

**Counsellor, Ms B**

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

**(Case 19HDC00980)**



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## Executive summary

1. This report concerns the development of a personal and intimate relationship between a counsellor and her client, who was a prisoner. The report highlights the importance of health providers maintaining professional boundaries and relationships with consumers.
2. The counsellor provided counselling to the man from 2 May 2017 until his transfer to another prison on 4 April 2018. From January to April 2018, the man telephoned the counsellor on 56 occasions. The conversations were recorded and were personal and domestic in nature.
3. When the man was transferred from the second prison to a residential facility,<sup>1</sup> both he and the counsellor told staff at the residential facility and the man's probation officer that they were in an intimate relationship. The counsellor visited the man and sent him gifts and money.
4. The Deputy Health and Disability Commissioner noted the power imbalance between prisoners and health providers, and emphasised that the onus was on the counsellor to maintain professional boundaries and ethical standards. The Deputy Commissioner stated: "I do not consider that a relationship being consensual altered this fact."

## Findings

5. The Deputy Commissioner considered that by having a personal relationship with the man while he was at the prison, and by developing an intimate relationship with him while he was residing at the residential facility, the counsellor breached professional and ethical standards and, accordingly, breached Right 4(2) of the Code.

## Recommendations

6. The Deputy Commissioner recommended that should the counsellor return to work as a counsellor, NZAC require her to undertake further training on ethical and boundary issues, and that she be mentored regularly by a mentor selected by NZAC.

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## Complaint and investigation

7. The Health and Disability Commissioner (HDC) received a complaint from Ms C from the Department of Corrections about the services provided by Counsellor Ms B to a prisoner, Mr A. The following issue was identified for investigation:
  - *The appropriateness of the relationship between Ms B and Mr A.*
8. This report is the opinion of Deputy Health and Disability Commissioner Kevin Allan, and is made in accordance with the power delegated to him by the Commissioner.

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<sup>1</sup> A residential facility that provides services to people who are released from prison.

9. The parties directly involved in the investigation were:
- |      |  |
|------|--|
| Ms C | Complainant/Clinical Manager at Prison 1 |
| Ms B | Provider/counsellor                      |
10. Further information was received from:
- |                           |                         |
|---------------------------|-------------------------|
| ACC                       |                         |
| Ms D                      | Provider/counsellor     |
| Ms E                      | Probation officer       |
| Residential facility      | Rehabilitation provider |
| Department of Corrections |                         |
11. Also mentioned in this report:
- |      |                                 |
|------|---------------------------------|
| Mr F | Manager of residential facility |
|------|---------------------------------|
- 

## Information gathered during investigation

### Introduction

12. In 2014, Mr A<sup>2</sup> was convicted of a violent offence and sentenced to imprisonment. Mr A was transferred to Prison 1 on 21 October 2015, where he remained until 4 April 2018. He was then aged in his late twenties.
13. From 27 January 2017 until 4 April 2018 Mr A was housed in a Special Treatment Unit at Prison 1 (the unit). The unit provides a high intensity intervention programme for addressing violence and anti-social behaviour.
14. On 29 May 2019, Ms C<sup>3</sup> made a complaint to HDC about the relationship between Mr A and Ms B, his sexual abuse counsellor. Ms C was concerned that the relationship was inappropriate.

### Ms B

15. Ms B was registered with the New Zealand Association of Counsellors (NZAC), and contracted her services as a counsellor to Ms D's company.<sup>4</sup>
16. Ms D's company told HDC that it did not employ Ms B directly, or have day-to-day clinical oversight of her work.

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<sup>2</sup> Mr A has not supported this complaint or provided information to HDC.

<sup>3</sup> The Clinical Manager at the unit.

<sup>4</sup> Ms D is a sole trader of a company that provides counselling services and has had a supply contract with ACC since 2014.

