

**Psychologist, Ms B**

**A Report by the  
Deputy Health and Disability Commissioner**

**(Case 07HDC08103)**



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*



## Parties involved

Mr A	Consumer
Ms B	Provider/Mr A's psychologist
Mr C	Complainant/Principal Psychologist
Ms D	Psychologist/Ms B's supervisor
Dr E	Psychologist
Ms F	Area Manager, Community Probation Service
Ms G	Mr A's probation officer

---

## Complaint

On 14 May 2007, the Commissioner received a complaint from Mr C about the services provided by Ms B to Mr A. The following issue was identified for investigation:

*The appropriateness of psychologist Ms B's relationship with her client and/or ex-client Mr A.*

An investigation was commenced on 24 May 2007.

---

## Information reviewed

Information from:

- Ms B
- Mr A
- Mr C
- Ms D
- Ms G
- Mr A's landlady
- Ms B's general practitioner
- Ms F
- Dr E
- A probation officer
- New Zealand Police
- New Zealand Parole Board
- New Zealand Psychologists Board
- New Zealand Psychological Society

## Overview

This case raises important issues regarding the setting of boundaries in a relationship between a psychologist, Ms B, and her recent former client, Mr A.

An attraction was recognised while a professional relationship still existed, and Mr A was consequently transferred to another psychologist. However, soon after the professional relationship ended, contact recommenced, and Ms B has agreed that a personal relationship began. She has also provided support to Mr A for suicidal thoughts and depression.

Ms B has agreed that the relationship with Mr A was inappropriate.

---

## Information gathered during investigation

### Background

#### *Ms B*

In 1988, Ms B obtained a Bachelor of Social Sciences with psychology as the Major, and Maori studies as the first supporting subject. She went on to obtain a Master's degree in Social Studies (first class honours) and a Diploma of Psychology (Clinical). Ms B attended formal training in clinical supervision in June and August 1997, and June 1999. Ms B was a member of the New Zealand Psychological Society from August 2002 until September 2006.

On 23 January 2006, Ms B was employed by a Psychological Service, Department of Corrections (the Service) as a psychologist. Her contract stipulated that she was to work as a private practitioner. The contract stated:

- “3.2 In performing the Services, the Private Practitioner must:
- (a) exercise the degree of skill, care and diligence reasonably expected of professional psychologists in similar circumstances; and
  - (b) comply with the provisions of the Code of Conduct for Department of Corrections' Employees; the Code of Ethics of the New Zealand Psychological Society ... and all other legislation and professional codes of conduct or practice that may be applicable to the provision of the Services.
- 3.3 The Private Practitioner must notify the Principal Psychologist immediately if s/he identifies any problem in performing the Services.”

Ms B signed a copy of the Code of Conduct for the employees of the Department of Corrections, which has a section on “Appropriate offender relationships”, and includes the statement:

“With regard to vulnerability of people with whom you deal, your professional responsibility is to ... maintain appropriate boundaries at all times.”

*Mr C*

Mr C is the Principal Psychologist of the Service. As such, he was responsible for supervising and coordinating the Service, which included the management of up to nine permanent psychologists and seven to eight private psychologists.

### **Chronology**

*November to December 2006*

In November 2006, Ms B was asked by Mr C to provide grief counselling for Mr A, whose ex-partner had recently died. At this time, Mr A was nearing the end of a prison sentence. The first session took place on 3 November 2006, and the treatment plan was recorded by Ms B in Mr A’s clinical record:

“6 sessions in total, grief ventilation and resolution [cognitive behaviour therapy], and kaupapa Maori methodology.”

Subsequent sessions occurred on 8, 15, 24 and 29 November, and 6 December.

On 15 December, Mr A was released from prison on parole. Mr C asked Ms B to continue as Mr A’s psychologist following his release, and he was next seen by her on 21 December.

*January 2007*

Having failed to attend a session on 29 December, Mr A was seen again by Ms B on 5 and 17 January 2007. Ms B recorded in Mr A’s clinical notes the events of the session on 17 January:<sup>1</sup>

“As the appointment was closing ... the issue of transference was raised and discussed in the context of transference and counter-transference.<sup>2</sup> I informed [Mr A] of the options as this had been alluded to before. I said that if we could not

---

<sup>1</sup> On 13 February 2007, Ms B submitted to Mr A’s electronic clinical record the notes of the sessions of 5, 9, 12, 17, 22, and 24 January.

<sup>2</sup> Transference: “the unconscious tendency to assign to others in one’s present environment feelings and attitudes associated with significant persons in one’s early life, especially the patient’s transfer to the therapist of feelings and attitudes associated with a parent.” Countertransference: “a transference reaction of a psychoanalyst or other psychotherapist to a patient, i.e., an emotional reaction that is a reflection of the analyst’s own inner needs and conflicts.” (Definitions from *Dorland’s Medical Dictionary*, 28<sup>th</sup> Ed.)

work through this issue I would need to resign as his psychologist and hand him back to [psychologist Dr E] or another psychologist. He stated that he did not want this to occur. I said that I would consider what should be done and that if I felt compromised in my objectivity and professionalism I would need to transfer his care. We agreed that we would re-discuss by telephone in the next week.”

Ms B documented in Mr A’s clinical record an account of a telephone call on 22 January:

“I received a telephone call from [Mr A] on my business cell-phone and the issue was re-discussed. I apologised and informed [Mr A] that due to my own situation I felt I was unable to continue working as professionally as if this issue had not arisen, and that I would be informing Psychological Services that I needed to return his case to their care. [Mr A] said that he understood but was not happy about having to do this.”

