

Mr Damian Peters

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

(Case 07HDC03930)



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Overview

Mr Damian Peters provided Ms A with counselling and Neuro Linguistic Programming (NLP)¹ services between August 2004 and August 2006. This investigation deals with a complaint that Mr Peters developed an inappropriate relationship with Ms A during these sessions, and eventually had sexual intercourse with her in August 2005. It was alleged that Mr Peters continued to provide counselling and NLP services to Ms A between August 2005 and August 2006, while maintaining a simultaneous sexual relationship with her.

Parties involved

Ms A	Consumer
Mr Damian Peters	Counsellor / Master Practitioner of NLP/ Provider
Ms B	Clinical Psychologist
Mr C	Friend of Ms A
Ms E	Counsellor

Complaint

On 14 March 2007 the Commissioner received a complaint from Ms A about the services provided by Mr Damian Peters. The following issues were identified for investigation:

- *The appropriateness of care provided to Ms A by Mr Damian Peters between August 2004 and August 2006.*
- *The appropriateness of Mr Damian Peters' relationship with Ms A between August 2004 and August 2006.*

An investigation was commenced on 7 May 2007.

¹NLP is an interpersonal communication model and an alternative approach to psychotherapy based on the subjective study of language, communication, and personal change. NLP aims to increase behavioural flexibility (i.e., choice) by manipulating subjective experience.

Information reviewed

Information was received from:

Ms A
Mr Damian Peters
A counsellor
Mr C, friend of Ms A
Ms E, counsellor
A District Health Board
Work and Income
New Zealand Customs Service
Accident Compensation Corporation (ACC)
TelstraClear Limited
New Zealand Association of Counsellors
New Zealand Association of Neuro Linguistic Programming Inc
New Zealand Association of Professional Hypnotherapists

Information gathered during investigation

In mid-2004, Ms A, aged 29, was seeking employment through Work and Income. She applied for a Work and Income grant to start her own business. A Work and Income representative assessed her application but felt that Ms A was experiencing anxiety and problems with sleeping, which created a barrier to gaining and maintaining employment. The Work and Income representative referred her to Mr Damian Peters for counselling and NLP to assist her to overcome her anxiety, which was related to past sexual, physical, and verbal abuse.

Although Ms A was referred to Mr Peters for anxiety and sleep difficulties, she wished to work on some other specific problems, including weight loss, the fear of being attacked at night, and to be more affectionate towards her children. On 3 August 2004, Ms A met with Mr Peters in his office so that he could fill in the "Counsellor's Statement" section of her Disability Certificate. Mr Peters completed the statement and stated that he was a member of the New Zealand Association of Counsellors (NZAC), the New Zealand Association of Neuro Linguistic Programming (NZANLP), and the New Zealand Hypnotherapists Association (NZHA). The latter association is now known as the New Zealand Association of Professional Hypnotherapists (NZAPH).²

² Both NZAC and NZAPH (NZHA) advised that Mr Peters had never been a member of their organisations. NZANLP advised that Mr Peters had ceased to be a member in April 2004.

On 5 August 2004, Work and Income agreed to provide Ms A with a special benefit to help fund her counselling³ sessions with Mr Peters.

Relationship with Mr Peters

Ms A met Mr Peters for her first counselling session on 13 August 2004 in his office. Mr Peters agreed to assist her with the specific problems she identified as well as general anxiety. Although Ms A believed that Mr Peters would use only NLP, he used both NLP and traditional counselling techniques during his sessions with her. Work and Income partially subsidised weekly sessions, and Ms A usually attended, despite it being a significant expense for her.

During sessions in August and September 2004, Ms A disclosed personal information about her past to Mr Peters, including experiences of childhood sexual abuse, recent verbal, physical and sexual abuse by male partners, and other sexual history. Ms A stated that Mr Peters also disclosed personal information to her during these sessions, including that he had had a vasectomy.

