



Health and Disability Commissioner  
Te Toihau Hauora, Hauātanga

## Act and Code Review consultation questions | Ngā pātai matapakinga

This document contains all the questions we are asking as part of the Act and Code Review consultation. Aside from the required questions, you can answer as many or as few as you'd like. When completed, please either email it to [review@hdc.org.nz](mailto:review@hdc.org.nz) or post it to us at PO Box 1791, Auckland, 1140.

Please visit <https://review.hdc.org.nz> to answer these questions online.

### Your details (required)

It's important for us to know a bit about you so that we understand whose views are being represented in submissions. It helps us to make sure that any changes we recommend will work well for everyone and have an equitable impact.

1. What is your name? The Nursing Council of New Zealand

2. What is your email address? [REDACTED]

3. Are you submitting as an individual, or on behalf of an organisation or group?

☐ I am submitting as an individual

☒ I am submitting on behalf of an organisation or group

4. How did you hear about this consultation? (please select)

☐ HDC website

☐ News media

☐ Social media

☐ Internet

☐ Through my job

☐ Word of mouth

☒ Other (please specify below)

Direct contact from the HDC



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Please answer the following questions **if you are submitting as an individual**. If you are submitting on behalf of an organisation or group, please go to page 3.

**Which of these services do you engage with the most? (Please select all that apply)**

- ☐ Health services      ☐ Disability services      ☐ Mental Health services  
☐ Addiction services      ☐ Aged Care Services      ☐ Kaupapa Māori services  
☐ Other services (please specify) \_\_\_\_\_

**What is your gender?**

- ☐ Female      ☐ Male  
☐ Another gender (please specify) \_\_\_\_\_  
☐ I don't want to answer this question

**How old are you?**

- ☐ Under 15      ☐ 15 - 17      ☐ 18 - 24      ☐ 25 - 34      ☐ 35 – 49  
☐ 50 - 64      ☐ 65+      ☐ I don't want to answer this question

**What is your ethnicity? (Please choose all that apply)**

- ☐ NZ European      ☐ Māori      ☐ Samoan      ☐ Cook Island Māori  
☐ Tongan      ☐ Niuean      ☐ Chinese      ☐ Indian  
☐ I don't know my ethnicity      ☐ I don't want to state my ethnicity  
☐ Other/s (please state): \_\_\_\_\_



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**Do you identify as having a disability?**

☐ Yes      ☐ No

**If you are submitting on behalf of an organisation or group:**

**What is the name of your organisation or group?**

The Nursing Council of New Zealand

**What type of organisation/group is it?**

- ☐ Consumer organisation/group (please specify below)
- ☐ Iwi/ Māori organisation/group (please specify below)
- ☐ Health and/or disability services provider (please specify below)
- ☐ Central Government
- ☐ Local Government
- ☐ University/Academic
- ☐ Other (please specify below )

Please feel free to provide any further detail:

Responsible authority and regulator for nurses under the Health Practitioners Competence Assurance Act 2003

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## Share 'one big thing'

This survey contains structured questions that ask for your feedback on each chapter in our consultation document. If you would prefer to give us your feedback as a whole, by telling us 'one big thing' – you can do so below.

If this is all you want to provide by way of your submission, that's fine by us. We will consider all the submissions we receive.

### What is your 'one big thing'?

The Council's submission is provided under the direct specific questions below.

## Topic 1: Supporting better and equitable complaint resolution



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

The Nursing Council (Council) considers that the proposal to support better and equitable complaint resolution is a good one and the Council is in support of this aim. The Council is of the view that the main issues appeared to have been covered.

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

In respect of the specific proposals outlined in the consultation document, the Council submits as follows:

- a. Amend the purpose statement of the Act – we would support wording that included the concept of upholding mana into the purpose statement or utilised the phrase “mana enhancing”.
- b. Clarify cultural responsiveness - the Council also supports rewording the Code, alongside sector guidance, so that Right 1(3) is inclusive and sets expectations of cultural responsiveness that align with sector standards.
- c. Clarify the role of whānau – the Council supports changes to the Code, supported by guidance, to clarify the role of whānau in the consumer–provider relationship and to help providers to enable whānau



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participation appropriately. We also support the three specific proposals outlined in the consultation document.

- d. Ensure gender-inclusive language – we support this suggested change.
- e. Protect against retaliation - the Council also agrees the Code should include a non-retaliation clause in Right 10 (Right to complain) to support people to feel safe to raise concerns and complain.
- f. Clarify provider complaint processes - the Council also agrees with changes to Right 10 to simplify and set clearer expectations for provider complaint processes, including promoting the right to complain.
- g. Strengthen the Advocacy Service – we agree with steps to strengthen the advocacy service, although we do not have any specific suggestions on how to achieve this.