Ms B stated:

“I found [Mr A] attractive but normally that would not trigger me to desire anything from him and what I found most attractive about him were things that were not ... physical things, they were the fact that I was by that point such a wreck and he was so apparently strong ... and he was a carver and these are things that for a Maori woman means things.”

Mr A telephoned his probation officer on 22 January. She recorded:

“On 22 Jan 2007, [Mr A] advised ... that he did not move to [an address] given the close proximity to ‘mobsters’. He advised that in the interim he was living at ... [107 ‘X’ Rd].”

On 24 January, Ms B went to see Mr C. She collected some more cases, but she also asked to talk to him. In his file note of the meeting,<sup>3</sup> Mr C stated:

“[Ms B] indicated that due to ‘transference issues’ she would need to ask for [Mr A] to be seen by a different psychologist. On querying her further, she broke down emotionally, stating that she had found herself becoming strongly attracted to [Mr A] and that he had indicated similar feelings towards her. She recognised that this had become a serious problem for her and said she had not had similar feelings towards other clients. She identified herself as having been vulnerable over recent times due to conflict with a previous employer, being lonely, recovering from a period of depression, [Mr A] identifying her as similar in looks to his now deceased ex-wife, and that he was a ‘charming’ individual. She did not appear to have much insight into the fact that [Mr A] was a serious violent offender

---

<sup>3</sup> File note written on 25 January 2007.

(appearing to have put this knowledge to one side also in the therapeutic relationship in order to focus on his grief issues).”

Mr C agreed with the decision to transfer Mr A’s care to another psychologist, and advised Ms B to immediately arrange a session with her clinical supervisor, psychologist Ms D. Mr C stated that Ms B needed to “work out a management plan to address the issues”. In his file note, Mr C recorded:

“I reiterated that I had confidence that with some good supervision, non-contact with the client, and some time for objective reflection and processing, that she would get through the experience. [Ms B] was unable to assure me that she would not see [Mr A] at all in the future. In fact she said that she would like one more session with [Mr A] to talk through the issue and end contact. I said that I did not want this to happen (at least) until she had seen [Ms D] and developed a clear plan about how this might occur and she agreed with this. ... We ended our (approximately 1 hour long) discussion with her agreeing no contact with [Mr A] prior to her discussion with [Ms D]; her completing and returning any remaining file records for [Mr A]; her arranging a session with [Ms D] as soon as [she] was available, her and [Ms D] reporting back to me on a management plan, and I passing [Mr A’s] file on to [Dr E] with information of reasons given to him about the situation, enough for him to work through any transference issues [Mr A] might be experiencing.”

Ms B stated that she had “clearly told [Mr C]” that she had “arranged to telephone [Mr A] to advise him of the outcome of her discussions with Psychological Services”.

There is no record in Mr A’s clinical record of contact between Ms B and Mr A after 17 January. Ms B stated that this was because she had returned the file to Mr C on 24 January. She stated that after this time she was “not in contact with Psychological Services”.

On 26 January, Ms B met Ms D for a supervision session. Ms D had been Ms B’s supervisor since January 2006, and she had previously attended supervision sessions on six occasions prior to this date.<sup>4</sup> Ms D stated that she had been concerned in the past that Ms B had not attended regularly enough, and believed that attending supervision every three to four weeks would have been more appropriate, and this had previously been discussed with Ms B.

However, in response to the provisional opinion, Ms B stated that she was surprised to be informed that Ms D had any concerns relating to the frequency of supervision, and that she had never discussed her concern with Ms B.

---

<sup>4</sup> 3 February, 12 April, 21 June, 24 August, 7 and 23 November 2006.

Ms D said that it was agreed at the end of the 26 January session that Ms B would go away and “think about” the management plan, and they would formulate it together. Ms D stated:

“I asked [Ms B] to keep in very close contact with me — daily if need be — just to check on how she was.”

No further supervision session was arranged.

*February 2007*

On 1 February, Mr C sent an email to Ms B and Ms D:

“It was good to hear that you were able to meet last Friday and talk about [Ms B’s] recent experiences. I have had the chance to reflect over the weekend and hoped that I might catch you both before your next supervision this week. Firstly I’d like to reiterate that I strongly believe that having a strong counter-transference reaction to a client in therapy is an issue that can be dealt with effectively as long as it is done so in an active way ... I am confident that you will be able to address any such issues actively and work through any associated emotions.

...

I had some expectations as a manager about [Ms B] developing a plan (with [Ms D’s] support) that would reassure me that the recent experience has been worked through successfully and that [Ms B] is feeling confident and competent about managing any possible future experiences.”

Mr C suggested in the email some content for the management plan. This included:

“ ...

- A specific plan of action should the client involved attempt to make contact with you again.

...

- Fortnightly review of your casework ... (perhaps for about six months) or until you and [Ms D] feel confident about managing transference and counter-transference issues ...”

Mr C’s email ended:

“Perhaps, [Ms B], you would like to catch up next week sometime.

Finally, if there is anything that I could reasonably do to assist feel free to contact me as required.”



Mr A's clinical records note a consultation with Dr E on 5 February. His note states:

"I was requested by [Mr C] to take over treatment with [Mr A] ...

This session did a quick catch-up.

Checked with [Mr A] how he feels about the process which was followed and he indicated his satisfaction. Also stated that he feels that he can talk to me about anything that may be difficult for him in regards to his previous treatment.

