

Community Healthcare Worker, Parehe Nikau

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

Case 09HDC01375



Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

Overview

This report considers the evidence that Ms Parehe Nikau financially exploited Ms A while Ms Nikau was acting as her Community Health Coordinator in 2008.

Complaint and investigation

On 22 June 2009 the Commissioner received a complaint from Ms A about the services provided by Ms Nikau. The following issues were identified for investigation:

- *Whether Parehe Nikau financially exploited Ms A from 1 October to 31 December 2008.*

An investigation was commenced on 30 September 2009. This report is the opinion of Rae Lamb, Deputy Commissioner, and is made in accordance with the power delegated to her by the Commissioner.

Information was obtained from:

Ms A	Consumer/complainant
Parehe Nikau	Provider
A PHO	Provider/employer/Primary Health Organisation
Ms C	Ms A's care worker/support person
Ms B	Ms Nikau's work colleague
Ms D	Primary Health Organisation Community team leader

Information gathered during investigation

Ms A

Ms A was 63 at the time of this complaint. She has a long history of mental health issues and has been treated for an underlying depressive disorder and a moderate bipolar condition. Ms A lived with her father in the community until he died in 2007. At the time of his death, Ms A was stable and had been treated successfully in the community for some years. Following her father's death, she moved into a house with her cousin. Ms A's GP advised that at this time Ms A's medications were changed owing to a change in funding. In June 2008, the GP advised that he noted that Ms A began to experience difficulties with her cousin. In July 2008, he wrote a referral to the District Health Board (DHB) mental health team for "urgent review respite care and titrating of medication". He also made a referral to a Primary Health Organisation (PHO) to provide her with support in the community.

Ms Parehe Nikau

Ms Nikau, a qualified social worker,¹ began work for the PHO as a Community Health Coordinator (CHC) in November 2004. She was initially hired on a 12-month fixed-term contract but this was changed to a permanent contract on 26 July 2005.

The purpose of the CHC position is:

- “ • Strengthening of community links with primary care services.
- Strengthening of community links with health and non-health organisations.
- Facilitating access to health support services.
- Facilitating access to non-health support such as power, food, transport etc.
- Accessing existing support networks in the community.
- To reduce the incidence of poor health in Maori, Pacific and high health needs populations.”

The PHO

Part of the PHO’s portfolio includes the provision of community health services.

Professional relationship commences — 7 August 2008

As stated above, Ms A was referred to the PHO community health team in July 2008 by her GP because he had become increasingly concerned about her mental health and requested a CHC visit to assess what support could be provided to her. Ms A’s case was subsequently assigned to Ms Nikau.

Ms Nikau first visited Ms A on 7 August 2008. Ms Nikau explained that when she first attempted to visit Ms A she was refused entry into her house. Ms Nikau believes that this was because Ms A had issues with trust. However, Ms Nikau persisted and was eventually allowed entry. Ms Nikau documented in the PHO patient records:

“On visiting [Ms A] she did not accept me at first but after my introduction to who I am and why I was there she agreed to let me in the house.”

The records then state that after “several consultations” Ms Nikau considered that Ms A needed to be assessed by the mental health crisis team.² While the GP’s clinical records show that he made the referral to the DHB mental health team at the same time he made the referral to the PHO, Ms Nikau advised that she contacted the GP requesting a referral.

An appointment was subsequently made with a psychiatrist at a Community Mental Health Centre (the Centre). Ms Nikau advised that she drove Ms A to this appointment and stayed with her throughout for support. Following the assessment, a decision was made for Ms A to be admitted to the Centre under the DHB mental health team for respite care. Ms Nikau documented:

¹ Ms Nikau was not a registered social worker during the period under investigation.

² Ms Nikau has not made a separate record of each of her visits with Ms A.

“I went with [Ms A] for her psychiatric assessment with the Psychiatrist and it was decided then for [Ms A] to go into [the Centre’s] Respite Care. I helped [Ms A] settle before leaving her. This I feel will be a long process that will require CHC Support until the patient is stable enough to help herself. Because of her mental state and vulnerability she does not trust anybody.”

