

ARAMOHO HEALTH CENTRE

Consumer Rights | Open Disclosure Policy and Procedure

1. PURPOSE

To outline how Aramoho Health Centre (AHC) will comply with the requirements of the NZ Code of Health and Disability Services Consumers Rights 1996 (“the Code”).

2. SCOPE

This policy applies to all general practitioners, employees, contractors, locums, trainees and students working in or for AHC.

3. RESPONSIBILITIES

- AHC is responsible for ensuring the practice has taken ‘reasonable actions in the circumstances’ to give effect to the rights, and comply with the duties of, the Code.
- AHC has a legal duty to ensure that open disclosure is practiced by staff and supported by management.
- All staff members are required to comply with the Health Information Privacy Code (2020) and the AHC Privacy Policy and Procedure in conjunction with this policy.
- All staff members are required to attend training on how the Code is implemented.

4. POLICY AND PROCEDURE

The Code establishes ten rights of health and disability consumers, including the right for consumers to know what has happened to them.

AHC will ensure all new staff members are trained in the requirements of and compliance with the Code as a component of their orientation process.

AHC will ensure that posters about the Code and about the local Health Advocacy Service are clearly displayed and visible within the practice reception areas and that supporting pamphlets and/or information are easily accessible and available to patients.

Staff members will provide their services in a manner, which ensures reasonable care and skill, are consistent with the needs of the patient and complies with the patient’s rights to dignity and independence. Where requested patients are entitled to have a support person present.

Staff members should recognise and differentiate between the needs of patients with physical, psychological, intellectual, and sensory disabilities. Where necessary extra time should be made available to fulfil this right.

All clinical communication must be documented in the patient’s clinical record (AHC Clinical Records Procedure). Where requested or necessary an interpreter will be used. Obtained informed consent may be either verbal or written but must always be documented in the patient’s clinical notes (AHC Informed Consent Policy). Patients have the right to decline or change their mind about treatment at any time.

In accordance with the principles of open disclosure, all patients will be informed about any adverse event, i.e., when the consumer has suffered any unintended harm while receiving health care or disability services. The disclosure should include acknowledgement of the incident and a sincere apology. An explanation should be provided of what happened, how it happened, why it happened and, where appropriate, what actions have been taken to prevent it happening again. **Appendix One** details the expected open disclosures procedure.

An error that has affected the patient’s care but does not appear to have caused harm may also need to be disclosed to the consumer. Notification of an error may be relevant to future care decisions, for example whether or not to go ahead with the same procedure on another occasion. The effects of an error may not be immediately apparent.

All staff must ensure that they do not discriminate, coerce, harass or exploit patients. Staff may not refuse to treat individual on the grounds of age, marital status, gender, sexual orientation, mental illness, social status or that they have/may have a contagious or socially stigmatised disease.

Staff will ensure that all teaching and/or research activities involving patients are undertaken in accordance with the requirements of the Code.

Clinical staff members are required to maintain a level of professional knowledge and skill to enable them to practice safely and competently as part of their registration requirements and to maintain registration with their relevant registration body.

Where required and appropriate, staff members are required to provide services that take into account the needs, values and beliefs of different ethnic and cultural groups. This may include:

- acknowledging the need of individuals to practice their cultural values, spirituality and beliefs
- ensuring the needs of Maori are met during service provision
- identification and elimination of barriers to individuals of different ethnic and cultural groups.

Patient surveys will be undertaken using the electronic Health Quality and Safety Commission NZ National Patient Experience and the collated results used as a service improvement tool.

All staff members must ensure that they are conversant with the AHC Complaints Procedure. All complaints will be managed in accordance with the requirements of the NZ Health and Disability Act and consumers will be provided with contact details and information about the local health and disability consumer advocate.

5. DEFINITIONS

AHC: Aramoho Health Ltd

The Code: New Zealand Code of Health and Disability Consumers’ Rights 1996

Policy Date: January 2021 Date due for Review: January 2024	Status: APPROVED Replaces: Consumers’ Rights Policy March 2018
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6. REFERENCES

Health and Disability Commissioner. Guidance on Open Disclosure Policies. November 2019.

www.hdc.org.nz

New Zealand Medical Council. Disclosure of harm following an adverse event. December 2010.