We did an assessment of where he is up to at this point in time — which is actually bad ... he was robbed earlier [in] the day [of] a lot of stuff."

Ms B stated that she was telephoned by Mr A on 5 February. She said that he was "in deep distress, having been the victim of an extensive burglary from the house in which he was residing". She stated:

"If I had a client, any client in the community who told me that they were going to be floating down [the river], I would call them at least daily if they were to remain in the community and I was very, very worried and I know that [Mr A] wasn't my client but ... I could have had him admitted to [a mental health service which includes inpatient care] but I don't think he would have thanked me for that and it is a very fine line, and I can say to you that in 12 years practice I have never had a client suicide. So it's a tightrope that you walk and there's a lot of worry that goes into that and it's about ... keeping things okay for the client while you also don't let them kill themselves at that time. And I know that he wasn't my client but I still felt very responsible for him ..."

Ms B advised that she "assisted [Mr A] with a problem solving exercise and encouragement to try yet another positive step at relocation". She described the problem solving exercise:

"It was about ... how he should cope with it, giving him hope ... telling him he'll be alright.

...

It's another blow, but it doesn't have to mean the end of your life.

...

You still have [children] living who would be very distressed to lose their father as well as their mother. You're usually strong, you could be strong again, just take this as another hit."

Ms B described her interaction with Mr A as "[t]he therapeutic things that you say to stop somebody from suiciding".

Ms B added:

“I felt that I was responsible still for his safety and I felt that he was suicidal and he had no one else to call [and] I needed to assist him.

...

I contacted him for the next several days to ensure that he was safe and reported that he was not suicidal anymore.”

Ms B made no record of the conversations she had with Mr A, although she agreed that, in hindsight, she should have. Ms B did not contact Dr E to advise him of Mr A’s condition, or the support she had provided. In her defence, Ms B stated that, at the time of Mr A’s call, she had been “excommunicated from ... the Corrections Service”. In response to the provisional opinion, Ms B stated that she did not contact Dr E as she “believed that [he] was on leave”.

On 8 February, Mr C sent an email to Ms D:

“I haven’t heard so much as a peep out of [Ms B] since well before that email I sent you both last week. I’m starting to get concerned about that. If I were in her shoes I would be wanting to put my best foot forward in terms of being responsive to the feedback. Having said that I want to give her enough leeway to create a plan and report back to me. Could you please emphasise in supervision how important it is to manage this proactively? The reality is that if I haven’t heard from her early next week, I’m going to have to terminate her contract.”

Ms D stated that, having received this email, she telephoned Ms B but she did not reply. Ms D left a telephone message asking Ms B to call her, which she did not.

On 14 February, Mr C wrote to Ms B, terminating her employment contract, as she had failed to be in contact since her supervision session of 26 January, and had failed to complete the management form that had been requested of her. He also noted that she had failed to attend two sessions at a service centre in another town, which was part of her contracted employment. In her defence, Ms B said that Mr C had told her to take two weeks off when they had met on 24 January, but he has denied that he said this.

On 20 February, Mr C telephoned Ms D to advise her that he had terminated Ms B’s contract. On the following day, Ms D telephoned Ms B, who Ms D described as “very upset”. Ms D stated:

“[S]he was very angry with [Mr C]. I said that it was very important that we had an urgent meeting to discuss the issues and I expressed my dismay that she had not approached me earlier but [Ms B] said that I had been away or holidays or whatever but I said that she knew where I would have been [and] she knew how to contact me through other connections.”

Ms B denies that she was “very angry” with Mr C. In response to the provisional opinion, she also said that she did not have any means of contacting Ms D during this period. However, earlier during the investigation, Ms B’s access to her supervisor was discussed as follows:

- “Interviewer: Where did the panic-attack come in this sequence?
- [Ms B]: It was two days before I took the files back.
- [Ms B’s] lawyer: It was the 22nd January.
- Interviewer: I was just getting the sequence right in my head.
- [Ms B]: Yeah but I was in a bad state and I just couldn’t motivate myself to sit at the computer and write the Management Plan. So I was, I got a letter of dismissal.
- Interviewer: Was your counsellor available to you at any of this time?
- [Ms B]: Was my Supervisor?
- Interviewer: Mm yeah sorry Supervisor.
- [Ms B]: She was available and I was, like I was writing backwards and forwards to her about the Management Plan and she phoned me and that kind of thing.
- Interviewer: Did she know what was going on, what was causing all the conflict?
- [Ms B]: Oh yeah because they had been making phone calls and having meetings without me.”

On 23 February, Ms B returned her other clients’ files to Mr C.

*March 2007 onwards*

On 8 March, Ms B sent Mr C a copy of the management plan that she had formulated with Ms D. The plan includes the following:

“ ...

- Psychologist feeds back to client that this is the decision and re-explains why. Also explains to client that further contact should not occur.
- Psychologist undertakes with supervisor/employer to avoid any contact with client.

...

- Psychologist acknowledges Principal Psychologist's requirement that all related Management employers be informed of details of situation to protect entire client group."<sup>5</sup>

On 9 March, Mr C sent an email to Ms B to advise that she would not be referred to the New Zealand Psychologists Board. He stated:

"I would like to say that I appreciate the professional manner in which you have attended to closing your files. Although I know that you are feeling at a loose end currently, I know that you have the ability and experience to revitalise your practice.

I wish you well in your endeavours."