Ms A stated that her relationship with Mr Peters developed gradually during counselling sessions and became more personal and less professional. Ms A recalled that after the first session, Mr Peters asked her if he could have a hug, and she obliged. After the third or fourth session,⁴ Mr Peters kissed Ms A on her cheek after gaining her consent to do so. At the time, Ms A did not consider Mr Peters' actions to be remarkable; she identifies as Māori and it was not unusual for her to embrace a stranger in traditional greeting. In retrospect, Ms A believes that Mr Peters was deliberately blurring professional and personal boundaries and “grooming” her for a sexual relationship.

Ms A stated that Mr Peters placed his hand on her knee to emphasise a point during sessions, and made her feel more special than a regular client by telling her that he would “light up” when he saw her name in his appointment book.

On 13 October 2004, the counselling notes document that Ms A told Mr Peters that she wanted to set up a website for short stories on erotica. Mr Peters encouraged Ms A in this endeavour throughout a number of sessions and, in December, she agreed to send him some draft stories to comment on.

Ms A stated that, early in the counselling, Mr Peters told her he wished he could take her to the movies, but could not as he was her counsellor. Ms A recalled that she asked Mr Peters, “Aren't we using NLP?”, and he shook his head and reiterated, “I can't because I am your counsellor.” Ms A said that this made her feel safe because Mr Peters was being very clear about maintaining professional boundaries.

³ In this report, “counselling” refers to both NLP and traditional counselling techniques.

⁴ According to the counselling notes provided by Mr Peters, this would have been in early September 2004. The date for the third session is not legible (“xx/9/04”) and the date of the fourth session is recorded as “6/9/04”.

In January 2005, Mr Peters kissed Ms A on the neck following a counselling session. Ms A felt uncomfortable and worried that Mr Peters might be jeopardising his career to pursue a relationship with her. Ms A began to extend the time between sessions with Mr Peters up to a maximum of three months. Although Mr Peters continued to hug her at the end of sessions, their personal relationship did not progress during this time.

Ms A discussed her feelings towards Mr Peters with a United States-based psychologist (via email), who suggested that Ms A had transference,⁵ and that this could be harnessed by Mr Peters as a tool for growth.

Ms A immediately made an appointment to see Mr Peters on 26 August 2005 and, during the session, told him: “I think I have transference.” Ms A expected Mr Peters to use her confession to advance her counselling sessions. However, instead of responding therapeutically, Mr Peters kissed Ms A on the lips, then immediately apologised. Ms A described the kiss as “sexual”. Ms A recalls that Mr Peters said that he would “love to make love” with her but did not know where they could do that. Ms A recalled that Mr Peters “looked at [her] expectantly” and she suggested her house. However, Ms A became very anxious before Mr Peters was due to arrive, and cancelled the invitation at the last moment. In the counselling notes, Mr Peters documented “talked” for the 26 August entry.

On 31 August, Ms A attended another appointment with Mr Peters. Ms A recalled that, during this session, Mr Peters said that sex is “normal and natural” and that he “didn’t see why counsellors couldn’t ... have a relationship with their clients”. Ms A said that Mr Peters went on to repeat this on more than one occasion. Mr Peters made an entry in the counselling notes for 31 August, noting only that they “talked”.

At the end of the appointment, Ms A invited Mr Peters over to her house. At the time, Ms A believed that Mr Peters cared for her, and recalled that he told her that they had a spiritual connection. Again, Ms A panicked before Mr Peters came over to her house, and she unsuccessfully attempted to telephone him to cancel. Mr Peters arrived about 11pm and, after she invited him into her house, told her, “You don’t have to do this.” However, Ms A said that she felt that Mr Peters expected sex because her previous partner had expected her to provide sex on demand, and she “had been repeatedly raped by him”. Mr Peters was aware of Ms A’s previous troubled relationships because it had been discussed in counselling sessions.

After they had sexual intercourse, Mr Peters told her that “it is very sexual with you” and, in retrospect, she realised that he intended their relationship to be purely sexual. Ms A explained that she had been celibate for a long time, and only wanted to resume sexual activity with a special partner. She would not have pursued a relationship with Mr Peters if she knew it to be purely sexual.