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

We do not have any other suggested changes.



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

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

The Nursing Council considers that the proposal to make the Act and the Code more effective for, and responsive to, the needs of, Māori is a good one and is in support of this aim. The Council is of the view that the main issues appeared to have been covered.

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

In respect of the specific proposals outlined in the consultation document, the Council submits as follows:

- We agree with the proposal to add to Right 1 of the Code (Respect) that every consumer has the right to have their mana upheld. We also would encourage strengthening the concept of manaakitanga in the Code and would be happy to discuss what this could look like further.
- In terms of broader Tikanga being included in the Act and Code, we are in agreement with this idea, and are of the view there should be further work to develop what this may look like, and would be keen to engage further.
- Add a Tiriti | Treaty clause (new Section) – **the Council agrees with this suggestion.**
- Amend the long title of the Act, eg, to provide for the recognition of the Crown's obligations under te Tiriti | the Treaty, or incorporate outcomes



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for Māori and all people in Aotearoa New Zealand in alignment with the Pae Ora Act (Title) – **the Council agrees with this suggestion.**

- Amend the purpose of the Act to incorporate principles important to Māori/ specific reference to tikanga (Section 6 Purpose) – **the Council agrees with this suggestion.**
- Strengthen the qualifications for appointment of Commissioner and Deputy Commissioners in relation to Māori (Section 10(1)(f) Qualifications for appointment or additional subsection). Eg, the Pae Ora Act requires the Board to collectively have ‘knowledge of, and experience and expertise in relation to, te Tiriti o Waitangi (the Treaty of Waitangi), tikanga Māori, mātauranga Māori, kaupapa Māori services, and cultural safety and responsiveness of services’ – **the Council agrees with this suggestion.**
- Require the appointment of a Deputy Health and Disability Commissioner Māori (new subsection in section 9 Deputy Commissioners) – **the Council agrees with this suggestion.**
- Require the Commissioner to establish and maintain effective links with iwi (section 14(2) Functions of Commissioner). – **the Council agrees with this suggestion.**
- Add engagement with Māori, hapū, and iwi organisations in relation to Section 20 Consultation on preparation and review of Code. – **the Council agrees with this suggestion.**
- Require engagement of Māori, hapū, and iwi in relation to the amendment or revocation of advocacy guidelines (Section 28 Guidelines for Operation of Advocacy Service) – **the Council agrees with this suggestion.**
- Expressly include promotion and protection of tikanga in the functions of the Commissioner in relation to the respect for, and observance of, the rights of health and disability services consumers (Section 14(1) Functions of Commissioner) – **the Council agrees with this suggestion.**





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- Require the appointment of a Deputy Health and Disability Commissioner Māori (new subsection in section 9 Deputy Commissioners) to oversee and ensure appropriate knowledge and protocols to assess and respond to cultural components of complaints. – **the Council agrees with this suggestion.**
- Amend Section 61 Mediation conference to explicitly refer to hohou te rongo/hui ā-whānau/or processes in alignment with tikanga – **the Council agrees with this suggestion.**
- Recognise and provide for tikanga in Section 20 Content of the Code. This suggestion also aligns with the Ritenga Māori declaration by appropriately recognising wairua (spirituality) and tikanga – **the Council agrees with this suggestion.**
- Functions of the Director of Advocacy to include promotion of equitable outcomes for Māori and all consumers (section 25 Functions of Director of Advocacy) – **the Council agrees with this suggestion.**
- Addition to Section 25 Functions of Director of Advocacy to include promotion of advocacy services to Māori and other communities to ensure equitable access – **the Council agrees with this suggestion.**
- Amend Section 30 Functions of advocates to explicitly respond to the needs of Māori and promote and provide for processes led by the tikanga of the whānau where appropriate – **the Council agrees with this suggestion.**
- Review and amend the legislative process for assessing complaints to enable and better align processes with tikanga (Part 4 Complaints and Investigations, Sections 31–49, and specifically sections 33 preliminary assessment, 38 taking no action and 40 investigation) – **the Council agrees with this suggestion.**



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

The Council has been working in its own notifications jurisdiction to be more responsive to the needs of Māori (particularly in the area of “fitness to practise” or “health”). The Council has adopted a Te Ao Māori framework called “Tukutuku Rau” with a collective of other regulators. The Council would be keen to work collaboratively with the HDC in this space to share and learn.



