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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626

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#### Complaint

The Commissioner received the following complaint from the complainant, Ms A, on behalf of the consumer, Ms O:

- *The registered psychologist, Mrs D, was originally employed to tutor Ms O in literacy skills. Mrs D has subsequently involved herself in Ms O's life to an inappropriate level and has caused several incidents at the IHC day centre that Ms O attends, which have been unnecessarily distressing for Ms O. These incidents have also disrupted and distressed other clients and staff of the day centre.*
  - *On 16 November 1999 following a discussion with an IHC staff member about Ms O's timetable, Mrs D expressed her anger in such a way as to distress Ms O, and disrupt other clients and staff.*
  - *On 24 November 1999 Mrs D came to the day centre to pick Ms O up. After discovering that Ms O had left her guitar at home Mrs D became angry and Ms O got upset. Ms O clearly indicated to IHC staff that she did not want to go with Mrs D. Mrs D then became very angry, attempted to run towards and lunge at Ms O and shouted. Ms O was very distressed by this incident. (Mrs D had previously said that Ms O was free to choose to keep her guitar either at the day centre or at her home.)*
  - *On 14 December 1999 after a discussion about Ms O's money, Mrs D became angry. Mrs D refused Ms A's request that they go somewhere more appropriate to discuss the matter. Ms O was clearly upset by Mrs D's behaviour and did not want to attend her scheduled literacy session with Mrs D. Mrs D then refused to leave the day centre until she was arrested for trespass.*
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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Investigation Process**      The complaint was received on 18 January 2000 and an investigation commenced on 9 February 2000. Information was received from:

Ms A	Complainant / Day Services Manager, IHC
Mr B	Area Manager, IHC
Mrs C	Consumer's mother
Mrs D	Provider / Registered Psychologist
Ms E	Consumer's IHC day centre caregiver
Ms F	Community Service Manager, IHC
Ms G	Needs Assessor
Mr H	House of Learning
Ms I	IHC
Mr J	IHC
Dr K	Consultant Psychiatrist, Intellectual Disability Services
Dr L	Registered Psychologist, Consultant Healthcare and Dual Diagnosis, IHC
Ms M	Counsellor
Mr N	Clinical Psychologist
The Deaf Association	
New Zealand Police	
Workbridge	

Relevant medical, psychological and psychiatric records were reviewed. My staff interviewed Ms O, consumer, however she was unable to clearly communicate her opinion.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
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*Background*

The consumer, Ms O, was born in 1964 and has an identical twin sister. Ms O's sister has a severe intellectual disability, and they have not seen each other since they were seven years old. When Ms O was one year old she was assessed as deaf and given hearing aids, but when she was two years old the diagnosis was changed to autism and her hearing aids were taken from her. Ms O attended day classes at the psychiatric hospital until she was five, and then went to special classes at school. When she was 14 years old, Ms O's hearing was re-tested and a significant hearing impairment was found. She then attended a unit for the deaf.

When Ms O was 25 years old she went to live in the city in a hostel for people with psychological and intellectual disabilities. When Ms O was 27 years old she was sexually assaulted and as a result was admitted to the mental health ward at the public hospital. She has had continuing problems with her mental health.

In mid 1995, when she was 30 years old, Ms O was admitted to IHC Services and went to live at the residence in the city. She initially spent her days at the IHC day centre and when day classes were reorganised she moved to another day centre. Ms O also spent some time at the CCS day centre nearby.

*Intellectual Capacity*

In late 1993 clinical psychologist, Mr N, assessed Ms O's needs. In a letter dated 1 February 1994 Mr N summarised his findings:

“... ”

*Conclusions*

*Major hearing difficulties diagnosed and explored relatively late in [Ms O's] childhood have hampered her learning and language development with consequences continuing to the present.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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*Cognitive testing shows [Ms O] also suffers from intellectual disabilities. She has definite skills in the visuospatial area but on present testing her overall general intellectual functioning in Wechsler's terms fills in the 'retarded' range if one wants to use Wechsler's term. That impression is supported by her results in Raven's Progressive Matrices which tap problem solving and concept formation but do not depend on verbal skills. The Peabody result also reflects difficulties. These findings should not be taken pessimistically. It is very difficult to know where the boundary lies between cognitive impairment and the more remediable affects of speech-language problems. The latter will have already had myriad social and intellectual effects upon [Ms O's] development. Experience, training and encouragement can only lead to improvements in her performance. ..."*

In June 1994 IHC asked Dr P, senior psychologist, to review Ms O's intellectual ability to assess her suitability for admission to further IHC services. In a letter dated 27 June 1994 to IHC branch Dr P wrote:

*"... From the background information sent to me with the written referral I see that in the past six months [Ms O] has received a psychiatric and detailed psychological assessment at [the public hospital] and that towards the end of last year she was also fully assessed by a speech-language specialist. Even if I was in a position to proceed with the referral, I very much doubt that I could add anything new beyond a repeat administration of the instruments used by [Mr N]. ..."*

1. Intellectual Level

*The test results show that [Ms O] is presently functioning in the mildly impaired range of intellectual disability. ..."*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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*There is no simple way to answer questions about how far [Ms O's] hearing impairment is responsible for her low level of intellectual functioning, but many people with her degree of hearing loss (or worse) do obtain non-verbal intelligence scores in the average or above average range provided they can understand the test instructions. I have no information about the kind of speech-language training [Ms O] has received in the past so I cannot offer an opinion about the extent to which there is an underlying dual impairment. My recommendation would be that if [Ms O] is accepted into your services every effort is made now to address any previous lack of communication training."*

In October 1997 Mrs D referred Ms O to a speech language therapist to have her communication skills assessed. The report concluded that Ms O's "*difficulties with literacy and communication are primarily due to a learning disability rather than hearing impairment*".

In September 1999 Ms O was referred to Dr K, consultant psychiatrist with the Intellectual Disability Services. Dr K advised me that Ms O has an intellectual disability, and that her history, verbal skills and capacity to solve problems are those of a person with intellectual disability. Dr K said that Ms O's disability is relatively mild so in theory she should be able to make choices about her day to day activities.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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However, Dr K explained that Ms O's emotional and psychological state compounds her disability, so that making choices about her activities of daily living is very difficult. Ms O has a "fairly fragile" and "poorly integrated personality", and is preoccupied with negative events in her past. When she talks about these she becomes stressed and disorganised. Ms O will therefore make decisions impulsively, to please people and to get attention. Her decision making is emotionally driven and her choices are not rationalised in an objective manner. Ms O has difficulty relating to other people, except in a "dependent and clingy" way. Dr K also explained that Ms O's ability to resist inappropriate behaviour from other people is impaired if that person or behaviour encourages her dependency. Requests or pressure from anybody who appealed to Ms O's need to be dependent would be very difficult for her to resist. If Ms O perceives someone to be on her side then she wants to please them and she would find it very hard to objectively decide that her behaviour was unhealthy, unhelpful or inappropriate.

*Relationship with Mrs D*

On 26 February 1997 Ms O's counsellor, Ms M, recommended to Mrs C, Ms O's mother, that they ask psychologist Mrs D to assist Ms O with her reading. Ms M had recalled Mrs D presenting her reading programme at a meeting of counsellors and thought that perhaps Mrs D would be able to assist Ms O. Mrs C paid for Ms O to have weekly lessons with Mrs D from March 1997, to learn the basics of sentence building and reading.

Mrs D is a registered psychologist.

In a letter dated 18 May 1998 addressed to the Deaf Association Mrs D wrote:

*"I was asked to help [Ms O] with her reading and writing ...."*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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[Ms O's] *language development has suffered as a result of lack of appropriate teaching and the failure to provide her with the hearing aids she needed. Her poor speech unfortunately gives the impression to some people that she is intellectually-handicapped. She has been assumed to be intellectually handicapped by the staff at the Psychiatric Ward at [the public hospital] where she was admitted a few years ago after suffering a breakdown ....*

[Ms O's] *mother, ... would like her to attend the CCS Centre in [the city] every day. We both believe that [Ms O's] primary handicap is her hearing loss and that she is not intellectually-handicapped."*

In a letter dated 14 August 1999 to the Psychologists Board Mrs D stated:

*"[Ms O] was referred to me by a counsellor who was dealing with her emotional difficulties as a result of the sexual abuse. This counsellor considered that I could help [Ms O] to improve her literacy skills."*

In a submission to Workbridge for funding dated 8 November 1999 Mrs D summarised her work to date with Ms O and wrote:

*"I see my role from now on as focussing mainly on handwritten and spoken English and communication skills."*

During this investigation Mrs D advised me that a definite contract was never made with Mrs C regarding what she was to teach Ms O. Mrs D explained that Ms M's referral made it clear to her that Ms O had several problems that needed to be addressed. Mrs D explained to me that no psychologist would confine herself to dealing solely with literacy skills. Mrs D advised that Mrs C was present at all sessions with Ms O for the several months lessons were held at Mrs D's home, and they often discussed their assessment of how much Ms O was able to understand.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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Mrs D stated that with Mrs C's permission she administered the performance tests from the Wechsler Intelligence Scale for Children, and made other attempts to ascertain Ms O's level of intellectual functioning. Mrs D advised she also spent time helping Ms O with pronunciation and lip reading and developing her conception of time. Mrs D stated that it had been clear that she had not been expected to just focus on literacy skills during her lessons with Ms O. During the time Mrs D was working with Ms O she also organised social outings, visits to Church, speech and drama lessons, and computer lessons.

