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## Dentist / Dental Clinic

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### Report on Opinion - Case 97HDC9232

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#### Complaint

The Commissioner received a complaint from a consumer about the services provided by a dentist and a named dental clinic. The complaint was that:

- *In early August 1997 the consumer's lower right molar was extracted by the dentist. The dentist was rough during the extraction and the consumer felt as if her jaw was being broken.*
  - *After the extraction the consumer noticed a piece of bone protruding from the wound area.*
  - *The consumer consulted the dentist on two days in mid-August 1997. While the dentist was treating the wound area, he commented that there was no problem with the extraction, and the bone would be resorbed.*
  - *The consumer believed the dentist did not know what he was doing and he did not seek a second opinion.*
  - *The consumer is dissatisfied with the way the complaint was handled by the dental clinic.*
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#### Investigation

The complaint was received on 13 October 1997. On 13 November 1997 the Commissioner referred the complaint to advocacy for the purpose of resolving the matter between the parties. On 21 November 1997 the Commissioner was advised by the advocacy service that the complaint was not resolved. An investigation was undertaken and information was obtained from:

The Consumer  
The Provider / Dentist  
The Managing Director, the Dental Clinic  
The Complaints Co-ordinator, the Dental Clinic

Clinical records were obtained and viewed. The Commissioner sought independent peer advice from a dentist.

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#### Outcome of Investigation

The consumer experienced toothache and in early June 1997 consulted the dentist the dental clinic. The dentist noted that tooth 46 was heavily filled and sensitive to cold. He applied an adhesive coating to the exposed root surface of the tooth.

The consumer remained troubled by pain and consulted the dentist seven days later. The dentist placed an amalgam filling on the buccal surface of the tooth to further insulate the sensitive area. The consumer's pain persisted and a week later the dentist replaced the existing amalgam filling.

The consumer continued to experience pain and returned to the dentist in early August 1997. She was advised that her treatment options were either root canal therapy or extraction. The consumer chose extraction as the root canal treatment was expensive and she was in pain.

The consumer said the extraction was rough to the point where she felt the extraction was almost breaking the joint between her upper and lower jaw. She said she stopped the dentist from going any further because she feared that was going to happen.

The dentist advised the Commissioner:

*"After local anaesthetic was administered I removed the tooth with lower molar forceps. The correct procedure (which I followed) is to loosen the tooth with figure of eight twisting movements which inevitably transmits some pressure up the jaw to the temporomandibular joint. The extraction was completed within 5 minutes and I checked the tooth to ensure that no fragments had broken off and that the socket was clear. I reassured [the consumer] and applied gauze to the extraction site asking that she bite down firmly on it for 30 or 40 minutes."*

The dentist stated it was an easy extraction and took less than five minutes from the time the consumer's mouth was numbed until the tooth was out. The consumer was given gauze pieces for the wound, a prescription for an anti-inflammatory and a painkiller, and a post operative instruction sheet.

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**Outcome of Investigation, continued**

The next day the consumer found a piece of bone protruding from the wound. Two days after the extraction she consulted the dentist and expressed her concern. The dentist advised that the bone was part of the consumer's mandible and would resorb or work out as the socket healed. The dentist's records indicated, "*Buccal bone protruding... exo site healing well*".

The consumer began to experience pain and discomfort and stated that she could not eat, sleep or carry out normal functions. Pus oozed from the socket and painkillers and antibiotics provided no relief. She consulted the dentist six days after extraction, who diagnosed a dry socket. The dentist advised the site was tender so he placed a right inferior dental nerve block before irrigating the socket with Savacol and applying a dry socket dressing. He prescribed antibiotics and painkillers.

The consumer revisited the dentist the following day. He irrigated and re-dressed the socket and prescribed further antibiotics.

The consumer complained that the dentist did not know what the problem was and did not consider an x-ray or a second opinion. The dentist advised the Commissioner he knew the consumer was suffering from dry socket, and that this was being treated appropriately.

The consumer attended an unrelated health care appointment the day after this. She said pain was radiating through her head and ear and down her neck. She was referred to the hospital dental department. The hospital dentist diagnosed a dry socket. Treatment consisted of irrigation and dressing. Four days later the consumer returned to the dental department complaining of pain. The socket was irrigated and re-dressed. Clinical records noted, "no loose bone". Alternative antibiotics were prescribed.

The next day the consumer attended the dental department for the third time. X-rays were taken. My adviser commented on the x-rays as follows:

*"The radiograph taken at the time gives no clue as to the reason for [the consumer's] continuing pain, although the interradicular bone appears quite prominent [high] in relation to the surrounding tissues."*

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**Outcome of Investigation, continued**

The consumer's tooth pain was treated surgically. Clinical notes indicated:

*"Pt still in pain. Not coming from socket but more from sharp fragment on side. Tx flap raised bony sequestrum removed bone smoothed. To return if any probs"*.

The consumer noted immediate pain relief.

Later that day the consumer called the dental clinic and discussed the matter with the clinic's complaints officer. The complaints office contacted the dentist to discuss the complaint and called the consumer back. The consumer said the complaints officer informed her that the dentist had performed the procedure correctly.

The managing director of the dental clinic advised the Commissioner that the group's complaints system is designed to respond to complaints quickly and sympathetically. He said that, in the first instance, complaints are usually handled within the branch practice and are dealt with immediately they occur. He said:

*"If patients are not happy with the service they have received within the branch they usually telephone me at head office. They know to telephone me because our print and television advertising features me as managing director. Complaint calls to head office are directed to [the complaints officer] and her instructions are to settle them quickly and fairly with a bias towards the patient. If settlement is impossible I will get involved personally and my advice to patients is often to contact the New Zealand Dental Association... As far as I can tell [the consumer's] complaint was handled in accordance with the above procedure and while she did not agree with the outcome I feel we did our best for her in the circumstances."*

The complaints officer's own records indicate that, when she returned the consumer's call, she confirmed the dentist's discussion about the treatment and apologised to the consumer for any inconvenience. The consumer has received no further correspondence from the dental clinic and is unhappy with the way her complaint was handled.