⁵ A process whereby an individual in a low power position may idealise someone in a high power position and develop positive feelings towards him or her.

According to Ms A, she and Mr Peters had sexual intercourse for the first time on 31 August 2005. He remained at Ms A's house until about 1.30am on 1 September.

Ms A telephoned Mr Peters on 2 September, and he told her that he did not want her to call him every other day. Ms A was upset because she believed they were beginning a relationship together and thought he would like to talk with her.

On 5 September, Ms A telephoned Mr Peters because he had not yet contacted her. Ms A stated that he "didn't seem to think that anything was odd or unusual ... he brushed me off".

In early September, Ms A recalled that she made a counselling appointment for her son to see Mr Peters, and then made an appointment for herself approximately a week after that. Ms A said that she "felt really desperate for contact ... I just needed some kind of contact with [Mr Peters]".

On 7 September, Mr Peters documented a session in the counselling notes. The session focussed on Ms A's dysfunctional relationships and attitudes towards sex and men. However, Ms A does not recall attending this session.

Mr Peters also documented another session on 9 September 2005. The counselling notes state: "[D]id submodality shift re Auth[ority] over body."

On 15 September 2005, Mr Peters completed an application, on behalf of Ms A, for Work and Income to subsidise 20 further weekly counselling appointments. Again his professional memberships were listed as the NZAC, NZANLP, and the NZPA.

In late September or early October 2005, Ms A decided that her relationship with Mr Peters was abnormal. Based on her on-line research, Ms A believed that he had crossed professional boundaries by entering into a sexual relationship with her. Ms A said that she had promised to keep the relationship secret, but was experiencing frightening symptoms, including distortion of time, rapid mood changes, difficulty sleeping, disorientation and hallucinations. Ms A described this as "a terror-filled time".

Ms A recognised that she needed counselling to deal with the negative effect the relationship had had on her, and thought that Mr Peters should use his professional skills to help remedy the problems he had caused. She threatened to complain to the Health and Disability Commissioner unless Mr Peters provided free sessions.

Mr Peters reluctantly agreed to provide free counselling sessions. Ms A stated that these sessions were not booked through Mr Peters' secretary; she would telephone him when she was distressed and he would fit her in between, or after, booked patients.

Mr Peters' counselling notes show that he provided Ms A with three sessions between 9 November and 23 December, and Ms A stated that these sessions were provided free

of charge. It is not clear whether the relationship was discussed. Mr Peters' notes are very brief, and do not mention the relationship.

The counselling notes for 11 November state: "Did 6-step reframe on feelings towards children" and those of 19 December state: "Wants to work on motivation. Did timeline on it." On 23 December, Mr Peters led Ms A through thought exercises, whereby she worked through negative and positive thoughts about the topic "I will never have a successful relationship".

In addition to the free sessions, Ms A said that Mr Peters bought her a refrigerator in October, and that they had sexual intercourse again in November 2005.

On 30 November 2005 Mr Peters completed another request for Work and Income funding, stating that Ms A required weekly counselling sessions. The professional associations referred to above were again listed on the request form as associations of which Mr Peters was a member.

Ms A said that Mr Peters made her feel guilty about providing her with free counselling sessions: "He kept saying that I was playing the victim, that I was using him." In late December 2005 she paid Mr Peters \$240 cash "to cover any sessions [Work and Income] had subsidised as well as alleviate guilt for not paying".

In December 2005, Mr Peters went to Australia for two weeks, and returned to New Zealand on 5 January 2006. Ms A recalled that Mr Peters agreed to contact her every second day while he was away, but did not contact her at all. She found this very distressing.

From 5 January 2006, Ms A continued to attend counselling sessions with Mr Peters, approximately fortnightly, and they usually had sexual intercourse in his office afterwards. Ms A did not pay for these sessions. During this period Ms A recalls that she was not coping well and telephoned Mr Peters often: "I'd just ring up and sort of abuse him over the phone." Ms A explained that she had become very confused by Mr Peters' actions towards her — he would ignore her and claim that he had done nothing wrong, only to later sympathise with her, apologise, and tell her that he "should never have done this".

