

**Access Community Health Limited  
Support Worker, Ms B**

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

**(Case 21HDC00458)**

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## Executive summary

1. This report relates to the homecare services provided to Mrs A from 2016 until January 2021 by a support worker, Ms B. Ms B was employed by Access Community Health Limited (Access) and provided Mrs A with shopping support and assistance with housework. Over the close to five-year period, Ms B developed an increasingly familiar working relationship with Mrs A. After Mrs A's death, her daughter, Ms C, identified that Ms B was in possession of Mrs A's car, had used her EFTPOS card, and had sent personal texts and eaten meals at her home outside of work hours.
2. This case serves to highlight the difficulties that can arise in situations where a consumer is relatively isolated and becomes increasingly reliant on the social contact and the personal relationship they establish with their community support worker, not only to maintain their independence with aspects of daily living, but also to provide emotional support and possibly companionship. This requires appropriate training to be provided to the support worker to equip them both to recognise the situation and to manage and respond to it appropriately. Importantly, it also necessitates adequate independent checks and balances within the system to identify emerging risk.

## Findings

3. The Deputy Commissioner found that Ms B failed to maintain appropriate professional boundaries with Mrs A, including that Ms B used Mrs A's EFTPOS card and did not adhere to Access's Shopping, Money Handling and Key Holding policy. Ms B also had contact with Mrs A outside work hours, made purchases other than groceries, and entered into an arrangement to receive Mrs A's car. The Deputy Commissioner considered that Ms B failed to comply with relevant standards and breached Right 4(2) of the Code.
4. The Deputy Commissioner considered that Access did not oversee Ms B adequately and did not provide her with refresher training or adequate support. When Access became aware that Mrs A was becoming more dependent, it failed to discuss with Ms B the ethical issues and her professional responsibilities in the circumstance, and it did not update Mrs A's support plan. The Deputy Commissioner found that Access failed to comply with relevant standards and breached Right 4(2) of the Code.

## Recommendations

5. The Deputy Commissioner recommended that Ms B and Access each separately apologise to Mrs A's family for their breaches of the Code.
6. The Deputy Commissioner recommended that in addition, Access review its training platform to ensure that it equips support staff to manage boundary issues, human rights, advocacy, and communication issues; conduct a survey to assess whether service users feel able to comment freely on the care provided; institute compulsory refresher training and robust procedures to monitor compliance with policies and procedures; develop a policy on performance reviews; and arrange for its next external audit to consider the issues identified in this complaint.

## Complaint and investigation

7. The Health and Disability Commissioner (HDC) received a complaint from Ms C about the services provided to her mother, Mrs A (dec), by Access Community Health Limited (Access) and support worker Ms B.
8. The following issues were identified for investigation:
  - *Whether Access Community Health Limited provided Mrs A with an appropriate standard of care in 2020 and 2021.*
  - *Whether Ms B provided Mrs A with the appropriate standard of care in 2020 and 2021.*
9. This report is the opinion of Rose Wall, Deputy Health and Disability Commissioner, and is made in accordance with the power delegated to her by the Commissioner.
10. The parties directly involved in the investigation were:

Access Community Health	Provider
Ms B	Provider/support worker
Ms C	Complainant/consumer's daughter
11. Further information was received from ACC and the New Zealand Police.

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## Information gathered during investigation

### Introduction

#### *Complaint*

12. Ms C complained about the conduct of support worker Ms B, who provided home care support services to Ms C's mother, Mrs A, before she died aged in her seventies. Ms C said that Ms B provided services to her mother for five years.
13. Ms C told HDC that she had not seen her mother for three years prior to her admission to hospital. However, she and her sister visited their mother in hospital prior to her death.
14. Ms C said that after her mother's death, she discovered that Ms B had possession of her mother's car and had been using her mother's EFTPOS (bank) card outside her work time to withdraw money and make purchases. Ms C stated that Ms B was also sending personal texts to her mother out of work hours, and Ms B and her daughter were having meals at Mrs A's home, paid for by Mrs A. Ms C said that her mother was showing signs of dementia, and that after her mother's death she found her mother's house in a disgusting condition.
15. Ms C also made a complaint to ACC and the New Zealand Police. After investigation, the police decided not to bring a prosecution. Access told ACC that it was treating the

complaint as an employment matter, and ACC advised Ms C that it would not be informed of the outcome.

### **Support for Mrs A**

16. In 1990 Mrs A tripped and fell down some concrete steps. As a result of her injuries and medical issues, she needed assistance with housework.
17. A service (now Access Community Health) began providing home care support services to Mrs A in 2014.
18. Access provided one hour per week of home support to Mrs A under an Integrated Home and Community Support Services (HCSS) contract with ACC, and a further 45 minutes per week for support with grocery shopping under an HCSS service agreement with the then district health board (DHB). Access told HDC that both these services required non-complex household management support and did not involve any clinical or medical support.
19. The ACC HCSS Operational Guidelines (dated December 2018, in place at the relevant time), which are incorporated into the ACC service agreement, include a general requirement on service providers to monitor clients' support needs and to notify ACC if these needs appear to change.

### **Ms B**

20. In 2016, Ms B was appointed to the role of support worker.<sup>1</sup> Her job description included the following:

‘To undertake only the duties for clients that are listed in individual support plans and to deliver these with care, diligence, a high level of customer service and in such a way as to support client physical, social and emotional health.’
21. Ms B signed a document stating that she had read and understood the information in the Access Support Worker Handbook and had been provided with a copy of the Code of Client Rights. Page 12 of the Support Worker Handbook requires support workers to notify Access's contact centre of any changes in their clients' condition or support times.
22. Access told HDC that Ms B had completed NZQA Level 2 and NZQA Level 3 of the New Zealand Certificate in Health & Wellbeing. In addition, she received Access's general induction training and a copy of the Access Support Worker manual, which outlined its expectations regarding professional boundaries when supporting clients. Access said that it completes competency assessments with its support workers at least twice per year, during which the workers are assessed in clients' homes with an assessor observing the tasks being completed. Access said that Ms B was assessed for competence in her role in January 2021 and she passed this test. Access provided the template form to be completed during the assessments. In response to the provisional opinion, Access supplied annual general

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<sup>1</sup> Ms B resigned during Access's investigation of the issues in Ms C's complaint.

competency assessments of Ms B completed in February 2019, February 2020, and January 2021 and apologised for not having provided them previously. Access noted that the assessments do not relate to the support that Ms B provided to Mrs A, but they reflect Ms B's assessed competency. Access said that it believes general competency assessments are an effective means of monitoring staff performance.

