

Failure by counsellor to engage in complaint resolution

Summary of events

1. On 4 May 2024, Mr A and his wife attended a relationship counselling session with counsellor Mr B at his counselling practice. Mr A said that this was their first relationship counselling session with Mr B.
2. Mr A told the Health and Disability Commissioner (HDC) that Mr B never took the time to get to know him and his wife prior to Mr B stating that he would have 'a full understanding of [their] issues within 15 minutes.' Mr A said that Mr B proceeded to take sides with his wife and sympathise with her on 'every issue'. Mr A stated that when he challenged Mr B's position, Mr B 'explained that [Mr A's] challenge was down to [his] insecurities and inability to accept [his] shortcomings.' Mr A told HDC:

'[Mr B] labelled me as a controlling and abusive partner without taking any real interest in my side of the story or how the situation came about. My wife and I are now considering divorce due to the fact that Mr B has cemented into my wife's mind that I have a controlling nature.'
3. Mr A said that during the session, when his wife would attempt to support him, Mr B would 'quickly shut this down and ... enforced his rhetoric.'
4. Mr A told HDC that the session ended with Mr B providing his mobile number to Mr A's wife and suggesting that she might want further sessions.
5. On 20 August 2024, HDC commenced a formal investigation into the care provided to Mr A by Mr B. Mr B was asked to provide a response to the complaint, a copy of all notes and records of consultations with Mr A, details of membership of any professional association, whether he has considered making any changes to his practice as a result of the events, and evidence that recommendations made in previous complaints against him had been complied with. The information was due on 10 September 2024, but at the time of writing (despite follow-up¹) Mr B has not provided the requisite information to HDC. On 5 December 2025, Mr B sent an email to HDC explaining that he would not be engaging with HDC's investigation process.

Responses to provisional opinion

6. Mr B was given the opportunity to comment on the provisional opinion. However, he did not respond to HDC. Mr A was also given the opportunity to comment on the provisional opinion. Mr A told HDC: '[T]here appears to be nothing to stop Mr B from continuing to offer

¹ 14 October 2024 (email sent advising of new due date for his response), 7 November 2024 (further email sent following up on overdue response), 5 December 2024 (unanswered phone call made).

himself up as a relationship counsellor given that there has now been numerous complaints about him. The emotional damage is beyond comprehension.’

Opinion

7. As Mr B made it clear that he would not engage further with HDC’s process, I have relied on Mr A’s version of events,² as contained in his complaint to this Office, in forming my opinion.
8. This Office has stated previously that, despite not being a member of a relevant association, Mr B is nonetheless bound by the Code of Health and Disability Services Consumers’ Rights (the Code). In *Director of Proceedings v Mogridge*,³ the Human Rights Review Tribunal stated:

‘The obligations of the Code apply to those who provide health services, whether or not they belong to any professional association or similar body, and whether or not they are aware of the standards set out in the Code.’
9. I consider that by holding himself out to be a counsellor and by providing counselling services for a fee, Mr B is required to meet the ethical standards of a professional counsellor and that the ethical principles set out by the New Zealand Association of Counsellors (NZAC) provide a sound reference point in establishing ethical standards that should apply in these circumstances. Accordingly, I consider the NZAC Code of Ethics to be an appropriate benchmark for the assessment of Mr B’s practice.
10. The NZAC Code of Ethics section 5.11c stipulates that when dealing with more than one party, counsellors should be even handed when responding to the needs, concerns and interests of each party.’ Mr A told HDC that Mr B sympathised with his wife on every issue, and Mr B formed an opinion that he (Mr A) was abusive and controlling without having a full understanding of their relationship. I have also considered the fact that, at the end of the counselling session, Mr B provided his cell phone number to Mr A’s wife and suggested that she might want further sessions with him.
11. It is not my role to form a view on the relationship between Mr A and his wife. However, irrespective of the dynamics of that relationship, it was Mr B’s role to treat both parties equally and with respect. I am concerned that Mr B did not address Mr A’s concerns sufficiently within the session and, further, that Mr B provided Mr A’s wife with his cell phone number and indicated that she might want further sessions with him. While I do not consider that Mr B has breached the Code in this respect, I encourage him to reflect on Mr A’s concerns, his responsibilities as a counsellor, and my comments in this report.
12. Right 10(3) of the Code states that every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints. In my view, by failing to provide a response to the complaint before him and the requisite information to assist in the resolution of this matter, and by advising HDC that he will not engage further, Mr B has frustrated the investigation

² HDC asked Mr A if his wife would be willing to provide further information to HDC, but he advised that due to personal circumstances, this would not be possible.

³ *Director of Proceedings v Mogridge* [2007] NZHRRT 27.

process and has failed to facilitate the fair, simple, and speedy resolution of Mr A's complaint. As such, I find Mr B in breach of Right 10(3) of the Code.

Recommendations

13. I recommend that Mr B:
 - a) Provide a written apology to Mr A for the failings identified in this report. The apology is to be sent to HDC within three weeks of the date of this report.
 - b) Attend training on therapeutic communication, establishing rapport and trust with clients, and ethics and professional boundaries. Evidence of this training, along with a written reflection on his learnings, is to be provided to HDC within six months of the date of this report.
 - c) Review and reflect on his obligations as a healthcare provider under the Code, and provide HDC with a report on his learnings, within three months of the date of this report.

Follow-up actions

14. Mr B 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. In making this decision, I have had regard to Mr B's failure to provide information to facilitate the speedy and efficient resolution of this complaint. I have also considered Mr B's responsibility to provide information and facilitate complaint resolution in three separate complaints. His failure to engage with this Office to resolve Mr A's complaint has impeded Mr A's right to have his complaint investigated efficiently, and I am extremely concerned about Mr B's continued failure to engage with HDC.
15. Following the completion of the Director of Proceedings' process, a copy of the final report with details identifying all parties removed will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.