

Your rights when using a health or disability service in New Zealand and how to make a complaint

CODE OF RIGHTS

You have rights

Everyone using a health or disability service has the protection of a Code of Rights. An independent Commissioner promotes and protects these rights under a New Zealand law called the Health and Disability Commissioner Act 1994.

Your rights when receiving a health or disability service

The Code of Rights gives you 10 rights. These are:

1. To be treated with respect.
2. To be treated fairly without pressure or discrimination.
3. The right to dignity and independence.
4. To receive a quality service and to be treated with care and skill.
5. To be given information that you can understand in a way that helps you communicate with the person providing the service.
6. To be given the information you need to know about your health or disability; the service being provided and the names and roles of the staff; as well as information about any tests and procedures you need and any test results. In New Zealand, people are encouraged to ask questions and to ask for more information to help them understand what is going on.
7. To make your own decision about your care, and to change your mind.
8. To have a support person with you at most times.
9. To have all these rights apply if you are asked to take part in a research study or teaching session for training staff.
10. You have the right to complain and have your complaint taken seriously.

What can I do if I am worried or unhappy about the service, or something goes wrong, and I feel my rights have been breached?

You can:

- talk to the person you received the service from, or the person in charge, as they may be able to sort out the problem;
- get help and support from family and friends to raise your concerns with the provider of the service;
- seek the support of a free independent advocate to help you resolve your concerns. Details about how to contact a health and disability advocate are contained elsewhere in this leaflet.

MAKING AND RESOLVING COMPLAINTS

Why should I make a complaint?

Making a complaint is an important way of improving the quality of services. Most consumers who make a complaint say they don't want what happened to them to happen to someone else. Consumers usually find it helpful to have an acknowledgement of what happened as well as an explanation and an apology. Most providers find it helpful to know about a consumer's concern so they can take action to sort it out. Sometimes this can lead to changes in practice and the way services are provided that will benefit other consumers. Consumers find it very helpful to hear what steps the provider will take to improve their service.

Making a complaint

You have the right to make a complaint about a provider in the way that is easiest for you. You can make a complaint verbally, in person or by phone; or in writing by letter, fax or email. You can give your complaint to:

- the person or people you are complaining about;
- a person in the same practice, facility or organisation responsible for receiving complaints (eg the quality manager or complaints officer in a hospital or organisation);
- an independent health and disability advocate;
- the Health and Disability Commissioner.

What can I expect if I make a complaint

... to the provider?

Each provider must listen to your concerns and keep you informed about their complaints process and what is happening with your complaint. You can expect your complaint to be dealt with promptly, and an explanation about any decisions and actions taken as a result of your complaint.

... to a health and disability advocate?

A health and disability advocate belonging to the Nationwide Advocacy Service will listen to your concerns and explain the options available to you to resolve your complaint. The advocate is on the side of the consumer and will support and assist you in the actions you choose to take to resolve your concerns.

This service is free, confidential, and independent of service providers such as hospitals, organisations that fund services, government agencies, and the Health and Disability Commissioner. Although covered by the same legislation as the Health and Disability Commissioner, the advocacy service reports to an independent Director of Advocacy.

Advocacy is a very successful way of resolving complaints, and this is usually achieved more quickly than other options.

... to the Health and Disability Commissioner?

The Commissioner looks at each complaint and decides whether it is necessary or appropriate to take further action. The Commissioner may then:

- send the matter to a health and disability advocate to assist the person to resolve his or her complaint;
- send the complaint to the provider to sort out;
- refer the matter to another agency such as the Ministry of Health, a registration authority for health practitioners, the Privacy Commissioner or a Mental Health District Inspector; or
- investigate the matter. In a small number of complaints the Commissioner may decide to start a formal investigation. An investigation can take some time as the Commissioner is impartial and needs to allow everyone involved in the complaint to have their say. Not all complaints that are investigated are found to be a breach of the Code.

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 what the final decision is.

Will the provider be disciplined if my rights have been breached?

The Commissioner may refer a complaint to the Director of Proceedings when a breach of a consumer's rights is found during the Commissioner's investigation. This step is taken in only a very small number of investigated complaints. The Director is an independent prosecutor who can take a case to the Health Practitioners Disciplinary Tribunal (HPDT) or to the Human Rights Review Tribunal (HRRT), or both. Information about the Director of Proceedings and cases that have been heard by a Tribunal can be found on the HDC website.

Can I get compensation if my rights have been breached?

The Commissioner does not have any power to give compensation. Providers may agree to a refund as part of resolving the complaint. Some consumers may be entitled to ACC compensation if they have suffered a personal injury from their treatment. In certain limited circumstances, damages are awarded by the HRRT.

FURTHER INFORMATION AND CONTACT DETAILS

For further information and help, or to organise education and training sessions about the Code of Rights, or request information on self-advocacy or how to make a complaint, contact:

The Nationwide Advocacy Service

- Free phone: 0800 555 050
- Free fax: 0800 2787 7678
- Email: advocacy@hdc.org.nz

The Health and Disability Commissioner

PO Box 1791, Auckland
 Auckland ph/TTY (09) 373-1060
 Wellington (04) 494 7900
 Other areas ph/TTY 0800 11 22 33
 Fax (09) 373 1061
 Email: hdc@hdc.org.nz
 Website: www.hdc.org.nz