HEALTH & DISABILITY COMMISSIONER
TE TOIHAU HAUORA, HAUĀTANGA

Inappropriate services by a community and non-residential care organisation

Complaint background

1. On 12 April 2024, a complaint was received from Miss A about the care provided to her by a community and non-residential care organisation. The director (owner and manager) was Mr B.

2. The New Zealand Companies Office (NZCO) described the organisation as a 'Community and non-residential care service'. The organisation's website offered services for 'residential medical detox', 'residential drug recovery', 'residential alcohol recovery', 'eating disorder treatment', 'residential methamphetamine treatment', and an 'after-care programme'.

3. In her complaint, Miss A stated that she had been a resident and service user of the organisation for alcohol rehabilitation treatment and supervised medical detox (the treatment plan). Miss A told the Health and Disability Commissioner (HDC) that the five-week treatment plan cost her $32,000.00[1] up front, but the services offered by the organisation under the treatment plan did not meet her needs. Miss A gave the following examples:

a) There was minimal structured recovery-based education or routine structure day to day, and the treatment plan was not tailored to her.

b) She received poor treatment and inappropriate behaviour and treatment from staff of the organisation.

c) Insufficient food/meals were available or were not provided regularly.

d) Prescription medication was delayed, with staff needing reminding, and medication was administered by an unauthorised person, Mr C.[2]

e) There was a lack of appropriate peer support.

f) Daytime activities were inappropriate.

g) The facilities and the vehicle used for transporting her were not maintained and were an unhealthy, untidy, and unclean habitat.

[1] The invoice provided by the organisation (the only terms and conditions provided) itemised the treatment plan as $25,000.00 incl. GST for the 30-day residential treatment, and an additional $7,000.00 for a seven-day detox (which Miss A understood was for a qualified registered nurse to assist with the supervised detoxification medical process).

[2] Although Mr B stated that Mr C was a peer support worker for Miss A, a former staff member described Mr C as the Manager of the care organisation, and he appeared to be the main staff member present with Miss A.

h) She is concerned about staff qualifications and competencies.

i) She is concerned that the organisation was registered with NZCO as a 'non-residential' service.

4. Miss A's treatment plan ended abruptly a week prior to the end of the five-week plan. Miss A said that she felt unsafe following an escalation of issues that resulted in a heated argument with Mr C, during which they both used inappropriate language. Miss A told HDC that she left the organisation feeling in a more precarious mental state than when she arrived, and as a result she required additional therapy.

5. Miss A feels that her complaint and concerns were ignored by Mr B. She said that she made her complaint to HDC so that 'no-one else ever has to suffer the emotional and mental distress that I did as a patient at [the organisation]'.

Response to complaint

6. In initial responses to both Miss A and HDC, Mr B refuted and strongly denied the allegations made by Miss A and said that she had 'received everything that was paid for and by her own admission she remained sober once leaving [the organisation]'. Mr B also stated that he was of the view that it is 'common for recovering addicts to have later regrets about spending money on private rehab once they are sober', and he believed this to be the case for Miss A, and her departure had come as a shock to them.

7. However, Mr B acknowledged the error at NZCO regarding the organisation being registered as 'non-residential', which he said he would amend, and he confirmed that enhancements had been made to the organisation's clinical team. Mr B also said that staff had been 'cautioned around displays of affection in front of clients' and that two other staff members' employment had been terminated. Mr B stated that, as a gesture of goodwill, Miss A could return to complete the final week of the treatment programme.

8. Mr B told HDC that the organisation is unable to provide clinical records and progress notes for the four-week period of Miss A's treatment plan. He stated: '[These are] kept by therapists who are outsourced by [the organisation]. We do not get to see the records.' Mr B also told HDC that, as he felt that Miss A's concerns were 'without merit or lack substance', he deemed it unnecessary to investigate or create any incident reports.

9. Mr B stated that 'it is simply not true' that there was not a structured treatment programme. He indicated to HDC that there is no industry standard on what a structured treatment programme would include and advised that Miss A was involved in the design of her programme, which included twice-weekly sessions of yoga, personal counselling, group sessions, and a personal fitness trainer, as well as regular AA meetings.

