

Inappropriate treatment by sports therapist (12HDC01011, 16 January 2014)

Sports clinic ~ Sciatica ~ Documentation ~ Lack of draping ~ Inappropriate comments ~ Information ~ Consent ~ Respect ~ Rights 1(1), 1(2), 4(2), 6(2), 7(1)

A woman complained about an unregistered male sports therapist who operated a sports clinic, from whom she sought treatment for a sciatic problem.

At the first appointment, the woman disclosed to the therapist some information about her past history of sexual abuse. Before commencing treatment, the therapist did not explain what the treatment would entail. He asked the woman to remove her trousers. There was no separate area in the treatment room in which the woman could change. The therapist examined the musculature on either side of the woman's spine and provided deep pressure massage to her affected leg. He also gave her dietary advice and showed her some exercises. The woman was happy with the first treatment. The therapist made sparse records of the appointment.

A week later the woman returned for a second appointment. Again, the therapist did not discuss what the treatment would entail. The woman presumed that the treatment would be the same as previously. The woman removed her trousers and lay face down. The therapist provided deep tissue massage to her leg and lower back, then up to the back of her neck. He asked the woman to remove her vest jacket, and then her skivvy as well. She did so, and was not wearing a bra. The therapist continued to work on the woman's back while she was lying face down. The therapist asked the woman to roll over on to her back. She turned over and was lying on her back with her breasts exposed while the therapist worked on her neck. He did not offer to drape her at any stage, and she felt distressed and upset.

The woman said that the therapist made inappropriate comments during the second appointment, including asking whether she had a boyfriend, and saying that she had lovely breasts and legs. The therapist denied making inappropriate comments or "sexual overtures". He acknowledged that he told her that she had "shoulders like a rower", but could not recall exactly what he said to her.

The therapist subsequently worked on the woman's gluteal muscles. She said that her underwear was moved down to a point where her genital area was exposed. The therapist denied this. He took no notes for the second appointment.

The woman left the clinic feeling angry and confused. She did not go to a third appointment, and sought assistance from family and advocacy groups, made contemporaneous records of events, and registered a complaint with HDC.

The therapist's failure to keep adequate records of his consultations was a breach of Right 4(2). He did not provide the woman with information about what the treatment would involve, including that she might have to remove some clothing, which was information that she needed to give informed consent. He therefore breached Right 6(2) and Right 7(1).

By not draping the woman and leaving her in an exposed and vulnerable position, the therapist caused her significant distress and she felt violated. By not offering a private

place to change, and not offering to drape the woman, he failed to take adequate steps to protect, maintain or respect her bodily privacy. He therefore breached Right 1(2).

The therapist was found to have made inappropriate comments to the woman during the second appointment. In doing so, he failed to treat her with respect and therefore breached Right 1(1). He was referred to the Director of Proceedings. The Director filed a claim at the Human Rights Review Tribunal which proceeded by agreement. The Human Rights Review Tribunal made a declaration that the therapist had breached Rights 1(1), 1(2), 4(2), 6(2) and 7(1) of the Code.