Ms B's lawyer stated:

"After several follow-up calls made at later times, [Mr A] sought to re-establish contact of a non-professional nature with [Ms B]. At this time ... [Ms B] was vulnerable feeling depressed, humiliated and unjustly treated. [Ms B] was also unemployed, financially in debt and at risk of referral to her professional body for improper conduct. Perhaps unwisely, [Ms B] agreed to the contact and [Mr A] visited from time to time and a relationship subsequently developed."

Ms B stated that Mr A telephoned her on 20 March, they met at a pub that day, and their friendship developed from that point. Because his house had been burgled, Mr A moved his bone carving equipment to a shed behind her house, from where he worked. She stated that Mr A had since moved to a "motor camp" near her.

On 25 April, Ms B wrote an email to Ms D, requesting — for tax purposes — a receipt for the cost of the supervision sessions. Ms D telephoned Ms B, who stated that she was doing "Cultural Supervision [and] some non [psychology] work". They arranged a meeting, but Ms D subsequently had to cancel the arrangements (see events of 14 May).

*May 2007*

Mr A's probation officer, Ms G, stated that at 10am on 1 May she was telephoned by Mr A, who had called to check the date of their next appointment. He also advised that his address was 197 'X' Road.

Ms G said that Mr A told her that, from 22 January 2007, he lived at 197 'X' Road. She said that she "questioned this several times" as his records stated that he lived at 107 'X' Rd. Ms G made three attempts to visit Mr A at 107 'X' Rd, but he was not present. Ms G consequently wrote to Mr A at 197 'X' Road "instructing him to report

---

<sup>5</sup> Ms B stated that she included the latter point "with some cynicism because I actually believe that [Mr C] was over-informative in his notifying other employers".

for an appointment with his psychologist”, and the letter was returned, undelivered. Ms B believes that Ms G was in error, and was attempting to visit and write to Mr A at the wrong address. Another probation officer subsequently attended 107 ‘X’ Rd in late March 2007, to see a different client of the Probation Service, and was advised by that client that Mr A had moved out three weeks earlier.

On 1 May, Mr A was arrested at Ms B’s home and recalled to prison for breaches of his parole conditions. Ms B stated that he had stayed at her home for the previous three nights, but had slept in the spare bedroom.

Mr A telephoned Ms G at 1.59pm. She recorded that he said that he had been living at Ms B’s home for “about 2 months”. Later that afternoon at 3.48pm, Ms B telephoned Ms G. Ms G stated that Ms B insisted that the telephone call be documented. In her contemporaneous note, Ms G recorded that Ms B confirmed that Mr A had been living with her at her home for two months. Ms G also noted that Ms B advised that Mr A had not informed the Probation Service of this as he had been “trying to protect [her] professional name”. Ms B also told Ms G that Mr A had been working hard on his bone carving and had “sold his first consignment”.

Ms B has denied that she told Ms G that Mr A had been living with her for two months and that he had “sold his first consignment”. Ms B accepted that Mr A had kept his carving tools in her shed, but said that “he had spent little time carving” at her house.

Subsequently, Ms B stated that she spoke to Ms G to find out “what the procedure was going to be with [Mr A] and whether [she] could support him”. In response to the provisional opinion she said that the breach of parole charge was withdrawn because there was insufficient evidence that Mr A was residing with her.

Ms B telephoned Ms F at approximately 4pm on 1 May, in a call that lasted (according to Ms F) at least 20 minutes.<sup>6</sup> Ms F stated that Ms B was very upset, that she said that she and Mr A had been living together, but she now wanted to “extricate herself from the relationship”. Ms F said that Ms B was “very regretful ... very upset ... realising the enormity of her actions ... she knew the relationship was inappropriate”, and wanted to get out of the relationship because it was professionally wrong.

---

<sup>6</sup> Ms F is the Area Manager, Community Probation Service. She is certain about the date and time of the telephone call, as she had been attempting to leave her office to go on holiday.

Ms F stated:

“My understanding was that it was an intimate relationship because of how upset she was ... The fact that she said that she knew that she had wrecked her career, this wouldn’t happen if [Mr A] was just a friend.”

Ms B subsequently stated that she did not inform Ms F that she had been living with Mr A, but did “tell her that a type of relationship had formed”. Ms B also suggested that Ms F had made an “incorrect interpretation” that the relationship was intimate because of how upset Ms B had been at the time of the telephone call.

Ms B stated that Mr A had “continued to reside at his officially recorded address”. She provided a statement (dated 3 May 2007) from Mr A’s landlady, who stated: “[Mr A] has been residing with me at [107 ‘X’ Rd] and has been since early February.”

On 14 May, Ms B sent an email to Ms D:

“Dear [Ms D]

I know now why you wanted to meet with me and I appreciate your caring effort on my behalf.

No excuses, just to let you know that I did not lie to you when we had supervision. The contact between the client and myself did not happen for quite some time afterwards when I was unemployed, depressed, and out of contact with you. That is just for your information, not as any way of pleading my case. My state of mind when we discussed it was genuine.”<sup>7</sup>

*Ms B’s comments*

In response to the complaint, Ms B stated through her lawyer:

“[Ms B] accepts that a personal relationship did develop between herself and [Mr A]. She does not, however, accept that any inappropriate behaviour occurred during the period of treatment.

...

[Ms B] notes that in 12 years of professional practice she has never been personally involved with a former client, she is aware that such conduct is potentially unethical and as a result of the supervision she has undergone since identifying the transference–counter-transference issues in relation to [Mr A] and

---

<sup>7</sup> The email was printed out and has a hand-written notation by Ms D: “Had [phoned] her to say that as [I] was going to [a nearby town I would] drop off her files ... [Ms B] suggested [we meet] for coffee. I had to cancel due to car accident — [phoned and] left message.”

as a result of the development of her management plan, she feels confident that no such situation would arise again in the future.