Ms Nikau advised that while Ms A was at the Centre, Ms A contacted her a number of times, suggesting a visit. Ms Nikau visited Ms A on a number of occasions to provide her with support. Ms Nikau advised that all of these visits were in her capacity as Ms A’s CHC.

On 8 August, Ms Nikau documented that she visited Ms A to take her some clothes. On 13 August, she documented that Ms A had requested transport to another town. Ms Nikau declined to transport Ms A on this occasion but, on 15 August, she arranged transport for blood tests and then saw her again for a follow-up appointment on 20 August.

Ms A was subsequently moved into respite accommodation in the community and, on 25 August, Ms Nikau visited her there. Ms Nikau recorded a number of further home visits between August and October.³ Ms A advised that she had assistance in finding new accommodation. The records show that Ms A moved into a new apartment on 29 October.

Ms Nikau explained that after Ms A was discharged from the Centre, as her CHC she was responsible for assisting her to find supported accommodation. During this time Ms Nikau considered that she had built up a relationship of trust with Ms A. This was confirmed by Ms A’s current community support worker at the Centre, Ms C. Ms C advised that following Ms A’s discharge from the Centre, Ms Nikau assisted her in settling into her new accommodation. Although the Centre’s community team continued to be involved, Ms A dealt mainly with Ms Nikau. Ms C advised that Ms A preferred to deal with Ms Nikau as they had developed a close relationship.

The records show that Ms Nikau visited Ms A three times after she moved into her new apartment. On 7 November, Ms Nikau saw Ms A for a “[follow-up] support visit”. On 2 December, Ms Nikau saw Ms A for a follow-up visit and medication review with the Centre’s psychiatric nurse. On 12 December, Ms Nikau accompanied Ms A to a review with the specialist at the Centre.

Ms Nikau advised that after Ms A moved into her new apartment she became more needy and demanding on her time. Ms Nikau recalls that she would often receive telephone calls from Ms A asking her to come around after she had finished with her other patients. Ms A would cook dinner for Ms Nikau and pressure her to stay. Ms Nikau advised that Ms A would also ask her to stay the night. Ms Nikau denied ever staying overnight. None of these visits or telephone calls are documented.

Ms A denies ever asking Ms Nikau to visit her or stay for dinner.

³ Visits are documented on 27, 29 August, 9, 10, 16, 23, 24, 25 September, and 3, 14 and 29 October 2008.

Ms Nikau stated that she felt that Ms A was becoming very “manipulative”. Ms Nikau began to feel more and more uncomfortable with Ms A’s demands for her time so she asked her colleague, Ms B, to take over Ms A’s care. However, Ms A refused to work with Ms B, and Ms Nikau had to resume care. This is not documented.

Ms B stated that Ms Nikau advised her that Ms A was becoming too dependent and asked her for assistance. However, Ms B was only ever asked to assist with transporting Ms A to one appointment. Ms B does not recall the details of the appointment but does not remember there being any problems. Ms B advised that Ms Nikau never said anything to her about receiving gifts from Ms A or any other patient.

Ms Nikau explained that at this time her life was very stressful because of pressures from her studies and a heavy workload, coupled with the recent death of her son. She explained that because she could not cope with any other stresses in her life she decided not to take her concerns to her manager.

Ms Nikau’s team leader, Ms D, recalls Ms Nikau advising her that she felt that Ms A was becoming too close and dependent on her, and Ms Nikau was concerned about her involvement with Ms A. Ms D stated that this type of situation was not uncommon, and she advised Ms Nikau to contact Ms A’s GP to arrange for a referral back to the Centre. Ms D recalls that Ms Nikau did contact Ms A’s GP although there is no documentation of this.

Ms D also recalls reminding Ms Nikau of the importance of documenting all her client visits after she noticed that Ms Nikau had not been documenting all her contacts with Ms A. Ms D advised that she was becoming concerned that Ms Nikau was spending so much time with Ms A, and her other work was starting to back up. Ms D advised that Ms Nikau went on leave shortly after this discussion. She followed up the matter again after Ms Nikau returned to work, but Ms Nikau would ignore the messages and emails she left for her. A short time later Ms A’s complaint was received.