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### **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?**

The Nursing Council considers that the proposal to make the Act and the Code work better for tāngata whaikaha | disabled people is a good one and is in support of this aim. The Council is of the view that the main issues appeared to have been covered.

#### **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?**

In respect of the specific proposals outlined in the consultation document, we submit as follows:

- a. Strengthen disability functions within the Act – the Council agrees with the suggestions proposed.
- c. Strengthen references to accessibility – the Council agrees with proposed changes to the Code to explicitly reference accessibility in Right 5 (Effective Communication); and in Right 10 (Right to Complain) to strengthen the right to accessible services in the Code. The Council



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also agrees with the proposal to remove the words ‘and reasonably practicable’ in Right 5 in relation to the right to a competent interpreter.

The Council is also in agreement with the following proposed changes under the following heading “d. Strengthen and clarify the right to support to make decisions”:

- Strengthen Right 5 (Effective Communication) in the Code to explicitly reference the right for people to have support to understand information - **agree**;
- Update the language in Right 7 (Informed Choice and Consent) relating to ‘competence’ and ‘incompetence’ to decision-making capacity and affected decision-making in line with the approach of the Law Commission’s review of adult decision-making capacity law - **agree**;
- Strengthen Right 7(3) to reference the right to receive support to make decisions - **agree**;
- Update the language in Right 7(4) from consumers’ ‘views’ to ‘will and preferences’ in alignment with the language of the CRPD - **agree**; and
- Strengthen Right 7(4)(c)(ii) to ensure that the will and preferences of consumers who will never have legal decision-making capacity are taken into account – **agree**.



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

We do not have any other suggested changes.



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

4.1: Did we cover the main issues about **considering options for a right of appeal of HDC decisions**?

Yes.

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

The Council does not support the inclusion of a right of appeal following HDC decisions. The Council considers that the current framework is fit for purpose and should not be changed. The Council is of the view that the recent changes undertaken by the HDC are also appropriate and sufficient.

The Council further notes that the issuing of an HDC opinion is not a disciplinary decision, that under the Health Practitioners Competence Assurance Act 2003 has clear appeal rights. The Council also notes that Judicial review proceedings are open to people or organisations adversely affected by an opinion or the matter may be referred to the Ombudsman.



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

None – we do not recommend this be changed.



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## Topic 5: Minor and technical improvements

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

The Council supports all the suggested changes a-i under the heading minor and technical improvements.

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

We do not have any additional suggestions.





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5.3: What are your main concerns about **advancing technology** in relation to the rights of people accessing health and disability services?

The Council has an increasing interest and concern in AI technology and its impact in the health sector and is keen to work further with the HDC in this space.

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



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## Publishing and data protection

This section provides important information about the release of your information. **Please read it carefully.**

You can find more information in the Privacy Policy at [hdc.org.nz](http://hdc.org.nz).

Being open about our evidence and insights is important to us. This means there are several ways that we may share the responses we receive through this consultation. These may include:

- **Publishing all, part or a summary of a response** (including the names of respondents and their organisations)
- Releasing information **when we are required to do so by law** (including under the Official Information Act 1982)

## Publishing permission

**May we publish your submission? (Required)**

- ☐ Yes, you may publish any part of my submission
- ☐ Yes, but please remove my name/my organisation/group's name
- ☐ No, you may not release my submission, unless required to do by law



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**Please note any parts of your submission you do not want published:**

## **Reasons to withhold parts of your submission**

HDC is subject to the Official Information Act 1982 (The OIA). This means that when responding to a request made under the OIA, we may be required to disclose information you have provided to us in this consultation.

**Please let us know if you think there are any reasons we should not release information you have provided**, including personal health information, and in particular:

- which part(s) you think should be withheld, and
- the reason(s) why you think it should be withheld.

We will use this information when preparing our responses to requests for copies of and information on responses to this document under the OIA.

**Please note:** When preparing OIA responses, we will consider any reasons you have provided here. However, **this does not guarantee that your submission will be withheld**. Valid reasons for withholding official information are specified in the Official Information Act.



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

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

## Follow up contact

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

☒ Yes, you can contact me

☐ No, do not contact me

## Further updates

Would you like to receive updates about the review?

☒ I'd like to receive updates about the review

☐ I'd like to receive updates from HDC about this and other mahi

## Thank you

We really appreciate you taking the time to share your thoughts with us. If you have provided your details, we'll keep you updated on progress. If not, feel free



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to check our consultation website <https://review.hdc.org.nz> for updates or to contact us if you have any questions. We can be reached at [review@hdc.org.nz](mailto:review@hdc.org.nz).