

6 October 2005

Mrs A

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AUCKLAND

Dear Mrs A

**Complaint: A & E Clinic B**

**Our ref: 05/10481/WS**

I write further to Wendy Sheehan's letter to you, dated 21 July 2005, regarding your complaint about the treatment provided to your son, Master K, by A & E Clinic B on 25 April 2005.

Thank you for emailing Mr Hanssens of this Office on 30 September 2005 with further information relating to your complaint, and updating this Office as to the assistance you sought recently from Health Advocates Trust. I have carefully reviewed all information on file pertaining to your complaint, and I trust you will find the following summary and comments of assistance.

*Your complaint*

By way of summary, you wrote to my Office on 12 July 2005 outlining your complaint and enclosing copies of all your correspondence with A & E Clinic B prior to that date. Master K's father initially directed a complaint to A & E Clinic B through their reception co-ordinator, and then you sent a letter to the clinic dated 10 May 2005.

You outlined that you and your 16 year old son, Master K, attended A & E Clinic B on Anzac Day after ending a camping trip in the Bay of Plenty early as Master K had felt unwell, feverish and nauseous, and later complained of a sore foot and limping. The next day Master K, suffering from a painful and swollen toe and ball of his foot, saw Dr C. You felt Master K had received a spider bite. The area affected was white and surrounded by a much larger red and heated area. Dr C considered gout and ordered an X-ray to rule out fracture. No evidence of fracture was found and Dr C prescribed antibiotics and advised to return if there was any change. When Master K later complained of tingling in the toes you phoned the clinic and returned there, seeing Dr D. You were upset by inappropriate humour used by Dr D during this consultation. After you had consulted with Master K's father (Mr J), sourced further information, and discussed the possibility of a spider bite, you returned to the clinic at

I am and saw Dr E. You were upset by Dr E who, upon being relayed your concerns, laughed and advised you there were no venomous spiders living in New Zealand. An Australian clinic nurse, while displaying more understanding, also advised you there were no venomous spiders in New Zealand. You and your son left bewildered and unhappy with the advice supplied to you.

You later contacted the National Poisons Centre who advised you Master K's described symptoms appeared consistent with a spider bite and consideration should have been given to hospital treatment and antivenom provision, but that this was difficult to confirm without having the actual spider. Your own GP advised that his clinic did not supply antivenom for spider bites.

I note that you also contacted Middlemore Hospital and were advised by an English emergency doctor that there were no venomous spiders in New Zealand. He was informed by his superior that this was incorrect, but that there was no antivenom at Middlemore.

Master K spent the next two days sleeping and taking the medication prescribed by Drs C and D (including an antihistamine, antibiotics and steroidal medication). While his temperature and migraine improved, his foot was so painful that he had difficulty walking and there was no change to the swelling. When you later returned to A & E Clinic B to obtain crutches, you were unhappy with the attitude and manner of a supervisor (Ms F) when she advised you had incurred additional charges for revisiting – a matter that you were not previously made aware of. In addition, the crutches that were issued, despite your immediate protestation, were too small and you were inconvenienced by having to revisit the clinic to receive appropriately sized ones. When returning the loaned items a week later you were advised that \$50.00 deposits were not returned to the user immediately, but rather cheques were issued by mail instead.

Overall, you were very concerned at the level of knowledge and service you received from A & E Clinic B, and you particularly felt that many overseas trained doctors employed there were not aware of ailments associated with insects, spiders, and fauna present in New Zealand.

You requested that A & E Clinic B staff be up-skilled in relation to venomous fauna; that the fee charged for your third visit and late payment be annulled; that Dr C's rationale for ordering an X-ray be explained to you; and that you receive an apology for the service and disrespect you felt you received.

You advised my Office in your letter of 12 July that two weeks after the incident Master K was still off school and on crutches. You took Master K to Auckland Hospital and the first doctor you encountered had no knowledge of bites and asked a colleague to examine Master K. He advised that it was unlikely to be a Katipo bite as the hairs on his foot were not standing up and the foot was not sweating, and he advised you to seek a tropical medicine specialist. He then liaised with the Poisons Centre and informed you he was not prepared to administer antivenom as the condition was inconclusive and administering antivenom had an inherent risk involved, that of possible anaphylactic shock. He suggested it would take time to dissipate. While frustrated, you were appreciative that advice was sought, Master K

was monitored at this time, and that he was advised not to go to school and to keep the foot raised.

Three months after the initial incident Master K was still unable to play sport. At this time you found out that Auckland Hospital staff had inaccurately informed the Poisons Centre that the point of the bite was on the weight bearing underside of the foot (meaning it would take longer to heal) when it was actually on the non-load bearing side of Master K's foot.