...

[Ms B] is of the view that in bringing the transference–counter-transference issues to [Mr C’s] attention, she acted correctly and ethically. Immediately following the advice given to [Mr C], [Ms B] withdrew psychologically and actually from the situation for approximately two weeks. During that period [Ms B’s] pre-morbid depression became severe and she experienced elevated anxiety. During the two-week period she was hospitalised<sup>8</sup> with suspected heart palpitations which were subsequently diagnosed as a panic attack. As a result of her anxiety and health, [Ms B] was not able to complete the management plan that [Mr C] had requested of her during the meeting on 24 January 2007.

...

[Ms B] at all times acted in a manner that she considered was appropriate in terms of dealing with an issue of transference–counter-transference ... [Ms B] worked with her supervisor through the underlying issues of personal vulnerability which may have led to the counter-transference arising including personal loneliness, low mood, idealisation of client due to whakapapa connections and the wairuatanga. [Ms B] has reflected considerably and feels that she has learned significant lessons from what has occurred and is confident that the personal vulnerabilities will not reoccur in the future.

[Ms B] confirms that [Mr A] currently resides in prison having been returned there from 1 May 2007. As such she is not conducting any relationship with [Mr A] other than a support relationship. [Ms B] does have contact frequently with [Mr A],<sup>9</sup> providing support to him as he has been considerably depressed.”

Ms B stated:

“I found [Mr A] spiritual, I found him caring ... and all of these are things that ... I know that a professional should not be seeking from a client, and it’s not that I was seeking it, I went into the therapeutic relationship with integrity and ... never thought that anything like this could happen but ... there was just something that helped me as well, which I know was inappropriate ...”

---

<sup>8</sup> Ms B was admitted for assessment to a hospital emergency department on 22 January, and her meeting with Mr C was on 24 January.

<sup>9</sup> On 5 September 2007, Ms B provided the following dates, “to the best of [her] recollection” on which she met Mr A: 20 March; 25, 9, 30 April; 1, 10, 23, 24, 27 May; 3, 10, 17, 24 June; 1, 13, 19 July 2007. Ms B added that most of these meetings were “highly supervised prison visits”.

On 21 June 2007, Ms B signed an affidavit in support of Mr A's parole board hearing.<sup>10</sup> In the affidavit, she stated:

“On the 6<sup>th</sup> February 2007<sup>11</sup> I was contacted on my business cellphone by a distressed [Mr A] who had reportedly been burgled in his first week of relocating to [a new address]. I spoke to him in terms of problem solving and he subsequently reported managing to secure new accommodation with friends at [107 'X' Rd] ...

Some weeks subsequently [Mr A] again called me on my business cellphone and stated he was in [the area], and wondered if we could meet. Still in the hopeless and depressed mental attitude I had adopted upon my dismissal I agreed.

Since that time ... [Mr A] has visited me on numerous occasions and a relationship has developed. He has at times stayed overnight. That unethical decision on my part as you know is now the matter of investigation by the Health and Disability Commissioner.”

Ms B denied that she had been in a sexual relationship with Mr A. She also stated:

“I have admitted all along ... that the relationship was inappropriate, in that I should not have been fulfilling my emotional needs, my needs for company, my needs for someone else strong to be around me ... I was helping him while at the same time helping myself. I found him a comfort and I felt responsible for him ... and I called it ... a 'co-dependence' sort of relationship.”

Ms B stated that, at the time of the interview with HDC investigators (2 August 2007), she and Mr A were still in a relationship, that they met frequently, and she agreed that the relationship with him had been, and still was, inappropriate. She was asked why she continued to see Mr A. Ms B stated:

“Well because I feel that I'm finished as a psychologist and I value our relationship and for quite a long time there I was suicidal and I went through a period where ... I began to disbelieve ... the goodness of my profession because I found so many of my peers were so keen to judge each other. Actually this ... happened while I was ... [a member of the New Zealand Psychological Society] that I just began to think that we all love to help other people but we love to trash each other ... and jump on each other and we don't like tall poppies and that was my experience. So I went through a philosophical change in my life where I had believed that I was in an honourable profession. I believe that I was close to the end of my life and what did I want out of my life? And I had attained the top of my profession, I had been through many, many things and did I want a personal and

---

<sup>10</sup> The affidavit was sent to the Crown Solicitor by Mr A's lawyer in relation to his Parole Board hearings.

<sup>11</sup> Ms B was asked how the date had been recorded as 6 February in her affidavit. She stated that she did not know why.



comforting friendship with somebody where ... I entered two different paradigms. So yes I know that in the eyes of my profession and as I would have seen it a long time ago, my values changed because I really felt ... like I was finished.”

Later, in her response to the provisional opinion, Ms B stated through her lawyer:

“[Ms B] maintains that there is no continuing intimate relationship with [Mr A]. [Ms B] believes that [Mr A] is now moving on with his life and she also is attempting to continue with hers.

[Ms B] is concerned to note that little mention is made of the debilitated state under which she has been functioning despite significant note having been made during the interview. We consider it would be appropriate for the opinion to record that [Ms B] was suffering from a significant depressive illness at the time as confirmed by her GP in correspondence that has previously been provided to the Commissioner’s office.”

