

14 August 2019

Re: Official Information Act request – CAMHS Whanau Disclosure Policy

I refer to your Official Information Act request dated 7 July 2019 requesting the following information

I am inquiring as to what your CAMHS providers' policy is regarding:

- 1. When/if they disclose to family that they are assessing/treating a young person;**
- 2. Whether they require caregivers' consent for a young person to access services**
- 3. (if so, what occurs if whanau does not consent);**
- 4. And whether there are additional considerations made e.g. the age of the young person, their capacity to consent, cultural considerations.**

CAMHS operates in accordance with New Zealand law in respect to how consent to provision of health services is to be achieved and what disclosure may be made rather than applying an internal policy. It is impossible in response to an OIA request to provide what is the equivalent of legal advice. We note that the nuances of the law in regard to consent, including consent by young persons, and disclosure of health information are discussed at length in legal texts and articles, for example Skegg and Paterson – *Health Law in New Zealand*, and on the website of the Office of the Privacy Commissioner.

1. Family are normally aware the young person is being assessed or treated at the point of referral, i.e. before they are first seen. It is difficult to provide effective treatment without family involvement or at least awareness and disclosure to caregivers/whānau is inherently lawful

Exceptions may include emergency assessments where family cannot be contacted prior to assessment.

2. The law contemplates young people being seen without caregivers' consent but this is uncommon and not preferred. Whānau are usually needed for effective treatment and for ensuring safety of the young person.
3. If whānau do not consent to assessment or treatment our response varies depending on whether this represents a reasonable option, a care and protection issue (decline of necessary treatment), or whether the assessment or treatment is essential for immediate safety or wellbeing of the young person. All of these matters being relevant to whether or not proceeding is lawful. There is a statutory provision specifying that a young person 16 years and above is able to consent to assessment and treatment. A young person below this age may also be assessed as having capacity to consent. However, as above, effective treatment usually involves whānau.
4. Age of the young person, capacity to consent and cultural considerations are routine considerations in all assessment and treatment decisions.

I trust this information answers your questions.

You are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act. 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 Auckland DHB website.

Yours faithfully



Ailsa Claire, OBE
Chief Executive