Health and Disability Commissioner

Te Toihau Hauora Hauātanga

Advocacy Guidelines – Draft Content
For consultation

Ko ngā aratohu o Ngā Kaitautoko

Tuia tō mana kia māia
Tuia tō mauri kia mau
Horahia te mātauranga
Kia puta ko te māramatanga
E whakakotahi ai te wairua
Kia tipu, kia hua, kia puāwai ngā mahi
Haumi e, hui e,
Tāiki e!
Retain and hold fast to your mana, be bold, be brave
Be widespread with knowledge to empower understanding
By working together we will grow, flourish, prosper
Join all together, bind all together, let it be done!

Contents | Ngā kaupapa

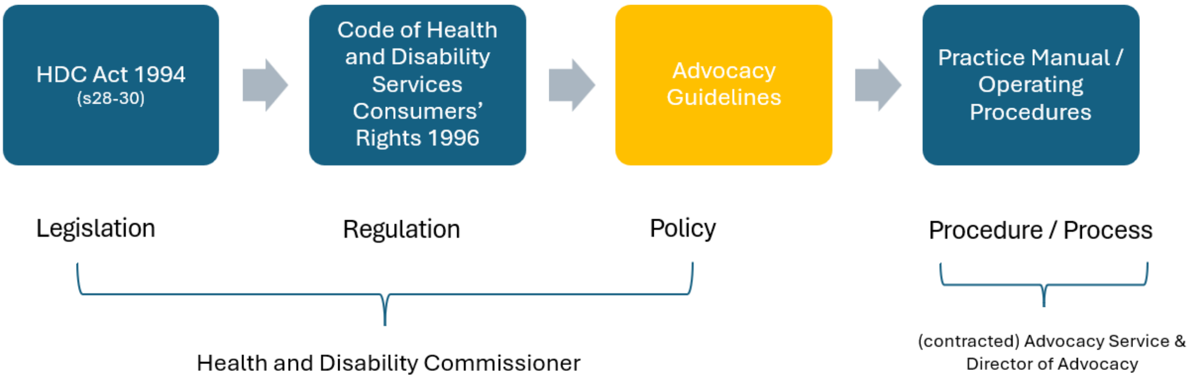
Introduction | Kupa arataki

The following outlines the Advocacy Guidelines principles, objectives and key activities in the delivery of the Advocacy Service. These principles and key areas incorporate feedback from the Act and Code Review undertaken in 2024.

The aim of this consultation document is to gain targeted feedback following on from this Review. This is to ensure the Advocacy Guidelines remain relevant for the delivery of an Advocacy Service to support health and disability services consumers and whānau. A glossary is provided to further explain terms used in this document.

Where the Guidelines fit

The Guidelines are issued by the HDC Commissioner in accordance with the HDC Act 1994, s28 and provide guidance on the operation of the Advocacy Services. The Guidelines do not provide detail on how the Service is delivered. This will be the responsibility of the Advocacy Service itself in consultation with the Director of Advocacy. See below:



Principles that apply | Mātāpono

Empowerment: the concept of rights is inherently linked to the empowerment principle. Advocacy is committed to the belief that consumers already have skills and experience on which to draw to assist them in resolving their concerns. Advocates are required to be a strong voice for those consumers who have limited ability to self-advocate, or who are likely to be experiencing institutional discrimination.

A people-centred and flexible focus with access to a continuum of empowering strategies is required to ensure the most appropriate approach for each consumer. Working in an empowering way is based on the belief that it is better to equip and support consumers to solve their own problems than to take over their problems and fix them on their behalf.

The empowerment principle supports the consumer to resolve the current issue with assistance, and to learn skills and knowledge to develop confidence to self-advocate when similar issues arise in the future.

Fairness: that people are treated fairly, their rights are being protected, and their mana is being respected. This includes the principles of natural justice, that all people are treated fairly and equitably.