10. Mr B provided HDC with medication logs showing Miss A's medication prescribed by her general practitioner and confirmed that this was kept in a locked safe and dispensed in blister packs to Miss A during her stay. In relation to Mr C administering medication and taking blood pressure, Mr B advised that Mr C had not been clinically trained for this,

although he gave Miss A access to her diazepam at the times and in the dosages prescribed by her doctor.

11. HDC also asked the organisation for copies of any relevant policies and guidelines it utilised around professional boundaries, confidentiality, responding to allegations of professional misconduct, peer supervision, dealing with complaints, and training of staff. In response, the organisation stated:

> 'All staff have previous experience in the industry and lived experience. They are professional in all aspects. We welcome an[y] advice on how we can do better or what training or procedures you would recommend in the future.'

12. In mid-2024, Mr B confirmed to HDC that he had closed the organisation with 'no current intention' of restarting it. However, HDC noted that the organisation was still registered as active with NZCO, and its website was still available for bookings at a new site. As a result, HDC commenced a formal investigation into Miss A's complaint the same day and requested further information from the organisation. Despite the request being sent to the registered office address listed and Mr B's email address, no acknowledgment or reply has been received. Telephone calls have also been made to numbers available for the organisation, which were unsuccessful.

13. On 7 January 2025, a statement was provided to HDC by a former individual provider who was contracted by the organisation and who was involved with Miss A's treatment plan, namely Ms D, a drug and alcohol clinician registered with the Addiction Practitioners' Association Aotearoa New Zealand (dapaanz). Ms D told HDC that after the incident on Miss A's last day, she 'realised that [the organisation] was unsafe and [she] no longer wished to work there'. Ms D said that, after she left, Mr B informed her that her employment had been terminated.

14. Ms D provided evidence to HDC that corroborated the information received from Miss A regarding her serious concerns of inappropriate behaviour by staff and concerning practices at the organisation, particularly in relation to the incident on Miss A's last day.

15. Ms D also confirmed that before sessions she would give Mr B a programme of care for Miss A to complete and would ask him to take Miss A to AA meetings each week, but he did not give her this work, saying that 'the gym got him through recovery, not books and writing'.

16. In 2025, the organisation was removed from the New Zealand Companies Register.

17. On 1 August 2025, Mr B provided HDC with a statement dated 15 June 2025 from a staff member of the organisation who was involved with Miss A's treatment plan. Mr B also provided evidence of the staff member's certificate in nursing to demonstrate her nursing background.

Response to provisional opinion

Miss A

18. Miss A was given an opportunity to respond to the 'Complaint background' and 'Response to complaint' sections of the provisional opinion. Miss A said that she considers that Mr B should be held accountable, and she wants to prevent him from taking advantage of other vulnerable people.

Mr B

19. Mr B was given an opportunity to respond to the provisional opinion, and his comments have been incorporated into this opinion where relevant and appropriate.

Decision

20. First, I acknowledge that, as a vulnerable person, Miss A placed her trust in the organisation to provide her with the treatment programme she paid for. It is evident from the information available to me that the organisation did not have appropriate systems, policies, or procedures in place, or appropriately trained staff, to honour the treatment programme that it purported to provide. I commend Miss A for bringing this complaint to HDC and for her continued sobriety despite the challenges she faced while a resident of the organisation.

21. Having reviewed all the available information in this case, I consider that the organisation breached Rights 4(1) and 4(2) of the Code of Health and Disability Services Consumers' Rights (the Code). Right 4(1) states that every consumer has the right to have services provided with reasonable care and skill. Right 4(2) states that every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.