*Mr A*

In two letters written to his family, one undated, one dated 19 May 2007, Mr A gave Ms B’s address as the return address.

In a letter to this Office dated 4 June 2007, Mr A stated:

“[Ms B] is a most excellent psychologist, and whilst she was my psychologist nothing of an inappropriate nature occurred.”

Mr A went on to write: “Let’s be quite honest, I am now having a serious relationship with [Ms B].” He stated that he “called and stayed the odd day or two, but never lived [with her]”.

In a telephone call on 5 June 2007 to this Office, Mr A stated, “I am in a relationship with [Ms B].” He said that it was a sexual relationship, but added that “nothing had happened” while he was her client.

In a subsequent telephone call on 1 August 2007, Mr A stated that the relationship with Ms B had not been sexual.

---

## Code of Health and Disability Services Consumers' Rights

The following Rights in the Code of Health and Disability Services Consumers' Rights are applicable to this complaint:

### *Right 4*

#### *Right to Services of an Appropriate Standard*

- (1) Every consumer has the right to have services provided with reasonable care and skill.*
  - (2) Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*
- 

## Other relevant standards

Core Competencies for the Practice of Psychology in New Zealand (April 2006):<sup>12</sup>

### “REFLECTIVE PRACTICE

This set of competencies covers the steps involved in the attainment and integration of information regarding one's practice. It includes critical and constructive self-reflection and seeking external review of one's practice (including supervision). Reflective practice and professional development in psychology is viewed as a continuous process of accurate self-assessment, understanding the skills necessary to be a psychologist and undertaking activities for professional development. This is often done in consultation with a supervisor.”

The Code of Ethics for Psychologists Working In Aotearoa/New Zealand (2002):<sup>13</sup>

### “Principle 3

#### *Integrity in Relationships*

The relationships formed by psychologists in the course of their work embody explicit and mutual expectations of integrity that are vital to the advancement of social justice, scientific knowledge, and to the maintenance of public confidence in the discipline of psychology. Expectations of professional practice include: respect, accuracy and honesty; openness, maintenance of appropriate boundaries,

---

<sup>12</sup> New Zealand Psychologists Board

<sup>13</sup> Prepared by the Code of Ethics Review Group, a joint working party of the New Zealand Psychological Society, the New Zealand College of Clinical Psychologists and the New Zealand Psychologists Board.

and avoidance of conflicts of interest. Psychologists will seek to do right in their relations with others.

...

### 3.1 Honesty:

Psychologists recognise that integrity implies honesty in relationships. Honesty requires psychologists to be accurate, complete and comprehensible in all aspects of their work.

...

3.3.2 Psychologists maintain appropriate boundaries with those with whom they work and carefully consider their actions in order to maintain their role.”

---

## Opinion

This report is the opinion of Rae Lamb, Deputy Commissioner, and is made in accordance with the power delegated to her by the Commissioner.

---

## Opinion: Breach — Ms B

### *Introduction*

Mr A had the right to services provided with reasonable care and skill, and that complied with legal, professional, ethical and other relevant standards in accordance with Rights 4(1) and 4(2) of the Code of Health and Disability Services Consumers' Rights (the Code). The professional standards applicable to this complaint are Principle 3 of the Code of Ethics for Psychologists Working in Aotearoa (2002) (the Code of Ethics), and the Core Competencies for the Practice of Psychology in New Zealand (2006).

In the context of a psychologist–client relationship, there is an inherent power imbalance between the psychologist and the client, as the client's emotional vulnerability is exposed during therapy. Accordingly, principle 3.3.2 of the Code of Ethics requires psychologists to “maintain appropriate boundaries with those with whom they work and carefully consider their actions in order to maintain their role”. That Mr A was, from 24 January 2007, no longer formally a client of Ms B does not remove from her the responsibility to act in accordance with professional standards.

*Intimate relationship*

Although there is no evidence to suggest that an inappropriate relationship commenced while Ms B was Mr A's psychologist, both have agreed that a personal relationship subsequently developed owing to a mutual attraction, which became apparent during the professional relationship. Ms B has stated that, although she was attracted to Mr A, there has never been a sexual relationship between them, but there is compelling evidence to suggest that their relationship became intimate.

Mr A has given conflicting evidence during the investigation, stating initially that his relationship with Ms B was sexual, and then in a subsequent telephone call he denied that he had said this. In a letter dated 4 June 2007, he stated that he was "now having a serious relationship with [Ms B]".

On 1 May, Ms B made two telephone calls as a result of Mr A's arrest at her home: to Mr A's probation officer, Ms G, and to a colleague, Ms F. Ms G stated that Ms B told her that Mr A had been living with her for two months, and that the reason for not declaring this was to protect her "professional name". Ms F stated that she was called by a "very distressed" Ms B, who said that she had been living with Mr A and now wanted to "extricate herself from the relationship". Ms F said that her understanding from the conversation was that this was an intimate relationship as "[Ms B] said that she knew that she had wrecked her career [and] this wouldn't happen if [Mr A] was just a friend".

Ms B stated that these calls to Ms G and Ms F were either misinterpreted or have been inaccurately recounted. However, Ms B has also stated:

"I have admitted all along ... that the relationship was inappropriate, in that I should not have been fulfilling my emotional needs, my needs for company, my needs for someone else strong to be around me ... I was helping him while at the same time helping myself. I found him a comfort and I felt responsible for him ... and I called it ... a 'co-dependence' sort of relationship."