Responsive: meeting the needs of people / tāngata. That services are culturally appropriate and that systems, processes and communications are responsive to needs of people / tāngata. Responsive also includes being flexible to individual circumstances and being able to adapt processes accordingly.

Efficient: processes and communications are timely and effective.

Accessible: processes, material and communications are provided in a way that is culturally appropriate and meets the needs of people / tāngata. Being accessible minimises or removes barriers to effective engagement. Includes appropriate assistance and supports and or reasonable accommodation (as per UNCRPD) to enable access.

Guidelines – Updated Content | Aratohu

Te Tiriti o Waitangi

Objectives:

1. Build knowledge of Mātauranga Māori (Māori knowledge and intelligence systems). Te ao Māori world views, ways of knowing, being, belonging and engaging existed before the signing of te Tiriti o Waitangi

2. (From this foundation) Strengthen Advocacy engagement with Māori

3. Enable the right for Māori to be Māori (Māori self-determination), to exercise their authority over their lives, and to live on Māori terms and according to Māori philosophy, tikanga, values and practices

What:

- Know the historical context of te Tiriti o Waitangi and The Treaty of Waitangi, and the Crown engagement with Māori
- Understand impact of colonisation on Māori culture and health
- Working proactively to eliminate disparities and ensure Maori experience equitable health outcomes in health and disability services
- Use a mana-to-mana approach to ensure advocacy service and support are culturally appropriate and responsive to Māori

Consumer and whānau engagement

Objectives:

1. Prioritise partnerships with consumers and whānau and support their engagement with advocacy service
2. Advocate with a clear understanding of what advocates can do when working with consumers and whānau and their role when engaging with providers
3. Provide signposting for issues outside the advocacy service scope or jurisdiction.
4. Use ways of engaging that is culturally appropriate

What:

- Build knowledge and skills in approaches that empower consumers and whānau, such as co-design tools, respect for diversity, and valuing lived experience
- Work collaboratively to improve communication through understanding different communication styles, and applying cultural safety, restorative practice, and relational resolution. This includes hohou te rongo and hui-a-whānau
- Understand and apply supported decision-making frameworks, and help consumers identify their own support networks, including whānau and support people
- Know how to practise in a culturally safe and appropriate way
- Build consumer, whānau and community knowledge of self-advocacy

1. Use mātauranga Māori approaches to engagement, including tikanga, such as whanaungatanga to build trust and transparency

Compliance and practice

Objectives:

1. In-depth knowledge of the legislation that affects advocacy services and its impact on consumers. This includes the effect of funding models and relevant service guidelines for providers
2. Understand the importance of quality, self-monitoring, and using information to improve services
3. Have a code of conduct and apply own practice in the spirit of the Code of Rights
4. Promote public understanding of the advocacy service
5. Support and provide resolution pathways, including tikanga-based resolution
6. Build understanding of priority populations and impacts of health and disability systems on their well-being

What:

- Understand and apply the HDC Act 1994 (section 30), the Code of Health and Disability Services Consumers’ Rights 1996, Te Tiriti o Waitangi, HDC reports, and the Code of Expectations for health entities’ engagement with consumers and whānau, to shape the role of an advocate

- Develop strong strategies, knowledge, and skills to respond to priority populations, support early resolution of complaints, and respond appropriately to urgent situations
- Be able to explain informed consent and confidentiality within the scope of engagement, as set out in the HDC Act 1994
- Understand the role of appointed representatives, such as legal guardians, EPOA holders, and supported decision-makers
- Monitor the quality of services delivered and respond appropriately to evaluations and reports
- Clearly describe the role of advocacy and related services to the public, including complaint pathways for priority populations and diverse communities
- Build and maintain effective links with other health or disability resolution agencies so consumers can be referred when appropriate
- Identify and respond to safety concerns while protecting the wider consumer community

Next Steps | Te huarahi atu

Following feedback, the Guidelines will be updated and submitted for approval to the Minister of Health. Upon approval the HDC Commissioner will issue the Guidelines (gazetted) and publish the Guidelines on the HDC website. This may require the Director of Advocacy, to review the current practice of the Nationwide Health and Disability Advocacy Service | Ngā Kaitautoko so that the service fully aligns with the updated Guidelines.

