

Review of the HDC Act & Code



New Zealand Council Of
Christian Social Services

August 2024

Tirohanga Whānui | Overview

The New Zealand Council of Christian Social Services (NZCCSS) welcomes the opportunity to provide feedback on the review of the Health and Disability Commissioner Act 1994 (the Act) and the Code of Health and Disability Services Consumers' Rights (the Code). We support the kaupapa to review the HDC Act and Code, by the Health & Disability Commissioner. NZCCSS supports improvements to the complaints process and a clearer focus on upholding rights and reducing inequities within the Act and Code.

Taunakitanga | Recommendations

Our main points are:

Topic One: Supporting better and more equitable complaints resolution

NZCCSS supports the proposal to improve the complaints resolution process. Our members identify the timeliness of complaints resolution as the primary issue which impacts on both consumers, and the resources of organisations being investigated.

A greater level of due diligence in the early stages of a complaint, and investment in restorative reconciliation practices is needed to enable more effective and timely resolution of concerns. We observe that this is occurring through other avenues, such as via Elder Abuse services, which may be able to provide guidance and support resolution in a timelier manner. We suggest that establishing a service similar to the Family Dispute Resolution (FDR) function, which people must engage in prior to be able to have a dispute heard in the Family Court, could be a useful model to help HDC concentrate on complaints that are most important.

Members note the lack of avenues for their organisations to disclose useful information and context regarding a complaint, such as family dynamics that may be at play. Members also express concern that the current process is not trauma informed. Grief, for example, is a common experience within the context of aged care but is not adequately recognised as a contributing factor in the complaints process. Complaints against an individual or organisation can cause serious damage to a professional's practice and/or organisation's service provision. It is important that the process is fair for all involved.

Recommendation 1: We suggest that the review address how the complaints process can be timelier and involve greater due diligence and use of mediation in the early stage of a complaint.

Topic Two: Making the Act & the Code more effective for, and responsive to, the needs of Māori

NZCCSS supports the proposal to ensure the Act and Code reflect Te Tiriti o Waitangi and tikanga, and is more accessible to Māori. A key aspect of this is ensuring the Act & Code better provide for the concept of whānau, and collective understandings of wellbeing and decision-making.

We support the suggestions for ensuring the Act reflects a practical commitment to Te Tiriti o Waitangi. We refer also to the principles identified by the Waitangi Tribunal for the provision of health care in Aotearoa: tino rangatiratanga, equity, active protection, options and partnership (Waitangi Tribunal, 2023). It is critical that the government work to reduce longstanding health

disparities in Aotearoa. We advocate for greater provision of culturally appropriate health services and increased health promotion targeted at Māori and Pacific communities (Ellison-Loschmann & Pearce, 2006; Public Health Advisory Committee, 2023).

Inclusion in Right 1 of the Code (Respect) that every consumer has the right to have their mana upheld is a positive starting point for incorporating tikanga. We acknowledge that it can be difficult to single out different principles associated with tikanga, however we are concerned that a lack of clarity regarding tikanga will lead to this part of the Act and Code being applied inconsistently in practice. We query how those working under the Act and Code will be supported with regards to capability and consistency of practice.

Recommendation 2: We suggest that the Act and Code uphold a focus on reducing health disparities in Aotearoa and that consideration is given to consistency with regards to tikanga.

Topic Three: Making the Act and the Code work better for tāngata whaikaha | disabled people

NZCCSS supports the proposed measures to make the Act & Code work better for tāngata whaikaha/disabled people. It is important that the Act and Code reflect the modern understanding of disability and better reflect the government's commitments under the United Nations Convention on the Rights of Persons with Disabilities. We also support consistency of rights and language across the Act and Code with other relevant legislation relating to adult decision-making capacity.

Recommendation Proposal 3: We support the proposed options for strengthening the Act and Code for tāngata whaikaha | disabled people.

Topic Four: Considering options for a right of appeal of HDC decisions

NZCCSS supports the inclusion of a review process for HDC decisions and suggests that an internal peer review process would be of value to ensure consistency of decision-making. It is important that those involved in a complaint can query the decision-making process without prejudice.

Recommendation Proposal 4: We support inclusion of a process for reviewing HDC decisions.

References

Ellison-Loschmann, L., & Pearce, N. (2006). Improving access to health care among New Zealand's Maori population. *American journal of public health, 96*(4), 612–617.

<https://doi.org/10.2105/AJPH.2005.070680>

Public Health Advisory Committee (2023). *Position statement on Equity, Te Tiriti o Waitangi, and Māori Health*. <https://www.health.govt.nz/system/files/documents/pages/phac-te-tiriti-equity-statement-sep23.pdf>

Waitangi Tribunal (2023). *HAUORA Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*

https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_195476216/Hauora%202023%20W.pdf

Ko wai tātou | Who we are

NZCCSS has six foundation members; the Anglican Care Network, Baptist Churches of New Zealand, Catholic Social Services, Presbyterian Support and the Methodist and Salvation Army Churches.

Through this membership, NZCCSS represents over 230 organisations providing a range of social support services across Aotearoa. We believe in working to achieve a just and compassionate society for all, through our commitment to our faith and Te Tiriti o Waitangi. Further details on NZCCSS can be found on our website www.nzccss.org.nz.

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