COTA Report

Report on an unannounced visit to Alexandra Hospital – Older Persons Mental Health Admission Unit Under the Crimes of Torture Act 1989

1 June 2016

Judge Peter Boshier
Chief Ombudsman
National Preventive Mechanism

Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata
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Executive Summary

Background

1. In 2007, the Ombudsmen were designated one of the National Preventive Mechanisms (NPMs) under the Crimes of Torture Act (COTA), with responsibility for examining and monitoring the general conditions and treatment of clients in New Zealand secure hospitals.

2. On 20 April 2016, Inspector Tessa Harbutt (to whom I have delegated authority to carry out visits of places of detention under COTA) visited Alexandra Hospital.

Summary of findings

3. The Inspectors’ findings may be summarised as follows:
   - The Inspector observed good client/staff relationships with respectful interaction taking place.
   - There were no incidents of seclusion and no complaints in the previous 12 months.
   - Clients have their own bedroom which they could lock, if they chose to and access to clean bedding and showers daily.
   - Clients could easily access fresh air in the external garden/courtyard.
   - There were no complaints about the food, access to the telephone or access to family or friends.
   - Information provision on a wide range of topics was easily available to clients and their family/whanau.

Recommendations

4. I have no recommendations to make.

Consultation

5. A draft copy of this report was forwarded to Alexandra Hospital for comment as to fact, finding or omission prior to finalisation and distribution.

6. Under Sections 27 and 36 of the Crimes of Torture Act, it is the intention of the Chief Ombudsman to report to Parliament on his analyses of inspections carried out.

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1 Acting under delegation of the NPM Chief Ombudsman Judge Peter Boshier and Ombudsman Professor Ron Paterson.
Facility Facts

Alexandra Hospital Older Persons Mental Health Admission Unit (OPMHAU)

The Unit caters to people with conditions related to dementia and mental health decline that require a short stay in inpatient care. After assessment they are referred to aged residential care or a support service. Referrals are via Nelson Marlborough Health – mental health specialists.

Region
Nelson, Marlborough and Golden Bay

District Health Board (DHB)
Nelson Marlborough

Operating capacity
10 funded beds (including two high care beds)

Unit Manager
Nathan Davis

DAMHs
Dr Heather McPherson

Last inspection
Announced inspection – February 2011
Announced visit – August 2008
The Visit

7. The visit of Alexandra Hospital took place on 20 April 2016 and was conducted by Inspector Tessa Harbutt.

Visit methodology

8. The manager of Alexandra Hospital (OPMHAU) provided the following information during the visit:

- A list of clients and the legislative reference under which they were being detained (at the time of the visit).
- The restraint data for the previous twelve months.
- The number of complaints for the previous six months.
- Information for clients on admission.
- Visits policy.

9. At the commencement of the visit the Inspector met with the team leader, before being shown around the Unit. On the day of the visit there were nine clients in the Unit comprising six males and three females.

10. The following areas were examined on this occasion to determine whether there had been torture, or other cruel, inhuman or degrading treatment or punishment, or any other issues impacting adversely on detainees.  

- Treatment
  Torture, or other cruel, inhuman or degrading treatment
  Restraint

- Protective measures
  Complaints process
  Records

- Material conditions
  Accommodation
  Food

- Activities and communications

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Outdoor exercise
Access to visitors/communications

Evidence

11. In addition to the documentary evidence provided during the visit, the Inspector spoke to the team leader, staff and clients.

12. The Inspector also inspected records, was provided additional documents upon request by the staff, and observed the facilities and conditions.

Recommendations from previous reports (Sept 2011)

13. There were three recommendations made following our visit in September 2011, which were:
   - Management should take the necessary steps to ensure that up-to-date legal documentation authorising the client’s detention in the Unit exists in hard-copy on the client’s file.
   - Doctors should write their file note entries in the same section as other disciplines in the Unit.
   - Staff in the Unit should be trained in the use of calming and restraint techniques.

14. These recommendations will be addressed in the body of the report.

Treatment

Torture or cruel, inhuman or degrading treatment

15. There was no evidence that any clients had been subject to anything that could be construed as torture, or other cruel, inhuman or degrading treatment in the six months preceding the visit.

Restraints

16. There were 44 restraint incidents involving 11 clients for the period April 2015 – March 2016.
Table 1: Restraints

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17. The use of enablers (such as cot sides and lap belts) is recorded in individual client files and care plans. Informed consent for the use of enablers is documented in clinical notes. The use of enablers is reviewed annually by the Restraint Advisory Group.

18. A sensory room is utilised by clients exhibiting signs of agitation and stress, with a view to calming and relaxing them without the need for physical intervention.

19. Staff are trained in SPEC (Safe Practice Effective Communication). This is restraint training with specific safe handling aspect that has appropriate interventions and de-escalation for use with older persons. This addresses our recommendation in 2011 (paragraph 12).