Furthermore, she has stated:

"[Mr A] has visited me on numerous occasions and a relationship has developed. He has at times stayed overnight. That unethical decision on my part ... is now the matter of investigation by the Health and Disability Commissioner."

In her interview during the investigation, Ms B said that she was aware of the inappropriateness of the relationship with her ex-client, and she added that it was continuing. However, in response to the provisional opinion, she stated that "there is no continuing intimate relationship with Mr A".

I also note that Ms B, in defending the development of her relationship with Mr A, said that when he contacted her on 20 March, she was at risk of referral to the New Zealand Psychologists Board (the Board). However, by 20 March, the decision had

been made 11 days earlier that she would not be referred to the Board, and Ms B was aware of this decision.

*Response to suicidal thoughts*

When Ms B was contacted by Mr A on 5 February, she was still employed by the Psychological Service (the Service), and in my view had not been, as she contends, “excommunicated” from the Service. In fact, when she met Mr C on 24 January, he had given her some new files. I also note that Mr C’s email to Ms B of 1 February was supportive,<sup>14</sup> and concluded by asking her to contact him if there was anything he could do to assist her. In my view, Ms B was being supported by her manager and supervisor to deal with the transference/counter-transference issues.

Ms B did not contact Mr C for support, or Ms D for further supervision. Instead, while still employed by the Service, and having been telephoned on 5 February by Mr A, she provided “[t]he therapeutic things that you say to stop somebody from suiciding”. In addition, having previously agreed with her manager and supervisor that she would not speak with Mr A, a number of follow-up calls took place between them. Ms B did not document these interactions, nor did she raise her concerns about Mr A’s suicidal thoughts with the psychologist caring for him, Dr E.

Ms B has submitted that she had passed Mr A’s file back to Mr C on 24 January, and that explains why there were no entries dated after 17 January in the clinical record. However, this response is misleading. On 14 February 2007, Ms B sent electronic versions of six consultations she had with Mr A in January 2007. It is misleading for Ms B to now state that the reason she did not record her interactions was because she did not have the physical file. In my view there was opportunity for her to have recorded her interactions with Mr A.

When contacted by Mr A on 5 February, Ms B said that she felt she was still “responsible ... for his safety ... he was suicidal ... had no one else to call [and] I needed to assist him”. However, she was not his psychologist, and there were others he could call. Ms B knew that Mr A had been transferred to another psychologist, and her responsibility was to ensure that any concerns were appropriately passed on. Her reason for not doing so is that she thought Dr E was on leave. Not only has Ms B not mentioned this evidence until now, but had Dr E been on leave, I contend that she should have contacted another person, for example her employer, Mr C. I note that on 5 February, when Ms B claims to have been contacted by a suicidal Mr A, she was still an employee of Mr C, who was trying to support her.

---

<sup>14</sup> “I am confident that you will be able to address any such issues actively and work through any associated emotions.”

Ms B failed to pass on her concerns, choosing instead to provide clinical support to a former client she had specifically been told not to be in contact with, and with whom there was an acknowledged attraction. As I stated in opinion 06HDC06218:<sup>15</sup>

“In my view, it is impossible for a health care provider to retain objectivity and professional judgement if she is engaged in a personal relationship with her client.”

By failing to mention or document her interactions with Mr A, and her concern about his condition, not only was Ms B unprofessional, she also ran the risk of her contact with an ex-client being considered clandestine.

I also note that Ms B stated that when she was called by Mr A on 5 February,<sup>16</sup> he had been burgled recently and, following her support, “he subsequently reported managing to secure new accommodation ... at [107 ‘X’ Rd]”. However, Mr A advised the Probation Service that he moved to 107 ‘X’ Rd on 22 January, two weeks before Ms B said that he had called (on 5 February). This raises doubts about the evidence that has been provided by Ms B and Mr A on this point — either Mr A had called at an earlier date, or he was not telling Ms B the truth when they spoke on 5 February, and he had already moved to the new address at 107 ‘X’ Rd.

I accept that Mr A was the victim of a burglary on 5 February, as this is supported by Dr E’s clinical note of that date. I also accept that Ms B may have spoken to Mr A on the day he was burgled. However, her assistance in finding him a new home at 107 ‘X’ Rd (where he was living by 22 January) must have occurred prior to 5 February. I therefore do not find credible Ms B’s statement that Mr A first called her on 5 February after the professional relationship had ended, and that he moved to 107 ‘X’ Rd subsequent to that call.

I also note that in her affidavit signed on 21 June in relation to Mr A’s Parole Board hearing, Ms B stated that she was called by him on 6 February. On its own, this discrepancy could be discounted as a simple typing error. However, it adds a further inconsistency to Ms B’s evidence and, when asked, Ms B stated that she did not know how this error in her affidavit had been made.

#### *Management plan and supervision*

I am concerned at Ms B’s approach to forming a management plan, and her failure to obtain supervision, after her meeting with Mr C on 24 January. I note that Ms B was required to attend supervision as part of the core competencies for working as a psychologist in New Zealand.

---

<sup>15</sup> <http://www.hdc.org.nz/files/hdc/opinions/06hdc06218nurse.pdf> (26 January 2007).

<sup>16</sup> In her affidavit dated 21 June 2007.

