz [mailto:Tina_Ririnui@Moh.govt.nz]
Sent: Tuesday, 2 April 2019 12:05 p.m.
To: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
Subject: RE: ATR and RIDSS request for increased funding

HI TONI

Kind Regards

Tina Ririnui
 Manager, Community Living Team
 Ministry of Health

9(2)(a)

From: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
 To: "Tina_Ririnui@Moh.govt.nz" <Tina_Ririnui@Moh.govt.nz>,
 Cc: "Amanda_Smith@MOH.govt.nz" <Amanda_Smith@MOH.govt.nz>, "Anna_Long@MOH.govt.nz" <Anna_Long@MOH.govt.nz>
 Date: 29/03/2019 05:14 p.m.
 Subject: RE: ATR and RIDSS request for increased funding

Thank you for coming back to me Tina.

I appreciate that you are coming in new but we really can't start at square one with all of this. There is a long history of engagement between CDHB and MOH on these issues and intensive engagement over the last year or so. I'm assuming you have access to minutes, emails, etc from your colleagues and previous staff?

We have been and continue to be open to exiting the AT&R contract, we have been advised the MOH are leading/will lead work to explore what this will look like so that it is clear to all providers what alternative supports are available if this service option doesn't exist. Amanda and others have identified there are community capacity and capability issues in Chch that the MOH needs to address.

I will inform our executive.

Regards
 Toni

Toni Gutschlag
 General Manager - Mental Health

Canterbury District Health Board
 Hillmorton Hospital, Private Bag 4733, Christchurch 8140
 9(2)(a)

e: toni.gutschlag@cdhb.health.nz

 our health system

From: Tina_Ririnui@Moh.govt.nz [mailto:Tina_Ririnui@Moh.govt.nz]
Sent: Friday, 29 March 2019 4:29 p.m.
To: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
Cc: Amanda_Smith@MOH.govt.nz; Anna_Long@MOH.govt.nz
Subject: RE: ATR and RIDSS request for increased funding

Hi Toni

I fully appreciate the pressure your service is under. Many parts of the disability support system are experiencing similar pressures and we simply do not have any available funding to address these pressures at the moment.

Within the current funding, we would be open to a discussion about reconfiguring the service. As you can appreciate, I am new to this area and will need to understand the history of ATR being provided in your region only (although I understand Southern has a similar contract). In other areas, providers are expected to manage clients with complex behaviours without access to ATR beds - we would like to see this happen in Christchurch also.

I will talk to my colleague Amanda Smith on Monday and we can perhaps come back to you to arrange a meeting to discuss further some options.

I am sorry this is not better news for your service and thank you for your continued support to these clients.

Kind Regards

Tina Ririnui
 Manager, Community Living Team
 Ministry of Health

9(2)(a)

From: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
 To: "Tina_Ririnui@Moh.govt.nz" <Tina_Ririnui@Moh.govt.nz>,
 Cc: "Anna_Long@MOH.govt.nz" <Anna_Long@MOH.govt.nz>, "Amanda_Smith@MOH.govt.nz" <Amanda_Smith@MOH.govt.nz>
 Date: 29/03/2019 10:23 a.m.
 Subject: RE: ATR and RIDSS request for increased funding

Kia ora Tina,

Further to our brief conversation this morning I am sending an email as requested.

I am extremely disappointed by your decision not to apply any increase in funding for these services. We had been given strong signals that this was to be approved. We provided detailed cost information at the MOH's request so you will be aware that CDHB incurs a loss of more than \$1m per year in the provision of these services, it is both unsustainable and unconscionable that mental health funding be used in this way. We are aware that we receive the lowest rate of funding for these services out of all of the DHB's.

I note your commitment to working with us on how the service can best be delivered within the funding available, the only option I see is a dramatic reduction in service provision but perhaps you have some other options?

Regards
 Toni

Toni Gutschlag
 General Manager - Mental Health

Canterbury District Health Board
 Hillmorton Hospital, Private Bag 4733, Christchurch 8140 |

9(2)(a)

e: toni.gutschlag@cdhb.health.nz

 our health system

From: Tina_Ririnui@Moh.govt.nz [mailto:Tina_Ririnui@Moh.govt.nz]
Sent: Friday, 29 March 2019 7:59 a.m.
To: Toni Gutschlag <Toni.Gutschlag@cdhb.health.nz>
Cc: Anna_Long@MOH.govt.nz; Amanda_Smith@MOH.govt.nz
Subject: ATR and RIDSS request for increased funding

Kia Ora Toni

Firstly I would like to apologise for the delay in getting back to regarding this request for a price increase for ATR and RIDSS services delivered by CDHB.

We have recently reviewed Karen Smith's paper and the request for an increase has been declined. Unfortunately DSS is not in a position to fund any price increases this year outside of those committed to through the pay equity settlement.

We are committed to continuing to work with you on how the service can best be delivered within the funding available.

Kind regards

Tina

Tina Ririnui | Manager | Community Living | Disability Directorate | Ministry of Health | 9(2)(a) [Redacted]



Statement of confidentiality: This e-mail message and any accompanying attachments may contain information that is IN-CONFIDENCE and subject to legal privilege.

If you are not the intended recipient, do not read, use, disseminate, distribute or copy this message or attachments.

If you have received this message in error, please notify the sender immediately and delete this message.

This e-mail message has been scanned for Viruses and Content and cleared by the Ministry of Health's Content and Virus Filtering Gateway

Statement of confidentiality: This e-mail message and any accompanying attachments may contain information that is IN-CONFIDENCE and subject to legal privilege.

If you are not the intended recipient, do not read, use, disseminate, distribute or copy this message or attachments.

If you have received this message in error, please notify the sender immediately and delete this message.
