

## Mental Health and Wellbeing Commission Submission on the Draft Health and disability code of expectations for engaging with consumers / whānau

Submitted to the Health Quality and Safety Commission on 31 March 2022

Tēnā koe,

1. The Mental Health and Wellbeing Commission (the Commission) is pleased to submit on the Draft Health and disability code of expectations for engaging with consumers / whānau (code of expectations).
2. The Commission supports the intent of the code of expectations to include the voices of people with lived experience and whānau in policy development, service commissioning, and service delivery. This area is of significant interest to the Commission, and we welcome the opportunity to talk further with the Health Quality and Safety Commission about our submission.

### The Commission supports the intent of the code of expectations

3. The Commission supports the intent of the code of expectations to ensure participation of people using health and disability services, and their whānau, in policy development, service funding, and commissioning once locally elected District Health Boards (DHBs) are disestablished.
4. The code of expectations aligns with the finding from **He Ara Oranga** – the Government Inquiry into Mental Health and Addictions – that “putting people at the centre of mental health and addiction services should permeate all service planning and delivery, and not just be an action point to be ticked off.” (p 161).
5. The code of expectations also aligns with the Commission’s work to monitor the mental health and addiction system. **He Ara Āwhina (Pathways to Support)** is the framework the Commission will use to monitor the mental health and addiction system. During the development phase of **He Ara Āwhina**, people told us they want to see Mana Motuhake, and participation and leadership in the system under the vision, “We lead and self-determine our pathways through distress, substance, or gambling harm to wellbeing and recovery.”

### The code of expectations should focus on Health Entities, as outlined in the Pae Ora (Healthy Futures) Bill

6. The upcoming reforms to the health system, as outlined in the Pae Ora Bill, includes the disestablishment of DHBs. Under the outgoing New Zealand Public Health and Disability Act 2000, DHBs must “foster community participation in

health improvement, and in planning for the provision of services and for significant changes to the provision of services.” (Section 22, 1 h).

7. To ensure this community role is retained in strategic policy and decision making, and in the centralisation of our health system, the Pae Ora Bill states that HQSC must develop a Code of Consumer Participation that ensures consumer voices are heard by Health Entities.<sup>1</sup>
8. The draft code of expectations that has been drafted appears to exceed the scope of the Pae Ora Bill to cover “health and disability service providers and organisations,” and many of the values refer to “Health services and the system.” Exceeding the scope of the legislation may present the following risks:
  - a. confusion and unintended consequences where the scope of the code of expectations appears to overlap with other codes, guidance, or standards
  - b. a weakening of accountability of Health Entities back to legislation.
9. For example, rights of consumers when receiving a service from health and disability service providers is already covered by The Code of Health and Disability Services Consumers' Rights (code of rights), which is legally enforceable by the Health and Disability Commissioner. The code of rights includes rights to be respected, to effective communication, to be fully informed, and to make an informed choice and give informed consent. The rights set out in the code of rights protect consumer autonomy in decision-making and are stronger than in the code of expectations, which talks about ‘shared decision-making’. We would not want to see a perceived or real weakening of consumer rights.
10. It is important that the voice of consumers be heard by, and included in, decisions made by the Health System (which includes the Ministry of Health and the Mental Health and Wellbeing Commission). We would expect the code of expectations to be used as good practice guidance in the wider health and disability system as is applicable to their operations. However, the intent and scope of the Pae Ora Bill is to cover Health Entities – focusing on these entities means the code of expectations can have a clear accountability line for those entities based on their scope of operations. It also may not be practical to apply the code of expectations to the wider health and disability system in all situations, for example, the expectation that “all relevant information is shared and understood, so that fully informed decisions can be made about all options.”

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<sup>1</sup> Health entities include: Health New Zealand, Health Quality and Safety Commission, the Māori Health Authority, Pharmac, and the NZ Blood and Organ Service.

The code of expectations should ensure people who experience inequitable health outcomes are involved in policy development, and service commissioning and delivery

11. To ensure equity for all in our health system, the voices of those who experience inequitable health outcomes should inform policy development and service commissioning. The code of expectations needs to outline which groups should be included in these processes. Given the inequitable physical health outcomes experienced by people with lived experience of mental distress, substance use, gambling harm, and addiction, we suggest these groups are included as partners in the code of expectations.
12. We would like to see the code of expectations require that Health Entities partner with people with the relevant lived experience to the area of health in question. This includes people who are currently, or have recently, experienced the relevant services, interventions, or policies. The Commission would also like to see the code of expectations include the provision of support for consumers / whānau in being prepared for partnership and engagement to ensure people can contribute effectively with Health Entities.

Accountabilities against the code of expectations need to be clearly stated

13. In addition to the need to ensure lines of accountability in the code of expectations (paragraph 8 – 13), the Commission would like the code of expectations to include clearer language to remove inconsistency with interpretation. The draft code of expectations includes Te Tiriti o Waitangi principles, as well as values and expectations. It's unclear which of these are accountabilities in the code of expectations as it's written, and what the entities who must use the code of expectations need to do under it.
14. The Commission would like to see accountabilities set out clearly as in the Code of Health and Disability Services Consumers' Rights. We would also like to see a clear explanation of the relationship between the two codes, and between the code of expectations and the updated New Zealand Health Charter being developed by the Transition Unit.
15. Additionally, the code of expectations states it is underpinned by Te Tiriti o Waitangi principles, however, it's not clear how the principles have influenced the values. The Commission would like to see clearer integration of Te Tiriti o Waitangi principles within the accountabilities in the code of expectations.

The code of expectations should include a commitment to partnership with consumers / whānau

16. The Commission would like the code of expectations to include a commitment to partnership with consumers / whānau. For instance, any reference to 'consumer

participation' should be strengthened to 'consumer partnership,' and include 'co-production' as well as 'co-design'.

### Summary of the Commission's position

17. The Commission supports the intent of the code of expectations to include the voices of people with lived experienced and whānau in policy development, and service commissioning and delivery

18. The Commission suggests the code of expectations should:

- a. apply to Health Entities, as outlined in the Pae Ora (Healthy Futures) Bill, and be a guide for other entities in the health and disability system
- b. ensure those who experience inequitable health outcomes are involved in policy development and service commissioning and delivery
- c. clearly state accountabilities of Health Entities with respect to the code of expectations
- d. include a commitment to partnership with consumers / whānau.