Official Information Act | Te Ture Mōhiohio Ōkawa

Please note that any feedback you give us is official information under the Official Information Act 1982 (the OIA). Your feedback may be requested under the OIA and may need to be released.

If your feedback contains information that you believe should be withheld, please make it clear in your feedback what this content is and why you think it should be withheld. Any request for withholding information on the grounds of confidentiality or for any other reason will be determined in keeping with the OIA. Personal health information about identifiable individuals will generally be withheld due to the private and sensitive nature of this information.

Contact Us | Whakapā atu

If you have any questions or would like to provide additional feedback you can contact us by email: guidelines@hdc.org.nz

Appendix 1

Glossary | Kuputaka

The following provides description of key terms used in this document

Advocates and the Advocacy Service	Health and disability services consumer advocates (advocates) have a statutory role within the Act to promote the Code and support people using health and disability services. Advocates, operating within the Nationwide Health and Disability Advocacy Service (the Advocacy Service), have a role to guide and support people to 'self-advocate', that is to speak up about their needs and raise concerns and resolve complaints directly with service providers.
Consumer	The word 'consumer' means a person accessing a health service, a disability service, or both. 'Consumer' is a term that is used not only in the HDC Act 1994, but in other health and disability-related legislation. We acknowledge that some people do not prefer this word. Where the word 'consumer' is not required for clarity, we say people accessing services and other terms such as tāngata whaikaha | disabled people and tāngata whai ora (see below). We also acknowledge that some people and cultures approach decision-making collectively rather than as an individual. The Code of Rights enables people who can make decisions about their care to determine who their whānau and support people are when interacting with health and disability services and the extent to which they are involved. The concept of whānau is shown below.
Complaint	The Code provides the right to complain about health and disability services. It sets out expectations for providers to respond to complaints. The Act sets out how HDC can respond to complaints. A complaint is when someone isn't happy with a health or disability service, wants to talk about it, and expects a response. A complaint is different from feedback or raising concerns, as it requires a resolution as set out in the Code and the Act.

CRPD	The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is a human rights treaty. It focuses on identifying and removing social and physical barriers that stop disabled people from being fully included. This social and rights-based model of disability includes people with lived experience of mental distress and/or harm from substance use or gambling.
Cultural safety	Is an ongoing process of self-reflection by health professionals and educators to recognize and address power imbalances, biases, and the impact of their own cultural values on service users, ensuring respectful and equitable care.
Hohou to Rongo Kia hohou te rongo	Hohou te rongo describes methods of resolving disputes using principles and values from te ao Māori (Māori worldviews).
Hui ā-whānau	Hui ā-whānau is a whānau gathering (inclusive of the consumer) facilitated using te reo Māori me ngā tikanga Māori (Māori methods of engagement and protocols). Hui ā-whānau is a new approach within HDC’s complaints management process facilitated by Māori. Hui ā-whānau allows whānau voice to be heard and understood in a culturally safe and appropriate environment. Hui ā-whānau takes place in te reo Māori, English, or both. It is a process led by tikanga where whānau are the experts of their experience and are supported to determine what resolution looks like for them.
Mana Kei ia tangata tōna ake mana	A spiritual force or power that resides in all people(s), in objects, or the environment, that includes respect and autonomy.
Priority / focus Population	HDC priorities resources towards populations that face systemic barriers, experience poorer outcomes and or are reliant on healthcare or disability support services for their daily needs. Focus populations can be found in HDC Statement of Intent (and may change from time to time). The Advocacy Service within their available resources, may include other priority groups as appropriate.

