

Unauthorised strip searches of patients under care of mental health service provider

1. On 12 July 2022, the Health and Disability Commissioner (HDC) received a referral from the Nursing Council of New Zealand (NCNZ) that two mental health registered nurses (RNs), Ms C¹ and Ms D,² had carried out unauthorised and undocumented strip searches on patients Ms B and Mr A at Te Whetu Tawera Mental Health Unit (Te Whetu Tawera). The NCNZ was informed of these searches by Auckland District Health Board's Mental Health Directorate after it had been notified by a District Inspector.
2. Te Whetu Tawera is a Health New Zealand | Te Whatu Ora – Te Toka Tumai (Health NZ) facility³ that provides mental health services for people in the Auckland and Northland regions.

Information gathered

3. Health NZ's 'Search for Illicit Substances and Hazardous Items – Te Whetu Tawera' policy (search policy) at the time⁴ set out the circumstances under which searches, including strip searches, could be conducted, as well as the seniority of staff required to authorise such searches.
4. Clause 2 of the search policy sets out the principles applicable to personal⁵ and strip searches. In acknowledging the traumatisation and re-traumatisation that can happen as a result of personal or strip searches, the policy requires 'that the staff member/s MUST be of the same gender' as the person being searched.
5. Clause 7 of the search policy provides that personal and strip searches are only to be carried out if there is reasonable cause to believe a service user may have illicit substances or hazardous items⁶ AND there is a perceived imminent risk of serious harm to self or others due to the service user possessing items of potential harm. The policy states that, in such situations, a senior nurse must be informed immediately and is responsible for deciding which type of search will be conducted, based on clinical assessment and judgement. Further, the policy states that the decision, rationale, search process used, and outcomes

¹ On the date of the events, RN C was a mental health RN employed via the Bureau and RN D was the shift coordinator for the Te Kakenga ward (Ward B) at Te Whetu Tawera.

² This complaint only concerns RN C. In its 27 May 2022 investigation, the then Auckland District Health Board concluded that both the searches were initiated and led by RN C. In relation to RN D, recommendations were made to provide her with supervision and shift coordinator training.

³ Between the disestablishment of the Auckland District Health Board in July 2022 and February 2024, the organisation was known as Te Whatu Ora – Te Toka Tumai Auckland.

⁴ The policy was in operation from May 2013 to October 2022.

⁵ A search where staff use the sense of touch on the service user, over clothing. This may include visual examination of contents of pockets and removal of items such as hats, shoes and socks. This search may include the use of a metal detector.

⁶ The policy definition of hazardous items includes 'smoking paraphernalia including lighters, illicit substances, psychoactive substances and non-prescription medications.'

are to be recorded in HCC⁷ in a Use of Force form, and a Risk Monitor Pro⁸ report is to be completed.

6. On 16 January 2022, Ms B approached RN C seeking access to her money in order to buy tobacco from Mr A. Staff later observed patients acting hyper-vigilantly, which led to staff suspicion of drug use on the ward.
7. After staff saw Ms B drop a meth pipe, a strip search of her was conducted. However, there are differing accounts as to who initiated the search.

Search of Ms B

8. RN C says that when Ms B dropped the meth pipe, RN D took it to the office while RN C remained with Ms B in the hallway. When RN D returned, she said to RN C 'we need to search her.' RN C also says that Ms B provided them with two bags of drugs before being searched.
9. RN D's account is that RN C approached her in the office and stated she was going to strip search Ms B and needed another female nurse as a witness. In contrast to RN C's version of events, RN D says that RN C asked Ms B to undress completely, and two small bags of white powder were found on her.
10. A subsequent investigation by Health NZ concluded, on the basis of the available information and the balance of probabilities, that RN C initiated and led the search of Ms B.
11. In any event, the strip search of Ms B was conducted but not recorded in HCC, and no Risk Monitor Pro (now Datix) report was completed, as required by the search policy. RN E, the Clinical Charge Nurse in Te Kakenga ward, who was also the Duty Manager for Te Whetu Tawera at the time, was also not advised of Ms B's search.

Search of Mr A

12. Health NZ states that the decision to strip search Mr A was made following Ms B's admission that she had received the meth pipe and drugs from Mr A. Although RN C has acknowledged responsibility for Mr A's strip search, she does not accept all of RN D's account of events, as set out in Health NZ's investigation report.
13. RN C says that, after Ms B's search, she asked RN D whether she should search Mr A, and RN D confirmed that she should. RN C then had a discussion with Mr A during which he was advised that the search would involve 'two male staff and no hands on.' As a result, Mr A consented to undergoing a search.
14. By contrast, RN D's account is that, after Ms B's search, RN C advised that she was going to search Mr A on the suspicion of 'supplying drugs to other service users.' RN D did not feel comfortable about this and contacted RN E, who advised her that they could not strip search

⁷ The Mental Health IT system where clinical notes are recorded.

⁸ The reporting system that was in place at the time of the searches, which was later replaced by a system called Datix.

Mr A. RN D conveyed this information to RN C and began a search of Mr A's room on RN E's advice.

