

Inappropriate relationship with client (08HDC17394, 16 September 2009)

Counsellor ~ Inappropriate relationship ~ Rights 2, 4(2)

A woman complained about the actions of a counsellor working for a district health board's Community Alcohol and Drug Service. The woman was seeing the counsellor in relation to her alcohol use and associated issues. After a text conversation between the woman and the counsellor one evening, the counsellor drove 60kms to the house where the woman was staying. They went for a short drive and engaged in consensual sexual foreplay, before the woman asked him to take her back to the house. After the woman got out of the car, the counsellor sent a text asking for oral sex. The woman refused and the counsellor left.

The woman recognised that although the contact had been consensual, this was not appropriate behaviour for a counsellor. She initially contacted the Police and then complained to the DHB. The counsellor denied the events but soon after he resigned his position and the DHB's investigation was not concluded.

It was held that it was the counsellor's responsibility in this relationship to set and maintain safe professional boundaries. His behaviour was contrary to his obligations under the Code of Ethics of his professional association in relation to trust, honesty and integrity and professional conduct. He added to the woman's distress and misled the DHB and HDC by lying about his actions for several months. Accordingly, he breached Right 4(2).

The unequal interpersonal power in relationships between counsellors and clients allows the potential for exploitation. The woman's personal situation and well-being were fragile and the counsellor was aware of events in her past that accentuated her vulnerability. His disregard for these matters was a breach of Right 2 of the Code.

The counsellor was referred to the Director of Proceedings, who decided to take a claim to the Human Rights Review Tribunal. However, the matter was resolved between the parties through a process of restorative justice that included the counsellor paying compensation to the consumer and undertaking voluntary work in the community, prior to a Statement of Claim being filed.