23. Access said that Ms B was well regarded by her regular clients, and it was not aware of any issues with her performance. It said that as part of its monitoring and supervision of support workers, it relies on clients to provide feedback or raise concerns if they are worried about any aspects of the support being provided. Access told HDC that Mrs A did not raise any such concerns during the time she was supported by Ms B.

### **Support provided by Ms B**

24. Ms B told HDC that when she first started to provide support to Mrs A (in 2016), Mrs A was living in a house owned by Ms C, who visited her mother regularly with Mrs A's grandchildren. Ms B said that at that stage, Mrs A was still mobile and able to drive. Ms B said that she would change the bed, clean the toilet and bathroom, dust, vacuum, and mop the floors. At that time, Mrs A was having her shopping delivered.
25. Ms B said that Ms C asked Mrs A to move out of the house as she wanted to sell it and, around that time, Ms C cut all contact with Mrs A. Ms B stated: 'This is where the lines of professional and personal boundaries began to get crossed. [Mrs A] was all alone with no family help or support now.'
26. Ms B said that when Mrs A moved into a new house, she continued to provide an hour of housework per week for Mrs A.
27. On 6 November 2017, Mrs A's GP referred her for an assessment of her support under the DHB funding, as she was struggling with shopping, cooking, and other tasks at home due to her arthritis. Mrs A was assigned a low-level non-complex case mix, and the outcome of the assessment was that she received an additional 30 minutes to her existing one hour per week, to assist her with the heavier household tasks.
28. On 15 November 2017, an Access nurse recorded that Mrs A required shopping support, to be funded by the DHB. Ms B then assisted Mrs A with her shopping in addition to the housework. The additional 30 minutes per week referred to in paragraph 27 was increased to 45 minutes per week at this time.

### **Support plan**

29. Mrs A's Support Plan from November 2017, which was still in place in 2020/21, included the following:

'Shopping: Assist with shopping as required

[Mrs A] will have a shopping list organised

[Mrs A] will give SW (support worker) money (cash) to purchase the groceries from supermarket.

SW to go to the supermarket of [Mrs A]'s choice to collect & purchase the grocery items on the shopping list. [Mrs A] will sit and wait at a local coffee shop due to mobility is unable to assist support worker.

When shopping for your client when selecting frozen or packaged items, check that there is a reasonable length of time before the expiry or "best before" date, the packaging is undamaged, eg cans with dents, cracks or bulging lids, frozen foods are hard, there is no evidence of spoiling of refrigerated, frozen or fresh items. Check that eggs have no cracks in the shell.

Using cash — pay, receive and check any change.

Retain the receipt.

SW to return home with [Mrs A] after the shopping is complete.

Once you are back in the client's home, and with the client as appropriate, check items purchased against the list and against the receipt, the total amount, and the change received. Enter the details in the note book, attach the receipt to this page and both you and the client (if able) sign the page.

SW to assist [Mrs A] with unpacking of grocery items at home.'

### Reviews in 2020

30. ACC undertook annual reviews of Mrs A, and on 5 June 2020 it conducted its final review. ACC's report states that Mrs A had right-sided weakness with a delay in her step, and always mobilised using her walking frame. She continued to manage her own personal cares and said that she preferred to continue to do so for as long as possible. She managed those tasks slowly and remained seated when dressing. The report states that Ms B arrived during the review and said that she had noticed a deterioration in Mrs A's condition. Ms B said that she would 'continue to monitor' Mrs A and report back to Access if there was a need for an increase in cares. Access told HDC that Ms B did not raise any further issue about the deterioration of Mrs A's health after this date. ACC continued to fund one hour per week for housework and the DHB funded 45 minutes per week for grocery shopping. The housework and grocery shopping support were provided by Access.
31. Ms B told HDC that between June 2020 and December 2020, she suggested to Mrs A that she could arrange more hours with Access to give her more support, but Mrs A declined and said she was still capable of showering and dressing herself, and it just took her longer to do it. Ms B stated:

'[Mrs A] was a very independent wom[a]n and hid very well just how sick and how much she was struggling. In hindsight I should have just informed Access and got a nurse out to reassess [Mrs A].'

32. On 21 October 2020 Access conducted a review of Mrs A's services by telephone. Mrs A said that she no longer drove and was housebound, and she received no support from either of her daughters. There is no record of Access having considered how Mrs A would pay for her groceries given that she was housebound and consequently unable to withdraw cash to give to Ms B as required by her support plan.

33. At about this time, the DHB gave notice that it intended to cease the funding of shopping support, so Access planned to see whether ACC would fund this. Access proposed to reduce Mrs A's cares to fortnightly, and on 22 October 2020 an enrolled nurse conducted an in-person visit to discuss the proposed reduction in services. The nurse recorded that she told Mrs A that Access was no longer able to provide weekly shopping assistance and that she had suggested that Mrs A take that up with ACC. The nurse told Mrs A that Access could come to complete the household tasks each fortnight rather than weekly. The nurse recorded:

'She is not happy and states she does not accept this. She does not understand my visit or the purpose. I have tried to explain as best I can however will ask ACC CM [case manager] to assist with this. [Mrs A] refuses to allow me to see the access folder. She refuses to discuss this further.'

34. Despite the proposed reduction in services, it appears that Access's provision of support to Mrs A continued unchanged with a plan for a review of her cares in early 2021.