Gifts

Ms Nikau advised that about the same time Ms A moved into her own accommodation she began offering her gifts. This was initially in the form of small amounts of money (\$20 or \$30) which Ms A said was to help pay for Ms Nikau’s lunches and petrol. Ms A then started buying her gifts of clothes and jewellery. Ms Nikau said that initially she refused these gifts, telling Ms A that she was paid petrol money by the PHO and, in any case, she could not accept gifts because she would get into trouble. However, Ms Nikau advised that Ms A became very manipulative and demanding. Ms A would tell her that no one would find out and that she wanted to give these gifts to help her out. Ms Nikau advised that after Ms A persisted she accepted some gifts.

The gifts included pairs of shoes, clothing, underwear and jewellery.

Ms Nikau advised that she was also given larger sums of money on different occasions. She recalls receiving a call at home from Ms A during which Ms A told her she was at the TAB, had just won \$8,000 and wanted to give Ms Nikau \$5,000. Ms

Nikau initially said no, but when Ms A advised her that if she didn't take it she would just gamble it, she accepted the money. Ms Nikau advised that she put the money into her bank account in a separate investment account to keep it safe with the intention of returning it to Ms A. Ms Nikau has since spent the money.

In contrast, Ms A recalls that on 31 October 2008, shortly after she had moved into her new apartment, Ms Nikau approached her asking for \$5,000 for her late son's unveiling ceremony. She recalls that Ms Nikau became quite emotional and told her she would have to ask her father for the money. Ms A agreed to give her \$5,400. She recalls giving her only \$450 from her winnings at the TAB. Ms A also advised that she bought Ms Nikau clothes and jewellery, as well as gifts for Ms Nikau's grandchildren. Ms A advised that Ms Nikau was present during all of these purchases and never declined any of them.

Ms A stated that she also gave Ms Nikau a cheque for \$20,000. Ms A advised that Ms Nikau asked her to make this cheque out to Polly Haenga, advising that she was also known by this name. Ms A recalls Ms Nikau telling her that she had put \$10,000 into her normal account and \$10,000 into an investment account. Ms A advised that Ms Nikau subsequently paid her back \$5,000 at her request. On 19 January, Ms A asked for a further \$5,000. Initially Ms Nikau agreed that she would pay back this money, but changed her mind after Ms A made the complaint to another organisation.

Ms Nikau agrees that Ms A gave her a cheque for the sum of \$20,000 and that it was made out to her in the name of Polly Haenga, her married name. However, Ms Nikau advised that she did not ask for the money, nor did she want it. She only accepted it because Ms A insisted on giving it to her. Ms Nikau recalls driving Ms A to her bank, not knowing what for, and waiting for her in the car outside. Ms A returned with a cheque for \$20,000. Ms Nikau accepted it on the agreement that it was a loan. When asked why it was paid to her in the name of Polly Haenga, Ms Nikau explained that she had only one bank account and it was in that name as she had not changed her details since separating from her husband.⁴ When asked how Ms A would have known this without being told to whom the cheque should be made out, Ms Nikau said that she would have mentioned it to her on a separate occasion. Ms Nikau reiterated that she did not ask for that sum of money, and did not know that Ms A was going to give it to her until she presented it in the car.

Ms A has also provided evidence that she bought a television and stereo (worth approximately \$2,500) for Ms Nikau on 8 December 2008. The name on the delivery receipt is Mrs Paulette Nikau. The address is Ms Nikau's home address. Ms A advised that this order was later cancelled. Ms Nikau denied that Ms A had ever bought her any electronic goods.

Ms Nikau maintains that she never asked for any of the gifts. She advised that she did not even want many of the things she was given, but took them because Ms A

⁴ The PHO confirmed that Ms Nikau was paid her wages into an account under the name of Polly Haenga.

insisted. Ms Nikau said that she intended giving back many of the gifts as they were not her taste.

In contrast, Ms A advised that Ms Nikau asked for all the gifts she gave her. Ms A stated, “I consider it was Parehe Nikau blackmailing me — deceitfully and very skilfully — by gradually gaining my respect ...”

Actions taken by the PHO

The PHO advised that Ms Nikau met with her team, including her team leader and the community health manager, every two weeks. The purpose of these meetings was to update staff on any new issues and provide them with a chance to review difficult cases. The PHO advised that Ms Nikau consistently attended these meetings but never mentioned Ms A. Ms D also met with each CHC individually on a fortnightly basis, and said that Ms Nikau never advised that she had been receiving gifts.

