



Review of the HDC Act and Code of Rights

11/01/2024

Information released under the Official Information Act 1982
and/or the Privacy Act 2020



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

GREETINGS

HI

WELCOME

HELLO

HOWDY

GLAD YOU'RE HERE

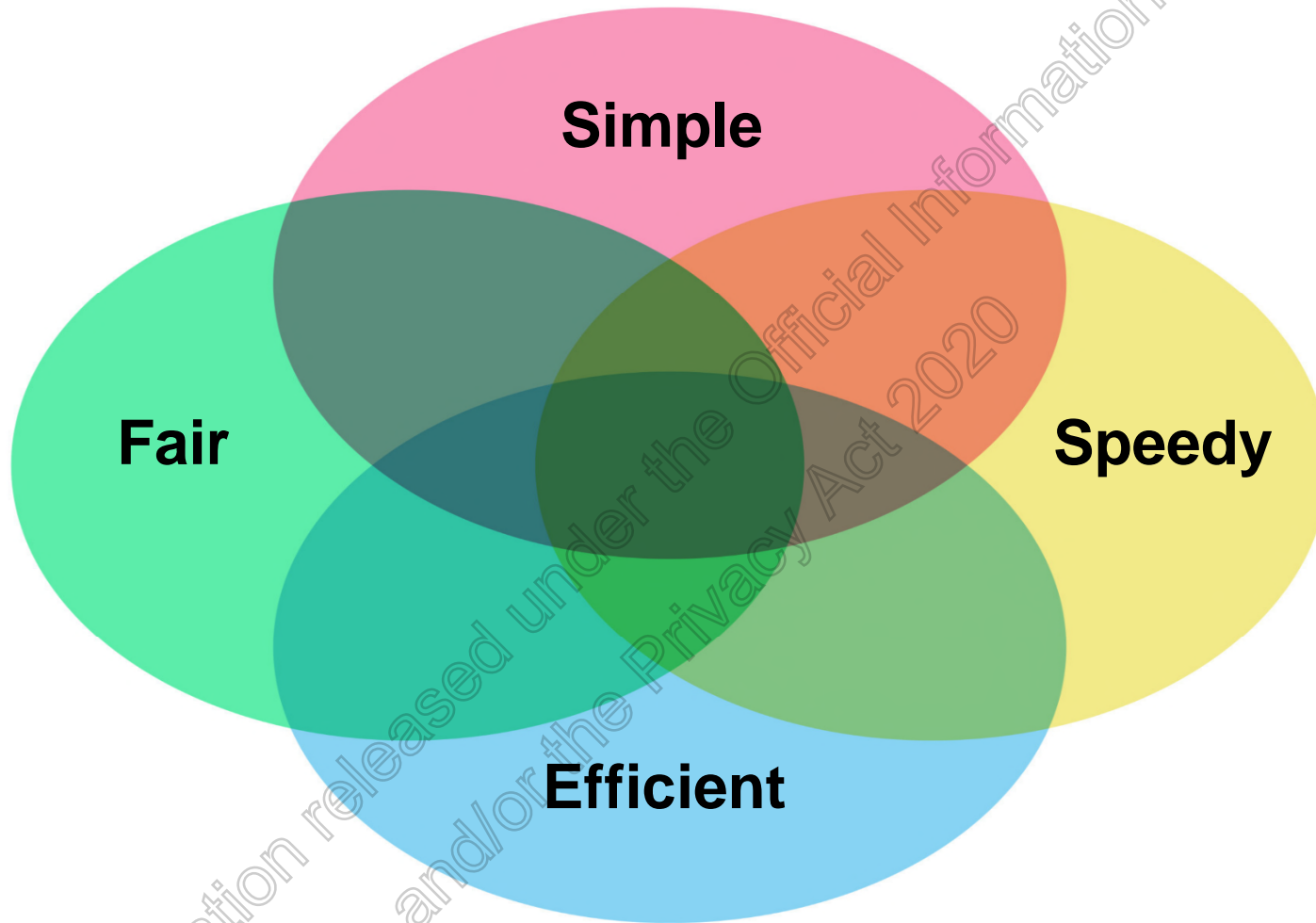
Information released under the Official Information Act 1982
and/or the Privacy Act 2020



Today's session

Information released under the Official Information Act 1982

Principles for complaints resolution



Information released under the Official Information Act 1982
and/or the Privacy Act 2020



Principles for complaints resolution

Questions:

- Are the four principles for complaints resolution “fair, simple, speedy and efficient” still fit for purpose? Why / Why not?
- Should a requirement to ‘enhance mana’ be included as a principle for complaints resolution? Why / why not?
- Are there any other principles we should consider? Why?



Improving the complaints pathway

Information released under the Official Information Act 1982
and/or the Privacy Act 2020

Right of appeal

Information released under the Official Information Act 1982
and/or the Privacy Act 2020



Current options

- Ask the HDC to review the decision. The decision to review a closed file is at the discretion of the HDC.
- Lodge a complaint with the Ombudsman. The Ombudsman's review will focus on procedural fairness (whether the decision was reasonable and made in accordance with the law).
- Seek judicial review in the High Court. Similar to an Ombudsman review, in a judicial review a judge will look at whether the way the decision was made was in accordance with the law.

Additionally, where a matter has been investigated by the HDC and results in a breach decision, then:

- the HDC can refer the matter to the Director of Proceedings for prosecution in the Health Practitioners Disciplinary Tribunal (HPDT) and/or the Human Rights Review Tribunal (HRRT).
- if the HDC does not refer the matter to the Director of Proceedings, where there has been a breach finding the complainant can take the matter themselves to the HRRT.



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA



Potential additional options

Legislative options to challenge HDC decisions include:

- Introducing a right to appeal HDC decisions to the Courts of general jurisdiction (District Court, High Court, Court of Appeal, Supreme Court) and / or
- Introducing a statutory requirement for internal review process; and / or
- A lowering of threshold for access to the Human Rights Review Tribunal (HRRT) – currently a complaint must be investigated and the provider found in breach for access to the HRRT by a complainant.

Information released under the Official Information Act 1982
and/or the Privacy Act 2020



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA



Questions

- Do you think the current pathways to challenge an HDC decision are adequate? Why? / Why not?
- Do you think the threshold for a complainant to access the Human Rights Review Tribunal should be lowered? Why?
- If yes, what threshold do you consider to be most appropriate (eg following the closure of a complaint, following an investigation regardless of whether a breach has been found)?
- How might a lower threshold affect the fair, simple, speedy and efficient resolution of complaints, including any considerations of equitable access to justice?
- What changes would you like to see to HDC's internal review processes?
- What other legislative and non-legislative options should we consider to make our processes more transparent and bring an appropriate level of challenge to HDC decisions?



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

Next steps





Ngā mihi


review@hdc.org.nz

Thank you!



review@hdc.org.nz

Information released under the Official Information Act 1982
and/or the Privacy Act 2020

A large crowd of people, seen from an aerial perspective, is arranged to form the number '10' on a grey background. The '1' is a vertical column of people, and the '0' is a large, rounded shape. The people are wearing various colored clothing, creating a vibrant, multi-colored pattern. The text 'Right 10: The Right to Complain' is overlaid in white, centered on the '0' part of the number.

Right 10: The Right to Complain



Advocacy

HDC's complaint pathways

