



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Community support worker breaches the Code for taking non-consensual photos and videos

23HDC00745

Deputy Health and Disability Commissioner Rose Wall has today issued a report finding a community support worker breached the Code of Health and Disability Services Consumers' Rights (the Code) for her care of multiple consumers at a disability service.

The community support worker, who was employed to provide support to a group of people with disabilities, took non-consensual photos and videos of several consumers. These were stored on her phone and later accessed by her husband.

The worker alleged that she took the photos and videos to use as evidence of consumers' violent and erratic behaviour, however, Ms Wall rejected this submission, given most of the photos showed consumers appearing calm.

"The act of taking these photographs and video recordings was inappropriate and did not demonstrate respect for the consumers," said Ms Wall.

"In my view, the community support worker took these photographs and video recordings for an unnecessary and personal reason."

Ms Wall found the community support worker breached Right 1(1) of the Code which gives consumers the right to be treated with respect | *mana* and Right 3 which gives consumers the right to services delivered in a way that respects their dignity | *Tū rangatira Motuhake*.

The community support worker also failed to take steps to manage several incidents shown in the videos. In one video a consumer was shown verbally abusing another consumer. However, the community support worker did not take any subsequent steps to ensure the affected consumer was safe. She also failed to report to the Service Coordinator an incident of self-harm by a consumer that was shown in a video.

For these failings, Ms Wall found the community support worker breached Right 4(1) which gives consumers the right to have services provided with reasonable care and skill and the right to services of an appropriate standard | *Tuatikanga*.

Ms Wall acknowledged that the community support worker had provided a formal apology to the consumers and their *whānau* and further recommended that she also review and familiarise herself with the disability service's policies, management standards, and operating procedures.

Ms Wall recommended that the disability service implement a system to ensure that substantive changes to policies and procedures are advised to employees and the changes are supported by education or training. She also recommended they use this case to develop education/training on the use of personal mobile devices for taking photographs and video/audio recordings and incident reporting.

Since the events, the disability service has taken disciplinary action against the employee and are looking at making improvements to their induction training to address the use of mobile devices for recording photographs and video recordings.

4 March 2024

Editor's notes

The full report of this case will be available on HDC's [website](#). Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name providers and public hospitals found in breach of the Code, unless it would not be in the public interest, or would unfairly compromise the privacy interests of an individual provider or a consumer.

More information for the media, including HDC's naming policy and why we don't comment on complaints, can be found on our website [here](#).

HDC promotes and protects the rights of people using health and disability services as set out in the [Code of Health and Disability Services Consumers' Rights](#) (the Code).

In 2021/22 HDC made 402 recommendations for quality improvement and providers complied with 98% of those recommendation.

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