



NZNO Medico-Legal Forum 2026

Morag McDowell

Health and Disability Commissioner

Jane King

Associate Commissioner, Legal

July 2026



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA



Outline

1. Introduction
2. Complaints management
3. HDC's processes
4. Nursing themes and case studies
5. Conclusion





The Role of HDC

HDC promotes and protects the rights of people using health and disability services through:

- resolution of complaints;
- promoting the Code through publicity and education;
- contributing to health quality and safety;
- where appropriate holding providers to account

Tasked with the fair, simple, speedy and efficient resolution of complaints.



10

Consumers'
rights

1 ➤ Whakamana | **Respect**

2 ➤ Manaakitanga | **Fair treatment**

3 ➤ Tu rangatira motuhake | **Dignity and independence**

4 ➤ Tautikanga | **Appropriate standard of care**

5 ➤ Whakawhiwhitinga whakaaro | **Effective communication**

6 ➤ Whakamōhio | **Full information**

7 ➤ Whakaritenga mōu ake | **Informed choice and consent**

8 ➤ Tautoko | **Support**

9 ➤ Ako me te rangahau | **Teaching and research**

10 ➤ Mana to amuamu | **Right to complain**



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA



Why complain?

People complain to:

- receive information/explanation
- receive an apology
- be taken seriously
- improve care quality
- ensure accountability

People are most satisfied when these resolution outcomes are met directly by the provider





Responding well to issues as they arise

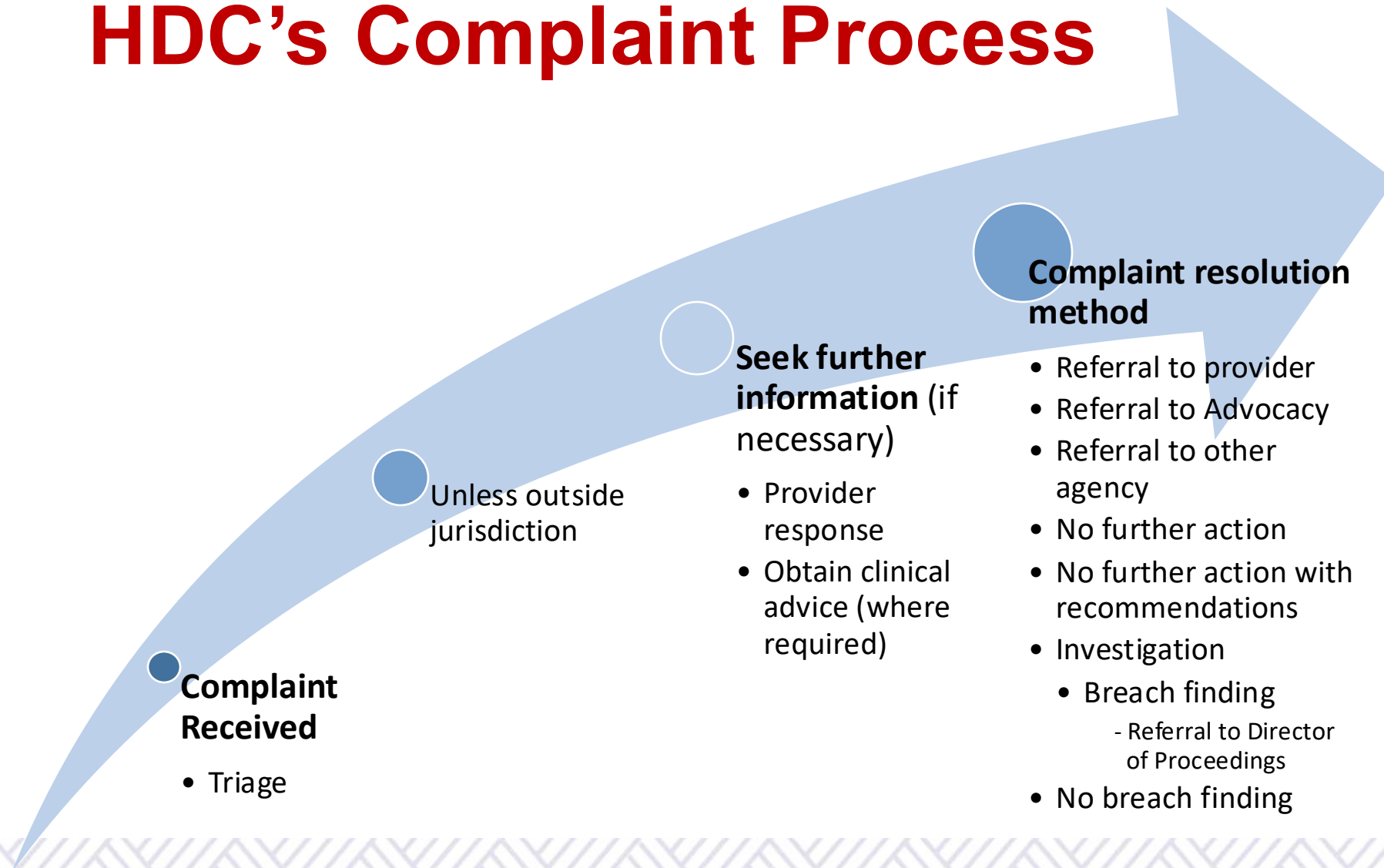
- Open disclosure – explanation and actions
- Clear information about making a complaint
- Good complaints management – the value of apology, acknowledge impact of event
- Quality improvement