17. On 8 October 2015, Ms B submitted an application to be an approved visitor at Prison 1 through the Approved Provider Prison Entry (APPE) process.
18. On 16 October 2015, Ms B's APPE application was approved, and she was given authorised access to Prison 1 to provide counselling services to prisoners.

#### **Counselling from 2 May 2017 to 4 April 2018**

19. Corrections said that Ms B visited Mr A in her role as an ACC counsellor.
20. Ms B said that she provided ACC counselling services to Mr A from 2 May 2017. She stated:

“This work included a great deal of work on and with the [teenage] boy that [Mr B] was at the time that he was the victim of significant sexual and physical abuse while in state care.”
21. Ms B said that in her role as counsellor, she arranged whānau meetings. She stated: “In this capacity [Mr A] — as other clients do — had my business phone number which is a mobile telephone number but different from my personal mobile phone number.”

#### **Telephone call recording 29 March 2018**

22. Corrections stated that any allegations of inappropriate behaviour between a staff member, contractor, visitor or otherwise, with individuals in prison are taken seriously. Corrections stated: “We acknowledge the power imbalance that such a context provides and are acutely aware of the safety risk to all parties involved.”
23. Corrections records, and can access, telephone calls made by prisoners. This is stated clearly in a recorded message, following which the person who is being called has the option to accept the call. Corrections stated that on 11 April 2018, the Security Manager at Prison 1 asked the Corrections Intelligence Team to monitor the Prisoner Telephone Monitoring System (PTMS) for Mr A. The reason for the request was that the Security Manager had suspicions regarding Mr A having formed an inappropriate relationship.
24. The Corrections Intelligence Team monitored a call made on 29 March 2018 by Mr A to Ms B, and deemed that the content of the call suggested that Mr A and Ms B had a close relationship.
25. Mr A made three telephone calls to Ms B on 29 March 2018.
26. In the recording of the first call, Ms B answered the call by saying “Hello beautiful man”. After discussing Mr A's work role in the prison, Mr A told Ms B that he had received some news, and that he was “off [to another region] on Wednesday next week”. Ms B reacted with surprise and talked about whether she should change her flight. She said: “I wonder if they will let me see you even though you've only arrived the day before ... well I'm going to try.”

27. The reference to another region was to Mr A's transfer to Prison 2, and ultimately to his release to the residential facility. The transfer and release are outlined in more detail below.
28. In a recorded telephone call later the same day, Mr A told Ms B that he did not want to participate in a farewell at the unit. He said that he would find it extremely difficult, and that "if they start crying and I catch feelings, I'll walk out". Ms B responded by saying, "I'd love to get you into a room for 24 hours and bloody get you into shape," to which Mr A responded, "It won't take 24 hours to get me into shape." Ms B then said, "The kind of shape I am talking about it will," and they both laughed.
29. Later in the call, Ms B said: "I am fucking so stubborn you've got no idea," to which Mr A replied, "I love it." Ms B then said, "You've met your match and then some," and Mr A replied, "... and then some. Whoa that's good." Ms B and Mr A laughed, and Ms B stated: "A bit of life experience." At the end of this conversation, Ms B said: "Take care beautiful man."
30. Later in the evening, Mr A rang Ms B to say goodnight. They discussed a reading from a book, and Ms B said: "Nighty night beautiful man."
31. Ms B told HDC that she advocated for Mr A to be moved to the residential facility programme to assist in his reintegration back into the community. She stated: "The phone call<sup>5</sup> was made to me outside of usual working hours and I was caught unawares by it." She said that during the call, Mr A was excited, and she empathised with his excitement. She told HDC that towards the end of the call, he said words along the lines of, "You know I love you," and she responded with, "I love you too." This exchange was not heard by HDC in the recordings.
32. Ms B stated that in her mind she was responding to the teenage boy, and that it was love in the sense of the word "Aroha". She said that it was clear in her interactions with Mr A that he was deeply imbedded in his Māori culture, and so she adjusted her therapeutic interventions accordingly. She stated that at all times she has taken responsibility, and acknowledged that the way she responded to Mr A's statement that he loved her was not appropriate, in that it was open to interpretation by others in ways other than the way that she and Mr A both knew it was made and intended.