Provider	The word 'provider' means a healthcare provider or a disability services provider, as defined in the Act (sections 3 and 2). This includes public and private services, paid and unpaid services, hospitals and rest homes, and individuals such as nurses, doctors, dentists, pharmacists, counsellors, chiropractors, naturopaths, rongoa and caregivers.
Supported Decision-making	Supported decision-making is a way for people to make their own decisions based on their will and preferences, so they have control of their life. It ensures the person who needs support is at the centre of all decisions that concern them. See Will and preferences below
Support person	(as per Right 8) every consumer has the right to have one or more support persons of their choice present (in-person or through other communication platforms), except where safety may be compromised or another consumer's rights by be unreasonably infringed. A support person can be family member, friend, or any other nominated person the consumer chooses.
Reasonable accommodation (accommodate for person with a disability)	Reason accommodation may involve: • Necessary and appropriate modification and adjustments • Not imposing a disproportionate or undue burden • Where needed in a particular case • To ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms
Restorative approach	A relational response is required to understand the needs of the people most directly affected and to provide opportunities to repair wellbeing, relationships and trust. Meeting these goals requires a restorative response that upholds and restores the dignity, or tapu, of all the people involved. A restorative approach is not an end in itself but is focused on supporting the consumer / whānau in dealing with the emotional and spiritual harm they have experienced and to enable the consumer to continue to engage with the health provider and to maintain overall trust and confidence in the health system.

	Restorative approach in Te ao Māori can include hohou te rongo or hui-a-whānau.
Tāngata whaikaha | disabled people	Tāngata whaikaha is a strengths-based description of disability meaning to have strength, to have ability, and to be enabled. The term 'disabled people' is used by the New Zealand Disability Strategy. Many people prefer using identity-first language, 'disabled people', to express pride in their disability. We acknowledge that many people hold multiple identities and not all people who experience barriers created by an inaccessible society identify with the words 'tāngata whaikaha' or 'disabled people' or may prefer other words. For example, many tāngata whaikaha who are Māori identify as Māori first, and many Deaf people identify as being part of the Deaf community and do not always identify as being disabled. Likewise, people with disabling mental health conditions may identify with communities with lived experience of mental distress or harm from substance use or gambling and not the disability community.
Tāngata whai ora	Tāngata whai ora means 'people seeking wellness' and can refer to people using mental health and addiction services.
Te ao Māori Te aronga a te Māori ki tōna ao Maōri	Te ao Māori is about Māori ways of thinking and seeing the world. It draws on mātauranga Māori (Māori knowledges, values, perspectives, creativity and practices).
Te Tiriti o Waitangi | the Treaty of Waitangi	At the heart of te Tiriti | the Treaty is the exchange of rights and responsibilities between the British Crown and Māori / tangata whenua (indigenous people of Aotearoa New Zealand). te Tiriti promised to protect Māori property and enable tangata whenua to live as Māori in Aotearoa New Zealand. The Treaty gave the British Crown the right to govern Aotearoa New Zealand and to represent all New Zealanders' interests, including Māori. There is a te reo Māori version and an English version. The two texts are different, particularly in relation to matters of governorship and sovereignty in Articles 1 and 2.

Tikanga He kupu ārahi i ngā mahi tika	Tikanga Māori (tikanga) are customary practices rooted in core knowledge systems, values and principles broadly shared among Māori and informed by mātauranga Māori Any discussion of tikanga needs to appreciate its place and function within te ao Māori, in its natural environment. To try and understand tikanga outside of that framework risks it becoming de-contextualised and abstract, and distorting its meaning.
Whānau He herenga tangata, herenga whakapapa	Traditionally, 'whānau' most often refers to family members connected by blood but may include in-laws and adopted family members. In modern usage, whānau extends to include people with close relationships and who come together for a shared purpose. People define their whānau for themselves when using health and disability services.
Will and preferences	The CRPD provides that a disabled person's rights, will, and preferences are guiding principles for all support for, or exercise of, decision-making. A person's 'will' reflects their underlying values or the direction they want to pursue. In contrast, a person's 'preferences' reflect a greater liking for one choice over another.