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

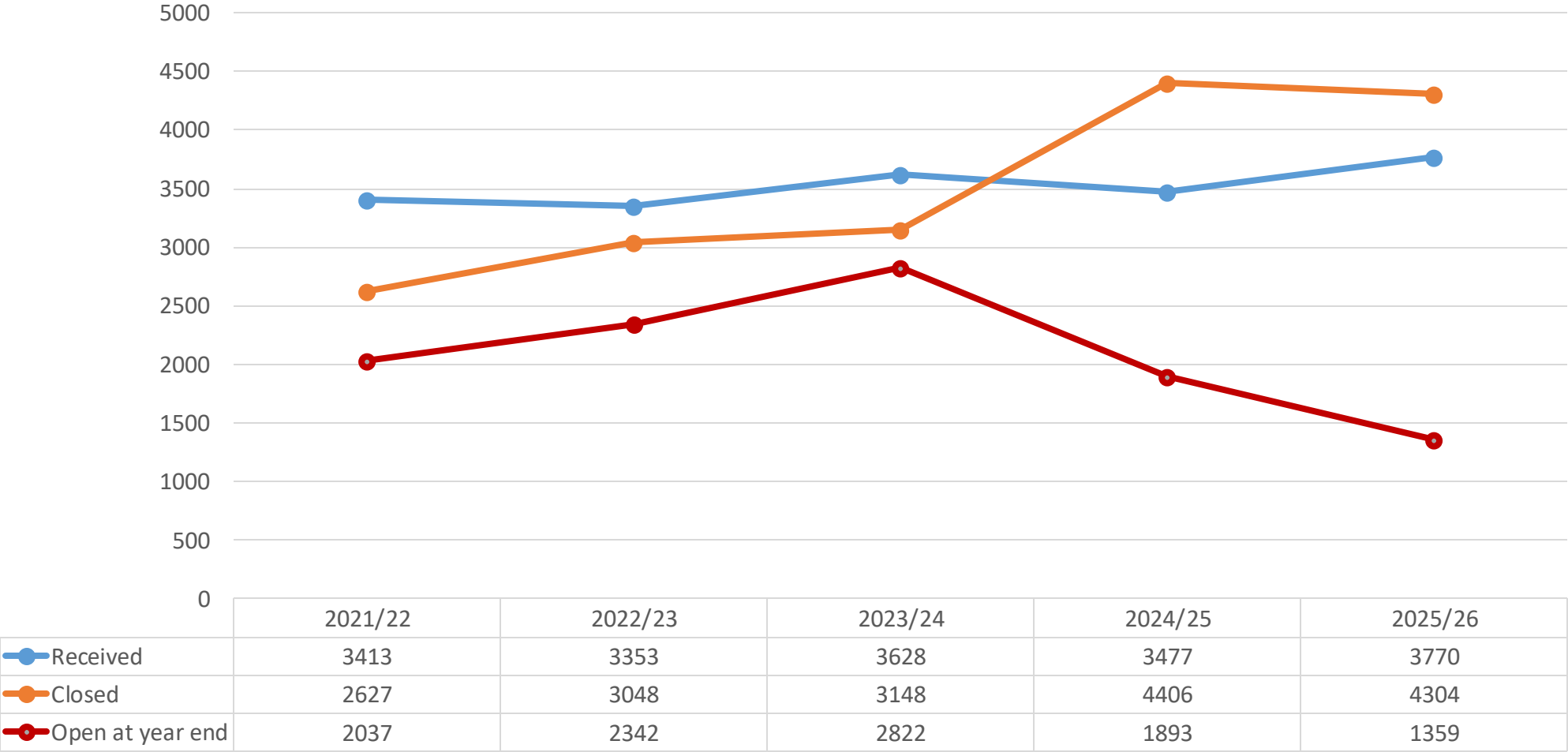


HDC's Complaint Process



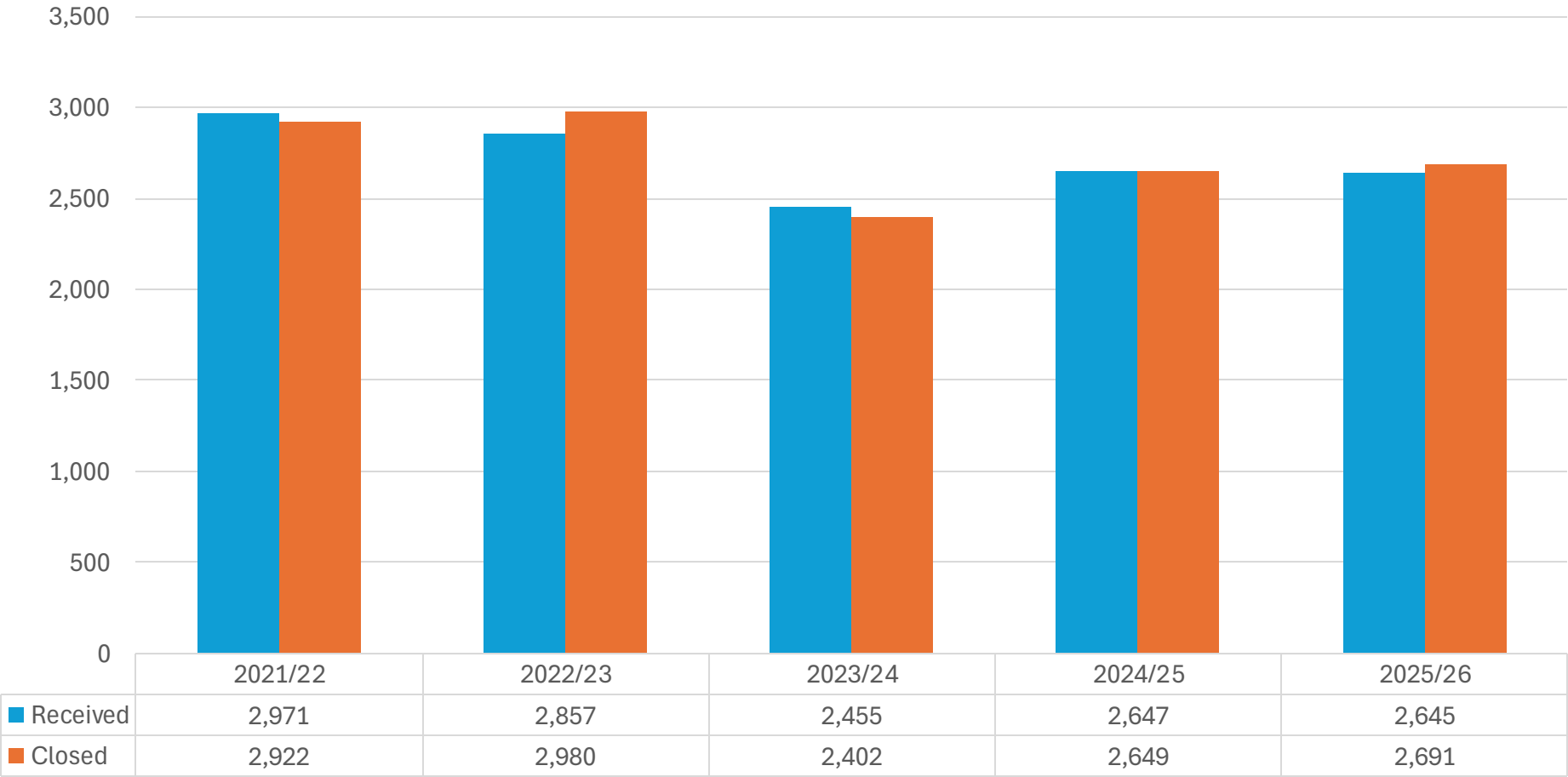


Complaints to HDC received each year





Complaints to Advocacy received each year





Increasing our outputs and reducing our backlog

Our rate of closures has increased by 40%, and we have reduced our number of older files by 59%

How:

- Focus on facilitating early resolution where appropriate
- Streamlining processes and allocating resources across the complaint continuum
- Reducing bottlenecks
- More senior oversight over aspects of our process
- Focus on a return to BAU state



Improving quality and safety

- HDC made 706 recommendations to improve quality of care
- 89% of our recommendations were complied with by providers
- Escalated systems and public safety issues to appropriate agencies on 329 occasions (24/25 data)



Complaints about nurses

- On average, around 2% of complaints to HDC are about individual nurses and nurse practitioners (around 90 complaints a year)
- Common primary issues in complaints about nurses include:
 - Professional conduct issues (14%)
 - Inadequate treatment/procedure (10%)
 - Inadequate/inappropriate examination/assessment (7%).



