

**A Decision by the  
Deputy Health and Disability Commissioner  
(Case 21HDC00511)**

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## **Introduction**

1. This report is the opinion of Dr Vanessa Caldwell, Deputy Health and Disability Commissioner, and is made in accordance with the power delegated to her by the Commissioner.
2. The report discusses the care provided by the Manukau Super Clinic (Counties Manukau District Health Board, now Te Whatu Ora Counties Manukau). The complaint concerns the delays in a woman receiving an appointment for her eye treatment in 2017 and 2018.
3. The following issue was identified for investigation:
  - *Whether Te Whatu Ora/Health New Zealand provided the woman with an appropriate standard of care in 2017 and 2018.*

## **Background**

4. The woman, aged in her seventies at the time of events, had a medical history that included type two diabetes and vision deteriorating eye conditions — right eye choroidal neovascularisation<sup>1</sup> and left eye age-related macular degeneration.<sup>2</sup>

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<sup>1</sup> Growth of new blood vessels beneath the eye’s retina (part of the spectrum of age-related macular degeneration (see next footnote). If unrecognised and untreated, it can result in the rapid deterioration of vision.

<sup>2</sup> An eye disease that causes loss in the centre of the field of vision.

5. The woman attended an ophthalmology appointment at the Manukau Super Clinic on 23 May 2017 for consideration of Lucentis injections,<sup>3</sup> as she had been receiving Avastin<sup>4</sup> injections with poor response. An ophthalmologist provided two consecutive Lucentis injections in the woman's right eye, one month apart, on 7 June 2017 and 11 July 2017 respectively. The woman was then due to be seen again one month after the last injection, and a planned appointment date<sup>5</sup> was made for 9 August 2017.
6. However, Te Whatu Ora Counties Manukau (Counties Manukau) stated that this planned appointment was unable to be converted to an actual appointment because there were more patients who needed follow-up appointments than there were appointments available, due to capacity issues at the time. There is no evidence that the woman received information that her appointment would be delayed.
7. Counties Manukau subsequently scheduled the woman for a follow-up appointment for 25 January 2018 — five months later than she was initially meant to be seen. At this appointment, the ophthalmologist noted: '[T]here has been a long interval since the last injection and consequently I think the prognosis for [the woman's] central vision is poor on the right eye.' A further right eye Lucentis injection was requested, with a plan made to consider whether continuing treatment would be of any benefit. This injection was booked for, and given on, 30 January 2018, with a plan made for the woman to be seen for a follow-up appointment on 27 February 2018.
8. However, due to the capacity issues at Counties Manukau at the time of events, the woman was not seen until 18 April 2018. A letter was sent informing her of these delays and advising her to seek care at another eye service if she had any concerns about her eyesight in the meantime.
9. At the appointment on 18 April 2018, the ophthalmologist considered that further injections were unlikely to be beneficial for the right eye. Subsequently, the woman was diagnosed with right eye end stage related macular degeneration with macular scarring, and Counties Manukau confirmed that no further options could be offered for that eye due to the retinal scarring that had occurred. Counties Manukau acknowledged the delay the woman experienced in receiving her follow-up appointments and the resulting poor vision.

### Further information

10. Previously this Office has investigated the care provided by Counties Manukau and found it in breach of the Code of Health and Disability Services Consumers' Rights (the Code) for delays in its ophthalmology services (discussed further below). During the investigation for complaint 20HDC00116,<sup>6</sup> HDC wrote to the Ministry of Health to raise concerns about Counties Manukau's Ophthalmology Service. The Ministry of Health responded that it shares the concerns about the risks associated with long wait times for ophthalmology

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<sup>3</sup> A drug used to treat age-related macular degeneration.

<sup>4</sup> A drug used to treat age-related macular degeneration.

<sup>5</sup> Counties Manukau told HDC that a planned appointment date is the date the patient is due to be seen.

<sup>6</sup> It is noted that the complaint events for investigation 20HDC00116 occurred later than in this case (2019); however, the complaint was received by HDC earlier.

services at Counties Manukau and noted that the Ministry of Health has been working closely with Counties Manukau to improve waiting times for care.

