HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

Your Rights

Your rights when using a health or disability service & what to do if you have any concerns

Your Rights

Everyone using a health or disability service has the protection of a Code of Rights.

An independent Commissioner and staff promote and protect these rights under law — the Health and Disability Commissioner Act 1994.

Every person has rights under the Code and every provider has duties.

The provider of health and disability services must tell people about their rights and enable them to be used.

The Code of Rights covers all registered providers (health professionals) such as doctors, nurses, and dentists. It also covers other types of provider, such as Rongoā Māori, naturopaths, homeopaths, acupuncturists, massage therapists, counsellors and support workers.

YOUR RIGHTS

1. Respect

- You should be treated with respect, including respect for your personal privacy.
- Your cultural, religious, social and ethnic needs, values and beliefs should be taken into account.

2. Fair treatment

- Your age, gender, race, beliefs, marital or family status, employment, sexual orientation or disability should not affect your treatment.
- Services should be delivered without any form of force, threat or harassment.

3. Dignity and independence

- Your dignity and independence should be respected when receiving services.

4. Appropriate standards

- You should expect services to:
    - be provided with reasonable care and skill
    - meet legal, ethical, professional and other relevant standards
    - be consistent with your needs
    - minimise potential harm and maximise your quality of life.
    - Providers should work together to ensure you have quality care.

5. Effective communication

- You should be given information in a way that helps you to understand it.
- You should be able to request a competent interpreter, if you need one and it is workable to provide one.

- Communication should take place in a way and place that supports open, honest and effective two-way discussion.

6. Information

- You should always be given:
  - an explanation of your condition
  - your available options, including the expected risks, side effects, benefits and costs
  - an estimate of when you will receive a service
  - advice of any possible involvement in teaching or research
  - the results of tests or procedures
  - the information you need to make a decision.
- You should be given honest answers to any questions you have about services, including:
  - the identity or qualifications of a provider
  - your provider's recommendations
  - how to get another opinion
  - results of research you were involved in.
  - You have a right to request and receive a written summary of information.

7. Choice and consent

- You should receive a service only when you have made an informed choice and given your informed consent.
- You should be considered competent to make choices and give consent, unless a provider has reasonable grounds to think otherwise.
- If your competence is reduced (eg, you are a child), you should still make choices and give consent at the level of your ability.
- If you are unable to give your consent (eg, you are unconscious), services can be delivered but they should be in your best interests. Providers should first try to find out whether services would be consistent with your wishes, including talking to available family and close friends.
- You may make a decision about a future health care procedure, if this choice is legally allowed.
- You should consent in writing if you agree to being involved in research, an experimental procedure, a general anaesthetic, or if significant adverse effects are possible.
- You may refuse services and withdraw your consent.
- You may ask to change to another provider if this change is practicable.
- You can decide whether your body parts or bodily substances may be used or stored.

8. Support

- A support person(s) of your choice may accompany you, as long as it is safe and it does not affect other people's rights.

9. Teaching and research

- All of these rights apply if you are going to be involved in teaching or research.

10. Complaints taken seriously

- You may make a complaint about a provider in any form appropriate to you.
- Providers must try to resolve your complaint fairly and as quickly as possible.
- You should be told of your provider's complaints and appeals procedure.
- You should be kept informed about the progress and result of your complaint.
- You should be told about who can help with your complaint, including advocates and the Health and Disability Commissioner.

← The full Code of Rights is available here
hdc.org.nz/your-rights/about-the-code/code-of-health-and-disability-services-consumers-rights/

Do these rights always apply?

Sometimes providers may not be able to meet all of these rights. However, they must always do what they reasonably can in the circumstances.

Some of these rights apply differently for assisted dying services under the End of Life Choice Act 2019.

Under Right 6, a health practitioner can give you information about assisted dying only if you raise it with the practitioner. You are not presumed to be competent to make an informed choice about assisted dying, and you cannot make an advance directive for assisted dying. Your doctor does not have to provide assisted dying services, but they must make sure that your care continues.

← More information is available here
hdc.org.nz/our-work/assisted-dying/

What can I do if I am unhappy about the service, or I feel my rights have not been considered?

To ensure your concerns are addressed promptly:

- talk to the person you received the service from, or the person in charge – they may be able to sort out the problem
- ask family, whānau, or friends to help you raise your concerns with the provider
- ask for support from an advocate from the Nationwide Health & Disability Advocacy Service, which has advocates from different ethnicities, including Māori. The service is free, confidential, and completely independent from the health and disability system and government (contact details are on the back page)
- Raising a concern or making a complaint should not affect you negatively.

Should I make a complaint?

Complaints help to improve the quality of services. Most people who make a complaint say they do not want anyone else to have a similar experience. Most providers find it helpful to know about a person’s concern so they can take action to sort it out. It may be helpful for you to have what happened to you acknowledged and explained. An apology may also help. You may also want to hear how the provider intends to improve their service.

How do I make a complaint?

You can make a complaint in the way that is easiest for you – verbally (in person or by telephone), in writing (by letter or email), or using the complaint form on the Health and Disability Commissioner website.

You can complain to:

- the person or people involved in your concerns
- a person in the organisation responsible for receiving complaints (eg, the complaints officer in a hospital)
- a health and disability advocate
- the Health and Disability Commissioner.

What happens if I make a complaint —

...to the provider?

Providers must listen to your concerns and keep you informed about their process and what is happening with your complaint. You can expect your complaint to be dealt with promptly, and any decisions or actions to be explained. This is the fastest way to deal with complaints.

...to a health and disability advocate?

An advocate will listen to your concerns and explain what options you have. Advocates are on your side and will support you in choosing what action to take.

...to the Health and Disability Commissioner?

The Commissioner looks at each complaint and decides whether to take further action. The Commissioner may then:

- send your complaint to a health and disability advocate so they can help you; or
- send the complaint to the provider to sort out; or
- refer the complaint to another agency, such as the Ministry of Health, a health practitioner registration authority, the Privacy Commissioner, or a Mental Health District Inspector; or
- carry out a formal investigation.

Only a small number of complaints need a formal investigation. This can take some time, as the Commissioner is unbiased and has to hear from everyone involved in the complaint.

Not all complaints are found to have a major issue related to your rights. Sometimes a clear outcome is not possible, and no further action is taken.

You can expect regular communication from the Commissioner's office until a final decision is made. You can also expect an explanation about how the Commissioner has decided to deal with your complaint, and the Commissioner's final decision.

Will the provider be disciplined if there was a major issue concerning my rights?

Very occasionally, the Commissioner may refer a case to the Director of Proceedings. The Director is an independent prosecutor who can take a case to the Health Practitioners Disciplinary Tribunal or to the Human Rights Review Tribunal, or both. The Health and Disability Commissioner website has information about the Director of Proceedings and cases that have been heard by a Tribunal.

Can I get compensation if there was a major issue concerning my rights?

The Commissioner does not have any power to give or order compensation. Some people may be entitled to ACC compensation if they have suffered a personal injury from their treatment.

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Contact your local health and disability advocate or the Health and Disability Commissioner for support or information:

Nationwide Health & Disability Advocacy Service
advocacy.org.nz
Ph: 0800 555 050

The Health and Disability Commissioner
hdc.org.nz
Ph: 0800 11 22 33