22. In breach of Right 4(1):

a) The organisation failed to have in place any handbook/standard operating procedures and/or appropriate policies and procedures. At the least, this should have included alcohol and other drug policies at the premises, professional boundaries, confidentiality, responding to allegations of professional misconduct, peer supervision, dealing with complaints, recovery/relapse prevention plans, information and records management, incident reporting, and maintenance and use of premises and company vehicle.

b) The organisation failed to provide guidance or training for staff in relation to a) above.

c) The organisation failed to provide evidence that staff, namely Mr C, were clinically trained and qualified to understand the rationale for testing Miss A's blood pressure and the significance of the results of those tests or that staff had access to appropriate clinical oversight to ensure patient safety.

d) Although I acknowledge that there is no set industry standard for what is included in a treatment programme, the organisation was unable to provide evidence that there was a treatment plan or structured treatment programme in place for Miss A. I accept that activities such as those described by the organisation occurred. However, at best, collectively these activities account for no more than 12–15 hours per week of a full-

time programme. For these reasons, I find that the organisation failed to have a sufficiently structured treatment programme for Miss A and did not provide her with terms and conditions outlining what the treatment programme would provide on a daily basis.

e) The organisation advised HDC that the service did not see or keep clinical records of the treatment provided by outsourced clinicians/counsellors. The appropriate standard of documentation for health providers, including treatment centres, is that the treatment records belong to the service provider not the contracted personnel. All documents and records pertaining to treatment provided should have been retained and stored appropriately by the service in line with the Health (Retention of Health Information) Regulations 1996.

23. In my view, these deficiencies meant that the organisation did not provide Miss A with services with reasonable care and skill.

24. In breach of Right 4(2):

a) The organisation failed to retain any form of treatment plan, counselling progress notes, record-keeping of the specific services provided, or assessments of Miss A and the sessions she attended, whether by staff of the organisation or contracted providers.

b) The organisation was incorrectly registered with NZCO as providing a 'non-residential' service when it was providing residential care. This is concerning.

25. I am also unsure how Mr B came to his view regarding recovering addicts (referred to in paragraph 6 above). This view is extremely concerning given that the organisation had been incorporated with NZCO for less than a year when the service was provided to Miss A, and I would expect the organisation to be non-judgemental in respect of its service users.

Recommendations

26. Given that the organisation has been removed from NZCO and is no longer trading, I recommend that Mr B provide a written apology to Miss A for the deficiencies outlined above and the breaches of the Code found in this investigation. The apology is to be sent to HDC within three weeks of the date of this decision, for forwarding to Miss A.

27. The following recommendations apply if at any point in the future Mr B intends to offer a similar type of community and residential or non-residential service offering treatment programmes for alcohol and drug rehabilitation:

a) Set up processes to ensure that adequate records are maintained in accordance with the Health (Retention of Health Information) Regulations 1996 and report to HDC outlining the processes put in place before recommencing a residential and/or non-residential programme.

b) Display a copy of the Code in a prominent location at any facility where it provides health services, and on its website, and confirm to HDC that this has been done within three weeks of opening.

c) Ensure that the qualifications of staff are appropriate to their roles and are made clear to consumers, including providing appropriate clinical oversight for staff who will be administering medication or taking observations, and confirm to HDC that this has been done, with evidence, within three weeks of opening.

d) Develop a handbook and/or standard operating procedures and/or policies, including a handbook/standard operating procedures and/or appropriate policies and procedures covering alcohol and other drug policies at the premises, professional boundaries, confidentiality, responding to allegations of professional misconduct, peer supervision, dealing with complaints, recovery/relapse prevention plans, information and records management, incident reporting, and maintenance and use of premises and company vehicles, and provide HDC with evidence of this and that staff have been trained on these, before recommencing a residential/non-residential treatment programme.

Follow-up actions

28. A copy of this report will be provided to the NZCO regarding the concern that the organisation failed to notify the NZCO that it was providing residential services despite being incorporated as only providing 'non-residential' services.

29. A copy of this report with details identifying the parties removed will be placed on the HDC website, www.hdc.org.nz, for educational purposes.

30. Noting the extent to which this service was lacking in structure, policies, and appropriate safety measures, and the cost to vulnerable consumers, the organisation (of which Mr B is the former director) will be referred to the Director of Proceedings in accordance with section 45(2)(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any proceedings should be taken.

Dr Vanessa Caldwell
Deputy Health and Disability Commissioner