



Creating Change

Using a Human Rights Approach to Improve Outcomes

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Overview

- What are human rights?
- What human rights principles are relevant to the health and disability sector?
- The right to health
- General human rights treaties and conventions (eg CRPD, CRC, OPCAT, UNDRIP)
- The Human Rights Commission
- Questions

What are Human Rights?

- Basic rights and freedoms that everyone is entitled to.
- These rights are based on shared values like dignity, fairness, equality, respect and independence.
- They are set out in the Universal Declaration of Human Rights (“UDHR”) which was adopted by the United Nations in 1948

“All human beings are born free and equal in dignity and rights”.

- The UDHR forms the basis of a number of international human rights conventions and treaties that cover a range of civil, political, economic, social and cultural rights.

In the New Zealand Context

- New Zealand has ratified a number of international conventions and has agreed to be bound by them e.g. ICCPR, CRPD, CRC.
- Some civil and political rights are specifically affirmed in the New Zealand Bill of Rights Act 1990 - e.g. the right not to be deprived of life, right to liberty, right to refuse to undergo medical treatment.
- New Zealand Human Rights Act 1993– prohibits unlawful discrimination on grounds such as race, sex, disability, sexual orientation, age etc.

Some Core Human Rights Principles

- Prioritise the needs of those furthest behind
- Non-discrimination (*but note “special measures” exceptions*)
- Participation – in planning, implementation, delivery and monitoring and evaluation
- Indivisibility
- Progressive realisation
- Non-retrogression

Right to Health

- The right to health is a fundamental human right recognised in the International Covenant on Economic, Social and Cultural Rights
- It is not an absolute right to be healthy, or to demand particular types of health care or treatment.
- It is right to “*the enjoyment of the highest attainable standard of physical and mental health*”. It encompasses access to timely, acceptable and affordable healthcare of an appropriate standard.
- Governments must take deliberate and targeted steps, to the maximum extent of their available resources, to help all people be as healthy as possible and give effect to the right in a non-discriminatory manner.



Convention on the Rights of Persons With Disabilities

- Is aimed at protecting the rights of disabled people and ensuring their equal treatment under the law including rights to health services, education and employment.
- Adopts a social model of disability – barriers are caused by the way society reacts to individual impairments, not because of the impairments themselves.
- Requires “reasonable accommodations” to be made to better accommodate the requirements of disabled people.
- Supported decision-making (rather than substituted decision-making) is a core principle.



OPCAT

- Optional Protocol to the Convention Against Torture.
- Preventive approach to preventing torture, inhuman and degrading treatment of people who are detained.
- Monitoring undertaken by the Ombudsman, Independent Police Complaints Authority, HRC, and Children's Commissioner.
- Undertake without notice audits of prisons, mental health units, police stations youth justice facilities. Mandate recently extended to cover secure dementia and psychogeriatric units.



Business and Human Rights

- Ethically and socially responsible business practice
- United Nations Guiding Principles on Business and Human Rights
- Ensure diversity, participation, responsible procurement practices, supply chain assurance etc
- Implement a Human Rights Policy and undertake audits

Unlawful Discrimination

- Human Rights Act prohibits direct and indirect discrimination on the basis of sex, disability, sexual orientation, race, ethnicity, colour, religion, age etc.
- Applies to provision of goods and services, employment, accommodation etc and, more broadly, to actions of the Government and those performing any power, function or duty imposed by law.
- HRC provides a mediation service for resolving discrimination complaints.
- If complaints are not resolved – can go to the Human Rights Review tribunal which can award damages and other remedies.



HRC Broader Functions

- General advocacy and promotion of human rights
- Disability Rights Commissioner, Race Relations Commissioner, Equal Employment Opportunities Commissioner, Chief Human Rights Commissioner
- Intervening in court cases:
 - eg Lecretia Seales case (assisted dying)
 - Spencer and Atkinson – unlawful discrimination on the basis of family status – failure to pay family members who provide care. Training order issued against the Ministry of Health requiring their officers to have human rights training.



Further Information

Human Rights Commission Website: www.hrc.co.nz

Thinking Outside the Box: <http://www.seclusionandrestraint.co.nz/>

Find out more about “reasonable accommodation” here:
https://www.hrc.co.nz/files/7814/4848/7923/imm_reasonable_accommodation_guide.pdf

Find out more about “supported decision-making” here:
<http://aucklanddisabilitylaw.org.nz/supported-decision-making-home/>

Business and human rights: <https://www.hrc.co.nz/your-rights/business-and-work/guidance-business/>



Questions?