### **Telephone call recordings from 17 January 2018 and 3 April 2018**

33. Corrections provided HDC with 56 recorded calls between Ms B and Mr A from 17 January 2018 to 3 April 2018. Mr A called Ms B eight times in February 2018 and 36 times in March 2018. Often Ms B was driving her car or at home at the time when the conversations took place. Although the conversations do not have an explicitly sexual content, a large amount of the content is of a personal or domestic nature.

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<sup>5</sup> It is not clear which telephone call she is referring to.



34. Mr A and Ms B discussed their families, staff at the prison, and other prisoners. They also discussed Mr A's work in the prison and Ms B's work as a counsellor, and how well Mr A was sleeping.
35. Ms B started some conversations by saying, "Hello beautiful man," and/or concluded the conversations with, "Take care beautiful man."
36. Ms B asked Mr A about the type of underwear he preferred wearing.
37. Ms B talked about her family and, during one conversation, Ms B's family were present, and she encouraged the children to speak to Mr A.
38. On 4 April 2018, Corrections transferred Mr A to Prison 2.

### **Reports of concern**

39. On 3 May 2018, Corrections notified Ms B by letter that her official access to Prison 1 had been revoked because of her interactions with a prisoner.
40. In June 2018, ACC made a Report of Concern to NZAC regarding Ms B.
41. Ms D's company was advised of the revocation of access and the Report of Concern. Ms D, on behalf of the company, said that she asked Ms B about her relationship with Mr A. Ms D said that Ms B admitted that she had developed feelings for the client, and said she realised that they could not have a relationship, and she had discussed that with the client. Ms B told Ms D that she wanted to continue to work with the client, even though he had been transferred to Prison 2. Ms D said that she told Ms B that this was not appropriate, and that she would arrange another counsellor for the prisoner if he wanted to continue therapy. Ms D stated that NZAC decided that Ms B could continue to work with ACC clients in the community while the complaint was being dealt with, as ACC considered that there was no risk to anyone else.
42. Ms D said that Ms B was also working with clients through another agency, and she (Ms D) advised the manager of the agency about the complaint.
43. Ms D stated that on 14 December 2018, the agency telephoned to say that she (Ms D) needed to talk to Ms B about taking telephone calls from the prison while she was working. Ms D said that she contacted Ms B and asked her whether she was still seeing Mr A, and she replied "no".<sup>6</sup>
44. Ms D stated that she kept in regular contact with Ms B to monitor her workload and performance. Ms B was required to undertake personal counselling and attend clinical supervision with a counsellor on a fortnightly basis, and the complaint to NZAC was closed at the beginning of April 2019.

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<sup>6</sup> By 14 December 2018, Mr A was back in prison.