After Mrs C moved house she was unable to transport Ms O to Mrs D's house for lessons, so Mrs D would go to the IHC day centre to teach Ms O there. This was for about one year. When the day centre was closed in January 1998 Ms O transferred to another IHC day centre. Mrs D advised me that IHC would not make a room available for Ms O and her to have uninterrupted lessons, so she arranged for them to use a room at the CCS day centre which is close by. Mrs D explained that Ms O does not like being interrupted during a lesson and finds it very distressing.

Ms A, Day Services Manager at IHC, explained to me that IHC did not refuse to make a room available, but that there are no spare rooms at the day centre. Mrs D and Ms O began to have their lessons in the morning tea-room between 9:00am and 10:00am. Because the lessons often went over time problems would arise when the management staff wanted to have their morning tea. They tried using Ms A's office for lessons but that was difficult as well. Ms A explained that Mrs D suggested to them that using a room at the CCS Base would be preferable, and this was fine with everyone.

Ms A stated to me that Mrs D's belief that Mrs C agreed that Ms O's primary disability is her hearing loss, and that she would have preferred Ms O to attend the CCS day centre instead, is incorrect.

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## Registered Psychologist, Mrs D

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Mrs C explained to me that her goal has always been to obtain the best possible, in care and education, for her daughter. Mrs C said that from their initial contact, Mrs D was very interested in Ms O's background, and that her interest in Ms O developed over the months. With Mrs C's permission Mrs D thoroughly investigated Ms O's history, her tests and her schooling. Mrs D initially had Mrs C's permission to research Ms O's history in order to discover the exact nature of her disability, and the assistance Ms O had or should have received. Mrs C said that her daughter is the sort of person who falls through the cracks in the health and education systems very easily, and that Mrs D managed to find extra help for Ms O. Mrs D subsequently developed the idea that Ms O did not have an intellectual disability, but that the late detection of her deafness had caused her slow progress at school. Therefore Mrs D believed all Ms O needed was more outside training and help in order to develop to her full potential.

Mrs D advised me that she reached the conclusion that Ms O did not have an intellectual disability for several reasons:

*"[Ms O] completed two performance sub tests of the Wechsler intelligence scale for children at the Good Normal level; [Mr N], Clinical Psychologist at [the public hospital], found that [Ms O] completed two performance subtests of the Wechsler Adult Intelligence Scale at the Good Normal level; the Counsellor who referred [Ms O] to [Mrs D] regarded her as being of normal intelligence; several other people who have known [Ms O] do not consider that she is 'intellectually-handicapped'; her mother does not consider [Ms O] to be 'intellectually handicapped'."*

Mrs C told me that her daughter definitely does have an intellectual disability, although it would be nice if she was of normal intelligence.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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When asked about his discussions with Mrs D concerning Ms O, Mr N wrote:

*“[Mrs D] and I met on 15 May 1998. [Mrs D] had rung me suggesting we discuss [Ms O’s] cognitive abilities. It is my recollection that [Mrs D] had previously read my report dated 1 February 1994 in the course of reviewing the [public hospital] Mental Health Unit file, and that she showed me her own report dated 19 March 1998, and a memorandum from [Dr L], Registered Psychologist, dated 7 April 1998. ...*

*According to my memory of the conversation, [Mrs D] outlined the behavioural observations and testing ... which led her to believe [Ms O] was disabled primarily by hearing and language problems and consequent learning difficulties rather than intellectual disability as such. We discussed some of my behavioural impressions which had not been strong enough to base conclusions on but to some extent fitted with [Mrs D’s] observations. [Mrs D] described concerns that [Ms O] would be better placed with CCS than IHC because in [Mrs D’s] view CCS offered a well funded literacy program, a normal speech environment, quietness, and enhancement of self-image. My recollection is also that [Mrs D] favoured main stream intellectual companionship for [Ms O]. I understood [Mrs D] to be seeking support for her view that [Ms O] did not have an intellectual disability and would be better placed with CCS.*

*[Mrs D’s] account of [Ms O] was based on contact over many months and her observations and consideration of the language and hearing issues seemed particularly relevant. I was encouraged on [Ms O’s] behalf by [Mrs D’s] comments and optimism.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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*I agreed with her that her psychometric testing was not complete or sufficient and that formal re-evaluation of [Ms O's] ability required further testing, and although I supported further evaluation I did not think it was already established that [Ms O] did not have an intellectual disability in addition to communication problems. [Mrs D] had given consideration to additional testing she felt might be correctly applied to a person with [Ms O's] particular language and hearing disabilities.*

...

*Overall, I was particularly interested by [Mrs D's] impressions and especially her view of the hearing and language problems. I supported her view that more testing could be very helpful. I thought her attention to hearing and language absolutely of the essence, and I imagine other people working with [Ms O] had similar concerns. I was not sufficiently informed about [Ms O's] current presentation or CCS or IHC programmes to comment on relative merits although, in addition to advantages offered by particular services, the points [Mrs D] made about the quietness, a normal speech environment etc seemed appropriate.*

...

*The meeting between [Mrs D] and myself ended without my providing the support I felt [Mrs D] had hoped for. I offered to meet again and I would have been particularly interested by the results of any fresh formal testing, although not actively involved in [Ms O's] case.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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*Concerns about Mrs D*

Mrs C said that Mrs D was originally employed as Ms O's speech and literacy teacher, but her role expanded and Mrs D's interest in Ms O's situation developed into an obsession. Mrs C stated that Mrs D originally had Ms O's best interests at heart and has achieved some very good things for her. However the situation got out of hand and on occasions, Ms O would become visibly upset because of the way in which Mrs D handled her. Mrs C said that Mrs D had decided IHC was not a suitable agency for Ms O to attend, and had launched a crusade to have Ms O's intellectual ability recognised as normal, with the goal of removing her from IHC Services. Mrs C stressed that she has absolutely no concerns about the service that Ms O is receiving from IHC. IHC has limited funding but is using it well, and Mrs C has privately funded extra help for Ms O outside of IHC. Mrs C said that Ms O is happy living and working with IHC.

Mrs C said that in early or mid 1999 she began to be concerned because Mrs D began investigating areas of Ms O's life that were totally outside her original brief. Mrs C said she initially gave her consent for Mrs D to obtain help from other areas for Ms O, but Mrs D went deeper and investigated personal areas, such as Ms O's financial arrangements. Mrs C stated that Mrs D told her that she made inquiries with a lawyer about obtaining a Power of Attorney under the Protection of Personal Property Rights Act, over Ms O's affairs. Mrs D denied having done this.

Mrs C told Mrs D that these things were none of her business and not to think about them. Mrs C said that Mrs D is a strong-minded person and would not listen to Mrs C's requests for her to "*back off*". Mrs C said that Mrs D is very persuasive and wrote her letters every week. There were many telephone calls and she would even visit Mrs C at work. One day Mrs C said that Mrs D screamed at her across the road and forced a meeting between them, through sheer embarrassment. Mrs C said she tried to be subtle and nice about asking Mrs D to reduce her involvement, but she found it very difficult to do so.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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Mrs C said that she asked Mrs D to cease her investigations and stop interfering in Ms O's life two or three times during 1999, but Mrs D did not want to hear these requests to stop and so shut them out. Therefore Mrs C and IHC together sent Mrs D a letter on 13 December 1999 requesting she cease contact with Ms O. Mrs C said that the employment contract with Mrs D ended when Workbridge ceased funding for Ms O's lessons with Mrs D in late 1999. She said that since then Mrs D has been searching for funding to pay for the lessons she was still giving Ms O. For example, she organised an assessment of Ms O's needs by the Deaf Association, to try and access funding for services. Mrs C is clear that she wants nothing more to do with Mrs D.

Workbridge advised me that it funded training for Ms O with Mrs D to the value of \$1673.88 between 6 November 1998 and 19 November 1999 and purchased a computer program worth \$159.90, on Mrs D's recommendation. The training was for literacy support, but Mrs D exceeded her original brief by delving into psychological matters and making various other recommendations to Workbridge. Mrs D then unilaterally raised her hourly rate from the agreed \$28.00 to \$60.00. On 19 November 1999 Workbridge wrote to Mrs D stating that no further funding for lessons with Ms O was available, as Workbridge had limited financial resources, progress did not indicate Ms O would be "work-ready" within a finite period, and the increase in Mrs D's hourly rate was unacceptable.