In addition, the PHO advised that all CHCs had monthly peer supervision sessions with the PHO’s Nurse Leader, for the purpose of case review and supervision. Again, Ms Nikau did not discuss Ms A during any of these sessions.

The PHO first became aware of the matter on 21 January 2009 when Ms D received a telephone call from the Centre. During this telephone call the Centre representative advised that Ms A had been to another organisation alleging that Ms Nikau had made repeated requests for money from her.

The PHO met with Ms Nikau later that day, advising her of the allegations. The PHO advised that Ms Nikau’s initial reaction was disbelief, “arguing that she felt this was retaliation by [Ms A] because [Ms Nikau] had sought to distance herself because she felt [Ms A] was becoming too dependent and attached to her”.

Later that day the PHO received another call from the Centre advising that Ms Nikau had contacted Ms A’s care worker advising that she would pay back the money the next day.

The PHO met with Ms Nikau again on the same day. During this meeting she agreed that she had received a \$20,000 cheque, together with some other specified sums from Ms A. Ms Nikau agreed to pay back \$27,000. The PHO immediately stood Ms Nikau down from her position.

The PHO then issued Ms Nikau a formal letter detailing the information provided and requested she attend another meeting on 3 February 2009, after being given time to seek advice. The PHO advised that during this next meeting Ms Nikau accepted that she was wrong in taking the gifts, even as a loan. She later expressed her wish to resign. However, the PHO requested that Ms Nikau remain a PHO employee and that she pay back all the money owed in the next week and a half. At this time the PHO was arranging a meeting with Ms A, her keyworker and Ms A’s friend.

The PHO advised that a meeting eventually took place on 10 March 2009 between Ms A, her friend, the DHB, and the PHO. At the meeting the PHO apologised to Ms A. In a letter summarising the meeting, the PHO stated that “[b]ecause [Ms Nikau] had

admitted she had accepted money on the understanding it was a loan, we had found that behaviour unacceptable and as a result [Ms Nikau] would lose her job". Ms A was then asked to make a list of all the gifts that Ms Nikau received, which would be passed onto Ms Nikau.

Ms A provided the PHO with a list of all the items she had given Ms Nikau. This totalled approximately \$55,000.

The PHO then wrote to Ms Nikau, forwarding her Ms A's list of allegations, and requesting her response. Ms Nikau left a message saying that she rejected the allegations, was seeking advice, and would not be paying back any money in the meantime.

The PHO advised that during this time, although she was not being paid, Ms Nikau remained an employee of the PHO "in the hope [the PHO] could continue to exert some influence with her to resolve the matter". However, her employment was terminated in May 2009 "when it became clear that there was nothing more the PHO could do to facilitate the repayment of any monies".

Amount involved

In an interview with HDC, Ms Nikau estimated that she received about 20 pairs of shoes, 40 pairs of underwear and 20 items of clothing. In addition she received three necklaces as well as money. Upon questioning, she conceded that the total value of the gifts and money she had received from Ms A may have been up to \$55,000.

Ms Nikau advised that as soon as she received the complaint she contacted Ms A's "trustee" advising that she intended paying back \$5,000 of the total sum owed. Ms Nikau withdrew this from her bank. However, after Ms A's list of alleged gifts was made Ms Nikau became upset and depressed as she did not want many of the things Ms A had given her. She decided not to pay back any of the money.

In contrast, Ms A advised that her friend received a telephone call from Ms Nikau wanting to know how she could refund \$5,000 into Ms A's bank account. The friend advised Ms Nikau to contact Ms A's lawyer, which she did not do.

Ms Nikau stated that she knew that she should not have accepted any of the things Ms A gave her. She does not know why she did not tell her manager about it, as she knew that the PHO would not approve of her receiving gifts from clients.

The PHO code of conduct

Ms Nikau advised that when she started at the PHO she underwent orientation. This included training in relation to patient confidentiality and professional conduct. Ms Nikau does not recall receiving guidance or seeing any policy in relation to receiving gifts from clients. However, she advised that it was her understanding that it was not appropriate to receive gifts from patients.