35. With reference to the assertion in Ms C's complaint that her mother had dementia, Access said that it was not aware of this and was never informed by any health professional that this was the case. Access stated:

'On review of the information we hold, our nurses (who assessed [Mrs A] for her support needs) never considered that [Mrs A] was affected in this way, and instead she was considered to have sufficient capacity to understand and make decisions about her own health and the way that she lived (including the cleanliness standard of her home).'

### **Admission to hospital — 2021**

36. In 2021 Ms B arrived at Mrs A's home and found her lying on the floor. Ms B called the emergency services and Mrs A was transported to hospital, where, sadly, she died.

### **Cleanliness of house and food available**

37. Ms C complained that when she and her sister went to their mother's house after her death, they found that it was unclean, and the fridge contained outdated and spoilt food.

38. Ms C provided photographs of the interior of the house and of the packaging of food with expired use-by dates.

39. In response, Access said that Ms B told Access:



'I was on leave the [three] weeks prior to finding [Mrs A] on the floor. The house was cleaned regularly. I admit I never checked the fridge as [Mrs A] put away her own shopping and I assume she would just throw away the off or rotten food. [Mrs A] had been incontinent on the floor when she fell. I went back the next day to clean the floor in my own time, so it wouldn't sit there for days.'

40. Access clarified that Mrs A was not left alone during that period, as she received regular and ongoing scheduled support during that time from other support workers. In response to the provisional opinion, Access also said that it was not responsible for managing the contents of Mrs A's fridge. It noted that she was considered capable and was outspoken that this was her own responsibility.
41. Access said that another support worker who provided casual support<sup>2</sup> to Mrs A while Ms B was on leave in late 2020 stated:

'I remember cleaning her house nicely, there were a lot of dead dried bugs and there were many of them. They were cockroaches. Some of them were along the side of the bed, I noticed them when I opened the curtain, some were along the sliding door and others were on the floor in the toilet. I tried to remove them all from her floor areas and bath. I requested that she buy some bug spray. [The support worker] was away and I was a reliever at the time. [Mrs A] said that she doesn't need any bug spray, she said it's all sorted ... I asked her if we can throw away some of the expired foods in the fridge and go through all of her old and new food items but she asked me not to touch it. She preferred to wait for her regular Support Worker to come back from leave as she wanted to go through it all with her. I was cleaning the home and doing her shopping, I tried to put the shopping away for her and she asked me to leave it alone because she wants to do it herself. Also with her dishes, I offered to support her to do these and she said that she wants to do it by herself. She said [she] was independent and her only problem she is facing is walking outside the front door and doing her shopping ...'

42. Mrs A's neighbour stated that she visited Mrs A a few times over the three years they lived beside each other. The neighbour said that they moved in around the same time and they exchanged telephone numbers. She said that Mrs A told her that she had a care worker/cleaner and once a week the care worker got her groceries.
43. The neighbour said that Mrs A's physical health was not good, and she was unable to move far, or go outside. The neighbour stated that the kitchen always had dishes and old food on the bench and sometimes there were strong smells coming from the kitchen. She said that there was no fresh food visible, just food such as biscuits, breads, and buns. She stated that there were 'ants and cobwebs everywhere, and thick dust on all the furniture'. She said that sometimes Mrs A would forget things or make up that she had rung people.

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<sup>2</sup> Access did not state the dates on which this support worker provided services to Mrs A.

44. Access provided comments from several relief support workers who went to Mrs A's home during 2020, none of whom reported that the house was unclean or that they had concerns about Mrs A's wellbeing.
45. Ms B told HDC that Mrs A always asked her to buy her fresh fruit, and most of the time Mrs A preferred pre-packed frozen meals for dinner as they were easy for her to heat and eat. Ms B said that occasionally Mrs A would ask for salad ingredients or food to make a soup.
46. In response to the provisional opinion, Access noted that support staff have commented that Mrs A had a strong view about managing her own fridge and contents, as well as the cleanliness standard of her home. Access stated that Mrs A was considered capable of making her own choices and decisions about her own home generally, and Access does not accept any suggestion that Access staff should have done more in regard to the cleanliness of her home, kitchen, or fridge.

#### **Financial issues and use of EFTPOS card**

47. Access told HDC that it supports clients with their shopping needs. Its requirements are set out in the 'Shopping, Money Handling and Key Holding' policy (see Appendix B).
48. It appears that Ms B attended to Mrs A's grocery shopping from around November 2017. Access said that Ms B explained that Mrs A asked her to do the grocery shopping without her, as she was unable to walk down the front steps of the house. Ms B said that before a shopping excursion, she would collect the shopping list and EFTPOS card from Mrs A and then go to the supermarket to collect the items. Ms B stated that she always returned the EFTPOS card to Mrs A along with the shopping list and a receipt. No records of the shopping or receipts have been provided to HDC. Ms B said that while she was doing the shopping, she would sometimes receive a text from Mrs A asking her to pick up takeaway food.
49. Ms C provided HDC with multiple screenshots of text messages between her mother and Ms B. Some are undated but many have dates in 2020 and refer to Ms B withdrawing money and making purchases.
50. Ms B subsequently told Access that there were instances when Mrs A asked her to make additional purchases for her. Ms B recalls purchasing an electric blanket, an electric fan, a cell phone, and two laptops one month apart. Ms B stated that Mrs A said that she wanted a new laptop to replace her old computer, but the first one was faulty, so she asked Ms B to buy a second one from a different store.
51. Access stated:

'This should not have occurred and does not meet with Access' policy or expectations. Access was not aware of this arrangement until speaking with the support worker about this complaint ... Access has not seen any records or receipts in respect of these purchases.'
52. Ms B told HDC: 'I can confirm that Access has not seen any records or receipts in respect of these purchases.'