Mrs D told me that she was not asked to limit her contact with Ms O or her investigations into her background at any time before a trespass order was taken out against her by IHC on 15 December 1999. Mrs D said that Mrs C had asked her to get as many of Ms O's records as she could. Mrs D said that she has no information about Ms O's financial situation; she asked Mrs C who did not know so Mrs D suggested it would be a good idea to find out about Ms O's entitlements from WINZ. Mrs D also said that Mrs C did not ask her to limit contact with Ms O until she signed the complaint to the Psychologists Board written by IHC on 14 January 2000. With reference to the letter written to Mrs D by IHC and Mrs C on 13 December 1999, Mrs D said that she received a copy of this letter only from the Psychologists Board when they notified her of this complaint.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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*Mrs D and IHC*

Ms A advised me that initially IHC had a good relationship with Mrs D, but that for several months, perhaps for up to a year before November 1999, Mrs D had been overstepping the bounds of a literacy tutor. Ms A said that she would informally tell Mrs C what was happening. Ms A explained that Mrs D decided Ms O was not intellectually handicapped and that she appeared to have the goal of removing Ms O from IHC's services. To this end Mrs D consulted with several community agencies. Ms A stated that Mrs D had accomplished many good things for Ms O over the last few years, but over time she put pressure on Ms O which has led to deterioration of her mental health. Ms A said that Ms O would dwell on her time with Mrs D when Mrs D was not present, as well as stating that she had "*had enough*", was "*sick of [Mrs D]*" and wanted no more contact with Mrs D.

Mrs C has talked to her daughter about the time that she spent with Mrs D. Mrs C stated that Ms O made it clear to her that she does not want to have anything more to do with Mrs D.

Mrs D believes that when Ms O states that she wants "*no more [Mrs D]*" she is referring to her brother. However, Mrs C told me that Ms O has not seen her brother for 18-20 years and would not be referring to him. Mrs C stated that when Ms O states "*no more [Mrs D]*" she is referring to Mrs D. Ms O's day and residential caregivers have both confirmed that Ms O does refer to Mrs D as "[Mrs D]".

When Mrs D first put forward her belief that Ms O did not have an intellectual disability IHC consulted their psychologist, Dr L, to review Ms O's situation and ascertain her actual mental capacity. Dr L is a registered psychologist who works for IHC as a consultant, healthcare and dual diagnosis. (Clients with a dual diagnosis, such as Ms O, have both intellectual and psychiatric problems.) Dr L read Ms O's files and met with her. In a report dated 7 April 1998, Dr L concluded that "*... for a variety of reasons, [Ms O] performs below [the level] of her chronological peers, and needs support to live her life in a meaningful way*". Dr L also disagreed with Mrs D's testing techniques, the tests she used and the interpretation of the results. Mrs D has subsequently laid a complaint about Dr L's report with the Psychologists Board.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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The Psychologists Board advised me on 7 July 2000 that it has decided that Mrs D's complaint does not warrant a hearing, and that no further action will be taken on it. The Complaints Assessment Committee's report to the Board stated that:

*"The Committee agrees with [Dr L] on this use of psychometric tools. It is of the opinion that a competent psychologist should not rely on two subtests of this test to construct a life plan even if they were entirely relevant; or use a child's test on an adult of 35 years old."*

In Dr L's response to Mrs D's complaint to the Psychologists Board she stated that:

"...

7. *As IHC's in-house psychologist, I was asked to review the relevant reports, visit [Ms O], and pass an opinion about how [Ms O] might best be supported. The report that I supplied and which has been copied to you by [Mrs D] in support of her complaint was based on:*
  - a. *My visits with [Ms O] at her workplace and at her home on 6<sup>th</sup> and 7<sup>th</sup> April, 1998,*
  - b. *My review of the background documentation, including the previous psychological and speech-language reports,*
  - c. *My evaluation of [Mrs D's] assessment of [Ms O],*
  - d. *My views about how [Ms O] might be best supported towards maximum independence – conceptualised in terms of [Ms O's] developmental and support needs rather than in terms of what agency should be providing the support.*
  
8. *In my evaluation of [Mrs D's] assessment, I was critical of:*
  - a. *Her use of a children's intelligence test to assess a 35 year old woman.*
  - b. *Her claim that the two subtests she chose 'correlate most highly with general intelligence'.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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9. *I note that the WISC manuals support my stance vis a vis the use of children's tests in the assessment of adults (Appendices XIa, XIb), and are critical of any 'shortened forms' of the WISC, (Appendix XII).*
10. *I note that the two subtests that [Mrs D] chose do not correlate most highly with general intelligence (Appendix XIII).*
11. *I also note evidence that suggests that people who are hearing impaired tend to score higher than might otherwise be expected on some of the performance tests (Appendix XIV), and that this is not a reflection of general intelligence, but of skewed development associated with deafness.*

...

*Therefore, as far as the specific complaint is concerned,*

1. *Prior to writing my report that has been attached to the complaint, I saw [Ms O] over 2 days on the 6<sup>th</sup> and 7<sup>th</sup> April 1998, both in her workplace and at home. The first point of [Mrs D's] complaint is therefore without foundation.*
2. *[Mrs D's] assessment of [Ms O], that she does not have intellectual disabilities was reported by her to be on the basis of:*
  - *Her clinical impressions,*
  - *[Ms O's] scores on 2 tests from a children's intelligence test (WISC),*
  - *2 WISC subtests (Block Design and Object Assembly) that 'correlate most highly with general intelligence'.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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3. *My evaluation of [Mrs D's] assessment of [Ms O] simply makes the points that:*

1. *It is inappropriate to use a children's test to assess a 35 year old woman,*
2. *The use of 'shortened forms' of the WISC is not advised, and the claim that the two tests 'correlate most highly with general intelligence' is unfounded.*

..."

#### *Computer Lessons*

Ms A said that Mrs D perceived Ms O should be doing more than she was originally involved in and put pressure on Ms O to extend her activities. As well as a one hour a week literacy lesson with Mrs D, Ms O went to the CCS day centre for activities, attended Church, had computer and speech and drama lessons, and spent time with Mrs D socially. Mrs D wrote to me that:

*"I have consistently aimed to broaden [Ms O's] experience, to provide more opportunities for her to develop her skills, to help her to communicate better through writing and speech, to improve her self image and to encourage her to mix with normal members of the community."*

Mrs D believed Ms O should have been having more computer lessons than she was. Her opinion was that Ms O needed more than one computer lesson per week in order for them to be beneficial. Mrs D said that Ms O enjoyed her computer lessons and would have liked to have had more of them. Ms A explained however that the computer lessons were an intense two-hour session and Ms O was tired at the end of the day when these classes happened. Mrs D had suggested more lessons per week but Ms O had clearly stated that one lesson each week was enough for her.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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On 2 December 1999 Mrs D wrote to Ms A about Ms O's computer lessons. Mrs D had just learned that Ms O's computer lessons on Thursdays had been cancelled, as two lessons per week were considered too many for Ms O. Mrs D stated that she did not understand how this conclusion was reached as Ms O had frequently told Mrs D that she wanted to go to computer lessons as she enjoyed them very much. Mrs D felt that Ms O was perfectly capable of attending two computer lessons each week and said that a reduction in tuition time would greatly impede Ms O's progress. She stated that it was up to Ms O to decide herself how often she wanted to go to computer lessons, and asked if Ms A had discussed this situation with Ms O.

In Ms O's IHC file there is a typed note, which reads as follows:

“[MS O]

*Dear [Mrs C]*

*I would like to go to the computer class on Monday and Thursday*

*From [Ms O].”*

Attached to this is a hand-written note from Ms A, which reads as follows:

“7/12/99

*[Ms O] arrived home from computer class on Monday evening with this note. She gave it to [...] the staff person at [...]. She was very upset and told [the staff person] that she only wanted to go to computer once a week.”*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
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Another note was hand-written by Ms O, dated Tuesday 7 December 1999, and is addressed to her mother:

*“Tuesday 7 December 1999*

*Dear [Mrs C]*

*I do not like walking to [...]. It is a very long way to walking I get very tired.*

*[Mrs D] says she will collect me in her car from [...] on Thursday at 4pm and take me in her car to the computer lesson.*

*I want to buy an address book and a year 2000 Diary. They are at [the] book shop I need \$20.00 to buy them please give [Mrs D] \$20.00 when you meet her.*

*Love from*

*[Ms O] xxxxx”*

Again Ms A has attached a note to this:

*“7/12/99*

*[Ms O] returned from her literacy session with [Mrs D] and showed this letter to the staff at [...]. [Ms O] was very upset. I spoke to her and she told me that she only wanted to go to computer class one night per week, on a Monday. I rang [Mrs C] and she said that she would send a fax to [Mrs D] to that effect.”*

Mrs C viewed this note and stated that her daughter could not have written it unaided, and that she would not fully comprehend what she had written.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Mr H, Ms O's computer tutor, explained to me that although Ms O appeared to enjoy her computer lessons she was tired out by them and did not cope. Ms O's lessons were originally one day a week for two hours in the evening, but she was tired at the end of the day and would spend much of the lesson looking at the clock and asking if it was time to leave yet. Mr H therefore suggested spreading the two hours of lesson time out over more than one day. He did not suggest increasing the number of hours per week. With regard to Mrs D's belief that more than one two-hour lesson a week was required, Mr H stated that in his opinion this would have been too much for Ms O to handle. After discussion with Ms A, lesson length was reduced. These lessons were initially paid for by Mrs C, with some funding from WINZ and the Deaf Association. Mr H advised me that Ms O's computer lessons with him ended due to a lack of funding.

Ms E, Ms O's IHC day centre caregiver, explained that Ms O found it very hard to say no to Mrs D. For example, when Mrs D wanted Ms O to have more computer lessons Ms O found it hard to explain to Mrs D that she didn't want them. When talking to Ms E about her computer lessons, Ms O would say, "*no, too much work, too much*".