### **Residential facility**

45. On 16 July 2018, Mr A was released from Prison 2 into the community. His parole conditions required him to reside at a residential facility.
46. Corrections stated that the residential facility is contracted to provide services to people released from prison. The clients live on site and receive rehabilitative and re-integrative support. The programme is run from a facility in Prison 2, and offers full wrap-around support and accommodation for high-risk (typically violent) individuals who have been entrenched in the criminal justice system.
47. The residential facility does not maintain records of telephone contact between community-based offenders and their contacts. Residential facility manager Mr F stated that originally staff were unaware that Mr A was in a relationship with a woman who had been his counsellor while he was in prison. Mr F said that while Mr A was still in prison he was asked about the relationship, and he said that he had terminated the relationship. However, before Mr A came to the residential facility, its staff became aware that the relationship was ongoing. Mr F said that when he challenged Mr A about it, Mr A responded that this woman was his only pro-social support.
48. Corrections stated that Ms B's application to visit Mr A was approved on the basis that it enabled Mr A to maintain relationships with friends and whānau while in prison.
49. Mr F said that staff were not aware of the depth of the relationship until after Mr A arrived at the residential facility. Mr F stated:
- “Due to the complicated circumstances of this relationship a plan was put in place with [Mr A] and Community Probation to support him to build a healthy relationship whilst [Ms B] visited him at the residential facility.”
50. Corrections said that Ms B then visited the residential facility several times while Mr A was there, but she was not visiting Mr A in an official capacity as a counsellor.
51. Mr F said that the residential facility became uncomfortable with the excessive number of gifts Mr A was receiving from Ms B. These began as soon as he arrived, and there were up to two or three gifts a day. Staff spoke to Mr A and Ms B about this not being helpful for Mr A's journey into the community, and it was agreed that she would stop.
52. Mr F stated:
- “After a few weeks it became apparent that [Mr A] was spending large amounts of money on both himself and his son. This way exceeded his weekly WINZ payment and it was established that [Ms B] had been regularly putting money into [Mr A's] bank account.”
53. Mr F said that Mr A was challenged about this, and it was suggested that this could be viewed as fraud, as he was receiving undeclared income from Ms B.

54. Mr A was recalled to prison on 24 October 2018.<sup>7</sup> Mr F stated that when Ms B collected Mr A's property from the residential facility, she told staff and residents at the residential facility that she had rented a house, and she hoped that the parole board would release Mr A to live with her at that address.

### **Probation Service**

55. Ms E was Mr A's probation officer. She managed Mr A from 16 July 2018 until his recall to a prison hearing on 12 November 2018. Ms E stated that she met with Mr A weekly at the residential facility, and Mr A mentioned his relationship with Ms B on numerous occasions, describing it as romantic/intimate. Ms E also stated that Mr A received numerous packages from Ms B containing gifts, mainly clothes and shoes.
56. Ms E said that Mr A told her that he and Ms B had "worked together" for a year and a half before entering into their relationship, and that the relationship had been in existence for a year since then. He said that he viewed their relationship as being mutually supportive. Ms E stated that on 7 August 2018, Mr A met with a probation officer in her absence, and Mr A discussed Ms B visiting him at the residential facility.
57. Ms E told HDC that on 24 August 2018, a meeting took place at the residential facility, which included residential facility staff, herself, Mr A, and Ms B. The purpose was to meet Ms B and assess her suitability as a visitor for Mr A. Ms E said that Ms B spoke about the circumstances of her relationship with Mr A, and said that the matter was still being looked into by NZAC. Ms B stated that "her feelings for [Mr A] were like a train, she couldn't stop them". Mr F said that on 24 August 2018, Ms B spoke "openly about their relationship", and filled in Visitor Forms stating that she was Mr A's partner.
58. Ms E said that on 18 September 2018, during a meeting at the residential facility, Mr A stated that two family members and Ms B all put money in his account regularly, even though he did not ask for it.
59. Ms E told HDC that on 2 October 2018, during a meeting at the residential facility, Mr A said that he was going to propose some community outings in the upcoming week, such as going to the mall and for a walk, as well as time with Ms B at her motel room.
60. On 9 October 2018, Ms E met with Mr A and Ms B to discuss possible high-risk situations for Mr A while he was out in the community with Ms B, and how to manage these. Ms E said that on 16 October 2018, during a meeting at the residential facility, Mr A's gang status was discussed, and he confirmed that Ms B would support him whether or not he was in the gang. Ms E stated that the last contact she had with Mr A was on 12 November 2018 at his recall hearing, during which Ms B was present as his support person.

### **Recall to prison 24 October 2018**

61. Ms B told HDC that while Mr A was at the residential facility, she had contact with two members of his whānau, and that along with the family members she provided Mr A with

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<sup>7</sup> Mr F stated that Mr A's recall date was 23 August 2018.

clothing and money. She said that Corrections viewed Mr A's contact with his whānau as evidence of active gang membership, and he was recalled to prison.