53. Ms B agreed that she made purchases for Mrs A outside her work hours and the Access agreements, but she denied having ever bought herself and/or her daughter dinner using Mrs A's money. Regarding the cash she withdrew from ATM machines, Ms B said that she gave the money to Mrs A so that she had cash on hand to pay for expenses such as lawn mowing or having her hair cut at home, or so she could give money to the relief support workers for grocery shopping when Ms B was away.
54. Ms B stated:
- 'Even though I thought I was doing the right thing and trying to help [Mrs A] due to her family's absence from her life [during] the last 3 years of her life and [she had] no other support. I now know that I was in the wrong and crossed professional boundaries with [Mrs A] and should have gone straight to Access as soon as these situations arose.'
55. Ms C said that when they cleared out her mother's house after her death, there was an electric blanket and a fan in the house. There was also a laptop, but she understood that another one had been bought under Ms B's name with Mrs A's money. Ms C said that Mrs A had two cell phones. The old one had multiple texts to and from Ms B, whereas she said that the one Mrs A had with her in hospital had everything deleted off it.
56. Access told HDC that it is not acceptable for Access support workers to do any shopping for clients apart from groceries (where this is pre-arranged and approved). Support workers are discouraged from using clients' EFTPOS cards unless there has been prior approval in keeping with Access's money-handling policy. Normally, support workers would support a client with their shopping by being alongside them to help with heavy lifting, and support workers would provide support with the exchange of money only if there had been prior approval from the Regional Manager. Access stated: 'Unfortunately it appears that [Ms B] did not follow policy in respect of both the grocery shopping and additional shopping requested of her by [Mrs A].'

### **Mrs A's car**

57. Mrs A was no longer driving, and her neighbour stated that Mrs A had talked to her about needing to sell her car.
58. Ms C said that her mother had owned a car for 12 years. She said that the value of the car was around \$7,000 in 2020. Ms C said that while her mother was in hospital, she rang Ms B and asked about the car, and Ms B said that she did not know where it was. After her mother's death, Ms C found out that the car was gone.
59. Ms C asked Access to find out from Ms B where the car was, and Access told Ms C that Ms B said that Mrs A had sold the car six months previously and she did not know to whom Mrs A had sold it. Subsequently, Ms C saw Ms B driving the car and took several photographs of her with the car. Ms C said that she checked her mother's bank statements and found that no payment had been made for the car.

60. The ownership of the car had been transferred from Mrs A to Ms B on 28 June 2020. Ms C provided HDC with multiple text messages between her mother and Ms B. From these it is apparent that Mrs A was aware of, and agreed to, the change of ownership. Ms B texted: 'car is now in my name and covered under my insurance' and Mrs A replied: 'Well done sunshine — I can now cancel my one.' On 23 November 2020 Ms B arranged for a security to be registered against the car regarding a loan.
61. Ms B told HDC that Mrs A wanted to give her the car as it was not being used, and as a thank you for all her help and support. Ms B said that she declined, as it was 'too much' and she did not 'feel right just taking her car'. She said that Mrs A insisted that she have the car, so she told Mrs A that she would pay her for it. Ms B stated: '[Mrs A] came up with the amount of \$3000 and said I could pay her off weekly at \$10. I wanted to pay more, but Mrs A wouldn't take more than \$10.'
62. Ms B produced a copy of a handwritten page from a notebook purporting to be a record of the payments she made. It shows 18 payments, each of \$10, between 28 July and 15 December 2020, a payment of \$30 on 8 September 2020, and a payment of \$20 on 3 November 2020. Each entry has initials next to it.
63. In 2021, after having had the security interest removed, Ms B passed the car to Ms C's lawyer.

### **Further information**

#### *Access*

64. Access told HDC that after Ms B's resignation, it was unable to complete its investigation into Ms C's complaint. However, on review of the complaint and the issues raised about Ms B's conduct, Access acknowledged that Ms B had breached its policy and expectations regarding appropriate conduct and maintaining professional boundaries.
65. Access stated:

'In particular, the arrangement in respect of [Mrs A's] car should not have occurred without Access' knowledge, and the ongoing communications between the support worker and the client outside of support provision hours was inappropriate and not in line with our policy. It also appears that the support worker was providing support to the client outside of the contracted arrangements and our policy, and may have been accessing the client's money in an inappropriate manner, but we are unable to determine this further.'

#### *Ms B*

66. Ms B told HDC:
- 'I will admit that I did not inform Access that I was providing additional support to [Mrs A] outside of work hours. I thought that if I was doing it in my own time that I didn't need to inform Access. I now know that I should [have] informed Access and spoke to them about the additional support that I was providing to [Mrs A] and followed Access policy regarding money handling.'

67. Ms B said she did not fully understand Access's professional boundaries policy, code of conduct, or money-handling policy.
68. Ms B told HDC that she worked alone for the majority of the time, and often, if she called Access to speak with someone, it would take a long time to get a reply so she just had to leave a message and hope that someone would call her back, but sometimes she never got a call back.

### Responses to provisional opinion

#### Ms C

69. Ms C was given the opportunity to comment on the information gathered section of the provisional report and provided comments. In addition, Ms C said that in the end, her mother would not speak to her or her sister. She said that the last time she saw Mrs A she was still able to walk and was driving, and that had Access or Ms B informed her about her mother's deterioration, she would have stepped in.

#### Ms B

70. Ms B was given the opportunity to comment on relevant sections of the provisional report. She stated:

'Now that I'm aware that I have crossed a professional/personal boundary, I understand that I have now breached the Code of Health and Disability Services Consumers' Rights. However I didn't intentionally set out to cause any harm or take advantage of a client. I see how this may look from an outsider's perspective now, however at the time I thought I was doing what was best for the client as she apparently had no other support. As I was unaware of the client's status of her condition, I thought she was of sound mind. I now have a better understanding of the effects that Dementia has on people due to my ongoing training.'