Other contact you had with medical practitioners that frustrated you included your local GP proclaiming a 'gut instinct' that it was not a bite and implying that some people 'become fixated on a problem'. He then suggested you contact Adidas (presumably Adidas Sports Medicine) about Master K's inability to play sport. Later, he contacted you and suggested you contact an orthopaedic surgeon at Middlemore who was a specialist in feet. By this time, it was too late to administer any antivenom you noted.

#### *Responses from A & E Clinic B*

Dr G, Clinical Director, responded firstly to Mr J on 7 May 2005, advising him that he had discussed the matter with Dr C who recalled you suggesting a spider bite but that it was slightly unclear as to exactly what had caused the swelling of the foot. Dr C suggested an X-ray to check for infection in the joint – a possible diagnosis. Dr G passed on an apology from Dr E regarding Mr J's unhappiness with Dr E's attitude and manner. Dr G also waived the \$13 surcharge for the visit of 26 April. A & E Clinic B Administrator (Ms H) wrote to you on 16 May, sent you a copy of Dr G's letter to Mr J, and acknowledged that your complaint about Master K's treatment would be responded to shortly.

#### *Dr C*

In the interim, Dr C advised the A & E Clinic B Board of Directors of his clinical consideration of your son, as outlined in his letter to them of 25 May 2005. Dr C advised of the differential diagnosis of pain in the first metatarsophalangeal (MTP) joint, and that if Master K had been older then gout would have been a likely diagnosis. Infection in the skin surrounding the joint or within the joint was most likely with septic arthritis being possible and his greatest concern. He acknowledged the possibility of an insect or spider bite, but as the history was not clear he requested an X-ray to help confirm or rule out septic arthritis. He requested Master K return to have the joint's mobility assessed, or if you had any concerns.

#### *Dr G's response to you*

Dr G wrote to you on 27 May 2005 advising you that he had considered the matter thoroughly and had sent copies of your letter to Drs C and D, and to Dr I, his co-director. Dr E was overseas at that time. Dr G advised that Dr C's clinical consideration of Master K was appropriate, as was Dr D's response to the Board regarding management of Master K's condition.

However, Dr G acknowledged that Dr D's attempt at humour was not appropriate and that she had apologised for this, and he reiterated Dr E's apology as outlined in his correspondence to Mr J. Dr G himself offered an apology on behalf of A & E Clinic B and reimbursed all consultation fees incurred.

Notably, Dr G accepted your concerns and instigated educational material on indigenous venomous fauna (such as poisonous spiders) be sent out in an A & E Clinic B medical bulletin distributed to its locum doctors as well as all shareholding GPs in the East Auckland region.

#### *Clinical advisor's opinion*

I requested that the Commissioner's independent clinical advisor, Dr Stuart Tiller, clinically review Master K's care and the provider responses. Dr Tiller is of the view, and I agree, that your concerns about the level of knowledge exhibited by various medical practitioners about the presence of venomous spiders in New Zealand are valid.

It is Dr Tiller's opinion that a doctor has a duty of care to seek out correct information for a patient and should contact a knowledgeable colleague for advice where there is uncertainty. This is particularly so when a patient is quoting information from a valid source that is at variance with the knowledge or opinion of the doctor. Dr E appeared not to have sought out accurate information. It was noted that the first doctor at Middlemore Hospital did act correctly in this manner when challenged. After consulting with a colleague, he corrected his earlier advice.

Dr Tiller noted that a spider bite as the cause of the symptoms remains speculative. However, he agreed that the clinical symptoms experienced by Master K were consistent with that possibility. For this reason practitioners should have acted to source accurate information from either the local hospital emergency department or the National Poisons Centre.

At the time of his review, Dr Tiller noted that all your expectations with regard to A & E Clinic B were met by the actions of Dr G on behalf of A & E Clinic B.

#### *Recent development*

Your email to this Office on 30 September outlined that you were not entirely satisfied with the responses from A & E Clinic B, and you outlined three outstanding issues that you directed to the clinic. You felt that medical bulletin material distributed to GPs in the region would only lead to educating providers if individuals chose to read the material, so you requested that A & E Clinic B bring up the matter as a training issue. You felt that Dr C's consultation was not thorough enough as he did not ask enough investigative questions or measure Master K's heart rate. You were very unhappy with the supervisor/receptionist's manner and attitude and comments toward you regarding the crutches issue, which you considered disrespectful and unbefitting of her position.

You thanked A & E Clinic B for apologising about confusion and inconvenience, but overall you considered the A & E Clinic B response lacked sincerity and minimised Master K's condition. I note that Master K could still not play sport four months after the event.