Although Ms B agreed that Mr C's request for such a plan was an appropriate response, she appeared to make very little effort towards producing it. In particular, she made no further attempts to arrange another supervision session following her appointment with Ms D on 26 January. Although Ms D called Ms B, she did not reply, and Ms D left messages asking Ms B to call back. Finally, after her dismissal and a brief call to Ms D, Ms B called on 26 February, and the management plan was subsequently produced. Even then, Ms B stated that she had added, "with some cynicism", the point on the plan that referred to Mr C advising other employers of the counter-transference issue. To add a section "cynically" to the management plan is, in my view, not the action of a contrite professional.

Eventually, on 8 March, Ms B sent the management plan to Mr C. However, by this date she had already been in contact with Mr A, providing him with support in early February.

Ms B said she had not completed the plan earlier because she had been told by Mr C to take two weeks off (although Mr C denies he said this, and his email of 1 February makes no reference to such a break). However, two weeks from their meeting of 24 January was 7 February, and there is no evidence that Ms B took any action from this date, even after she was contacted by Ms D soon after Mr C's email of 8 February.

Ms B said in response to the provisional opinion that Ms D was not available to her for supervision and support, but this is in contrast to her earlier evidence. During her interview with this Office, Ms B agreed that Ms D was available to her after she (Ms B) was required to write the management plan.

Ms B had been admitted to hospital with a panic attack two days prior to her meeting with Mr C on 24 January and has stated as mitigation for her actions that she was "suffering from a significant depressive illness". However, at no stage did Ms B inform her supervisor or her manager that she was finding it difficult to complete the management plan because of illness. Her contract stated that she "must notify the Principal Psychologist immediately if s/he identifies any problem in performing the Services".

#### *Summary*

Ms B developed an intimate relationship with an ex-client which she agreed had been, and was — at the time of her interview during the investigation — inappropriate and unethical. Although Ms B has stated that her relationship was not sexual, I believe there is adequate evidence to assume, on the balance of probabilities, that an intimate, and probably sexual, relationship existed. Mr A's description in his letter of 4 June 2007 of a "serious relationship" with Ms B is an acknowledgement that an intimate relationship had developed, and this is corroborated by evidence from others — not least Mr A when he stated that he and Ms B were in a sexual relationship (a statement he has since denied making).

Ms B has challenged evidence from Ms G and Ms F, and said that she did not make statements to them that strongly implied that an intimate relationship had developed between herself and Mr A. However, I note that Ms B has not commented on Mr A's assertion that they were (on 4 June 2007, a week after the commencement of this investigation) in a "serious relationship", nor his comment (subsequently denied) that the relationship was sexual. She has also said that "there is no continuing intimate relationship with [Mr A]".

The Commissioner stressed the importance of maintaining professional boundaries in a previous case. He stated:<sup>17</sup>

"The maintenance of professional boundaries is an integral part of counselling, a process that involves an intense therapeutic relationship where the client confides fears, feelings, emotional responses and vulnerabilities. The importance of maintaining professional boundaries in the counsellor/client relationship cannot be overemphasised. Mr A, as a counsellor aware of the relevant ethical codes, could reasonably be expected to have recognised the need to maintain professional boundaries, and to be alert to situations where they were under threat and becoming blurred."

I endorsed this opinion in a more recent case<sup>18</sup> about a psychologist having an inappropriate relationship with an ex-client. I stated:

"Similar principles apply in the context of a professional relationship between a psychologist and a client. It is incumbent on the psychologist to set and maintain boundaries, both during the relationship and after."

This case was referred to the Health Practitioners Disciplinary Tribunal. As part of its decision, the Tribunal stated:

"The Tribunal is of the clear view that there was a very significant departure from acceptable standards by the instituting of the intimate relationship, amounting to malpractice and the bringing of discredit to the practitioner's profession."

Although Ms B recognised her attraction to Mr A, and initially took appropriate action to end the relationship and seek professional support, she did not subsequently inform her manager and her supervisor that she was in contact with Mr A after the professional relationship had ended. This was contrary to her stated intention. Nor did she make sufficient efforts to access supervision from Ms D. In addition, Ms B did not document the "therapy" she was providing to a suicidal client of the Service, and, significantly, she did not advise the client's psychologist that the client was having serious suicidal thoughts.

---

<sup>17</sup> <http://www.hdc.org.nz/files/hdc/opinions/03hdc06499counsellor.pdf> (11 February 2004).

<sup>18</sup> 05HDC16909 (22 November 2006).



By not informing others of her contact with Mr A, Ms B ran the risk of being assumed to have intentionally misled her manager, supervisor and colleague. That Ms B continued to maintain a relationship that she knew to be inappropriate and unethical is a cause of serious concern, and she has made statements to my Office that lack credibility.

In my opinion, by failing to document Mr A's suicidal ideation and communicate her concerns about his condition to his psychologist, Ms B failed to provide Mr A services with appropriate care and skill. Accordingly, she breached Right 4(1) of the Code.

For failing to maintain appropriate boundaries with Mr A, and for falling below the standard required in the core competencies for psychologists relating to critical and constructive self-reflection and external review of her practice through adequate supervision, Ms B breached Right 4(2) of the Code.

---

### **Follow-up actions**

- I will refer Ms B 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.
  - A copy of this report will be sent to the New Zealand Psychologists Board, the New Zealand College of Clinical Psychologists, and the New Zealand Psychological Society.
  - A copy of this report, with details identifying the parties removed, will be placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.
- 

### **Addendum**

The Director of Proceedings issued a charge before the Health Practitioners Disciplinary Tribunal. At a hearing on 4 August 2008 Ms B admitted the charge, and the Tribunal cancelled her registration, lifted her name suppression and ordered her to pay a contribution to the cost of the investigation, prosecution and hearing.