#### Access

71. Access was given the opportunity to comment on the full report. Its comments have been incorporated where appropriate.
72. Access submitted that from mid-2020 until Mrs A's death in 2021, the wider health and disability sector was under immense stress in relation to the COVID-19 pandemic and Government alerts and lockdown periods,<sup>3</sup> which is why some regular reviews with staff and clients may have been more limited or condensed than usual. Access said that, as an example, after the October 2020 telephone review with Mrs A, it did not consider how she would continue to pay for her groceries given that she was more housebound at that point in time. Access accepted that this may be a valid technical point but requested that this be considered in light of the wider sector circumstances at that time and what was realistic

<sup>3</sup> Aotearoa New Zealand was at alert level 4 (lockdown) from 11.59pm on 25 March 2020 until 11.59pm on 27 April 2020, when it moved to alert level 3. Alert level 3 was in place until 11.59pm on 13 May 2020, when it moved to alert level 2. It moved to alert level 1 at 11.59pm on 8 June 2020. Aotearoa New Zealand (except for Auckland) moved to alert level 2 once more in 2020, from 11 August 2020 until 21 September 2020.

within the general pragmatic approach that service providers were being asked to take by the Government.

73. Access stated that individual support workers have competency assessments and reviews at least twice yearly, including an annual general competency assessment and then specific competency assessments on different topics at other times.
74. Regarding support workers working alone, and the need for more effective supervision and monitoring of those workers, including specific performance appraisals, Access stated that this is not possible in light of the current contractual and funding framework within which service providers must operate. Access said that it does not believe that the current funding for home and community support services allows for any additional monitoring and supervision, or detailed performance appraisals.
75. Access believes that it has developed a sufficient monitoring framework within the available funding resources.
76. Access submitted that common sector practice relies heavily on service users and support staff raising any concerns about service provision so that the provider can then investigate and take any further action where necessary. It noted that Mrs A did not appear to have any such concerns, and there is no evidence that she was an 'at risk' consumer who might not have been in a position to raise such concerns.
77. Access said that it hosts quarterly meetings in local areas for support workers collectively to attend (on a paid basis). It stated that these voluntary but well-attended meetings provide an opportunity for support workers to engage with each other along with their local team leader. The local meetings also provide an opportunity for team leaders to provide refresher training on identified 'hot topics'.
78. Access stated that it provided Ms B with sufficient training and information, including regular access to refresher training and support, such as at the voluntary local quarterly meetings for support workers, and during her six-monthly competency reviews.

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### **Opinion: Ms B — breach**

79. Under Right 4(2) of the Code of Health and Disability Services Consumers' Rights (the Code), Mrs A had the right to have services provided in accordance with the relevant legal, professional, ethical, and other relevant standards. Although Ms B, as a support worker, does not belong to any professional organisation, she was bound by the standards set out by her employer, Access, including its policies concerning conduct and client care.
80. Despite the complaint from Ms C, during the course of this investigation this Office has not received evidence that suggests that Ms B neglected Mrs A's needs or treated her unkindly. The tone of the text messages between Ms B and Mrs A is warm and

affectionate. However, there is no dispute that there was blurring of the client/support worker boundaries as a consequence of Ms B and Mrs A becoming friends, and, as Mrs A became more isolated, being housebound with little family contact, this friendship became increasingly unprofessional. I have not been able to ascertain with certainty the extent of the boundary violation that occurred between Ms B and Mrs A but the identified issues that I am aware of included Ms B being in contact with Mrs A outside of her work, using Mrs A's EFTPOS card to make purchases, sharing meals with Mrs A, and taking possession of her car. Boundary issues, by their very nature, involve two people. However, when the relationship involves an at-risk consumer, the onus is on the support worker to behave in a professional manner.

81. Ms B said that she did not fully understand Access's professional boundaries policy, code of conduct, or money-handling policy. However, ultimately, I do not find this credible. Ms B had completed NZQA Level 2 and NZQA Level 3 of the New Zealand Certificate in Health & Wellbeing. In addition, Access had provided her with its general induction training and a copy of the Access Support Worker manual, which outlined its expectations regarding professional boundaries when supporting clients. The Access Professional Boundaries policy (see Appendix A) sets out examples of conduct that may constitute an unacceptable breach of professional boundaries, including receiving significant gifts, visiting a client's home outside work hours, and entering into financial interactions, such as buying from a client or selling something on their behalf.
82. Access's shopping, money-handling and key-holding policy (see Appendix B) and Mrs A's support plan set out the process when shopping for Mrs A and included a requirement to check the items purchased against the shopping list and against the receipt, the total amount, and the change received. The support worker was required to enter the details in the client's notebook, attach the receipt to that page, sign the page, and ensure that the client also signed the page. However, neither Ms B nor Access supplied HDC with any records of Ms B's expenditure of Mrs A's money.
83. Mrs A's support plan set out in detail Access's expectations when Ms B was shopping for her. The Care Workers' Handbook requires support workers to notify Access of any changes in their clients' condition or support times. In my view, it was Ms B's responsibility to be familiar with these requirements and to advise Access if the support plan was no longer suitable as Mrs A became less self-reliant, in particular from June 2020. Alerting Access to the consumer's increasing dependency at this point would not only have offered some protection to Mrs A but also importantly to Ms B. Actions could have been taken to manage the increasingly dependent relationship that was developing.
84. Access's shopping, money-handling and key-holding policy also specified that support workers must not use a client's credit/debit card for any transaction, or have knowledge of the client's pin number unless an exception had been made as per the Money Handling/Key/Key Code Holding Form. It appears that Ms B was using Mrs A's EFTPOS card without any authorisation from Access.