11. Counties Manukau's Ophthalmology Workforce, Equipment and Facility Plan 2018–2021 documents that in May 2017, the total number of patients waiting for follow-up ophthalmology appointments was 8,712, with 6,245 of these patients waiting longer than the intended time for their appointment. By September 2018, the total number of patients waiting for ophthalmology follow-up appointments had increased to 10,623.

### **Opinion: Te Whatu Ora — breach**

12. The woman was due to receive her next right eye Lucentis injection in August 2017. However, due to capacity issues at the service at the time, ultimately she did not receive her appointment or injection until January 2018, resulting in a five-month delay in her receiving treatment for her choroidal neovascularisation. The woman then experienced a further two-month delay in receiving her next follow-up appointment. Consequently, her right eye vision was impacted further.
13. This is not the first time HDC has investigated matters relating to delays in Counties Manukau's ophthalmology services that have had a negative impact on a consumer. In 2016,<sup>7</sup> this Office received notification about the delays experienced by a young consumer who was waiting for a follow-up ophthalmology appointment for unexplained reduction in visual acuity of both eyes. It was found that the then Counties Manukau DHB did not take sufficient account of potential clinical risks associated with heavy demand and a lack of capacity at the Ophthalmology Service, and that it did not take sufficient or adequate action to rectify the situation despite awareness of the issue. In addition, in 2020,<sup>8</sup> HDC was notified of delays experienced by another young consumer in 2019 in receiving a first-time ophthalmology appointment for symptoms of reduced vision.
14. Counties Manukau told HDC that at the time of events, patient appointments at its Ophthalmology Service were booked in order of longest waiting time and when clinic slots became available, as no clinical prioritisation tool was in place.
15. Counties Manukau said that the provision of ophthalmology services has been on its organisational risk register since 2009 in recognition of the fact that demand for the service has been exceeding what it is able to deliver, with current staffing levels. Counties Manukau stated that although a number of steps have been taken in recent years to respond to the heavy demand on ophthalmology services, Counties Manukau's efforts have been hampered by a chronic lack of space, insufficient medical staffing, and the lack of an agreed regional plan for appropriate provision of services. It stated that it will 'continue to explore all options in order to improve the service provision for Ophthalmology within the [Counties Manukau] Health catchment'.

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<sup>7</sup> Opinion 16HDC01912.

<sup>8</sup> Opinion 20HDC00116.

16. As this Office has stated previously,<sup>9</sup> the existence of systemic pressures does not remove provider accountability in addressing such issues. A key improvement that must be made by all districts — now and in the future — is to assess, plan, adapt, and respond effectively to the foreseeable effects that issues such as population change will have on systems and demand.
17. Since these events (which occurred in 2017 and 2018), Counties Manukau has made further changes to its Ophthalmology Service, which are discussed in more detail below. I acknowledge that the woman's care occurred prior to the events in Case 20HDC00116, but I note that it occurred after the events of Case 16HDC01912, and, as such, Counties Manukau was on notice that issues in its capacity were having a negative impact on consumers of its ophthalmology services. Counties Manukau reported to HDC a number of changes made in response to the events of Case 16HDC01912, some of which, unfortunately, were not implemented until after the woman's care occurred. In particular, I am concerned that at the time of events Counties Manukau did not have in place a system for an acuity-based prioritisation of ophthalmology appointments and lacked systems to communicate with patients about delays. In addition, it appears that the woman was not explicitly provided with all available options for her to consider.
18. For failing to ensure that the woman received a timely appointment for her Lucentis injection, and subsequent follow-up appointment, I find that Te Whatu Ora breached Right 4(1)<sup>10</sup> of the Code.

## Changes made since events

### Acuity index tool

19. In July 2018, Counties Manukau introduced the Acuity Index Tool for Ophthalmology follow-up appointments. Counties Manukau told HDC that this tool provides explicit direction for the booker/appointment coordinator to prioritise follow-up bookings accurately.

### Clinic changes

20. Counties Manukau told HDC that in order to address the present demand, the Ophthalmology Service runs additional weekend clinics (approximately 600 patients seen in two days), it runs additional clinics during the week, including evenings, and, subject to staff/facilities availability, it increases the clinics on the public hospital site up to three clinics running five days a week. In addition, clinic consultation outcome letters (sent to referrers and patients) were revised to advise patients of delayed follow-up appointments, and what to do should their vision deteriorate.