Mr Peters did not document any sessions between 23 December 2005 and 25 March 2006 in the counselling record.

Ms A said that she was also in debt at this time, and Mr Peters encouraged her to work as a prostitute and suggested that "he knew some guys who might be interested". Neither Ms A nor Mr Peters pursued this suggestion.

On 5 February 2006, Ms A's GP referred her to a community health service, noting that "she would benefit from cognitive behavioural therapy techniques from your clinical psychologist". Ms A began attending weekly appointments with a clinical psychologist, Ms B, from 13 March. The appointments were funded by the District

Health Board to deal with Ms A's anxiety issues and eating disorder. Ms A stated that she wanted to build trust with Ms B before disclosing her relationship with Mr Peters.

Mr Peters documented that he provided counselling to Ms A on 25 March, 4 April, 7 and 14 June, and 1 July 2006. Although the March appointment dealt with Ms A's fear of being attacked at night, the other sessions focussed on her feelings of being used, abandoned and ignored by men, and her dysfunctional attitudes towards sex and relationships with men. Most of these appointments involved thought exercises, whereby Ms A worked through opposing statements such as:

“Risky, slutty, dangerous, worthless, no value, vulnerable / Sexual desires are healthy, natural and give you confidence to be successful, motivated and complete.”

...

“Sex is only for men's pleasure — it takes from me / Sex is something to be enjoyed by me. It's beautiful, it's natural, mutual, it gives me fulfilment — it gives too.”

In June 2006, Mr Peters told Ms A that he intended to move to Auckland and would attempt to refer her to another counsellor. Mr Peters contacted Ms E, a counsellor, and requested that Ms E take over Ms A's ongoing care. Ms A stated that she was present during Mr Peters' telephone discussion with Ms E. She recalled that during the telephone discussion with Ms E, “[Mr Peters] explained ... that it had been just sex and ... it had turned into so much more”.

Ms E stated that Mr Peters asked her to take over Ms A's care when he moved to Auckland, and said that the relationship with Ms A was “pressured” and “difficult”; Mr Peters believed that Ms A had become emotionally attached to him. Ms E denied that Mr Peters told her of a sexual relationship.

Ms E contacted Mr Peters a few days later to decline his request. She believed that there would be a conflict of interest because she knew Ms A outside of work, and thought that the relationship between Mr Peters and Ms A was “a bit more personal than a professional client–counsellor one”.

Mr Peters continued to provide Ms A with free counselling sessions, and Ms A said that these were usually followed by sexual intercourse in his office or home. Ms A recalled that the sessions were not regular — he would arrange to see her in between booked patients or after work if she telephoned him and was distressed. Ms A estimated that she saw Mr Peters approximately fortnightly, but there was often a shorter or longer break between sessions. On 2 or 3 August 2006, Mr Peters gave Ms A a set of drawers and a bed, and delivered these to her house. Ms A recalled that this was the last time they had sexual intercourse.

Mr Peters moved to Auckland in early August 2006, and contacted Ms A once by telephone in late August. Ms A stated that she had “broken down completely” after Mr Peters left.

On 9 August 2006, Ms A disclosed to Ms B that she had been in a relationship with her NLP counsellor and they “spent some time talking about his behaviour being unacceptable and abusive”. At the next counselling session, on 16 August, Ms A disclosed Mr Peters’ name to Ms B and said that she wanted to complain about him to HDC after discussing the relationship with Mr C.⁶ On 30 August 2006, Ms A informed Ms B that Mr Peters had telephoned her and she told him that she did not want any further contact. Ms B continued to counsel Ms A until November 2006. In her treatment review, Ms B noted that the relationship with Mr Peters “has obviously been very difficult for [Ms A] and has been the focus of our recent work”.

In November 2006, Ms A sought counselling through the Sexual Abuse Help Foundation and, in January 2007, ACC agreed to fund 30 hours of counselling.