85. As stated, the Shopping, Money Handling and Key Holding policy provided explicit instructions regarding shopping and prohibited the use of clients' debit cards without explicit permission. However, Ms B has acknowledged that she had contact with Mrs A outside of her employment, purchased items other than groceries, used Mrs A's EFTPOS card to buy groceries and takeaway food, and withdrew cash using Mrs A's EFTPOS card, all without authorisation by Access. From the information gathered during the investigation, I am unable to make a finding as to whether Ms B misappropriated any money or used the card to purchase items for herself, such as the laptop computer or takeaway food for herself. Nevertheless, it is not disputed that Ms B used Mrs A's money to purchase items that should not have been purchased, which is a serious breach of standards.
86. Ms B claimed that Mrs A wanted to give her the car, which was valued at around \$7,000. Ms B said that she 'insisted' on paying the agreed sum of \$3,000 for it. Ownership of the car was transferred from Mrs A to Ms B in June 2020. Ms B used the car as security for a loan in November 2020. I note that when asked by Access and Ms C in January 2021 where the car was, Ms B said she did not know. In my view, this suggests that she was aware that she should not have had possession of the car and was being deliberately dishonest about its whereabouts. Ms B produced a copy of a handwritten sheet of paper ostensibly indicating that she had made some payments for the car. I consider that it is irrelevant whether it was a sale or a gift — it was inappropriate for Ms B to enter into this arrangement with Mrs A, and it was a breach of professional boundaries under Access's Professional Boundaries policy.
87. Regarding the condition of Mrs A's home, I accept that Ms B had been away for three weeks before Mrs A was found on the floor, and also that Mrs A wanted to remain in control of putting her groceries away, and of the contents of her refrigerator. I accept that respecting the dignity and independence of the individual is paramount, and there is a delicate balance between maintaining a person's choice and control in their life with upholding their ongoing safety and wellbeing on a day-to-day basis. On this occasion, however, it is concerning that a neighbour referred to there being unpleasant smells from the kitchen and to the unkempt state of the home. In my view, Ms B should have been aware that if there were such issues, she needed to alert Access to them to facilitate further review as warranted.
88. Ms B said that she did not inform Access that she was providing additional support to Mrs A outside work hours because she thought that if she was doing it in her own time, she did not need to inform Access. Overall, I am concerned about Ms B's claim that she lacked understanding of relevant standards, especially as she signed an acknowledgement of having read and understood them in 2016.
89. By failing to maintain appropriate professional boundaries with Mrs A, Ms B failed to comply with ethical and professional standards. By entering into an arrangement to receive Mrs A's car, Ms B acted in a manner that constitutes an unacceptable breach of professional boundaries under Access's Professional Boundaries policy. By failing to adhere to the process outlined in the Shopping, Money Handling and Key Holding policy, Ms B



failed to comply with relevant standards set by her employer, and, accordingly, I find that she breached Right 4(2) of the Code.

### Other comment

90. I note that Ms B now works with vulnerable people with dementia. Given the circumstances of this case, which suggest that Ms B lacked insight into appropriate professional conduct while working as a support worker for Access Community Health, I intend to inform Ms B's current employer about my decision in this matter.

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## Opinion: Access Community Health Limited — breach

91. The Health and Disability Services Standard 8134: 2008 states:

'1.3.7 Consumers are kept safe and are not subjected to, or at risk of, abuse and/or neglect.

...

1.7.1 Services have policies and procedures to ensure consumers are not subjected to discrimination, coercion, harassment, and sexual or other exploitation.

...

1.8.1 The service provides an environment that encourages good practice, which should include evidence-based practice.

...

2.3.1 The organisation has a quality and risk management system which is understood and implemented by service providers.

...

2.3.9 Actual and potential risks are identified, documented and where appropriate communicated to consumers, their family/whānau of choice, visitors, and those commonly associated with providing services.'

92. In paragraph 80, I stated that when the relationship involves an at-risk consumer, the onus is on the support worker to behave in a professional manner. Access disputed that Mrs A was at risk or vulnerable and said that she retained the capacity to make decisions. I accept that there is no evidence that she lacked capacity, but I remain of the view that she was vulnerable given her social isolation and being housebound.

93. I consider that Access, as Ms B's employer, had the overall responsibility to ensure that Mrs A received services that complied with the Code. To do so, Access needed to provide its employees with adequate policies and procedures to guide their actions and ensure

that they received appropriate training and were adequately equipped to both recognise and respond to emerging personal relationships. I accept that Access had policies stating that employees must maintain appropriate professional boundaries and must follow a process when handling clients' money. However, Access needed to monitor staff compliance with the policies and procedures and actively identify, monitor, evaluate, and manage risk.

94. I note that Access submitted in response to the provisional opinion that it is not sufficiently funded to be able to monitor its support workers. I do not accept this position and remain of the view that as the employer, Access was responsible for the actions of its staff. Ms B appears largely to have worked alone with minimal oversight by Access. Although Access said that it conducted twice-yearly competency assessments of its support workers, Access does not appear to have discussed Mrs A's relationship with Ms B despite having had opportunities to do so. Access has now provided documentation relating to Ms B's competency assessments but none of these were conducted at Mrs A's home or related to the services provided to her. Access conducted no performance appraisals of Ms B and said that was because it is not funded to conduct performance appraisals of support workers. In my view, from June 2020 when it became apparent that Mrs A was deteriorating, and particularly in October when she reported that she was no longer driving and was housebound, ongoing processes should have been instituted to ensure that she was receiving adequate care and was not being abused, exploited, or neglected by Ms B.
95. Access also submitted, and I acknowledge, that the relevant period of Mrs A's care was during the time when services were impacted by COVID-19. The events were unprecedented and required providers to be adaptive in their response to service delivery and their management of risk. However, as the lockdown would have meant that Mrs A was even more isolated, it necessitated appropriate protections being put in place, and therefore I remain of the view that Access was responsible and should have considered whether she was being supported adequately.
96. I note that there was an in-person visit on 22 October 2020 but that this focused on the proposed reduction of services rather than on whether the current services were adequate for Mrs A's needs. I consider that it was not sufficient to assume that the other agencies that had contact with Mrs A would have identified any concerns, or that Mrs A would have complained herself if there had been a problem. I consider that Access should have done more to ensure that Mrs A was receiving appropriate services. At the very least, Access should have ensured that careful records were maintained of the questions asked, particularly relating to the management of her money, and of her responses to those questions.
97. I accept that Mrs A wanted to remain in her own home and make decisions for herself for as long as possible. Although presumably she would have been able to complain if she were neglected or taken advantage of, her focus on living independently, plus her friendship with Ms B, could have inhibited her from doing so. The lack of visibility to the arrangement meant there was an opportunity for Mrs A's vulnerabilities to be exploited. In

these circumstances, Access should have been proactive in supporting Ms B and overseeing the services she provided to Mrs A. I am also mindful of Ms B's remarks to HDC that she worked alone for the majority of the time, and the level of support she received from Access. This situation would have been challenging for the support worker concerned. In saying that, I also acknowledge that Access provided support workers with paid voluntary quarterly meetings as an opportunity for them to engage with one another and with their local team leader, who could provide refresher training on identified 'hot topics'. I remain of the view that Ms B should have attended structured regular refresher training and that a record of attendance should have been maintained. I note that in April 2024 Access introduced an improved training framework (see below).