62. Corrections told HDC that following Mr A's recall to prison, Ms B submitted an application to visit Mr A as a private visitor. The application was approved on the basis that it enabled Mr A to maintain relationships with friends and whānau while in prison.

#### **Further information — Corrections**

63. Ms C is a senior psychologist and clinical manager at the unit. Ms C advised ACC that while Mr A made meaningful gains at the unit, she believed he remained a vulnerable individual, in that he had a low sense of self-worth and a strong desire for social approval.
64. Ms C told HDC that she received telephone calls from Mr A on 17 October 2018 and 18 October 2018. She said that this was the first contact she had had with him since his transfer to Prison 2, and he stated that he was struggling at the residential facility. She said that when she went to enter a case note in the Corrections' database, she could see that the last case note entered by the probation officer said that someone called "Ms B" was visiting Mr A. Ms C was concerned that this might be Ms B, who she knew had been banned from Prison 1, so she contacted the Prison Management Team to pass on her suspicion that Ms B might still be practising with Corrections' clients.
65. Ms C said that she was informed that although Ms B had been banned from Prison 1, Corrections did not have the authority to stop her working in other areas of the department. The management team suggested that Ms C contact the probation officer to check whether Ms B was visiting Mr A and ensure that the probation officer was aware of the concerns, so that Ms B's practice could be monitored.
66. Ms C stated that on 23 October 2018, she telephoned Ms E, who confirmed that Ms B was visiting Mr A, and said that Ms B was not visiting in a professional capacity but as his romantic partner. Ms E stated that Ms B and Mr A were in regular contact, and she sent him gifts regularly. Ms E said that she was surprised that Ms C was unaware of this, as she believed that the relationship had developed while Mr A was in the unit.
67. Ms C stated that later that day she received a telephone call from Mr A, who wanted to update her on the challenges he was facing at the residential facility. She said that she asked him whether he had been completely honest with her about his current issues, and asked whether he was in a relationship and the name of his partner. She said that Mr A confirmed that he was in an intimate relationship with Ms B and said that he had not told the unit staff because "he was in love with her, did not want her to get in trouble, and did not think Departmental staff had a right to get involved".
68. Ms C said that subsequently she notified a Principal Advisor in Corrections' National Office and the Prison 1 Management Team of that information, and raised concerns about the inappropriateness of the relationship and the potential impact on Mr A's well-being.
69. Ms C stated that on 25 October 2018, she received an email from Ms B stating that Mr A had asked her to let Ms C know that he had been recalled to prison. Ms C said that she

spoke to Mr A twice more (on 9 November 2018 and 6 March 2019), and on both occasions he reported that he was still in a romantic relationship with Ms B. Ms C said that she has not had any further contact with Mr A.

70. Ms C stated that she believed that Corrections raised the issue of the development of an inappropriate relationship with Ms B's employer, and that she expected that Ms B's employer would have taken appropriate action. Ms C told HDC that in mid-May 2019 a colleague informed her that Ms B continued to practise as an ACC counsellor and was registered with NZAC. Consequently, Ms C contacted NZAC on 18 May 2019, and ACC on 19 May 2019, to query whether they had received a complaint in 2018 relating to Ms B.

### **Termination of contracts**

71. On 1 August 2019, ACC suspended Ms B as a named provider from two contracts, because of the complaint that she had been involved in an inappropriate relationship with a prisoner whom she had been counselling.
72. On 26 August 2019, Ms B advised Ms D that she would no longer undertake counselling of ACC clients, and Ms D accepted her resignation, effective immediately.
73. On 23 January 2020, Ms B told HDC that she had not worked as a counsellor since August 2019, and did not intend to do so again. She stated that she had resigned her membership of NZAC.