Ms E also explained that Mrs D did not appear to fully understand Ms O's disability. For example she did not grasp the fact that Ms O's perception of time was not good. Ms O does not comprehend the concept "*tomorrow we might ...*". For example, when Ms O and Mrs D went to see Mr Q of the Deaf Association there was a watch on Mr Q's desk, which Mrs D thought might be for Ms O. Apparently Mrs D said something to Ms O along the lines of "*that watch might be for you*", or, "*you might have a watch like that one day*". However, all Ms O understood was that the watch was for her. Ms E said that it then took nearly three weeks of explanations to the contrary to convince Ms O that she was not going to receive that particular watch.

Ms A commented that Mrs D had difficulty in reading Ms O's body language accurately. Mrs C also commented that Mrs D did not deal with Ms O appropriately, especially when Ms O was upset and needed to be calmed down.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Ms A said that Ms E was becoming stressed each time Mrs D came to the day centre to see Ms O. Ms E found Mrs D difficult to cope with so she asked Ms A to be present to support Ms O when Mrs D visited. Ms E explained that when Mrs D arrived for her literacy sessions with Ms O she would normally want to speak with Ms E for a while first. Ms E described Mrs D's behaviour as changeable, and that although she was happy on arriving at the day centre she could suddenly become confrontational. Ms E said she always treated Mrs D politely and with respect but Mrs D's changeable behaviour made dealing with her very difficult, so Ms E asked Ms A to be present.

*16 November 1999*

On 16 November 1999 Mrs D came to IHC, to take Ms O for a scheduled literacy session at CCS. Ms A's account of the events that morning is as follows:

*“[Ms E] ... asked me to be in the [day centre] during this time to support her. [Ms E] was anxious about [Mrs D's] reaction to her response to a request she made to [Ms E], regarding [Ms O's] Day Service weekly routine. [Mrs D] wanted to arrange a suitable time for [Ms O] to attend church during the week. She asked [Ms E] to write up [Ms O's] weekly timetable on a form she gave to her. [Ms E] only wrote down the times [Ms O] was committed to regular off site programmes and said that [Ms O's] day centre programme was flexible enough to accommodate other activities [Mrs D] and [Ms O] wished to partake in. [Ms E] said that we would fit in with whatever time was convenient to [Mrs D]. [Ms E] had on a previous visit explained to [Mrs D] what tasks [Ms O] was involved in during her time at the [day centre].*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

*When [Mrs D] arrived I spoke to her about her visit to the Polytechnic with [Ms O] the previous Thursday. [Mrs D] said that unfortunately [Ms O] did not meet their pre-enrolment criteria. I then handed [Mrs D] the timetable that she had given [Ms E] and told her that we had only marked in the times [Ms O] was committed to activities outside the [day centre]. I told her that we were willing to fit in other activities at a time that was convenient to her. [Mrs D] became very angry, she asked if we had a timetable of [Ms O's] programme. I replied that we did. She asked if [Ms O] had a copy of this. I told her she didn't. [Mrs D] demanded a copy of her timetable and when I told her it wasn't necessary, as we were willing to fit in with her for activities, she said she would go to the Needs Assessor and demand that she obtain a copy of [Ms O's] timetable for her. I told [Mrs D] that was fine.*

*The conversation then turned more positive and I was able to arrange with [Mrs D] a suitable time for [Ms O] to attend church on a weekly basis.*

*During our conversation [Ms O] rolled her eyes several times and at one stage said, 'talk, talk, talk'. Staff also observed [Ms O] banging her head on the side of the door although I did not see this. Staff and other clients at the [day centre] were distressed following [Mrs D's] outburst.*

*Later that week I received a call from the Needs Assessor. [Mrs D] had approached her to do a needs assessment on [Ms O]. She wanted to send [Ms O] to [...] to be assessed (I assume this was to have [Ms O's] IQ tested as [Mrs D] is determined to prove that [Ms O] does not have an intellectual disability and she has told staff if she has her way [Ms O] will be out of IHC services by next year). [Mrs D] told the Needs Assessor that she had adopted [Ms O] as her project. ..."*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Ms E explained that Mrs D had asked her for a copy of Ms O's timetable saying that she wanted to make an appointment at the local Polytech to discuss Ms O taking a supported learning course. Ms E stated that Mrs D was not satisfied with the refusal and explanation and became very angry with Ms E. Mrs D raised her voice and demanded a copy of the timetable again, before Ms A arrived at the scene. Ms E explained that there had always been a timetable for the activities Ms O does at the day centre. Ms E would discuss the next day's activities with Ms O at the end of each day so she was aware of what would happen. Ms E also commented that the internal timetable was flexible and adjusted according to how Ms O felt each day. Ms E said that Ms O became very upset and agitated as a result of this incident. Ms E stated that Ms A remained calm during this incident and did not raise her voice.

Ms A explained that Ms E had previously gone over Ms O's activities with Mrs D and had given her a written list of Ms O's outside activities and commitments. She had also explained to Mrs D that Ms O's internal timetable was flexible enough to work around anything Mrs D might want to organise for Ms O. Ms A said that they were reluctant to give Mrs D a lot of written information about Ms O as she had been so negative about IHC and they did not know what she would do with the information. Ms A said that Mrs D's request was not a normal one. Ms A said that Ms O now has a copy of her timetable on the wall above her desk but she did not have this at the time. Ms O is the only client with a personal copy of her timetable. All activities were routine, and usually day centre activities would be listed on a whiteboard for everyone to see.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Mrs D explained to me that she had asked for a copy of Ms O's timetable as they had been discussing her weekly activities and Ms O was not fully aware of what she did each week. Mrs D explained that Ms O needed to understand that her activities were structured and followed a regular pattern, and that organising attendance at church was not the reason for her request. Mrs D said that Ms A does not have the right to keep Ms O ignorant of her own timetable. Mrs D said that she does not remember what her response was to this incident. Mrs D does not recall if she became angry or not. She did say that Ms A became very angry and that Ms O became distressed as a result of this incident. Mrs D stated that all of the confrontations complained of occurred because of Ms A's attitude and refusal to provide resources which Ms O needed.

Ms G, needs assessor, confirmed that she was asked by IHC to conduct a needs assessment on Ms O in 1999. The specific request was for a referral to speech therapy and to have Ms O's hearing checked.

Both assessors subsequently contacted Ms G to verify who had actually initiated the referrals, as Mrs D had been contacting them to discuss Ms O's case. They did not want referrals from Mrs D as they considered her disruptive and difficult to work with. Once Ms G confirmed to them that the referrals were from IHC, they continued their assessments.

Mrs D also approached Ms G directly to discuss Ms O. Ms G explained that Mrs D would "*go on about all sorts of things*", and Ms G would just listen to her, but not discuss anything constructive. Ms G confirmed that Mrs D told her that she had adopted Ms O as her project and that proving Ms O did not have an intellectual disability was a priority. Ms G commented that Mrs D "*really put herself out for [Ms O]*", and that "*her heart was in the right place*".

Ms G does not recall Mrs D asking her to organise an IQ test for Ms O; this was outside Ms G's jurisdiction. As far as Ms G was concerned, Ms O had been accepted into IHC services; this was sufficient proof of her intellectual disability.

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*Continued on next page*



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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

24 November 1999

Ms A's account of a second incident with Mrs D at the day centre is as follows:

*“On 24 November, 1999 [Ms O] was waiting outside the IHC office for [Mrs D] to pick her up and take her to Speech and Drama. Another staff person was also waiting outside for a lift home. [Mrs D] pulled up in her car and asked [Ms O] where her guitar was. The conversation went on for a while and [Mrs D's] manner was obviously upsetting [Ms O] so this staff person and another staff person who had arrived at the office brought her inside. [Ms O's] residential CSM spoke to [Ms O]. She was very upset and made it very clear that she did not want to go with [Mrs D]. It was decided that a staff person would take [Ms O] home and I would explain to [Mrs D] that [Ms O] would not be going to Speech and Drama.*

*I went out to [Mrs D's] car and told her that [Ms O] was upset, that she would not be going to Speech and Drama and that a staff person would be taking her home. The staff person and [Ms O] at this stage were walking towards the staff person's car. [Mrs D] became very angry, she jumped out of the car and attempted to run towards [Ms O]. I stood in her way and again told her [Ms O] was upset and had indicated to us that she wanted to go home. [Mrs D] said, 'let me at her, I will talk her round, I will persuade her to go'. She tried to push me out of the way and attempted to lunge at [Ms O]. It was obvious that [Mrs D] was not going to allow the staff person to accompany [Ms O] to the car so the staff person took [Ms O] back inside. I followed behind them. [Mrs D] went back to her car and yelled out at us, 'you are undermining my authority, I told you to keep the guitar at the [day centre]'. Staff, [Ms O's] residential CSM and myself calmed [Ms O] down before the staff person took her home.*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

[Ms E] *told me the following day that she had previously spoken to [Mrs D] about [Ms O's] guitar and that [Mrs D] had told [Ms O] that she could decide whether to keep the guitar at the [day centre] or take it home. [Ms O] took the guitar home as one of her residential staff plays the guitar and she has been helping [Ms O] to play hers.*

*I rang [Ms O's] Mother on 25 November to tell her about the incident the previous day. [Mrs C] was very concerned about the effect that this would have on [Ms O] and was concerned about the amount of pressure [Mrs D] was putting on [Ms O]. [Mrs C] told me that she would contact [Mrs D] that day and speak firmly to her about this."*

Ms A said that Ms O made it very clear she did not want to accompany Mrs D to Speech and Drama and had been very obviously upset by this incident. Ms O's body language is very expressive: she held her head in her hands and repeated "no, no, no more" over and over. At the end of this incident Ms O was crying and wailing and very obviously upset. Ms A stated that she remained calm during this incident and did not raise her voice or become aggressive towards Mrs D.