The PHO stated that at the time of Ms Nikau's employment, as part of her orientation programme she would have been advised on "professional practice, safety mechanisms for the staff member, patients and the organisation". While the PHO did

not have any specific policies in place in relation to gifts, staff were regularly reminded of their professional obligations and issues of personal and patient safety. Further to this, in 2008 it developed a new set of values and codes of conduct, which was provided to each employee. The document was reviewed during a staff forum that year. All staff were requested to review the document and raise any questions with their team leader. The document outlines the PHO's expectations, and places "obligations on both employees and the company to ensure that both act in a manner that enhances the employment relationship of the interests of the PHO". It states:

"Behaving professionally

We will not take advantage of, for ourselves or others, any opportunities that are discovered through the use of our position, the PHO information or property.

...

The PHO provides a safe way for staff to raise legitimate concerns through the Harassment and Protected Disclosures Policies, ensuring that in all instances where our Shared Values or Mutual Expectations have been breached, appropriate action will be taken."

Further action taken by the PHO

Following this incident all community staff were made aware of the circumstances and issues surrounding this matter. They were also advised that the Social Workers National Code of Conduct now operates as the PHO Code of Ethics. The PHO also advised that steps have been taken to ensure that the service is fully informed about the background of the patient being assigned to a CHC.

Opinion: Breach — Parehe Nikau

Ms A had the right to be free from financial exploitation.⁵ She was a vulnerable mental health patient who had issues with trust. For the reasons given below, in my view, Ms A was financially exploited by Ms Nikau.

Ms Nikau had been Ms A's CHC since 7 August 2008 following a referral from Ms A's GP for assessment for the provision of community support. Initially, Ms A had been reluctant to allow input from Ms Nikau. However, over time Ms Nikau formed a good relationship with Ms A. Ms Nikau stated that Ms A "trusted" her.

Ms A has provided HDC with an extensive, itemised list of gifts and money she gave Ms Nikau during this period, the value of which totals approximately \$55,000. Of note is \$5,400, which Ms A recalls Ms Nikau requesting to help pay for her late son's unveiling, a \$20,000 bank cheque made out to Ms Nikau's maiden name of Polly Haenga on 27 November 2008, and \$2,500 worth of electronic goods, which were ordered on 8 December 2008 but subsequently cancelled. Ms A stated that she gave

⁵ Right 2 states that "every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation".

Ms Nikau the gifts because Ms Nikau asked for them. She stated, “I consider it was Parehe Nikau blackmailing me — deceitfully and very skilfully — by gradually gaining my respect ...”

While Ms Nikau is unable to recall all of the specific items she received, she has accepted that the value of the gifts and the money Ms A gave her totals approximately \$55,000. However, she denies ever asking for any of the gifts or money. In relation to the cheque for \$20,000, Ms Nikau stated that Ms A gave this to her and insisted that she took it. Ms Nikau took it on the agreement that it was a loan, which she would pay back. Ms Nikau also recalls receiving a sum of \$5,000, which she accepted on the agreement that she would put this in a separate investment account for Ms A to keep it safe for her. Ms A advised that following her request, Ms Nikau paid back \$5,000 on 7 January. Ms Nikau has since spent the rest of the money.

While Ms Nikau acknowledges that she should not have accepted any of the gifts, she believes that she was manipulated by Ms A. Furthermore, she explained that she was under a lot of pressure in her own personal life, which meant that she was not in a position to cope with the pressure Ms A was putting on her. Although Ms Nikau asked a colleague to take over Ms A’s care when she became too needy, Ms Nikau advised that the pressures she was under meant that she did not feel able to go to her manager about the issues. She felt unable to deal with the situation and continued to accept gifts from Ms A.

