

# About the Complaint Process

Complaints improve the quality and safety of health and disability care.

Every complaint is different. We assess each one carefully and consider the issues you raise and the evidence available.

HDC works hard to resolve complaints in a fair, timely, and effective way. Unfortunately, our response and complaints management may be delayed due to the huge increase in complaints over the last three years.

HDC cannot assist with obtaining compensation or refunds for health and disability services (see 'What can I complain to HDC about?' below).

## What can I complain to HDC about?

HDC considers complaints about the quality of health and disability services.

We decide whether there has been a breach of someone's rights under the [Code of Health and Disability Services Consumers' Rights](#) (the Code). The Code applies to any person or organisation that provides a health or disability service.

HDC can look at matters only about a health or disability service. This includes mental health and addiction services, cosmetic procedures, complementary medicine, and GP and hospital services.

Usually we cannot consider complaints about:

- ACC's decisions or processes (contact [ACC](#) directly)
- Health information privacy (contact the [Privacy Commissioner](#)), eg, when a person has asked for their health record and a provider has not provided it
- Fees charged for health or disability services
- Clinical records or reports submitted to the Court or other organisations associated with the justice system, such as the Parole Board.

## What can I do before I complain to HDC?

Before filing a complaint with HDC, you have several options:

Initially, you can talk or write to the person or organisation you're unhappy with. This can help you sort out your concerns faster. Healthcare and disability service providers are obligated under the [Code](#) to respond in a timely and appropriate way. If they don't, this can also be a cause for complaint.

An [advocate](#) can assist you and give you options for addressing your complaint.

If issues persist, or if the above options are not suitable for you, you can [complain](#) to the HDC. We appreciate how upsetting it can be to receive care that you feel was not ok. We recommend that complainants seek support from their friends and whānau.

## Who can complain to HDC?

Anyone can make a complaint to HDC. This includes:

- People who have received health care or disability care
- Families and other support people
- Other people, such as concerned staff members in a health or disability service.

You can complain [for yourself](#) or [someone else](#). There are [complaint forms](#) on our website.

### **How long does it take to decide what will happen to my complaint?**

It may take only a few days or a year or more. It depends on how complicated your complaint is (eg, whether it is about several different providers) and how long it takes us to get the information we need.

We plan to contact you with an update on the progress of your complaint approximately every 10 weeks.

If you are complaining for someone else, it helps if you show HDC that they support you in making the complaint and are happy for you to receive their personal health information.

## An overview of the Complaint Process

1. Submit your complaint to HDC.
2. Our Complaints Assessment Team will assess your complaint (see 'How we assess complaints' below).
3. HDC may decide to:
  - Ask the provider to sort out your complaint with you, with the help of the **Advocacy Service**. Complaints are often sorted out at this stage. The provider or the Advocacy Service will tell HDC what happens and let us know whether your concerns have been sorted out
  - Refer on your complaint to another agency that is better placed to handle it, eg, the Privacy Commissioner or a District Inspector
  - Close your complaint if we find that the care you received was mainly reasonable. In closing a complaint, often we recommend changes or education for the provider. Click here to see some of our reasons for closing a complaint: **Factors relevant to taking no further action on a complaint**
  - Carry out a formal investigation. This happens in only a small number of cases. Here are some reasons for a formal investigation: **Factors that may warrant an investigation**.
4. Our Commissioner (or delegate) decides what happens with your complaint and sends you and the provider an explanation, which can include recommendations for the provider. The provider is asked to act on these recommendations.

## How we assess complaints

First, we check whether our Commissioner can act on your complaint or whether it needs to be sorted out by another organisation. If HDC can look into your complaint, we may send a copy to the provider you are complaining about. (See 'What can I complain to HDC about?' above.)

Many complaints are resolved quickly with the provider, sometimes with the help of the **Advocacy Service**. HDC looks at other complaints in more detail.

Usually, we do one or more of the following:

- Ask the provider to respond to your complaint
- Ask other people or organisations for more information, eg, we may ask Te Whatu Ora for a copy of your medical records

- Ask for advice from someone who works in the same field as the provider complained about.

## Possible outcomes of your complaint

By looking into complaints, HDC helps people to understand and learn from what happened. This helps to stop the same thing happening to someone else. We use what we see in complaints to recommend improvements to health and disability care. This helps to protect people's rights and improve services.

When the Commissioner has reached a decision about your complaint, you will receive an email or letter explaining the decision and any actions the Commissioner has taken as a result.

The Commissioner may do one (or more) of the following:

- Ask the provider to apologise
- Recommend that the provider make changes so that what happened to you won't happen again. HDC follows up with providers to make sure they carry out these changes
- Send your complaint to an advocate to help you sort it out with the provider. The advocate will let HDC know what happens
- Send your complaint to the provider for you and the provider to sort out. The provider will let HDC know what happens
- Send your complaint to another organisation that is better placed to look into your concerns, such as:
  - the Ministry of Health
  - a registration authority (eg, the Medical Council)
  - the Privacy Commissioner
  - a mental health District Inspector
- Suggest other organisations that could help you, eg, the Disputes Tribunal to recover money you are owed
- Carry out a **formal investigation** of your complaint
- Very rarely, following a formal investigation and a finding of a breach of the person's rights, a provider or organisation is referred to the Director of Proceedings to consider taking legal action.

The Commissioner may decide that your complaint does not need further action. This may happen if:

- The provider has already addressed the issues raised in your complaint
- The events occurred a long time ago or the evidence needed to make a decision is no longer available
- Another organisation is better placed to help you with the issues raised in your complaint
- An independent advisor who works in the same field as the provider complained about tells HDC that the care you received was appropriate.

### **Please note that HDC can't:**

- Make people pay you any money
- Have a person 'struck off'
- Change what is written in your medical notes
- Provide a second opinion on your diagnosis
- Get you an appointment.

You can contact **ACC** on 0800 101 996 if you believe you have suffered a treatment injury.

### **Read how other complaints have been sorted out**

Our **Annual Report** has some examples of complaints.

## Learn about the formal investigation of complaints

In a small number of cases, the Commissioner conducts a formal investigation. This is a serious step, and often it takes about two years. You would need to work with HDC staff to support a formal investigation. Learn about [formal investigations](#).

## NZSL Video

HDC has produced a New Zealand Sign Language video on '[Your Rights and what to do if you have any concerns](#)' to help deaf people understand their rights and the complaints process.