Ms E explained that she was not present when this incident took place as she had already gone home. However by way of background she explained that Mrs D had brought a guitar into the day centre for Ms O to use. Ms E heard Mrs D explain to Ms O that she could choose whether she wanted to keep her guitar at the day centre or at her home. The evening before this incident, Ms O had insisted on taking her guitar home with her. Ms E said she did not know Mrs D wanted Ms O to have her guitar with her the next afternoon, and had she known she would have explained this to Ms O. On the afternoon of 24 November Mrs D phoned the day centre to explain she would be a little bit late in picking Ms O up to take her to her lesson, and that Ms O was to wait for her. When Ms E left the day centre Ms O was sitting outside waiting for Mrs D and at that stage was fine and happy. Ms E discussed this incident with Ms O later on and said that it had obviously been upsetting for her.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

Mrs D stated that Ms O's speech and drama teacher had asked her to take her guitar to class on this day. Mrs D had seen the guitar at the day centre a few days earlier and understood that Ms O would have had music at the day centre that day. Mrs D was not aware that the guitar was no longer there. On arriving to pick Ms O up Mrs D asked her to go and get her guitar. She advised that Ms O then became upset as the guitar was no longer there, as Ms A had sent it to the day centre. Mrs D stated that her response was something like "*never mind, it doesn't matter*". Mrs D then stated that Ms A decided that Ms O was too upset to go to her class and cancelled it. Mrs D said that although she did get angry on this occasion she did not lunge at Ms O. Mrs D did not recall exactly what happened during this incident. Mrs D supposed that when she said that her authority had been undermined she would have been referring to the fact that her request that Ms O take her guitar to speech and drama had been ignored.

Mr J, who works at the IHC day centre, witnessed this incident. Mr J was sitting outside waiting for his transport home when Mrs D pulled up in her car to collect Ms O. Mr J stated that when Ms O came out to Mrs D, Ms O was fine. Mr J observed Mrs D ask Ms O where her guitar was. Ms O did not know and started to get uptight. Mrs D then made the situation worse by "*having a go*" at Ms O, and telling her off. Ms O then got very upset, sat on the footpath, and said several times that she did not want to go with Mrs D. Ms O was obviously very agitated at this point. Ms I, another staff member, was also present and took Ms O inside away from Mrs D at that point. Mrs D wanted to follow them inside.

Mr J then saw Ms A come out and try to stand in Mrs D's way to prevent her from following Ms O and Ms E. Mr J described Ms A's body language as "*a bit threatening, but not provocative*". Ms A and Mrs D then "*had a go*" at each other verbally. Mr J cannot recall what was said exactly. There was some pushing, as Mrs D tried to push past Ms A. Mrs D then got in her car and left. Mr J also left at this point, as the incident appeared to be over.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Ms I, another IHC employee, also witnessed this incident. Ms I said that she pulled up at the day centre to drop some things off. Mrs D pulled up behind her and got out of her car. Ms O was waiting for Mrs D outside the day centre. Ms I said that Ms O and Mrs D spoke, then Ms O decided she did not want to go with Mrs D that night, tried to go back into the building and said that “*she didn't want to go today, she wanted to go home instead*”. Ms I said that Mrs D then physically tried to put Ms O into her car and told Ms O that she had to go, as they had organised the evening already.

At that point Ms A came out of the day centre to assist, and a verbal confrontation took place between Ms A and Ms I. Ms I observed Ms A trying to explain to Mrs D that Ms O did not want to go with her, and suggested that perhaps they could go another day instead, but Mrs D was not listening and stated that she had already made plans for the evening and Ms O was going to accompany her. Ms I said that Ms A was trying to explain the situation to Mrs D and did not get angry, as it is not in her nature to do so. Ms A was explaining things quite civilly. At this point Ms I and another staff member tried to remove Ms O from the scene. Ms I described Mrs D's behaviour as irrational and emotional, and said that she was screaming very loudly. Mrs D tried to push Ms A out of the way so that she could try and grab Ms O again. Ms I then drove Ms O back to her home, so as to remove her from the situation.

In Ms I's opinion Mrs D believed that staff were making the decision for Ms O not to accompany her and that Ms O had no say in the matter. However, Ms O's behaviour made it clear to Ms I that she did not want to accompany Mrs D. She had turned to go back inside, said that she did not want to go, and became extremely agitated and upset. Ms O then stopped verbalising, went into a sort of foetal position and began rocking and crying. Ms I described the scene as absolutely dreadful and one of the worst things she had ever seen. She explained that Ms O likes a quiet environment and does not deal with confrontation very well. In Ms I's opinion Mrs D's volatile nature caused problems for Ms O, Mrs D and Ms O had had a poor relationship for some time preceding this, and Mrs D is far too pushy with Ms O.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

Several months before this incident Ms I was working at another day centre which Ms O had attended before going to the day centre. Ms I had seen Mrs D and Ms O interact on a number of occasions. Ms I described Mrs D as a strongly emotional person. Mrs D would get very upset if Ms O decided she didn't want to do something. Mrs D would then blame staff for making Ms O decide this. Mrs D would state that Ms O *"hasn't got the brains to come up with this idea"* so *"staff must have put it in her head"*. She would do this in front of Ms O, who was intelligent enough to understand her.

IHC Community Services Manager Ms F was inside the day centre during this incident. Her account follows:

*"I was in my office when I heard [Ms O's] voice, she sounded extremely upset. I went downstairs to find [Ms O] with two staff members in the foyer.*

*I was told that [Ms O] had been waiting for [Mrs D] outside, that when she arrived she had spoken to [Ms O] for a while, during which time [Ms O] appeared to become agitated, so the staff members present had brought [Ms O] back inside.*

*When I came down [Ms O] had her head in her hands and was extremely agitated. I reassured [Ms O] that it was OK, that she was fine. I asked her if she wanted to go with [Mrs D] and she said 'No, no more'.*

*[Ms O] was reassured that she didn't have to go if she didn't want to. With continued reassurances of this she slowly calmed down.*

*It was decided a staff member would take her home and that [Ms A] would tell [Mrs D].*

*Within a few minutes [Ms O] was back inside and even more distressed than she had been previously. It took a lot of reassurance and talking by [Ms A], the staff member and myself before [Ms O] calmed down. Once [Ms O] was calm the staff member took her back to [the day centre].*

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**Registered Psychologist, Mrs D**

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**Opinion – Case 00HDC00626, continued**

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**Information  
Gathered  
During  
Investigation  
continued**

*Talking with [Ms A] afterwards, she said that [Mrs D] had pushed her while trying to get at [Ms O].”*

*14 December 1999*

Ms E explained that Ms O keeps some money at the day centre and has some on her at times, but never a large amount. Mrs D had asked for some money to buy an address book and diary for Ms O but they needed to wait for Mrs C to provide her with the money. Mrs C brought the money to the day centre, Ms O put it in her wallet and Ms E said they would collect the books as soon as possible. It took some time to organise the trip to pick up the diary because Ms E had commitments to the other clients at the day centre. Ms E said that Ms O was not unduly concerned by this delay, which indicated it was not a big issue for her. Ms E explained that Ms O will become distressed if she wants something to happen right away, and immediate action is generally required to calm her down.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

On 14 December 1999 Mrs D came into the day centre and became very concerned as the diary and address book had not yet been collected. Ms A's account of this incident is as follows:

*“[Mrs D] walked into the [day centre] and asked [Ms E] if she had purchased the diary and telephone and address book. [Ms E] replied she hadn't, but that they had a van that day and would be purchasing it today. [Mrs D] told [Ms E] that she would take [Ms O] to purchase the books. She told [Ms E] that she would take [Ms O] to purchase the books. She asked [Ms E] for the money. The staff person told her that [Ms O] had the money. [Mrs D] and [Ms E] walked to the back of the room where [Ms O] was seated. [Ms E] asked [Ms O] for the money for the books. [Ms O] said, 'just one' and handed [Ms E] a \$20 note. [Mrs D] said she needed more money. The cost of the books was over \$20 and [Ms O] owed her \$3.50 for fish and chips for Sunday. [Ms O] was becoming confused, she beckoned to me to come down to them. I explained again to [Ms O] what [Mrs D] had told her. [Ms O] took out more money and handed it to [Mrs D]. I said to [Mrs D] that [Ms O] could hold her money. [Mrs D] gave it back to [Ms O] and proceeded to tell me how she had been to see the co-ordinator at the Disability Resource Centre. She explained to [Mrs D] about benefits. [Mrs D] said that the co-ordinator told her that [Ms O] should be handling her own money. I told [Mrs D] that [Ms O's] financial business was [Mrs C's] concern not hers. [Mrs D] replied, 'you're ignorant'. Both [Ms E] and myself said that there was no need for that comment.*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

[Mrs D] then lost it, her tone became aggressive. I told her I was not prepared to have a discussion over this in the [day centre] and asked her to come outside. I moved towards the outside side door. She said she was not moving. I told [Mrs D] she was disturbing the clients at the [day centre] and asked her again to come outside to discuss the matter. She refused. I told [Ms O] to come with me and we walked out of the [day centre] through the kitchen. [Ms E] came too. As [Ms O] was leaving the [day centre], [Mrs D] followed too. [Ms E] was walking alongside [Ms O]. [Mrs D] was walking alongside me talking constantly, saying various negative things about IHC. As we went through the outside door [Ms O] was visibly upset and indicated to [Ms E] that she didn't want to go with [Mrs D]. I asked [Ms O], 'do you want to go with [Mrs D] for your literacy session?' [Ms O] said she didn't. I told [Mrs D] that [Ms O] was too upset to go to her literacy session. [Ms E] took [Ms O] back into the [day centre]. [Mrs D] walked back into the office. I told her again that [Ms O] was too upset and didn't wish to go with her today. [Mrs D] said she would wait until she calmed down and that she would take her then. I said, 'No [Mrs D] she is not going with you today, could you please leave'. [Mrs D] refused.