Ms Nikau’s actions were clearly contrary to the PHO’s mutual expectations policy. Any relationship between a patient and a health professional, whether the health professional is registered or not, involves trust, even more so when the patient is vulnerable. Furthermore, regardless of the PHO’s expectations, while Ms Nikau was not affiliated with any professional organisation and is unregistered, she is qualified as a social worker and should have known better.⁶

Whether or not she asked for the gifts, Ms Nikau’s conduct between 1 October and December 2008 was clearly unethical. It is irrelevant whether or not she intended to pay back the money. Ms Nikau inappropriately accepted gifts and money from Ms A knowing that she was vulnerable and relied heavily on her for support. I find Ms Nikau’s suggestion that Ms A forced and manipulated her to take the money and gifts unconvincing. Ms Nikau’s explanation of how Ms A knew to make out the \$20,000 bank cheque in Ms Nikau’s married name is equally unconvincing. Furthermore, while Ms Nikau may have been coping with her own personal stresses, these in no way excuse her actions. As she herself has acknowledged, she could, and should, have promptly talked to her manager about the situation. She had clear options other than accepting the gifts. While she did discuss her concern about Ms A’s dependency, she did not tell her manager about the gifts or money. This was a patient with a significant mental health background, who by Ms Nikau’s own admission was in a very vulnerable state. I consider Ms Nikau’s actions to be a clear abuse of the trust Ms A placed in her as her Community Health Coordinator, and to be entirely inappropriate.

⁶ The Social Workers Registration Board *Code of Conduct* states that a social worker is expected to “... not exploit their relationship with clients for personal or professional gain ...”

I conclude that Ms Nikau breached Right 2 of the Code.⁷

I acknowledge that Ms Nikau has expressed a willingness to pay back Ms A all of the money. In my view, Ms Nikau is ethically obliged to pay back this money, and should do so.

Other comment

Documentation

Documentation of services provided is important to ensure quality and continuity of care. All health service providers, whether they are registered or not, have a professional obligation to document the services they provide.

While Ms Nikau kept some records of her consultations with Ms A, it appears she did not record every consultation. Nor do her records contain any detail of what occurred or was discussed with Ms A. Patient records need to be complete and accurate so that they can be accessed by the patient, and by other health professionals.

While documentation was not an issue I specifically investigated, Ms Nikau's failure to fully document her consultations with Ms A was a failure to comply with her professional obligations as a health care provider, and I highlight this for learning purposes.

PHO follow-up

Ms D was aware that Ms Nikau had some concerns that Ms A was becoming too dependent. Ms D advised Ms Nikau to follow-up this matter with Ms A's GP to arrange for her to be referred back to the Centre. Ms D advised that she confirmed that Ms Nikau had been in contact with Ms A's GP, although this is not documented.

Ms D was also aware that Ms Nikau was not documenting all of her contacts with Ms A, and had some concerns that Ms Nikau continued to see Ms A frequently, despite earlier advice to her that she should arrange for a referral back to the Centre. Ms D advised that this issue came up when Ms Nikau was about to go on leave. While Ms D did follow up the matter after Ms Nikau's return to work, the complaint was received a short time later, and Ms Nikau was stood down from her position.

Although I note that Ms D considered that she was persistent in following up her concerns with Ms Nikau, these issues warranted more assertive action. Had Ms D taken further steps to address the concerns, some of the issues that subsequently occurred may have been avoided. However, this observation is made with the benefit of hindsight. I accept that Ms D did not know about the receipt of any gifts, and took steps to follow up her advice about contacting Ms A's GP, and her concerns about Ms Nikau's documentation. While I do not hold either the PHO or Ms D responsible for Ms Nikau's breaches of the Code, I consider that this matter highlights the importance

⁷ Right 2 states that "every consumer has the right to be free from discrimination, coercion, harassment, and sexual, financial or other exploitation".

of proactively following up any concerns a team leader or manager may have about an employee's practice.

I note that a full report is being prepared by staff of the PHO for the Board of the PHO to consider, and I trust that the PHO will take this opportunity to remind all its management staff of the importance of carefully pursuing any concerns they may have about their team members.

Recommendations

I recommend that should Ms Nikau continue to work as a health care provider she seek registration with the Social Workers Registration Board and undertake further training on professional conduct and documentation. Ms Nikau should report back to this Office by **9 April 2010** outlining her intentions for returning to work.

Follow-up actions

- Parehe Nikau 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, with details identifying the parties removed, will be sent to the District Health Board and the Social Workers Registration Board. Parehe Nikau (also known as Polly Haenga) will be named in the cover letter.
- Subject to submissions from Ms A and Ms Nikau a copy of this report, will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes. Details identifying all parties, except the name of Parehe Nikau (also known as Polly Haenga), will be removed.