Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Commissioner-Initiated Investigation into delays in provision of non-surgical cancer services

22HDC01310

The Health and Disability Commissioner has found Southern District Health Board (now Te Whatu Ora Southern) breached the Code of Health and Disability Service Consumers' Rights (the Code) in its provision of non-surgical cancer services between 2016 and 2022.

Morag McDowell said the case is a salutary reminder of the detrimental physical and psychological outcomes for patients, and of the impacts on family/whānau, when the system does not provide timely cancer care.

Ms McDowell's Commissioner Initiated Investigation found there were significant delays for patients with suspicion of cancer to be seen by a specialist. Notably Te Whatu Ora Southern failed to recognise and respond to the clinical risk associated with lack of capacity within Southern Blood and Cancer Services (SBCS) and, as a result, cancer patients were harmed.

Ms McDowell has identified this was due to poor overall clinical governance systems, including inadequacies in quality measures and indicators, and poor relationships between clinicians and executive leadership.

Ms McDowell says Te Whatu Ora Southern breached right 4(4) of the Code – the right of consumers to have services provided in a manner that minimises harm to them and optimises their quality of life.

The investigation followed concerns raised by a patient advocate about delays in first specialist assessments (FSA) for non-surgical cancer services; specifically Medical Oncology, Radiation Oncology and Haematology services – collectively the SBCS.

"Timely treatment is particularly important for reducing morbidity and mortality for cancer patients and delays also have a significant psychological impact on patients and their family/whānau."

"Providers owe a duty of care to people waiting for resource constrained specialist procedures, particularly when the intervention is time-critical. In this case, it is clear the care Te Whatu Ora Southern provided was not adequate, and patient harm was caused."

Ms McDowell noted it was important not to lose sight of the people whose lives were affected by Te Whatu Ora's inaction, and was also critical of the level of communication and support provided to people on the waitlist.

"In my view patients would have benefited from a more consumer-centric approach that included a single point of contact within the district to ensure they were well-informed, supported and knew what to do if their circumstances changed."

Ms McDowell has recommended Te Whatu Ora Southern:

- Consider establishing a single point of contact for patients on the waiting list for FSA
- Report back on the implementation of recommendations from two previous external reviews on progress with the design, in particular the implementation and embedding of an accountability framework, the establishment of a clear clinical governance framework, the cancer services recovery plan, and implementation of a three-year workforce plan.

She has recommended Te Whatu Ora national office:

- Updates the HDC on work to address geographic disparities in patient access to cancer services nationally, focusing on timely access to service, the impact of new technologies and new medication.

She further recommended that Te Aho o Te Kahu (Cancer Control Agency) provide HDC with an update on progress of its work with with Te Whatu Ora Southern to address cancer service delays.

Ms McDowell acknowledged that Te Whatu Ora Southern continues to face significant specialist workforce shortages, which has recently led to the district being unable to provide some cancer services and to ongoing delays in patients receiving FSAs.

"I will be following up on the actions being taken to ensure people with cancer in the Southern region are receiving timely services."

Recommendations to Te Whatu Ora Southern in detail:

Consider establishing a single point of contact system (e.g. a patient navigator service) for FSA waiting list patients. Functions could include:

i. continued assessment of patients on the wait list;

ii. keeping patients updated and informed about current wait times, including when wait times are outside current recommendations;

iii. providing patients with all options available for accessing care, including available supports (clinical, psychological or social); and

iv. providing patients with advice on managing evolving symptoms.

Report on the implementation of the recommendations of the Southern District Health Board Review 2021 and the EY report of 2022, particularly:

i. progress with the design, implementation and embedding of an accountability and performance framework;

ii. the establishment of a clinical governance framework to address deficits in risk management and clinical governance and including appropriate quality and performance KPIs of the services with improved reporting mechanisms through to the Clinical Council;

iii. the cancer services recovery plan;

iv. implementation of a three-year workforce plan for the SBCS, incorporating the recommendations from the EY SBCS Action Plan and taking into account the work capacity of each FTE and the geographical demands of the area, and allowing for the non-clinical duties of clinicians; and

v. the assessment staff wellbeing, particularly current hours of work, non-clinical duties, capacity for leave, and planning of sabbaticals across the three oncology services.

Review the circumstance of those patients identified as having been harmed in the harm registers referred to in this report, to ensure that ACC treatment injury claims have been made as appropriate.

Recommendations to Te Whatu Ora National

Provide HDC with an update, within three months of the date of this report, on work underway to:

i. reduce the geographical disparities in patient access to cancer services across the country, in particular, ensuring timely access to services;

ii. consider the impact of the introduction of new technologies and new cancer medications on capacity; and

iii. consider the actions arising from the EY report to better align SBCS workforce with other centres and report back on FSA and treatment capacity issues in Southern and other centres.

Recommendations to Te Aho o Te Kahu (Cancer Control Agency)

Te Aho o Te Kahu (Cancer Control Agency) provide HDC with an update on progress of its work with Te Whatu Ora Southern to address any cancer service delays, within three months of the date of this report.

HDC will be following up with Te Whatu Ora and Te Aho o Te Kahu to ensure that the recommendations made have been complied with.

-Ends-