Ms A complained to this Office on 14 March 2007, referring to the sexual relationship with Mr Peters and the detrimental effect this had had on her.

Ms A has complained to the police about Mr Peters, and she has lodged a claim for a lump-sum payment for permanent impairment related to sexual abuse, and is awaiting ACC’s decision.

Mr C

Mr C is a friend of Ms A. She telephoned him to discuss her relationship with Mr Peters when the relationship was ending in August 2006. In Mr C’s opinion, Mr Peters “groomed” Ms A for a sexual relationship and “used [her] emotional baggage and sexual vulnerability to exploit her”. Mr C recalled being told by Ms A that Mr Peters boasted about his sexual prowess, and inappropriately addressed issues surrounding Ms A’s sexuality.

Mr Peters

On 7 May 2007, my Office wrote to Mr Peters advising that I had received a complaint from Ms A, and had decided to commence an investigation into her complaint against him. On 4 June 2007, Mr Peters contacted this Office via email, stating: “I have received your message ... I now reside in London and wonder what you expect me to do from over here.”

I advised Mr Peters on 5 June 2007 that he had a right to respond to Ms A’s complaint against him. Having not received a reply, on 4 July 2007 I asked him again for a response and advised that if he did not provide a response, or other requested information, my decision would be based on information provided by other parties.

⁶ Mr C is a friend of Ms A. His evidence is outlined in the next section.

Mr Peters failed to respond to my requests for information, and I required him to provide a copy of Ms A's counselling notes, pursuant to section 62 of the Health and Disability Commissioner Act 1994 (the Act).⁷ On 17 September 2008, Mr Peters provided a copy of Ms A's counselling notes. He has not denied entering into a sexual relationship with Ms A while providing counselling services to her.

On 23 January 2008, HDC wrote to the New Zealand Customs Service to obtain information about Mr Peters' movements from 2004 to 2008. On 5 February 2008, the New Zealand Customs Service advised that Mr Peters had left New Zealand on 29 December 2006 and returned on 8 January 2007, and had not left the country since. When Mr Peters sent an email on June 2007, stating, "I now reside in London", he was in fact in New Zealand.

Response to Provisional Opinion

Ms A commented on my provisional opinion, and the majority of her comments have been incorporated into the previous section. In her response, Ms A noted:

"Over my time spent with him, Mr Peters alternated between the role of counsellor and Master Practitioner when it suited him. For example, after having sex with him I explained I was having a bad reaction [and] he stated that we were using NLP so there is nothing I could do about it. NLP was different he said, and there was nothing wrong with someone using NLP having a relationship with a client. Within a short space of time, he told me that he couldn't have a relationship with me outside of his consulting rooms because he was my counsellor."

Mr Peters has not commented on my provisional decision.

Relevant standards

New Zealand Association of Counsellors *Code of Ethics* (2002):

5.11 Multiple Relationships

⁷ Section 62(1) of the Health and Disability Commissioner Act 1994 provides: "The Commissioner may from time to time, by notice or in writing, require any person who in the Commissioner's opinion is able to give information relating to any matter under investigation by the Commissioner to furnish such information, and produce such documents or things in the possession or under control of that person, as in the opinion of the Commissioner are relevant to the subject-matter of the investigation."

- a) Counsellors assume full responsibility for setting and monitoring the boundaries between a counseling relationship with a client and any other kind of relationship with that client and for making such boundaries as clear as possible to the client.

5.13 Sexual Relationships with Clients

- a) Counsellors shall not engage in sexual or romantic activity with their clients.

New Zealand Association of Neuro Linguistic Programming Incorporated *Code of Practice* (1999):

2.2.5 Practitioners are responsible for setting and monitoring boundaries between the professional relationship and any other kind of relationship, and making this explicit to the client.

2.2.6 Practitioners must not exploit their clients financially, sexually, emotionally, or in any other way. Engaging in sexual activity with the client is unethical.