98. Access should also have updated Mrs A's support plan, and, had Ms B been permitted to use Mrs A's EFTPOS card, to have checked that she was complying with its policies.

### Conclusions

99. Access failed to oversee a support worker adequately when largely the support worker was working alone. Access did not provide Ms B with adequate refresher training or ongoing support. When Access became aware that Mrs A was becoming more dependent, it failed to discuss with Ms B the ethical issues and her professional responsibilities, and it did not update the support plan.
100. Access was aware that Mrs A had reported that she was housebound and was no longer driving, and that she had no family support. It follows that it must have been apparent that Mrs A could not provide Ms B with cash to pay for her shopping, as required in her support plan. However, Access failed to take steps to respond to the change in circumstances.
101. The support plan required Ms B to keep a record of money spent and the relevant receipts. However, there is no evidence that Access ever checked that this record was being maintained and that the expenditure was confined to grocery shopping. The Health and Disability Services Standard 8134:2008<sup>4</sup> requires that providers ensure that consumers are not at risk of abuse and/or neglect. Services must have policies and procedures to ensure that consumers are not subjected to exploitation, and services must identify, document, and communicate potential risks. Although Access had policies in place, it did not have sufficient procedures to minimise the risk of Mrs A being exploited financially. I consider that Access Community Health Limited failed to comply with professional standards and, accordingly, breached Right 4(2) of the Code.

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<sup>4</sup> See Appendix C.

## Changes made

102. Access said that following this complaint, it reviewed the content of its monthly support worker newsletter and now includes, as a standing item, reminders of things such as its money-handling policy, code of conduct topics, and general expectations around professionalism.
103. In response to the provisional opinion, Access said that it takes feedback from its clients, their whānau, and its staff very seriously. It has also recently reviewed, invested in, and amended its kaiāwhina skills framework (training platform) for support staff and it believes this reflects best practice. As part of this review, it identified areas that needed further development and central resource allocation, and it has now launched a new revised and consistent programme to be nationally led, and regionally delivered.
104. Access stated that the revised framework was implemented in April 2024. Its focus is primarily a national standardised framework incorporating induction, clinical skills, training, and competencies that could be delivered consistently by a wide variety of people. It has developed strong networks to support it to deliver these across the country. It has enabled a well-balanced mix of e-learning and practical training and ensured that it has a framework that sets clear expectations and standards regarding quality and timeframes of delivery of the training. The focus has shifted to ensure that it has a highly competent workforce that provides safe, robust, and supported cares, instead of being simply focused on external qualifications. It has also redeveloped its buddy training guides to enable better hands-on training in the home at the beginning of the support worker's journey.
105. Ms B told HDC that she now has another job, and she supplied a reference from her employer, which states: '[Ms B] works with a vulnerable sector of the community ...'
106. Ms B said that she has on-going training.
107. Ms B stated:
- 'I have learnt a huge lesson regarding this incident. I have learnt that even though I may want to help people beyond my job description, I have to make clear boundaries between being professional and personal.'
- 

## Recommendations

108. I recommend that Ms B and Access Community Health Limited each separately apologise to Mrs A's family for their breaches of the Code. The apologies are to be sent to HDC within six weeks of the date of this opinion, for forwarding.

109. I recommend that within six months of the date of this opinion, Access Community Health Limited:

- a) Review the kaiāwhina skills framework (training platform) it has recently introduced to ensure that it is reflective of current best practice, and that it equips its support staff to manage boundary issues, human rights, advocacy, and communication issues confidently.
- b) Develop an appropriate consumer feedback mechanism that offers a safe environment for consumers to comment on the care they are receiving from support staff. In response to the provisional opinion, Access stated that it has a robust consumer feedback mechanism with three different methods of feedback for service users to choose from: its website; an 0800 phone number; or its six-monthly feedback surveys, which are emailed to clients. I recommend that within six months of the date of this opinion Access conduct a randomly selected anonymous survey to assess whether service users feel able to comment freely on the care provided, and report the results to HDC.
- c) Ensure that the training programme includes annual refresher training on the elements included in the programme. In response to the provisional opinion, Access stated that it already has voluntary quarterly meetings for support workers with identified refresher training topics covered, along with a monthly newsletter, which contains refresher topics and messaging. I recommend that Access institute compulsory refresher training and maintain records of staff attendance and ensure that procedures are put in place to enable support staff to attend training programmes in addition to the quarterly meetings.
- d) Implement robust procedures to monitor compliance with policies and procedures.
- e) Develop a policy on performance reviews.
- f) Obtain external expertise to review and audit consumers' individual support and/or care plans and its policies and procedures, to ensure that they are consistent with best practice. Access submitted that it already undergoes regular external audits as required under its service agreements with the relevant funders. These audits include review of individual client support plans, along with engagement with random clients and receiving feedback on their support experiences. I recommend that during the next external audit, the auditor is provided with the details of this investigation (in a way that maintains the anonymity of the parties involved), to ensure that the issues identified in this investigation can be considered during the audit. A copy of the audit report with corrective actions/improvement recommendations (if any) is to be provided to HDC.

I recommend that within six months of the date of this opinion, Access Community Health Limited report to HDC on the steps it has taken regarding these recommendations.

