

PRIVATE &  
CONFIDENTIAL



Health and Disability Commissioner  
*Te Toihau Hauora, Hauātanga*

22 November 2013

[Redacted]  
[Redacted]  
[Redacted] Street

AUCKLAND 1  
[Redacted]

Dear Mr [Redacted]

**Complaint:** Dr D  
**Our ref:** C12HDC0

Thank you for your letter of 22 September 2013. I understand that you remain disappointed with the Deputy Commissioner's decision on this complaint.

#### **Your concerns**

You remain of the opinion that certain aspects of your complaint, and the evidence you provided in support, were not appropriately considered by the Deputy Commissioner in reaching her decision to take no further action. In your most recent correspondence you point specifically to the following aspects of your complaint which you consider have not been addressed:

- your contention that Dr [Redacted] did not have the relevant experience to assess you, and in doing so was practising outside his scope of practice;
- Dr [Redacted]'s compliance with the Health Information Privacy Code 1994 (the HIPC), and the Health (Retention of Health Information) Regulations 1996 (the Regulations);
- the "bias" demonstrated by the Ministry of Social Development's Principal Health Advisor; and
- the role of the Medical Appeals Board.

#### **My response**

We have again reviewed your file in light of your most recent letter. I remain of the opinion that the Deputy Commissioner's decision remains appropriate in the circumstances, and there is no basis to reopen your complaint file.

As has been explained in previous correspondence, complaints that relate to a non-treating doctor contracted as an assessor to a third-party may fall within the Commissioner's jurisdiction. However, the Commissioner and Deputy Commissioners' discretion to take no further action on a complaint is wide. I remain

of the opinion that the discretion was exercised appropriately in this case, and that it was more appropriate for WINZ, as the third-party contracting Dr [redacted] to provide an assessment, to address your concerns about his assessment of you.

As has also been explained previously, the processes and policies of WINZ, the Ministry of Social Development, and of the Medical Appeals Board are outside the jurisdiction of this Office.

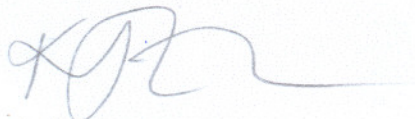
Please also note that the Commissioner does not have jurisdiction to consider issues relating to information privacy. Your concerns about Dr [redacted]'s compliance with the HIPC and the Regulations are therefore best addressed by the Office of the Privacy Commissioner. You can contact the Privacy Commissioner by phone on 0800 803 909, or via their website: [www.privacy.org.nz](http://www.privacy.org.nz).

*Conclusion*

While I understand that the Deputy Commissioner's decision was not the outcome that you had hoped for, I do not consider that your latest correspondence provides any basis to reconsider that decision.

I do not consider that further consideration of this complaint would be productive.

Yours sincerely



Katie Elkin  
Associate Commissioner  
Legal and Strategic Relations