

Submitted to About the Act and Code Review
Submitted on 2024-07-29 10:53:56

Other (please specify below)

Please feel free to provide any further detail below:

[REDACTED]

Please note that this submission is made in my personal capacity and does not represent the views of [REDACTED]

Share 'one big thing' or upload a file

5 Are you here to tell us your 'one big thing'?

Your one big thing::

Please read my answers to the detailed questions

6 Upload a file

File upload:

No file uploaded

Not Answered

Topic 1: Supporting better and equitable complaint resolution

1.1 Did we cover the main issues about supporting better and equitable complaints resolution?

Please add your response below:

In my opinion, the detailed suggestions for changes to support better and equitable complaints resolution are overly specific and unlikely to be enacted, even if recommended in the Commissioner's review report.

Most of the desired changes are being achieved by the way HDC applies the Act and Code

For example, previous HDC opinions have found providers in breach of right 10 for taking retaliatory action against a complainant, eg 09HDC01315, 22/1/10

HDC can issues guidelines to providers re the requirements of right 10, if it wishes to set explicit expectations for provider complaint processes

1.2 What do you think of our suggestions for supporting better and equitable complaint resolution, and what impacts could they have?

Please add your response below:

Overly specific, unnecessary and unlikely to be enacted

1.3 What other changes, both legislative and non-legislative, should we consider for supporting better and equitable complaint resolution?

1.3 changes - supporting better and equitable complaint resolution:

Greater use of non-legislative options, including restorative practices, mediation and far shorter, simpler, investigation reports

Topic 2: Making the Act and the Code more effective for, and responsive to, the needs of Māori

2.1 Did we cover the main issues about making the Act and Code more effective for, and responsive to, the needs of Māori?

Please add your response below:

Yes

2.2 What do you think about our suggestions for making the Act and the Code effective for, and responsive to, the needs of Māori, and what impacts could they have?

Please add your response below:

In the 2004 review report, [REDACTED] including a Treaty of Waitangi reference in the Act. I would support it being added to the Act and the Code - but it seems highly unlikely under the current Government and could prompt an unhelpful public debate

2.3 What other changes, both legislative and non-legislative, should we consider for making the Act and the Code effective for, and responsive to, the needs of Māori?

Please add your response below:

Much can and is being achieved already by HDC by non-legislative ways in applying the Act and Code.

Topic 3: Making the Act and the Code work better for tāngata whaikaha | disabled people

3.1 Did we cover the main issues about making the Act and the Code work better for tāngata whaikaha | disabled people?

Please add your response below:

Yes

3.2 What do you think of our suggestions for making the Act and the Code work better for tāngata whaikaha | disabled people, and what impacts could they have?

Please add your response below:

I do not consider that a legislated focus on disability issues, or an updated definition of disability services, would have a significant impact of HDC's work.

The Code has stood the test of time. I do not think the suggested minor amendments would have much, if any, impact.

3.3 What other changes, legislative and non-legislative, should we consider for making the Act and the Code work better for tāngata whaikaha | disabled people?

Please add your response below:

I do not consider that a legislated focus on disability issues, or updated definition of disability services would add anything to the focus HDC already brings to this topic.

In the 2009 review report, [REDACTED] inclusion in the Code of a right of timely access to disability services that a consumer has been assessed as needing. I still support such a law change.

I support progressing the sensible recommendations for amendment to Right 7(4) in relation to research on adults unable to provide informed consent - made by HDC after a very lengthy consultation, in its 2019 report.

Topic 4: Considering options for a right of appeal of HDC decisions

4.1 Have we covered the main issues about considering options for a right of appeal of HDC decisions?

Please add your response below:

Yes

4.2 What do you think about our suggestions for considering options for a right of appeal of HDC decisions, and what impact could they have?

Please add your response below:

They are sensible. The right to an independent internal review could usefully be added to the Act, but can already be implemented in practice.

I support giving a complainant whose complaint is not investigated, or whose complaint is investigated resulting in a 'no breach' decision, the right to bring a claim before the Human Rights Review Tribunal – in the same way that is possible for complainants to the Privacy Commissioner, under the Privacy Act 2020.

I also support the Ombudsman taking a more robust approach to complaints about HDC's handling of a complaint. The Ombudsmen Act 1975 does not prevent the Ombudsman from taking a more interventionist approach where there appears to have been an injustice, without going so far as a substantive right of appeal.

I think it would be a mistake to legislate for a full right of appeal to a body that would consider the complaint de novo. Such an appeal right would undermine the HDC complaint system and, in my view, is not needed to ensure fairness, if the changes noted above are introduced.

4.3 What other options for a right of appeal of HDC decisions, both legislative and non-legislative, should we consider?

Please add your response below:

See above

Topic 5: Minor and technical improvements

5.1 What do you think about the issues and our suggestions for minor and technical improvements, and what impacts could they have?

Please add your response below:

I support changes a-f.

It is absurd that HDC is required to undertake five-yearly reviews that are ignored by successive Ministers of Health. Each review report has recommended that the reviews occur only every 10 years, given the time and expense involved – and the pointlessness of an exercise that is ignored by successive Ministers of Health. Commissioner Hill clearly reached this view by confining his 2019 review report to a three-page letter!

I am not convinced of the need for changes g, h and i.

5.2 What other minor and technical improvements, both legislative and non-legislative, should we consider?

Please add your response below:

No suggestions

5.3 What are your main concerns about advancing technology and its impact on the rights of people accessing health and disability services?

Please add your response below:

No suggestions

5.4 What changes, both legislative and non-legislative, should we consider to respond to advancing technology?

Please add your response below:

Get rid of Lotus Notes at HDC!

Publishing and data protection

May we publish your submission?

Yes, but please remove my name/my organisation

Please note any part(s) of your submission you do not want published::

Reasons to withhold parts of your submission

Yes, I would like HDC to consider withholding parts of my submission from responses to OIA requests.:

No

I think these parts of my submission should be withheld, for these reasons: :

If needed, can we to contact you to follow up for more detail on your submission?

Yes, you can contact me

Would you like to receive updates about the review?

I'd like to receive updates about the review