



## **Breach of the Code highlights lack of informed consent in treatment of a man with prostate cancer**

**22HDC03116**

Health and Disability Commissioner Morag McDowell has found a urologist breached the Code of Health and Disability Services Consumers' Rights (the Code) in the treatment of a man with prostate cancer.

The man was diagnosed with prostate cancer and offered two primary treatment options – radiation or surgery. The man opted for surgery, believing that the prostate cancer had not spread to the surrounding lymph nodes.

Following surgery, two of the lymph nodes came back positive for metastatic disease. After another clinical consultation the man discovered that the spread of cancer to the lymph nodes was evident in his preoperative scan.

The man said he was not told the surgery would not be curative because the cancer had spread, and that he would therefore require radiation therapy.

Ms McDowell found that, while surgery was an appropriate treatment option, the urologist breached the Code for failing to ensure the man was adequately informed | whakamōhio and, therefore it followed that the man was not able to give informed consent for the procedure | whakaritenga mōu ake.

She was critical that the urologist did not provide the man with an appropriate explanation of his preoperative scan result, so that he did not understand his pelvic lymph nodes were involved, and that the man did not have the opportunity for a radiation oncology review, or a clear explanation of the benefits of radiation or surgery.

“Informed consent lies at the heart of the Code”, Ms McDowell said. “The responsibility for ensuring that the consumer has been provided with sufficient information to make an informed choice and give informed consent lies with the clinician who is to undertake that treatment.”

Ms McDowell also found the urologist breached the Code for failing to comply with appropriate documentation standards | tautikanga.

“Given the man’s diagnosis and prognosis, I would have expected the urologist to have taken appropriate steps to ensure his discussions with the man, including the information provided to him, were documented adequately and accurately reflected what was discussed,” Ms McDowell said.

She made an educational comment about consideration being given to a multidisciplinary team meeting, which would have enabled both radiologists and the radiation oncologist involved in the man's care to confirm and interpret the scan findings.

Since the events, the urologist has made significant changes, outlined in the report. Given the changes made by the urologist, Ms McDowell had no further recommendations.

23 September 2024

### **Editor's notes**

Please only use the photo provided with this media release. For any questions about the photo, please contact the communications team.

The full report of this case can be viewed on HDC's website - see HDC's '[Latest Decisions](#)'.

Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name group providers and public hospitals found in breach of the Code unless it would not be in the public interest or would unfairly compromise the privacy interests of an individual provider or a consumer. More information for the media, including HDC's naming policy and why we don't comment on complaints, can be found on our website [here](#).

HDC promotes and protects the rights of people using health and disability services as set out in the [Code of Health and Disability Services Consumers' Rights](#) (the Code).

In 2022/23 HDC made 592 quality improvement recommendations to individual complaints and we have a high compliance rate of around 96%.

Health and disability service users can now access an [animated video](#) to help them understand their health and disability service rights under the Code.

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