20. The inspector had no concerns regarding restraint.

Low stimulus area (LSA)

21. There are no seclusion facilities in the Unit: two high care bedrooms are designed to provide a low stimulus environment for acutely unwell clients. The LSA provides an area for close assessment and observations of behaviour in order to plan and prioritise a client’s care. It has its own bathroom facilities, TV lounge and courtyard so that clients can spend time outside, if well enough.

22. If a client has been assessed as acutely unwell and requiring intensive nursing care, they will remain in the LSA with a staff member present at all times (doors can be locked). At all other times the low stimulus area can be accessed by all clients in the Unit.
Recommendations – treatment

23. I have no recommendations to make.

Protective measures

Complaints process

24. The complaints process is readily available in the Unit via posters and leaflets including contact details for District Inspectors.

25. The number of complaints recorded in the previous 12 months was nil.

26. The Inspector had no concerns with the Unit’s complaint system.

Records

27. There were nine clients in the Unit on the day of the visit and the Inspector checked all of their files.

28. All clients were being detained either under the Mental Health (Compulsory Assessment and Treatment) Act, Enduring Power of Attorney (EPOA) or voluntary admission.

29. All files contained the necessary paperwork to detain [and treat] the clients in the Unit. This addresses our 2011 recommendation (paragraph 12).

30. Records were organised and well maintained. Doctors’ notes were located in the same section as other disciplines which address our 2011 recommendation (paragraph 12).
Recommendations – protective measures

31. I have no recommendations to make.

Material conditions

Accommodation

32. The Unit is funded for 10 beds (two in high care). There were three females and six males in the Unit at the time of the visit.

33. All areas of the Unit were clean, tidy and well-maintained. New flooring and soft furnishings have been replaced since our visit in 2011.

34. Although bedrooms were not en-suite, there were adequate toilet/bathrooms for the number of clients in the Unit.

35. Bedrooms were reasonably spacious with curtains for privacy and a means of raising the alarm. Bedroom doors lock from the inside, should the client choose to lock them.

36. Communal areas were bright and spacious.

Recommendations – material conditions

37. I have no recommendations to make.
Activities and communications

Outdoor exercise

38. Clients have unlimited access to daily fresh air in a large garden/courtyard which offers adequate seating and shade.

Access to visitors/external communication

39. Clients have access to a telephone with adequate privacy and can send and receive mail.

40. Visit times were well advertised. Visiting hours are normally from 3.00pm to 8.30pm Monday to Friday and 10.30am to 8.30pm Saturday and Sunday; however, staff are responsive and exercise flexibility based on their current assessment of the client and their needs.

41. Inspectors have no concerns with clients’ access to family and friends.

Recommendations – activities and communications

42. I have no recommendations to make.
Acknowledgement

I appreciate the full co-operation extended by the manager and staff to the Inspector during her visit to the Unit. I also acknowledge the work involved in collating the information sought by the Inspector.

Judge Peter Boshier
Chief Ombudsman
National Preventive Mechanism
Appendix 1. Alexandra Hospital photographs

Figure 6: Lounge  
Figure 7: Lounge  
Figure 8: Sensory room  
Figure 9: Lounge
Appendix 2. Overview of OPCAT – Health and Disability places of detention

In 2007 the New Zealand Government ratified the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The objective of OPCAT is to establish a system of regular visits undertaken by an independent national body to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The Crimes of Torture Act 1989 (COTA) was amended by the Crimes of Torture Amendment Act 2006 to enable New Zealand to meet its international obligations under OPCAT. Section 16 of COTA defines a “place of detention” as:

“...any place in New Zealand where persons are or may be deprived of liberty, including, for example, detention or custody in...

(d) a hospital

(e) a secure facility as defined in section 9(2) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003...”

Pursuant to section 26 of COTA, an Ombudsman holding office under the Ombudsmen Act 1975 was designated a National Preventive Mechanism (NPM) for certain places of detention, including hospitals and the secure facilities identified above.

Under section 27 of COTA, an NPM’s functions, in respect of places of detention, include:

1. to examine the conditions of detention applying to detainees and the treatment of detainees; and

2. to make any recommendations it considers appropriate to the person in charge of a place of detention:

   a. for improving the conditions of detention applying to detainees;

   b. for improving the treatment of detainees;

   c. for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention.

To facilitate the exercise of their NPM functions, the Ombudsmen have delegated their powers to inspect places of detention to Inspector’s (COTA). This is to ensure that there is a clear distinction between the Ombudsmen’s preventive monitoring function under OPCAT and the Ombudsmen’s investigation function under the Ombudsmen.

Under COTA, NPMs are entitled to:

1. access all information regarding the number of detainees, the treatment of detainees and the conditions of detention;
2. unrestricted access to any place of detention for which they are designated, and unrestricted access to any person in that place;

3. interview any person, without witnesses, either personally or through an interpreter; and

4. choose the places they want to visit and the persons they want to interview.