## Follow-up actions

110. A copy of this report with details identifying the parties removed, except Access Community Health Limited, will be sent to Ms B's new employer, and it will be advised of Ms B's name.
111. A copy of this report with details identifying the parties removed, except Access Community Health Limited, will be sent to ACC, Health New Zealand|Te Whatu Ora, Whaikaha|Ministry of Disabled People, Te Tari Kaumātua|Office for Seniors, and the Ministry of Social Development, and placed on the Health and Disability Commissioner website, [www.hdc.org.nz](http://www.hdc.org.nz), for educational purposes.
112. Health New Zealand will be encouraged to consider Access Community Health's remarks under paragraph 74 of this report where it states that it is not possible in the current contractual and funding framework for service providers to undertake any additional monitoring and supervision, or detailed performance appraisals, and whether this situation poses an unacceptable risk to isolated consumers and must be addressed.

## Appendix A: Extract from Access's Code of Conduct

### 'PROFESSIONAL BOUNDARIES

Maintaining appropriate professional boundaries with clients is particularly important in our work. Inappropriate relationships with clients or their immediate family are unacceptable.

Acting in a manner that could cause harm to a client or their family member may result in disciplinary action. The following are examples of what may constitute an unacceptable breach of professional boundaries:

- receiving significant gifts,
- becoming a beneficiary to a will,
- moving into a client's home
- having an intimate relationship with a client
- visiting a client's home outside of work hours,
- offering family or friends to assist with tasks such as connecting a new TV or building a fence,
- entering into financial interactions such as buying from a client or selling something on their behalf,
- advocating to other agencies on behalf of a client. (The employee should advocate for a client to Access in the first instance. It will then be up to the Regional Manager to decide what external advocacy is required on the client's behalf.)

When in doubt the employee must seek advice from their regional manager.'

## Appendix B: Shopping, Money Handling, and Key Holding policy

### 'SHOPPING, MONEY HANDLING AND KEY HOLDING.

- To protect client's money and property with a transparent process for shopping and money handling.
- To minimise the risk to Support Workers (SW) when shopping and if money handling is required.

#### 1. What you need

- a. Access to the client's home.
- b. Shopping must be stated on the support plan.
- c. Transport to and from the closest grocery or other retail shop.
- d. A separate money purse/wallet for client's cash if that is the preferred method of payment.
- e. A process for paying for the groceries — this will be detailed on the support plan.
- f. A system for checking the receipt against the purchases and a notebook for documenting date, time and amount of purchases, and in which to attach the signed receipt.

#### 2. What to do — Entry to the client's home

- a. Be punctual — the client will expect you at a certain time.
- b. Always wear your Access identification.
- c. Knock on the door — and call out your name and that you are from Access.
- d. If you have access to the key, knock, call out and open the door and then call out your name again once inside the door.
- e. If you notice anything amiss, if the client has had an accident or if you are unable to gain entry ring the Care Coordinator immediately.
- f. To exit — ensure the door and windows are secure from intruders. Replace the key in the locked box.

#### 3. What to do — Shopping

- a. List the grocery items and amounts required before starting the trip.
- b. Arrange transport to and from the client's home, eg taxi, community mobility service — as set out in the support plan with time for pick up and destination. The service must be conducted within the time allocated.
- c. Go with the client (if able) to the grocery shop.



- d. If the client has CORD or other respiratory dysfunction — they may prefer to sit in a seat provided while you collect the listed items.
- e. When shopping for your client when selecting frozen or packaged items, check that there is a reasonable length of time before the expiry or “best before” date, the packaging is undamaged, eg cans with dents, cracks or bulging lids, frozen foods are hard, there is no evidence of spoiling of refrigerated, frozen or fresh items. Check that eggs have no cracks in the shell.
- f. When you have gone through checkout signal/assist the client to come over to pay *or*
- g. If you are using cash — pay, receive and check any change.
- h. Retain the receipt.
- i. Once you are back in the client’s home, and with the client as appropriate, check items purchased against the list and against the receipt, the total amount, and the change received. Enter the details in the note book, attach the receipt to this page and both you and the client (if able) sign the page.

#### 4. What to avoid

- a. **Never** disclose the code for the key pad to anyone else.
- b. **Never** use a client’s credit/debit card for any transaction, or have knowledge of the client pin number unless an exception has been made as per HCS 1.10.2.1 Money Handling/Key/Key Code Holding Form.
- c. Having the key to the client’s home — if the client cannot open the door there will be a locked box at the entrance with a key pad (to which you will have been given the code) where the key is kept — if this is not the case contact your Care Coordinator immediately.

#### 5. Reports of Financial Irregularities

- a. Any reports of financial irregularities made to Access by the client or their family or carer will be managed through QD 7.2 Complaints Management Process.

#### 6. References

- a. NZS 8158:2012 Home and Community Support Sector Standard Clause 1.8 Consumers’ belongings, property and finances are respected and protected.
- b. Handling Money & Financial Policy — Kelly Park Caring Agency Ltd County Durham UK.
- c. Service User Guide — Bracknell Forest Borough Council Home Support Services, Times Square, Market St. Bracknell RG12 1JD
- d. Handling service Users’ Money — (Support workers) Aspects Care Ltd Penshore Rd sth, Cotteridge, Birmingham B30 3EL

#### 7. Note

- a. Any consent/s required will be obtained by the CN prior to writing the support plan.’

## Appendix C: Relevant standards

The Health and Disability Services Standard 8134: 2008 states:

‘1.3.7 Consumers are kept safe and are not subjected to, or at risk of, abuse and/or neglect.

...

1.7.1 Services have policies and procedures to ensure consumers are not subjected to discrimination, coercion, harassment, and sexual or other exploitation.

...

1.8.1 The service provides an environment that encourages good practice, which should include evidence-based practice.

...

2.3.1 The organisation has a quality and risk management system which is understood and implemented by service providers.

...

2.3.9 Actual and potential risks are identified, documented and where appropriate communicated to consumers, their family/whānau of choice, visitors, and those commonly associated with providing services.

...

2.7.4 New service providers receive an orientation/induction programme that covers the essential components of the service provided.

...

2.9.2 The detail of information required to manage consumer records is identified relevant to the service type and setting

...

2.9.8 Service providers use up-to-date and relevant consumer records.

### Organisational safety

Risks within the organisation that have the potential to compromise safety are identified, monitored, evaluated, recorded in a risk register and managed to acceptable levels.

...’