### Staffing

21. Over December 2019/January 2020, Counties Manukau employed two optometrists and a new full-time ophthalmologist, and two ophthalmologists returned from long-term sick leave. Another full-time ophthalmologist started in March 2020.

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<sup>9</sup> See opinions 16HDC01010 (published April 2018) and 16HDC01912 (published August 2018).

<sup>10</sup> Right 4(1) states: 'Every consumer has the right to have services provided with reasonable care and skill.'

### **Northern Region Vulnerable Services Programme**

22. Counties Manukau told HDC that it has actively participated in the Northern Region Vulnerable Services Programme, which was initiated in May 2020. It stated that this programme includes a range of projects commissioned by the Northern Region Chief Executives and Chief Medical Officers, with the focus on services that have vulnerabilities and/or longstanding challenges in sustainably delivering consistent and equitable outcomes and access (including Ophthalmology, ORL<sup>11</sup> and regional Vascular Services).
23. The approach includes taking these services through a six-step process to define the challenges, develop solutions, incorporate insights from Māori and Pacific clinical leaders, and confirm regional agreement on an approach to implement change.

### **The Region Ophthalmology strategy**

24. Counties Manukau told HDC that the Region Ophthalmology strategy with more explicit inclusion of Northland was also reaffirmed. Counties Manukau stated that the project is now moving into a 12-month phase of more detailed design and implementation, and that national funding from the Ministry of Health has been secured for leadership capacity and for some capital to enhance services.
25. The key priorities that were endorsed as part of this strategy are to:
  - Provide immediate support to Northland to address specialist service gaps;
  - Catch up on all overdue patients, whether from pre-COVID-19 service pressures or from the impact of the pandemic;
  - Improve equity through targeted service improvements, increased number of community locations for lower complexity, and enhanced models of care;
  - Commit to regional equity of services starting with progressively equalising access to cataract surgery across the four DHBs (districts);
  - Develop a set of regional access, quality and outcome indicators identifying any key equity gaps, to track and ensure that changes are impacting clinical care;
  - Share learnings on barriers and models that work, such as ADHB Navigator insights and the CMDHB Pacifica Retinal Screening attendance and surgical journey initiative;
  - Support a move to a more regionally co-ordinated approach to service development and investment in line with trends in health needs; and
  - Optimise workforce through staffing models and extending scopes of practice, including shared recruitment.

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<sup>11</sup> Otorhinolaryngology (an area of medicine concerned with disorders of the ear, nose, throat, and the head and neck).

## Recommendations

26. In the provisional report, it was recommended that Te Whatu Ora Counties Manukau undertake a review of the mechanisms in place to monitor wait times, and the processes to make these transparent to the public and referrers, including allowing referrers to provide additional clinical information to improve the prioritisation and triage process.
27. In response to this provisional recommendation, Te Whatu Ora Counties Manukau stated that that referrers are advised of the priority score and the estimated wait time for a patient of this priority score once the referral has been graded by clinicians. They are also aware that if the patient re-presents to them at any stage, then they are able to make an updated referral to Counties Manukau to advise us of this, and if new information is received, this is reviewed by a clinician to assess if this would change the priority score already given. It stated that, similarly, in terms of communication with patients, patients are advised of the estimated wait time based on their priority score, and what action to take if they have concerns during this period. With this improved process in place, I consider that the intent of the recommendation — to ensure capability to reprioritise urgency based on additional information and to inform both referrer and patient of changes to wait times — has been met.
28. Te Whatu Ora Counties Manukau has formally apologised to the woman and covered the cost of glasses. In addition, I recommend within six months of the date of this report, Te Whatu Ora Counties Manukau:
  - a) Provide HDC with an update on the above changes made, and details of the effectiveness of these changes so far; and
  - b) Provide HDC with the details of any further changes made to its Ophthalmology Service, or any future changes it is considering.

## Follow-up actions

29. A copy of this report with details identifying the parties removed, except Te Whatu Ora Counties Manukau and the Manukau Super Clinic, will be placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.
30. In light of its previous work with Counties Manukau around these issues, a copy of this report with details identifying the parties removed, except Te Whatu Ora Counties Manukau and the Manukau Super Clinic, will be sent to Manatū Hauora | Ministry of Health.