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**Code of  
Health and  
Disability  
Services  
Consumers'  
Rights**

The following Rights are applicable:

*RIGHT 4*

*Right to Services of an Appropriate Standard*

- 2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*

*RIGHT 10*

*Right to Complain*

- 1) *Every consumer has the right to complain about a provider in any form appropriate to the consumer.*
- 2) *Every consumer may make a complaint to -*
- a) *The individual or individuals who provided the services complained of; and*
  - b) *Any person authorised to receive complaints about that provider; and*
  - c) *Any other appropriate person, including -*
    - i. *An independent advocate provided under the Health and Disability Commissioner Act 1994; and*
    - ii. *The Health and Disability Commissioner.*
- 3) *Every provider must facilitate the fair, simple, speedy, and efficient resolution of complaints.*
- 4) *Every provider must inform a consumer about progress on the consumer's complaint at intervals of not more than 1 month.*
- 5) *Every provider must comply with all the other relevant rights in this Code when dealing with complaints.*
- 6) *Every provider, unless an employee of a provider, must have a complaints procedure that ensures that -*
- a) *The complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the consumer within that period; and*
  - b) *The consumer is informed of any relevant internal and external complaints procedures, including the availability of -*
    - i. *Independent advocates provided under the Health and Disability Commissioner Act 1994; and*
    - ii. *The Health and Disability Commissioner; and*
  - c) *The consumer's complaint and the actions of the provider regarding that complaint are documented; and*
  - d) *The consumer receives all information held by the provider that is or may be relevant to the complaint.*

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**Report on Opinion - Case 97HDC9232**

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**Code of  
Health and  
Disability  
Services  
Consumers'  
Rights,  
*continued***

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- 7) *Within 10 working days of giving written acknowledgement of a complaint, the provider must, -*
- a) *Decide whether the provider -*
    - i. *Accepts that the complaint is justified; or*
    - ii. *Does not accept that the complaint is justified; or*
  - b) *If it decides that more time is needed to investigate the complaint, -*
    - i. *Determine how much additional time is needed; and*
    - ii. *If that additional time is more than 20 working days, inform the consumer of that determination and of the reasons for it.*
- 8) *As soon as practicable after a provider decides whether or not it accepts that a complaint is justified, the provider must inform the consumer of -*
- i. *The reasons for the decision; and*
  - ii. *Any actions the provider proposes to take; and*
  - iii. *Any appeal procedure the provider has in place.*
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**Opinion:** No **Right 4(2)**

**Breach -  
Dentist**

In my opinion the dentist has not breached Right 4(2) of the Code of Health and Disability Services Consumers' Rights.

On the first visit the dentist noted the protruding buccal bone about which the consumer complained. He explained that the bone would resorb or work out as the socket healed. Four days later the consumer presented with dry socket symptoms and antibiotics were prescribed. While the consumer returned to the dentist the following day complaining of pain, the effect of the antibiotics is unlikely to have been noticeable at that time. My adviser informs me that dry socket is a relatively common complaint more usually experienced after a difficult extraction when there has been prolonged and/or extensive manipulation of the tissues, or where there has been an existing infection of the tooth or surrounding tissues prior to the extraction. The difficulties the consumer experienced did not result from any error or omission on the dentist's part in connection with the extraction. The symptoms associated with dry socket usually appear three to seven days post extraction and may take up to ten days to completely resolve. The consumer was provided with palliative treatment on two consecutive days and it was not unreasonable for the dentist to expect this treatment would resolve her pain. He had no further opportunity to provide follow-up care because the consumer did not return to him.

When the consumer presented at hospital, the dentist's diagnosis was reinforced and the treatment he initiated was repeated by the hospital dentist. It was only decided that surgical intervention was necessary when the consumer continued to experience pain twelve days post extraction. In my opinion, the consumer received services of an appropriate standard.

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**Opinion:  
Breach -  
Dental Clinic**

**Right 10**

In my opinion, the dental clinic breached Right 10 of the Code of Health and Disability Services Consumers' Rights.

The consumer was entitled to complain to the dental clinic and the dental clinic had an obligation to facilitate the fair, simple, speedy and efficient resolution of her complaint. The dental clinic's managing director advised that the complaint officer's instructions had been and are to "settle [complaints] quickly and fairly with a bias towards the patient". The consumer's complaint prompted a call to the dentist, who explained the treatment process, and resulted in the consumer receiving an apology for any inconvenience caused. The managing director stated that while the consumer did not agree with the outcome of the process, he felt they had done their best for her in the circumstances. While the dental clinic acted promptly to respond to the consumer's complaint, the consumer made it clear she was unhappy with this outcome.

The dental clinic did not advise the consumer of the external complaint process available through the Health and Disability Commissioner or, when the decision to take the complaint no further was made by the dental clinic, the company's representative did not advise the consumer of any appeal procedure the company had in place. Therefore, the dental clinic breached Right 10 of the Code.

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**Actions:**

I recommend that the dental clinic takes the following actions:

- Provides a written apology to the consumer for breaching the Code. This apology is to be sent to the Commissioner and will be forwarded to the consumer.
- Reviews the complaints process in place for compliance with the Code and forwards a copy of the reviewed complaints process to me within three weeks.

A copy of this opinion will be sent to the consumer, the New Zealand Dental Association and the Dental Council of New Zealand.

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