Complaints involving nurses

- Issues identified on assessment of complaints, include:
 - Capacity constraints and delays contributing to substandard care (particularly ED)
 - Inadequate monitoring and escalation of care (e.g. early warning scores)
 - Documentation, care planning and handover
 - Medication errors
 - Communication issues
 - Informed consent



Case study – man loses vision in right eye

- Consumer attended ED with vision loss in his right eye, dizziness and nausea
- On arrival in ED he was assigned Triage Code 2, but was not medically reviewed until more than four hours after arrival.
- The nurse on duty twice raised the issue of consumer's wait time with the locum doctor. The ED had multiple T2 patients, which further contributed to the pressure on ED staff.



Case study – man loses vision in right eye

- The ED doctor sought advice from the ophthalmology department at another public hospital who advised that the consumer should be transferred for urgent review
- No formal arrangement was made to transfer the consumer to the second public hospital. He was discharged and deemed safe to transfer by private transport
- When he arrived at the second public hospital's ED he was triaged as category 3, but was not reviewed for more than two hours
- Unfortunately, by this time the man had permanently lost vision in his right eye.



Case study – man loses vision in right eye

- Both hospitals were found in breach of Right 4(1) of the Code for the significant delay in the consumer being medically reviewed
- The hospitals noted that there were significant capacity constraints at the time, including a nursing strike
- However, the Deputy Commissioner concluded that the hospitals had not put in place appropriate processes to ensure that patient safety was not compromised due to reduced resource
- In addition, the locum ED doctor was not aware of the correct process for referring patients between hospitals, which contributed to a delay in man being seen at second hospital.



Case study – Lack of clinical governance led to system failings

- HDC received a complaint from a Health NZ staff member that several consumers did not receive cancer medications (BCG)
- The hospital BCG clinic was managed solely by one RN who was responsible for clinical assessments, administering BCG therapy, administrative management, clinical coordination and other duties.



Case study – Lack of clinical governance led to system failings

- Internal audit of the BCG clinic found several issues over 11 months, impacting 13 patients. Issues included:
 - delays and omissions in BCG administration
 - patients being behind on their treatment regimen
 - incomplete documentation
 - referrals not being actioned.
- Health NZ's audit found no cases of cancer progression in patients who were impacted by the issues found in its internal audit.



Case study – Lack of clinical governance led to system failings

- HDC found the failures identified were due to a lack of effective clinical governance, including:
 - a lack of formal development of business systems
 - BCG nurse role was poorly defined and scoped
 - no staffing model, head of department, lead senior medical officer, or urology nurse specialist to support the BCG clinic.
- The lack of clinical governance meant that there was no clinical oversight of the demand, delivery or patient outcomes and no processes in place to measure performance of the clinic.



Case study – Lack of clinical governance led to system failings

- HDC found that poor clinical governance compromised the operational effectiveness of the clinic and posed significant risks to patient safety.
- Accordingly, Health NZ was found to have breached Right 4(1) of the Code.
- HDC also found that Health NZ breached Right 6(1) of the Code for its failure to provide open disclosure to its patients regarding the clinic's systemic failings.
- HDC made educational comments about the RNs documentation practices and her lack of escalation of the challenges to senior leadership



Case study – Inadequate admission processes and family engagement

- Consumer was assessed as requiring rest-home level care and admitted to residential aged care facility. An EPOA was in place but not activated at the time of admission.
- During his admission, concerns were raised about his safety and wellbeing, and whether the level of support they could provide was appropriate.
- The care home consulted the older adults mental health service and he was reassessed as requiring dementia-level care. The consumer discharged into the care of his son pending transfer to another facility.



Case study – Inadequate admission processes and family engagement

- The family raised concerns about the admission process, clinical oversight, EPOA activation, and level-of-care decisions, including the decision to discharge the consumer without adequate notice.





Case study – Inadequate admission processes and family engagement

The care home was found in breach of the Code for:

- Undertaking an inadequate pre-admission process to safely inform the decision to admit him, including a lack of policies or guidance to guide this process
- Inadequate care planning at admission, including inadequate engagement with family
- Lack of nursing assessments in response to escalation of behaviours
- A failure to involve the nominated EPOA in the activation process
- A failure to involve the family in the reassessment process and poor communication with his family around discharge



Case study – Inadequate admission processes and family engagement

Adverse comment was made in relation to the Clinical Nurse Manager who was responsible for the oversight and management of the consumer's care.

Criticisms included:

- Failing to contact the nominated EPOA during the activation process, and for initiating the process without first consulting with the family.
- Delay in advising the EPOA that the consumer had been re-assessed as requiring dementia-level care



Education - providers

**Health & Disability Commissioner**
Te Toihau Hauora, Hauātanga

HomeAbout Us

Your Rights ▾Making a complaint ▾AdvocacyDisability ▾Our Work ▾Education ▾De

Online learning

Education



Online learning

Available courses

TEMPLATE: Providers Course



Module 1: How the code of rights improves health and disability services ➡



Module 2: What you need to know about informed consent ➡



Module 3: Complaints management and early resolution ➡



HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA



Any questions?