7. RELEVANT LEGISLATION

Code of Health and Disability Consumer's Rights 1996.

Human Rights Act 1993

Health and Disability Commissioner Act 1994

Health Information Privacy Code 2020

New Zealand Bill of Rights Act 1990

Privacy Act 2020

Treaty of Waitangi Act 1992

8. ASSOCIATED DOCUMENTS

All AHC Policies and Procedures are associated with this policy.

9. APPENDICIES

Appendix One: Open Disclosure Procedure

Appendix Two: Relevant Rights under the Code

Any breach of AHC policy by employees will be treated as a Human Resources issue. Serious breaches will be dealt with immediately.

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Appendix one

OPEN DISCLOSURE PROCEDURE

1. The individual provider with overall responsibility for the patient's care should make the disclosure of harm to the patient and/or support person.
2. If the provider with overall responsibility for the patient's care is not the same practitioner who has provided the direct care to the patient, then both practitioners should be present.
3. Disclosure should be made in a timely manner, usually within 24 hours of the event occurring, or of the harm or error being recognised.
4. Disclosure is not a single conversation, but a process of ongoing communication. Communication should continue until the patient (and/or the patient's representative) has all the information and support they need.
5. If the incident occurred in a team environment, it may be beneficial for the team to meet prior to the disclosure taking place to discuss:
 - what happened
 - how it happened
 - consequences for the patient
 - what will be done to avoid similar occurrences in the future
 - How to approach the matter with the patient, and who should be present when the harm is disclosed
6. An opportunity for the team to debrief should not unreasonably delay the patient's (or his or her representative's) receipt of information. It may be appropriate for an early initial disclosure to occur, followed by a more detailed discussion with the patient once the team has had an opportunity to meet.

How should open disclosure take place?

7. Disclosures should generally be made to the individual patient and any family/whānau/key support people the patient wishes to have present.
8. In some situations where the patient has died, has been significantly compromised, has long-term diminished competence, or is incompetent, disclosure will need to be made to a third party.
9. In circumstances where discussion with the patient is not possible or appropriate, his or her representative, or a suitable person (who is interested in the welfare of the consumer and is available), such as the consumer's next of kin or designated contact person, should be informed.
10. Consideration must be given to the consumer's cultural and ethnic identity and first language, and the support needed.
11. Details about the incident and any harm, the disclosure, and any subsequent action should be fully documented in the patient's medical record.

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Appendix Two

RELEVANT RIGHTS UNDER THE CODE

Right 1 provides that consumers have the right to be treated with respect. Respect requires a truthful and sensitive discussion about any harm or incident affecting the consumer.

Under **Right 4(1)**, providers have an obligation to provide services with reasonable care and skill. Provider organisations have an organisational duty of care, which includes the need to have a policy on open disclosure that is well understood and implemented by all personnel.

The provision of information in a form, language, and manner that enables the consumer to understand the information provided is required by **Right 5(1)**.

Right 5(2) also applies, as it requires an environment that supports open, honest, and effective communication.

Right 6(1) affirms the right to the information that a reasonable consumer, in that consumer's circumstances, would expect to receive. It is seldom reasonable to withhold information about a consumer from that consumer. Health and disability services providers have a duty of open disclosure under **Right 6(1)(e)** according to legal, professional, ethical, and other relevant standards.

Right 6(3) gives consumers the right to honest and accurate answers to questions relating to services, including information about the identity and qualifications of providers and how to obtain an opinion from another provider.

Right 6(4) gives consumers the right to receive, on request, a written summary of information provided.

Right 8 — the right to have a support person(s) present — is particularly relevant in distressing situations and when people receive bad news or a shock.

Right 10 also requires providers to ensure that consumers are made aware of their right to complain and provided with information about the complaint process and their options.

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