### **Response from Ms B**

74. Ms B was asked to provide information about her relationship with Mr A.
75. In her first response to HDC on 29 August 2019, Ms B provided an explanation about the telephone call that took place on 29 March 2018, and about Mr A's recall to prison. This information has been summarised above. Ms B also expressed surprise at a report<sup>8</sup> that Mr A had said that she and Mr A were engaged in an intimate relationship, and stated: "[I] view this allegation that he [Mr A] would have said this as unlikely to be true."
76. HDC asked Ms B to provide further details about the nature of her relationship with Mr A while he was at the unit or at the residential facility.<sup>9</sup> Ms B provided a response to HDC, but did not address these issues.

### **Relevant standards**

#### *Corrections' Code of Conduct*

77. Corrections' Code of Conduct applies to all Corrections' "employees". "Employees" is defined as including contractors, consultants, or volunteers.
78. The Code of Conduct states that in order to be accountable at Corrections, employees must be honest and truthful and do the right thing, even when no one is looking.

<sup>8</sup> In the complaint by Ms C to HDC dated 29 May 2019.

<sup>9</sup> In a letter from HDC to Ms B dated 16 December 2019.

Employees must maintain appropriate professional boundaries and relationships with offenders, and avoid situations and behaviour that may be considered unethical or a conflict of interest, or a conflict with the Code of Conduct.

79. The Code of Conduct contains examples of conduct that falls below Corrections' expectations, including inappropriate behaviour or relationships. Examples of inappropriate behaviour include having a financial, personal, or sexual relationship with an offender, prisoner, or ex offender or prisoner, with whom the employee has had contact in the course of his or her duties.
80. Employees are required to sign to acknowledge that they have received, read, and understood the Code of Conduct.

#### **NZAC**

81. The NZAC Code of Ethics (2016) provides:

##### **"5 The Counselling Relationship**

###### **5.11 Multiple relationships**

...

- (f) If conflicting roles with clients emerge during counselling, counsellors must clarify, adjust or withdraw from these roles by an appropriate process.

...

###### **5.13 Sexual and other inappropriate relationships with clients**

- (a) Counsellors shall not engage in sexual or romantic activity with their clients
- (b) Counsellors shall not exploit the potential for intimacy made possible in the counselling relationship, even after the counselling has ended
- (c) Counsellors shall not sexually harass their clients
- (d) Counsellors shall not provide counselling to persons with whom they have had a sexual or romantic relationship."

#### **Responses to provisional opinion**

##### *Mr A*

82. Mr A was given an opportunity to comment on the "information gathered" section of the provisional opinion but he did not respond.

##### *Ms B*

83. Ms B was given an opportunity to comment on the provisional opinion but she did not respond.

##### *Corrections*

84. Corrections was given an opportunity to comment on the parts of the "information gathered" section of the provisional opinion that relate to Corrections. Corrections stated

that the information provided to HDC by Corrections was presented accurately in the “information gathered” section, and advised that it had no further comments.

*Ms C*

85. Ms C was given an opportunity to comment on the parts of the “information gathered” section of the provisional opinion that relate to her. Where relevant, her response has been incorporated into the “information gathered” section above.

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## **Opinion: Ms B — breach**