I walked into the office and asked our General Manager and Area Manager what I should do. Our General Manager told me to tell her that if she wouldn't leave we would ring the Police. I asked [Mrs D] again to leave and told her if she did not, we would be calling the Police. She said she didn't care, 'ring the Police'. I then rang the Police and asked them to come and remove her from the building.

At various stages during this conversation she continued to speak negatively about IHC.

Once I rang the Police I went into my office to do some work. [Mrs D] sat down in a chair in the foyer and appeared to change very quickly back into a calm state. She was very calm when the Police arrived.

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*Continued on next page*



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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

*I spoke to the Policeman briefly in my office and explained the situation. When the Policeman spoke to [Mrs D] she gave him her card and told him that she was a registered psychologist. She started to tell him about [Ms O] being her client and tried to tell him about the money situation. The Policeman told her that that was not what he was there for. He asked her to leave the property. He said that if she refused to do so it would be seen as trespass and she would be locked up. [Mrs D] asked what that meant. He explained that was a term they used for arrest. [Mrs D] asked the Policeman several questions including:*

*‘Will you really lock me up?’*

*‘What will happen then – will I go to Court – will it be in the papers?’*

*The Policeman asked her a number of times to leave, he told her she was being belligerent on at least two occasions. During this time [Mrs D] had a smirk on her face. I told [Mrs D] that she seemed to be amused by the situation. She said she was, she smiled and said, ‘you have to get some fun out of life’.*

*The Policeman arrested [Mrs D] and she accompanied him to his car. As she was going out the door she asked him if she would be free by lunchtime as she had a lunch date.”*

Ms E said that Mrs D became angry when the money was not available. She raised her voice and became very agitated, which affected the other clients in the room. Ms E said that one lady in particular became very upset as a result of Mrs D's behaviour. Ms E commented that in November and December 1999 other day centre clients would become tense when Mrs D was present. This is why Ms E had asked Ms A to be present to speak to Mrs D instead so that they would not have to discuss matters in front of Ms O and upset her. Ms E said that she did not overhear the whole conversation between Ms A and Mrs D as it took place in the office, but she could hear Mrs D's raised voice from the day centre. Ms E said that Mrs D did not want to go elsewhere to discuss the issues as Ms A had requested. Mrs D began speaking about removing Ms O from IHC care and also called Ms A an ignorant woman. Ms E recalled that Ms A remained calm during this incident and did not raise her voice.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Ms E said that Ms O became extremely upset on this occasion. She was very agitated and repeated “*no more, no more*” over and over again. Ms O was physically shaking and became intensely preoccupied with past emotional traumas, which she does when stressed. Ms E said that Mrs D wanted to get to Ms O and speak with her, however Ms E would not allow her to do this as Ms O was so upset. Ms E’s focus was on Ms O and not on the conversation between Mrs D and Ms A. As the situation was so distressing Ms E took her group away from the day centre in the van which was fortunately available. She said that Ms O started calming down only as they left the building.

Mrs D stated that three weeks earlier Ms O had chosen a diary and address book at a local stationery shop. As Ms O did not have any money with her at the time the shop agreed to hold the books for her. The following week Mrs D said she asked an IHC staff member if Ms O could have the money on Tuesday so that they could go together to collect the books. However Ms O did not have the money the next time Mrs D saw her and the IHC staff member offered to go with Ms O herself sometime during the following week to collect the books. On 14 December the books still had not been collected. Mrs D explained that she asked Ms O for the money to pay for the diary and address book and also for some fish and chips she had bought Ms O a few days earlier. It was logical for Mrs D to ask for both amounts of money at once. When she asked Ms O for the money Ms O did not quite have enough money in her purse. Mrs D advised me:

*“[Ms A] could have easily resolved the matter by giving [Ms O] another two or three dollars. However, she did not choose to do so.”*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Mrs D stated that Ms O is easily upset and flies off the handle, and the best way to handle this was to go and have a cup of tea and wait for her to calm down ten minutes later. On this occasion after Ms O became upset Mrs D thought that she would wait outside for Ms O to calm down and change her mind. Ms A told her that Ms O did not want to go to her lesson and that Mrs D should leave. Mrs D replied that she would wait instead. Ms A then said that if Mrs D did not leave she would call the Police. Mrs D explained that she stayed as she was waiting for Ms O to calm down to see if she would change her mind. Mrs D acknowledged that Ms O had been a little upset by this incident.

Mrs D advised me that she did not accept Ms A's descriptions of the three incidents as accurate. Mrs D said that Ms A described her behaviour as both belligerent and calm on 14 December. Mrs D does not accept that her behaviour was belligerent. She said she was sitting in the chair all the time the Police officer was speaking to her.

The Police confirmed that a constable attended an incident at the day centre, at 9:30am on 14 December 1999, as there was a dispute between Mrs D and Ms A when Mrs D had refused to leave the premises as asked. Mrs D was asked several times to leave in the presence of the Police, but she refused to do so. After the Police warned her of the consequences of not leaving she was arrested and removed from the premises. No physical force was involved. The Police advised that no further intervention was required and Mrs D was released without charge. She was warned about her behaviour and this was followed up with a trespass notice for the premises concerned. The Police only warned Mrs D about her behaviour, as she has no previous convictions.

Ms F also witnessed these events, and commented as follows:

*“Again I was upstairs and heard raised voices. I went downstairs to find [Mrs D], [Ms A] and [Ms E] in the kitchen. [Ms O] was extremely unsettled as evidenced by both her body language and what she was saying. [Ms O] and [Ms E] returned to the [day centre] and then left the building altogether.*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

*[Mrs D] went to return to the [day centre] but I was standing in the doorway. She followed [Ms A] into the office foyer area. She was very derogatory towards IHC, [Ms A] and myself.*

*When asked to leave, she refused. The Police were called which she seemed to think was amusing. When the Police arrived she seemed to be concerned with publicity and if she would be 'out' in time for lunch."*

*Continuing contact*

On 13 December 1999 Mrs C and Ms A wrote to Mrs D asking her to cease contact with Ms O:

*"As you know you were asked by [Mrs C] over a year ago to work with and support [Ms O] for an hour per week on developing and enhancing her literacy skills. Since then you have worked with her regularly on a weekly basis around literacy skills and in addition have undertaken to introduce her to other activities such as computer and speech and drama tutoring. [Ms O] has benefited from your involvement and has developed new skills and experiences as a result.*

*During recent discussions [Ms O] had with her mother, [Ms O] indicated that she now no longer wishes to continue with her literacy programme. [Ms O] has clearly demonstrated this to her mother and to us who support her in IHC, therefore this letter is to inform you of that decision, and as a result [Ms O] will no longer be having contact with you.*

*We would like to indicate to you our appreciation for your tutoring work with [Ms O]. The tutoring sessions and your interest in her has assisted with advancing her communication and literacy skills both verbal, written and via the computer.*

*Please don't hesitate to contact [Mrs C] or myself should you seek further clarification of this."*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

Mrs D informed me that she was not asked to limit her contact with Ms O at any time before the trespass order was taken out on 14 December 1999. The trespass order was served on Mrs D on 15 December 1999. It prevents Mrs D from entering the day centre for a period of two years, and was issued under the Trespass Act 1980. Mrs D stated that Mrs C did not ask her to limit her contact with Ms O until she signed the complaint to the Psychologists Board written by IHC on 14 January 2000. Mrs D said that the Psychologists Board forwarded her a copy of this letter when they notified her of the complaint.

Mrs D has subsequently written several letters to Mrs C and to IHC, explaining her concerns about Ms O's treatment and educational needs. Mrs D has also contacted the Deaf Association to follow up assessments made of Ms O's needs. On Thursday 10 February 2000 a newspaper published an article about Ms O as a result of a letter Mrs D had written to the newspaper expressing her concern about the lack of resources available for Ms O's development.

Mrs D subsequently stated that she had asked the newspaper not to publish this article after learning that the Deaf Association had agreed to purchase a television with teletext for Ms O, and that Mrs C had purchased her a computer. Mrs D stated that her request not to publish had been ignored, and that the article had been damaging to her personally. Mrs C's complaint about Mrs D's actions in this case is currently being dealt with by the Privacy Commissioner.