Opinion

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

Opinion: Breach — Damian Peters

Introduction

Mr Peters stated that he was a member of the NZAC, the NZHA, and the NZANLP when he completed Ms A's Disability Certificates for Work and Income from August 2004 to December 2005. Ms A also believed him to be a member of these organisations. However, NZAC and NZHA advised that Mr Peters had never been a member of their organisations, and Mr Peters ceased to be a member of NZANLP in April 2004.

Nevertheless, Mr Peters claimed to be a counsellor and NLP Master Practitioner, and held himself out to provide counselling services to Ms A. Therefore I consider that Mr Peters is a health care provider under section 3(k) of the Health and Disability Commissioner Act 1994 (the Act) and am satisfied that he purported to provide "health services" in accordance with the definition in section 2 of the Act.

Sexual exploitation

From the first counselling session in August 2004, Mr Peters was made aware of sexual and other abuse in Ms A's childhood and recent past. Despite this, he ended the first session by hugging her, and continued to use counselling sessions to develop a personal relationship. Mr Peters inappropriately revealed personal information about himself to Ms A, claimed to take a special interest in her, and made increasingly inappropriate physical contact during and after counselling sessions.

For over a year, according to Ms A's account, Mr Peters gradually and persistently eroded the boundary between his professional and personal relationship with Ms A by becoming increasingly intimate with her, and then entered into a sexual relationship. Ms A stated that there was a simultaneous sexual and professional counselling relationship from August 2005 to August 2006.

There is an inherent power imbalance between a counsellor and his or her client, and this creates a professional and ethical duty upon the counsellor to place the needs of the client above his or her own. It is completely unacceptable for a counsellor to exploit the professional relationship for his or her own sexual gratification.

As Mr Peters' counselling client, Ms A was in a vulnerable position, particularly as she was seeking counselling for anxiety related to past sexual, physical and verbal abuse. Mr Peters exploited her vulnerability to achieve his own sexual gratification, and this amounted to a serious breach of the professional and ethical obligations Mr Peters had as a counsellor.

Furthermore, it is highly unethical that Mr Peters purported to counsel Ms A for the negative effects of their personal relationship while continuing to have a sexual relationship with her. In particular, this demonstrates a total lack of understanding about his ethical obligation as a counsellor.

Mr Peters has not denied having a sexual relationship with Ms A. Based on the information that has been provided during this investigation, it is my opinion that Mr Peters sexually exploited Ms A. This is an abhorrent abuse of a position of trust and a breach of Right 2 of the Code of Health and Disability Services Consumers' Rights.⁸

Breach of ethical standards

Ms A had the right to counselling services that met appropriate ethical standards, and those standards were breached when Mr Peters entered into a sexual relationship with her. Although Mr Peters was not a current member of any professional body throughout the time he counselled Ms A, I consider it appropriate to assess the

⁸ Right 2 of the Code of Health and Disability Services Consumers' Rights states: "Every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation."

services he provided against the standard of care expected of a registered counsellor and NLP practitioner.

Maintaining professional boundaries is a fundamental part of counselling, a process that involves an intense therapeutic relationship where the client opens themselves completely to the counsellor, by confiding fears, vulnerabilities, and emotional responses. Mr Peters was aware of ethical standards relating to professional boundaries and, in fact, referred to these ethical standards to gain Ms A's trust.⁹

It is important for counsellors to maintain strict boundaries and remain vigilant about feelings a client may be developing towards him or her, and this is supported by the NZAC's *Code of Ethics*, which states:

- 5.11(a) Counsellors assume full responsibility for setting and monitoring the boundaries between a counselling relationship with a client and any other kind of relationship with that client and for making such boundaries as clear as possible to the client.
- 5.13(a) Counsellors shall not engage in sexual or romantic activity with their clients.

In addition, the NZANLP's *Code of Practice* states:

- 2.2.5 Practitioners are responsible for setting and monitoring boundaries between the professional relationship and any other kind of relationship, and making this explicit to the client.
- 2.2.6 Practitioners must not exploit their clients financially, sexually, emotionally, or in any other way. Engaging in sexual activity with the client is unethical.

