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OPCAT COVID-19 report

Report on inspections of aged care facilities under the Crimes of Torture Act 1989

August 2020

Ombudsman
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Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata

these unprecedented times were being treated. Several aged care facilities in New Zealand were experiencing clusters of the disease and sadly, a number of people died. My impartial monitoring of these places provides Parliament and the New Zealand public with reassurance about two areas in particular – that the facilities were doing all they could to prevent the virus spreading to those most at risk, and that steps were being taken to ensure the basic human rights of residents were protected.

Independent monitoring remains an essential preventive safeguard for the proper treatment of people who cannot leave a facility at will. It provides confidence to the New Zealand public that our most vulnerable people are being treated fairly. While firm action to respond to COVID-19 and to keep people safe from the virus is necessary, extraordinary measures must not have an unnecessary or disproportionate impact on people's rights. It is important to note that human rights are inalienable; even during these extraordinary times people can expect to be treated with care and respect.

I am pleased to report that I received warm feedback from the facility managers and their staff on site about their experience of the inspections. Many of the families whose loved ones were detained there also responded positively.

Executive summary

This report outlines my key findings, suggestions, and recommendations in relation to OPCAT COVID-19 inspections of six secure aged care facilities[11] (the Facilities) between 17 April and 8 May 2020. These inspections took place during Alert Levels 3 and 4 (also referred to in this report as 'lockdown').[12]

As expected, the focus of all Facilities was on their residents' wellbeing. It was clear from these inspections that this was a challenging time, however, the Facilities were taking steps to keep residents safe. Overall, managers and staff were committed to minimising the impact that COVID-19 was having on residents.

Health and safety

All Facilities were able to provide policies and plans on infection control, and access to handwashing and hygiene facilities was good. All but one Facility had hand sanitisation stations mounted on walls.

All Facilities applied the 'bubble' strategy to prevent COVID-19 from entering their premises. While it was reassuring to find that all Facilities were applying this practice in line with infection prevention measures, I had some concerns about the definition of some Facilities' 'bubbles'. In some Facilities it was unclear whether the 'bubble' was an individual unit or the entire Facility. Facilities had established entry and exit procedures as an infection control procedure – for example, signing a health declaration, hand sanitisation, temperature checks. Personal protective equipment (PPE) practices varied across Facilities. In some Facilities PPE was not applied consistently by visitors.

11 The Chief Ombudsman inspects aged care facilities where residents are unable to 'leave at will'.

12 See Appendix 1 for more about New Zealand's COVID-19 alert system.

Staffing

The Facilities' staff showed resilience during this unprecedented, stressful time. From my inspections, it appeared that management and staff had good rapport, and management had taken steps to respond to staff's changing needs during this time.

Recommendations and suggestions

I made specific recommendations and/or suggestions for improvements to residents' treatment and conditions in individual reports to each Facility. The Facilities were provided with an opportunity to comment on my findings, suggestions, and recommendations.

Inspection methodology

My Inspectors conducted six inspections of secure aged care facilities in Auckland, Christchurch, and Waikato, located in the Auckland, Waitematā, Waikato, and Canterbury District Health Board regions.

When choosing where to inspect, I selected a small sample of secure aged care facilities that provide dementia and psychogeriatric care beds. I chose facilities across different geographic regions and facilities of different sizes. The Facilities ranged from a single unit of 18 beds to a five-unit Facility with 100 beds.

Each inspection was carried out by a team of three Inspectors (the Teams). The inspections each lasted around two hours. This time included speaking to managers and staff, and touring the Facility.

Inspectors wore personal protective equipment (PPE) to conduct the inspections.[13]

Each Facility was given advance notice of the inspection. At the point of announcing the inspection, information about the Facility was requested, including health and safety policies, COVID-19 and pandemic plans, and information about the daily running of the Facility.

My Teams spoke to some staff by telephone after the physical inspections. An online survey was sent to residents''points of contact'[14] from each Facility to hear from whānau about their experience of staying in touch with residents and communicating with the Facilities during Alert Levels 3 and 4.

13 Inspectors were supplied with disposable masks, gloves, aprons, and shoe covers by the Office of the Ombudsman and wore any other PPE as agreed with the Facility at the time of inspection.

14 The person or people the facility contacts on matters concerning the resident. This might include, for example, a friend or whānau member with enduring power of attorney.

concerns. Managers were aware of the difficulties their staff were facing and had taken steps to support them and respond to staff's changing needs during this time.