Mrs D has also expressed her concerns to me that Ms O is not receiving the stimulation that Mrs D believes Ms O requires and that inadequate provision is being made to help Ms O overcome her disabilities. Mrs D laid a complaint with me about services provided to Ms O by IHC. Mrs C has indicated very strongly to me that she does not support this complaint. Ms O was unable to express her views one way or the other to my staff when asked. On being questioned about Mrs D, Ms O became distressed and began to recount emotionally traumatic events from her past.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
*continued***

On 19 February 2000 Mrs D again wrote to Mrs C advising her that her solicitor had said that neither Mrs C nor IHC had the right to restrict Mrs D's access to Ms O. Mrs D stated that the trespass order applied only to the day centre and that Mrs D was permitted and indeed intended to visit with Ms O at other places. She stated her intention to visit Ms O at her home, to invite her to Mrs D's house and to visit a mutual friend on a farm. Mrs D advised Mrs C that she would contact the Human Rights Commission should either Mrs C or IHC attempt to prevent Ms O from seeing her again.

Mrs D has also written to Ms O at her home address. Since this investigation commenced Mrs D has written to me on several occasions, expressing her ongoing concerns that Ms O's various needs, as she perceives them, are not being met adequately by IHC. On 30 March 2000 Mrs D reiterated her original complaint about IHC, and her concerns about the lack of educational input and counselling available to Ms O. In her letter of 4 April 2000, Mrs D stated that she met one of the IHC residential staff at the supermarket and talked to her about Ms O. On 15 April 2000 Mrs D advised me that she had discovered Ms O had not been attending her Thursday evening computer class for several weeks. On 21 October 2000 Mrs D wrote to me again, reiterating her concerns about the residential care and educational and social opportunities available to Ms O. On 5 March 2001 Mrs D wrote to me reiterating her desire for Ms O to receive appropriate assistance to realise her full potential.

On the weekend of 11-12 March 2000 Mrs D went to visit Ms O at her home. Ms O refused Mrs D's invitations and would not see her. Mrs C explained that if her daughter is questioned about Mrs D she becomes angry and cannot explain why.

Ms F commented on Mrs D's ongoing contact with Ms O as follows:

*“[Mrs D] has done some good work with [Ms O] but in the months leading up to the aforementioned incident, she had started to put more pressure on [Ms O] to do things and to attend various activities. [Ms O] began to express that she did not wish to go to different things and to say ‘No more, no more [Mrs D], call the Police’.*

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Information  
Gathered  
During  
Investigation  
continued**

*When talking to [Mrs D] from one day to the next, she seemed to have forgotten what had been said that day before. She became aggressive and verbally abusive more readily and wouldn't take 'no' for an answer.*

*[Mrs D] visited [...] ([Ms O's] home) on a number of occasions – Sundays. At the beginning [Ms O] went willingly with [Mrs D] but as time passed [Ms O] began to get upset leading into the weekends.*

*I spoke with [Ms O] about [Mrs D]. [Ms O] was saying things such as 'No more, call the Police'. She was also reverting to old behaviours and bringing things up that had happened to her in the past. This is what [Ms O] does when she is very distressed.*

*When [Mrs D] arrived at [...] the staff would ask if [Ms O] wished to speak with her or to go out with her. If [Ms O] said 'no' staff would then ask [Mrs D] to leave. On one occasion she returned twice during the afternoon. On another occasion she would not leave. The On Call Manager was rung and went to [...]. [Ms O] was asked again, with [Mrs D] present, if she wished to go out with her. [Ms O] said 'No', and [Mrs D] finally left."*

Mrs C told me that her daughter has been very frustrated, tired and fed up with the pressure that Mrs D has placed on her over the preceding months. Mrs C described the above events as a nightmare and a waste of time and energy.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**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 1*

*Right to be Treated with Respect*

- 1) *Every consumer has the right to be treated with respect.*

*RIGHT 2*

*Right to Freedom from Discrimination, Coercion, Harassment, and Exploitation*

*Every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation.*

*RIGHT 4*

*Right to Services of an Appropriate Standard*

- 2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*
- 3) *Every consumer has the right to have services provided in a manner consistent with his or her needs.*

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**Other Relevant  
Standards**

**New Zealand Psychologists Board, 'Your Responsibilities as a Registered Psychologist'**

1. *As a registered psychologist you must make sure that your practice is consistent with the New Zealand Psychological Society Code of Ethics, and with the Psychologists Act 1981.*

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*Continued on next page*





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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach** In my opinion registered psychologist, Mrs D, breached Right 1(1), Right 2, Right 4(2) and Right 4(3) of the Code.

#### **Right 1(1)**

The consumer, Ms O, had the right to be treated with respect by Mrs D.

Three incidents have been described that took place at the IHC day centre involving Mrs D and Ms O, on 16 November 1999, 24 November 1999 and 14 December 1999.

Mrs D did not recall if she became angry during the incident on 16 November 1999, which followed the description about Ms O's timetable. She did however agree that Ms O had been distressed by the events described.

The complainant, Ms A, and Ms E stated that Mrs D became angry during their discussion when her requests were not complied with, and she did not accept Ms A's explanation for IHC's decision. Ms A and Ms E both stated that Ms O became very upset and agitated as a result of this incident, and that staff and other day centre clients became distressed as well.

Ms A and Mrs D's accounts of events on 24 November 1999 differ. Ms A stated that Mrs D's manner had upset Ms O, and when Ms A removed Ms O from the scene Mrs D became very angry, tried to push Ms A out of the way and lunged at Ms A before returning to her car and shouting. Mrs D stated that when Ms O became upset as her guitar was not available, she told Ms O not to worry, as it didn't matter. Although Mrs D recalled getting angry, she did not remember lunging at Ms O.

Other staff members who were present, Mr J and Ms I, confirmed that Mrs D's behaviour was aggressive and unreasonable and caused Ms O considerable distress. Ms F, another staff member, agreed that Ms O had been extremely upset and distressed by this incident.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

Ms A stated that Ms O had been very obviously upset by this incident. Ms E, although not present during the events in question, was clear that when she had left 20 minutes earlier Ms O had been fine. When Ms E discussed this incident with Ms O the next day, it was obvious to her that Ms O had been very upset as a result of these events.

During the discussion between Mrs D and IHC staff on 14 December 1999, Ms A and Ms E described Mrs D's behaviour as aggressive, angry and extremely distressing for Ms O, as well as disturbing for other day centre clients. Mrs D denied that her behaviour had been belligerent on this day but agreed that Ms O had been upset by events. The Police confirmed that Mrs D had been arrested for trespass after refusing to comply with requests to leave the premises, and that a trespass order is now in force against her.

Although the accounts I have received of these incidents are inconsistent, all parties agree that Ms O was significantly distressed by them. Other witnesses and evidence have consistently contradicted Mrs D's accounts of events. I do not accept her recollections as accurate.

In my opinion, Mrs D's behaviour on these occasions was totally unacceptable. The witnesses agree that Mrs D became angry and behaved inappropriately on each occasion. All parties agree that Ms O was distressed by these events. In behaving in a manner that was clearly distressing and stressful for Ms O, a client whom she claimed to know well and whose best interests she claimed to have at heart, Mrs D did not treat Ms O with respect.

Mrs D stated that these incidents or confrontations occurred as a result of Ms A's refusal to provide resources that Ms O needed. I consider that the explanations that Ms A gave for not complying with Mrs D's requests are entirely reasonable. The lack of self control exhibited by Mrs D, when she became angry, was not a reasonable response to these situations. Mrs D's response was all the more unacceptable in that Ms O became so distressed as a result.

In my opinion, by her behaviour on these three occasions Mrs D failed to treat Ms O with respect and therefore breached Right 1(1) of the Code.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

**Right 2**

Ms O has the right to be free from coercion and harassment. Mrs C and IHC complained that Mrs D involved herself in Ms O's life to an inappropriate level, causing Ms O unnecessary stress.

*Coercion*

Mrs D believed that Ms O needed to have more than one computer lesson each week, that Ms O enjoyed these lessons and would have liked to have more of them.

Ms E and Ms A both stated that Ms O had clearly indicated to them that she wanted only one computer lesson each week. There are notes, written by Ms O, which request more computer lessons. However, I do not accept that Ms O made these requests spontaneously and independently. Mrs C confirmed that her daughter was unable to compose or comprehend the hand-written note of 7 December 1999. File notes made by Ms A on 7 December 1999 record that Ms O had been upset on returning home with these notes, and that she had stated to more than one IHC staff member that she wanted only one computer lesson each week.

Mr H, Ms O's computer tutor, confirmed that although she enjoyed her computer lessons they were tiring for her and she did not cope with them. Rather than suggesting Ms O have more lessons each week as Mrs D reported, Mr H suggested that the original lesson time of two hours be spread out over more than one day. He believed that Mrs D's suggestion of more than one two-hour lesson each week would have been too much for Ms O to cope with.