#### *Advocacy involvement*

I note from your email of 30 September that you sought the support and assistance of Ms Jeannette Kohine Tu of Health Advocates Trust, and that A & E Clinic B

informed her that they were prepared to meet with you and Master K's father to discuss the outstanding issues. However, Dr G advised he would not be able to discuss the clinical considerations you raised about Dr C's consultation as a discussion of that nature should involve Dr C. Unfortunately, Dr C declined to meet with you, and cannot be compelled by Dr G or Health Advocates Trust to attend such a meeting. You declined to meet until you could organise more 'seats around the table'. You also reiterated your wish for the educational issue of venomous fauna in New Zealand to be raised at a national level.

*My consideration*

I have completed a preliminary assessment and thoroughly reviewed all information received by this Office pertaining to your complaint. Clearly, this has been a distressing and very frustrating time for you and your son encountering differing and often incorrect advice from a number of medical practitioners.

The Commissioner's complaints resolution role under the Health and Disability Commissioner Act 1994 (the Act) is to promote and protect the rights of health and disability services consumers, and, in particular, to secure the fair, simple, speedy, and efficient resolution of complaints relating to infringements of those rights.

This objective is achieved through the implementation of the Code of Health and Disability Services Consumers' Rights (the Code), the establishment of a complaints process to ensure enforcement of those rights, and the ongoing education of providers and consumers. On occasions, when the subject-matter of a complaint indicates an apparent breach of the Code, the Commissioner is legally able to formally investigate the matter. However, only a minority of complaints that my Office receives proceed to formal investigation, with my Office being able to assist many complaints to be resolved at the earliest appropriate level often directly by the parties, or with the assistance of advocacy. In all cases, I encourage a focus on promoting learning or instigating remedial steps if necessary to prevent to recurrence of adverse events.

A formal investigation into your concerns would not be appropriate in my view, as it would not elicit any more information than has already been obtained, or provide you with the resolution you seek. Section 38(1) of the Act also provides me with a discretion to decide to take no further action on a complaint if, in my opinion, having regard to all the circumstances of the case, any action is unnecessary or inappropriate. I am mindful that some progress toward resolution has already been achieved and that you have received a considered response from Dr G (conveying apologies from him and Drs C, D, and E), a refund of all consultation fees incurred, and an undertaking that he would instigate educational material being sent to GPs in the East Auckland region.

I acknowledge that you are not completely satisfied with the response you received. Based on the information provided to me, including your complaint, the responses from A & E Clinic B, and advice from my clinical advisor, I consider that Dr G and A & E Clinic B have given the matter due consideration. I am of the opinion that Dr C's clinical consideration of possible septic arthritis and your son's condition was reasonable in the clinical circumstances presented to him. I cannot compel a provider to meet directly with a complainant or advocate. If you do wish to pursue a meeting

with A & E Clinic B staff, I consider it would be appropriate for you to continue to liaise with Health Advocates Trust for support or assistance should you wish.

*Educational issues*

I wish to assure you that this course of action does not mean that I consider the matter to be any less serious. Rather, I agree with you that this complaint highlights an important issue and provides an excellent opportunity for further education and learning. To this end, I have written to Dr G of A & E Clinic B reminding his staff (including locums and contracted staff) of their obligations under the Code of Health and Disability Services Consumers' Rights, highlighting your ongoing concerns, my advisor's comments, and drawing his attention to a Ministry of Health pamphlet (Code 1424) on venomous spiders in New Zealand. I have asked Dr G to provide me with a copy of the material produced and circulated in the East Auckland region as outlined in his response to you.

In addition, you will see that I have decided to copy an anonymised version of this letter to organisations and agencies I consider would benefit from being informed of your experiences. Specifically, I have written to the Medical Council of New Zealand, the Royal New Zealand College of GPs, the New Zealand faculty of the Australasian College for Emergency Medicine, and the New Zealand Accident and Medical Practitioners Association. I have also requested that these bodies update me as to their current knowledge, awareness, and training practices regarding venomous spiders in New Zealand and treatment of their bites, and to provide me with copies of any new educational material that arises from this matter. At the completion of this process, I will post a case study of this matter on the Health and Disability Commissioner website. I will not be taking any further action.

I trust that this letter goes some way toward resolving your concerns and outlines that I have given your complaint thorough consideration.

Thank you for bringing your concerns to the Commissioner's attention.

Yours sincerely

Tania Thomas  
**Acting Health and Disability Commissioner**

cc: Dr G, Clinical Director, A & E Clinic B  
Jeanette Kohine Tu, Health Advocates Trust  
Medical Council of New Zealand  
Ms Karen Thomas, Chief Executive, Royal New Zealand College of GPs  
Dr Peddinti, Chair, NZ Faculty, Australasian College for Emergency Medicine  
Dr Alistair Sullivan, Chair, Education Committee, AMPA  
Ms Elizabeth Finn, Education Manager, Health and Disability Commissioner