Mr Peters neither set nor maintained professional boundaries when he counselled Ms A from August 2004 to August 2006. Instead, he gradually blurred the boundary between their therapeutic and personal relationship to the point where counselling sessions in his professional office were followed by sexual intercourse. Mr Peters' knowledge that Ms A was a vulnerable client — having suffered sexual abuse in the past — compounds the seriousness of his behaviour.

Mr Peters failed to comply with ethical standards by entering into a concurrent sexual and therapeutic relationship with Ms A, and breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights.¹⁰

⁹ Mr Peters told Ms A that he "wished to take her out to the movies, but because he was her counsellor, could never do that".

¹⁰ Right 4(2) of the Code of Health and Disability Services Consumers' Rights states: "Every consumer has the right to have services provided that comply with legal, professional, ethical and other relevant standards."

Previous complaint

In February 2004, the Commissioner found that Mr Peters had breached the Code by engaging in a concurrent professional and counselling relationship with a client over a period of four months.¹¹

The earlier case also involved a breakdown of professional boundaries, whereby Mr Peters blurred the line between his personal and professional relationship with the client. Mr Peters hugged the client after their first session, then kissed her in a sexual manner after she confessed her attraction to him. Shortly thereafter, Mr Peters began a sexual relationship with the client, which was conducted at the client's house and in Mr Peters' consulting room after counselling sessions. Although the timeline of the first case was relatively shorter, there are disquieting similarities between the earlier case and the present one.

I also note that Mr Peters had been found in breach of the Code, and been referred to the Director of Proceedings, before beginning to counsel Ms A in August 2004.

Mr Peters chose to act unethically in his counselling relationship with Ms A despite previously being found in breach of the Code for similar conduct. Mr Peters shows a total lack of insight into the impact of his actions. His unprofessional, unethical and self-centred approach to Ms A's care led him to ignore the detrimental effect such a relationship could (and did) have on Ms A.

Mr Peters' conduct is a severe departure from acceptable standards and a flagrant breach of the Code. His ongoing practice as a healthcare provider represents a serious risk to the New Zealand public. I therefore intend to refer Mr Peters to the Director of Proceedings, to consider whether this matter should be brought before the Human Rights Review Tribunal, and to name Mr Peters in the report placed on the Health and Disability Commissioner website.

Other Matters*Misleading this Office*

Mr Peters advised this Office, in his email of 4 June 2007, that he was in the United Kingdom. However, the New Zealand Customs Service informed me that he had remained in New Zealand from 8 January 2007. Therefore, Mr Peters deliberately misled this Office by providing information that he knew was false. His actions were contrary to section 73(c) of the Health and Disability Commissioner Act 1994, which states:

¹¹ See opinion 03HDC06499. The Director of Proceedings successfully prosecuted the case before the Human Rights Review Tribunal: *Health and Disability Director of Proceedings v Peters* [2006] NZHRRT 36 (25 September 2006). The Tribunal found that Mr Peters had breached Rights 2 and 4(2) of the Code.

73. **Offences —**

Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$3,000 who, —

...

- c) Makes any statement or gives any information to the Commissioner or any other person exercising powers under this Act, knowing that the statement or information is false or misleading:

To knowingly cause harm to another under the guise of being a professional counsellor is unacceptable. To provide false information during this investigation is to shirk responsibility for one's actions. To refuse to comply with lawful instructions is true arrogance.

Follow-up actions

- Mr Peters will be referred to the Director of Proceedings in accordance with section 45(2)(f) of the Health and Disability Commissioner Act 1994 for the purpose of deciding whether any proceedings should be taken.
 - A copy of this report will be sent to the New Zealand Association of Counsellors, the New Zealand Association of Neuro Linguistic Programming Incorporated, the New Zealand Police, and Work and Income.
 - A copy of this report, with details identifying the parties removed (other than Mr Peters), will be placed on the Health and Disability Commissioner's website, www.hdc.org.nz, for educational purposes.
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Addendum

The Director of Proceedings did not pursue a claim before the Human Rights Review Tribunal in this matter.