Some of the Facilities told my Inspectors about additional steps they were taking to communicate with their staff about COVID-19. This included, for example, additional staff meetings and text communications.

Training

Good training must be provided to ensure staff are able to offer the highest possible standard of care to residents in the Facility. Training to prevent and respond to COVID-19 must be timely, up-to-date, and in line with the latest authoritative clinical information.

Managers at most of the Facilities told my Teams about the recent training their staff had undertaken prior to or during Alert Levels 3 and 4. My Teams were advised that training conducted included use of PPE; infection control; hand hygiene; and COVID-19 symptoms and procedures.

These are positive steps taken by Facilities to ensure the health and safety of both residents and staff.

Recommendations and suggestions

I am empowered by section 27 of the Crimes of Torture Act 1989 to make recommendations for improving the conditions and treatment of detention applying to detainees and for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention. In some instances, where a statutory recommendation was not required, I made suggestions to Facilities for improving conditions and treatment.

As I explained above, I have decided not to name the individual Facilities inspected. However, my recommendations and suggestions may provide useful insights for secure aged care facilities throughout the country.

I made four recommendations across two Facilities:

- The Facility clearly defines the composition of its 'bubble'. The use of PPE by those not included in the Facility's 'bubble' is applied consistently.
- Applications for exemptions are considered and, where appropriate, visits are facilitated, such as for residents receiving palliative care.
- Only clinical or health care staff are present during medical or health-related procedures, including COVID-19 testing, and contemporaneous records are kept.
- Hearing aids are provided to residents with hearing impairments who wish to use them so they can communicate in the COVID-19 environment.

I also made 21 suggestions across all six Facilities:

Health and safety

- The Facility considers the size and integrity of its 'bubble', and is clear and consistent in its 'bubble' management during the pandemic.
- The Facility review its position on physical distancing, and ensure that staff understand and are supported to implement this practice.
- Information for residents, such as signs about the importance of regular and effective handwashing, is displayed in accessible formats throughout the Facility.
- Install wall-mounted hand sanitisation stations in communal areas so that residents can freely sanitise their hands without relying on staff.
- Consideration is given to ensuring residents are able to access safe and timely medical assistance at all times, including whether adjustments are needed during the current pandemic.
- The Facility takes additional steps to ensure resident safety and prevent injury, in a manner that respects personal dignity.
- The courtyard's grass is regularly mowed to reduce risk of residents tripping or falling.

Contact with the outside world

- Greater emphasis is placed on communicating proactively with residents about any limitations imposed on the number of visitors they may receive during the pandemic, and alternative ways of communicating with whānau.
- Continue to publish guidance for whānau which outlines key COVID-19 policies.
- Explore the possibility of continuing religious or spiritual services by digital means, such as Skype or Zoom.

Dignity and respect

- All staff at the Facility are reminded that residents are to be spoken about with dignity and respect.
- The particular needs of vulnerable groups among residents, including those with additional disabilities, are identified and met by the Facility.
- The specific needs of residents, including disability related needs, be taken into account when planning or implementing infection control practices, particularly during COVID-19 Alert Levels 1-4.
- More is done to integrate and reflect te ao Māori in a broader sense within the Facility.
- Investigate ways of managing medically isolated residents' bathroom needs, according to their individual preference.
- There is clear communication with residents about their options for exercise at all COVID-19 Alert Levels, in order to promote their independence and well-being.

Protective measures

- Residents are supported to express their concerns and make complaints.
- Feedback and comments boxes are also provided within the Facility in places accessible to residents, that residents are made aware of how to use these, and are freely encouraged and able to do so.
- Adequate systems are put in place to ensure complaints are documented and appropriately responded to.
- Residents are further supported to express their concerns and make complaints.

Staffing

- Sufficient staff are available to assist residents throughout the Facility.

Acknowledgements

I am grateful to Facility staff for supporting my Inspectors in conducting their inspections. I appreciate that this is a difficult time, and am heartened by the helpful approach taken by management and staff. I acknowledge the work that would have been involved in collating the information sought by my Inspectors.

Also, thank you to the whānau around the country who have discussed difficult and personal information with my Teams.

Finally, I would like to thank my Inspectors and supporting staff for the work undertaken during this challenging period.

Peter Boshier

Chief Ombudsman

National Preventive Mechanism