I express no opinion on whether more frequent computer classes would be educationally beneficial for Ms O. However, in my opinion, Mrs D has not behaved in an acceptable manner in this situation. In her view more computer lessons would be beneficial. But Ms O's tutor, caregivers and mother confirm that Ms O herself has stated that one lesson per week was enough, and that she could not cope with more.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

I note Dr K's assessment of Ms O's intellectual and emotional capacity. Dr K stated that Ms O definitely has a mild intellectual disability, and that her ability to resist inappropriate behaviour from other people is limited. Ms O will tend to make decisions impulsively, for emotional reasons and in order to please other people, rather than rationalising her choices in an objective manner. Ms O has difficulty relating to other people, except in a "*dependent and clingy*" manner, and her ability to resist inappropriate behaviour from other people is impaired if that person encourages her dependency.

This renders Ms O especially vulnerable to pressure from a person such as Mrs D, who had been in a position of authority and trust, and who had spent a lot of time with Ms O in recent years.

In my opinion Mrs D has attempted to coerce Ms O in relation to the number of computer lessons she should attend each week.

#### *Harassment*

Mrs C stated that several times in 1999 she asked Mrs D to reduce her involvement in Ms O's life. Mrs D stated that these requests were never made. On 13 December 1999 IHC and Mrs C wrote to Mrs D, formally asking her to cease contact with Ms O. Mrs D stated that she only received a copy of this letter via the Psychologists Board in January 2000. I note that Mrs D's recollections of events have been consistently contradicted by accounts given by other parties involved in Ms O's care.

In spite of these requests, and a request from the Commissioner that Mrs D not visit or provide services to Ms O until this investigation had been completed, Mrs D has continued her attempts to access more services for Ms O. She has contacted my Office, the Deaf Association, Ms O's computer tutor and the media, has consulted with a lawyer, and has clearly stated her intention, in letters to Mrs C, IHC and my Office, to continue to spend time with Ms O. She has written to Ms O, and has not ceased her efforts on Ms O's behalf.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

In my opinion, Mrs D's refusal to comply with the clear requests to cease contact with Ms O is totally unacceptable. To continue to contact Ms O and those involved in her care and education, as well as third parties, after clear requests to stop amounts to harassment.

*Conclusion*

In my opinion, Mrs D has deliberately ignored the clearly expressed wishes of Ms O and her caregivers. I consider that she coerced Ms O into writing the two notes on file and tried to coerce her into agreeing to have more computer lessons. She has also harassed Ms O and those involved in providing her with care and other services. In doing so, Mrs D has breached Right 2 of the Code.

**Right 4(2)**

In my opinion Mrs D breached Right 4(2) of the Code, as she did not comply with the requirements of the *New Zealand Psychological Society 'Code of Ethics'* in her dealings with Ms O. As a registered psychologist, Mrs D must adhere to the Code of Ethics requirements.

*Consent*

Article 5 of the Code of Ethics requires psychologists not to exploit their professional relationships with clients.

It is clear to me that, despite Mrs D's assertions to the contrary, her original brief was only to assist Ms O to improve her literacy skills. Over time, Mrs C and Mrs D discussed Ms O's situation and with Mrs C's consent Mrs D extended her involvement and interventions in Ms O's life and education.

I note that IHC and Mrs C have expressed their gratitude to Mrs D for her work with Ms O, and have stated that they recognise Mrs D has achieved much for Ms O and helped her to advance her communication and literacy skills.

However, Mrs D has not responded to numerous unambiguous requests for her to first to reduce, and subsequently to cease her involvement in Ms O's life.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

After verbal requests from Mrs C failed to elicit a favourable response from Mrs D, the letter of 13 December 1999 was written, asking Mrs D to cease contact with Ms O. On 14 December 1999 a trespass order forbidding Mrs D from entering the day centre premises was issued.

Since this time, Mrs D has written to and tried to visit Ms O on numerous occasions. She has clearly stated to Mrs C, IHC and my Office that she does not intend to stop seeing Ms O. She has written a series of letters to Mrs C, IHC, my Office and the Deaf Association about Ms O. Mrs C has also brought her concerns to the media's attention.

There have been several clear requests for Mrs D to limit and cease her involvement in Ms O's life. Mrs D has not complied with these requests. In my opinion she has exploited her professional relationship with Ms O, and has failed to comply with her obligations under Article 5 of the Code of Ethics.

#### *Assessments*

Article 9 of the Code of Ethics requires psychologists to use and interpret psychological assessments competently.

Mrs D concluded that Ms O does not have an intellectual disability. She based this conclusion on her own observations of Ms O, and the fact that Ms O obtained an average score on the Block Design and Object Assembly performance subtests of the Weschler Intelligence Test for Children.

In her report of 7 April 1998, Dr L criticised Mrs D's application of this test, and stated that Mrs D had "*inappropriately rationalised this incorrect application of this test*". Mrs D laid a complaint with the Psychologists Board about Dr L's conclusions and criticisms. The Complaints Assessment Committee stated that they agreed with Dr L on the use of psychometric tools, and that it was inappropriate for Mrs D to have relied on the two subtests to construct a life plan, or to have used a child's test on a 35 year old adult. The Psychologists Board has not upheld Mrs D's complaint about Dr L.

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*Continued on next page*

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

I note that all other psychological and psychiatric professionals involved in Ms O's care concur that Ms O does have an intellectual disability. Mrs D does not appear to have appropriately used and interpreted the psychological assessments that she carried out on Ms O, and in my opinion not met her obligations under Article 9 of the Code of Ethics.

*Conclusion*

In my opinion Mrs D has not complied with the professional standards laid down in the Code of Ethics, and has therefore breached Right 4(2) of the Code.

**Right 4(3)**

In my opinion Mrs D has not provided Ms O with services in a manner consistent with her needs.

The psychological assessment carried out by clinical psychologist Mr N in 1994 clearly concluded that Ms O had an intellectual disability, as have various other assessments. Although Ms O is deaf, and it has been clearly acknowledged that the late detection of her hearing loss has hampered her progress, all the professionals who have examined Ms O, other than Mrs D, have concluded that she does have an intellectual disability. In reaching her contrary conclusion, Mrs D incorrectly applied the Weschler intelligence test for children to Ms O's situation.

Mrs D has put a lot of time and energy into trying to obtain what she sees as necessary services and facilities for Ms O, based on her perception that Ms O is of normal intelligence.

Mrs D advised me that Mr N agreed with her assessment that Ms O's problems were primarily due to her hearing loss rather than an intellectual disability. However Mr N explained that while Mrs D's observations and attention to communication issues interested him, he did not support Mrs D's conclusion about Ms O's intellectual ability.

While I commend Mrs D's initial motivation, in wanting to obtain the best for Ms O, it has been clearly pointed out to Mrs D that her assessment of Ms O's intellectual capacity is misguided and incorrect.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Opinion:  
Breach  
continued**

In my opinion it is not acceptable for Mrs D to have discounted the clinical data that Ms O has an intellectual disability. As a person with an intellectual disability, Ms O is entitled to services provided in a manner consistent with her needs. In continuing to push Ms O, and trying to access services for her, on the basis that she has no intellectual disability, Mrs D failed to provide services in a manner consistent with Ms O's needs, and therefore breached Right 4(3) of the Code.

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**Other  
Comment:  
Privacy**

Article 4 of the *New Zealand Psychological Society Code of Ethics* requires information about clients to be kept confidential. It states that information about clients obtained professionally must not be disclosed to third parties without the consent of the client, or if the client is incapable of consenting, from someone authorised to represent their interests. In my opinion Mrs C is a suitable person interested in her daughter's welfare, entitled to consent on Ms O's behalf in situations when Ms O herself does not comprehend enough to give or withhold informed consent.

Ms O has the right to have her privacy respected. In February 2000, after requests to cease her contact with Ms O and involvement in her affairs, Mrs D wrote to a newspaper about her concerns. This resulted in an article being published about Ms O. Although the article did not identify Ms O, Mrs D's letter did. Mrs D did not seek permission from Ms O, or her mother, Mrs C, before writing to the newspaper.

Mrs C is clear that she did not consent, and would not have consented, to this article and correspondence.

In my opinion, by corresponding with the newspaper about Ms O, and by naming Ms O without obtaining consent to do so, Mrs D breached Ms O's privacy and failed to comply with the Code of Ethics requirements.

I note that the Privacy Commissioner is dealing with this aspect of the complaint about Mrs D. A copy of my final opinion will be sent to the Privacy Commissioner.

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## Registered Psychologist, Mrs D

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### Opinion – Case 00HDC00626, continued

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**Actions**

I recommend that the registered psychologist, Mrs D:

- Ceases contact with the consumer, Ms O, and all other involvement in Ms O's life.
  - Reviews her practice in light of this report.
  - Apologises in writing to Ms O, the consumer's mother, Mrs C, and IHC. These apologies are to be sent to the Commissioner and will be forwarded to Ms O, Mrs C and IHC.
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**Other Actions**

- Copies of this opinion will be sent to the Psychologists Board and the Privacy Commissioner.
  - A copy of this opinion with identifying features removed will be sent to the Psychological Society, for educational purposes.
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**Director of Proceedings**

I will refer this matter to the Director of Proceedings under section 45(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any action should be taken.

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**Addendum**

The Director of Proceedings laid before the New Zealand Psychologists Board a charge alleging professional misconduct and/or conduct unbecoming. The charge of conduct unbecoming was upheld by the Board on 5 March 2004 and it imposed a penalty of censure and ordered payment of 50% of the costs of the hearing. The Board also ordered publication of the orders, including naming of the psychologist.

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