86. This report concerns the relationship between a counsellor, Ms B, and her client, Mr A.

### **Relationship during counselling**

87. Ms B provided ACC counselling services to Mr A at Prison 1 from 2 May 2017 until his transfer to Prison 2 on 4 April 2018. Ms B gave Mr A her telephone number. She stated that the phone number she provided to Mr A was her business, rather than her personal, mobile phone number, and that it was necessary for her to do so in order to arrange whānau meetings in her role as counsellor. Subsequently, Mr A made 56 telephone calls to Ms B over a period of two and a half months. The conversations were mainly of a personal and domestic nature, and included intimacies such as Ms B referring to Mr A as “beautiful man”. Ms B and Mr A discussed their families, their work days, and staff and prisoners at the prison. They also discussed their plans to see each other following Mr A’s transfer to Prison 2.
88. Ms D told HDC that Ms B said that she had developed feelings for Mr A, but that she realised that they could not have a relationship and had discussed that with Mr A.
89. Ms B said that her relationship with Mr A while he was at the unit was misinterpreted, although she did not explain the nature of her relationship with Mr A to HDC.
90. Corrections’ Code of Conduct provides that employees and contractors must maintain appropriate professional boundaries and relationships with prisoners. Inappropriate behaviour includes having a personal relationship with a prisoner. In addition, the NZAC Code of Ethics states that if a conflicting role with a client emerges during counselling, the counsellor must clarify, adjust, or withdraw from the role.
91. Based on the recordings of the conversations between Mr A and Ms B, I am satisfied that a personal relationship developed between Ms B and Mr A while Ms B was providing counselling services to him at the unit. I note that Ms C considered that Mr A had made meaningful gains while at the unit but remained a vulnerable individual in that he had a low sense of self-worth and a strong desire for social approval. In my view, there is a power imbalance between prisoners and health providers in a prison, and I am critical that Ms B allowed a personal relationship to develop. Ms B should have recognised when her

relationship with Mr A was becoming inappropriate, and should have sought assistance and support from her supervisor.

### **Relationship at the residential facility**

92. While Mr A was at the residential facility, both he and Ms B told the staff at the residential facility and probation officer Ms E that they were in an intimate relationship. Ms E understood from Mr A that the relationship had been in existence for a year.
93. While Mr A was at the residential facility, Ms B sent him gifts and money, and had contact with his whānau. Subsequently, Corrections considered that Mr A's contact with the whānau members was evidence of his gang membership, and he was taken out of the residential facility programme and recalled to prison. When Mr A was recalled to prison, his relationship with Ms B continued, and Ms B rented a property in the region in the hope that Mr A would be released from prison on parole to reside with her.
94. Based on this information, in my view, the personal relationship between Mr A and Ms B not only continued after Mr A's transfer to Prison 2, but developed into an intimate relationship.
95. The NZAC Code of Ethics provides that counsellors shall not exploit the potential for intimacy made possible in the counselling relationship, even after the counselling has ended.
96. As Mr A's ACC counsellor, Ms B was aware of his history of sexual abuse and his vulnerability. Any relationship between a prisoner and a counsellor involves a degree of vulnerability on the part of the prisoner, and the trust that this vulnerability will not be abused. In my view, Ms B took advantage of Mr A's vulnerability.
97. Mr A has made no complaint about the events that occurred, either to Corrections or to HDC. That does not alter the fact that when a healthcare provider engages in an intimate relationship with a client, fundamental ethical standards are breached. I do not consider that such a relationship being consensual alters this fact. It was Ms B's responsibility to maintain appropriate boundaries in the counsellor–client relationship, and she failed to do so, despite being aware of the expectations and standards required by NZAC and Corrections. As a healthcare provider, the onus was on her to maintain professional boundaries and ethical standards.

### **Conclusion**

98. I am satisfied that Ms B breached professional and ethical standards by having a personal relationship with Mr A while he was at the unit and by developing an intimate relationship with him while he was residing at the residential facility. As a result, Ms B breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights (the Code).<sup>10</sup>

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<sup>10</sup> Right 4(2) states: "Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards."



## Recommendations

99. I recommend that should Ms B return to work as a counsellor, NZAC require her to undertake further training on ethical and boundary issues, and that she be mentored regularly by a mentor selected by NZAC. The mentor should report to NZAC on whether Ms B is respecting professional boundaries.
  100. I have not recommended that Ms B provide an apology to Mr A for her breach of the Code, as Mr A has advised HDC that he does not support this complaint.
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## Follow-up actions

101. A copy of this report, with details identifying the parties removed, will be sent to NZAC, ACC, Corrections, and Ms D's company, and they will be advised of Ms B's name.
102. A copy of this report, with details identifying the parties removed, will be placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.