15. The report further notes that RN E arrived on the ward and advised RN C that, although they could not strip search patients, they could check their pockets, use a wand, or remove a patient's jacket if necessary. RN C acknowledged RN E's advice about not doing strip searches but believed this was only RN E's personal opinion.
16. In any event, the male nurses on the ward said they were not comfortable doing the search, which led RN E to advise RN C to take security with her. RN C decided to strip search Mr A in the High Dependency Unit⁹ as she wanted to 'take a behavioural approach' and 'provide education on drugs and selling drugs.' RN C stated that Mr A's underpants were left on during the search.
17. The Health NZ investigation report notes that when RN C arrived in the High Dependency Unit with security staff and Mr A, RN F, the Clinical Charge Nurse at Te Whetu Tawera, who was also the PM Shift Coordinator for the Intensive Care Unit (Te Tumanako), told Mr A not to remove his clothing. Instead, she discussed patting him down and getting him to empty his pockets. At this point, RN C told RN F to leave, on the grounds that Mr A was a Ward B patient and therefore not RN F's concern. RN F then escalated her concerns to RN E while RN C proceeded to strip search Mr A.

Health NZ investigation

18. The Health NZ investigation found that Ms B's strip search was not documented in accordance with the search policy as it was not recorded in HCC and no Risk Monitor Pro report was completed. In addition, the decision to search her did not meet the threshold¹⁰ as outlined in the policy and the search had not been authorised by a senior nurse.
19. In relation to Mr A's search, the Health NZ investigation report noted that it was also not carried out in accordance with the search policy as the decision to search was not made by a 'Senior Nurse'¹¹ (RN E or RN F), as required. On the contrary, RN E had specifically advised staff not to conduct a strip search of Mr A, and RN F told Mr A not to remove his clothing. Further, while his search had been documented in his clinical notes and a Datix report completed by another staff member, this staff member (an RN), was not present during Mr A's search or at any important decision-making stage.

⁹ The High Dependency Unit at Te Whetu Tawera was part of the Intensive Care Unit (Te Tumanako).

¹⁰ Namely, 'if there is reasonable cause to believe a service user may have illicit substances or hazardous items AND there is perceived imminent risk of serious harm to self or others, due to the service user possessing items of potential harm.'

¹¹ Defined in the search policy as 'Charge Nurse, Duty Manager, Night Shift Co-ordinator, Nurse Educator, Nurse Unit Manager.'

HDC investigation

20. On 16 August 2024, HDC commenced a formal investigation into the care provided to Ms B and Mr A by RN C and proposed finding RN C in breach of Rights 3 and 4(2) of the Health and Disability Services Consumers' Rights Code (the Code).¹² This option was proposed as it was clear from the findings in Health NZ's investigation that RN C had failed to respect the dignity of Ms B and Mr A when strip searching them or to comply with relevant policy and processes (irrespective of who had initiated the searches).
21. With regard to Right 3, a strip search by its very nature impacts on the dignity and independence of an individual. This may be increased in the case of mental health patients who may be more vulnerable. Although the search policy enables strip searches to be carried out in particular circumstances, it recognises the sensitivity around them and sets out certain requirements to ensure the safety of patients undergoing searches.
22. On 15 September 2024, RN C advised HDC that she agreed to HDC's proposed breach finding and accepted that she 'did not provide Ms B and Mr A with an appropriate standard of care.' In the response of 14 April 2025, RN C stated 'I did conduct the unauthorised search of Mr A and I have always owned responsibility for that search.' RN C further stated 'I did not conduct the search of Ms B. I request that in relation to the strip search of Ms B the term "conducted" is replaced with the term "participated in the unauthorised search of Ms B".'
23. It is not necessary for me to determine whether RN C conducted the unauthorised search of Ms B. It is sufficient for the purposes of finding a breach that she actively participated in that search. In conducting an unauthorised search of Mr A and, at the very least, participating in the unauthorised search of Ms B, RN C failed to provide services to both consumers in a manner that respected their dignity and independence. Accordingly, I find that RN C breached Right 3 of the Code.
24. I also find that RN C breached Right 4(2) of the Code for failing to comply with relevant standards, specifically the Health NZ 'Search for Illicit Substances and Hazardous Items – Te Whetu Tawera' policy in her strip searches of Ms B and Mr A. As noted above, Ms B's strip search was not recorded in HCC or Risk Monitor Pro, did not meet the search threshold in the policy, and was not authorised by a senior nurse. RN C's failure to comply with the search policy was irrespective of who had initiated the search of Ms B.
25. I recommend that RN C provide an update to HDC as to her current practising¹³ status and, if employed, provide information to HDC about the changes she advised HDC she planned to make to her practice, which included seeking clarification on the availability of nursing supervision and further IT training; undergoing further training on relevant policies and procedures; and escalating questions or concerns to supervisors.

¹² Right 3 states 'Every consumer has the right to have services provided in a manner that respects the dignity and independence of the individual'. Right 4(2) states 'Every consumer has the right to have services that comply with legal, professional, ethical, and other relevant standards.'

¹³ As at the date of this report, Ms C does not have a practising certificate.

26. A copy of the final report, with details identifying the parties removed, apart from Health NZ, will be sent to the NCNZ and placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

Dr Vanessa Caldwell
Deputy Health and Disability Commissioner