

**Provision of services to intellectually disabled man
(13HDC01204, 24 February 2015)**

Disability service provider ~ Caregiver ~ Appropriate care ~ Complaints process ~ Rights 4(1), 10(3)

A man, aged 35 years, with a significant intellectual impairment, lived at home with his mother, his primary caregiver. The man had limited eyesight in his left eye, but was independent with his personal cares. He spoke very little English.

A disability service provider was contracted to assist with the man's daily activities in the community for two days per week. The disability service provider utilised "Personal Care" funding to provide a "Community Engagement" programme for the man.

The disability service provider arranged for the man's services to be provided by a caregiver. The caregiver also spoke very limited English and did not speak any of the man's first language. The man and the caregiver communicated by way of signs, gestures and simple English words. The caregiver had not undertaken any disability-focused training.

On multiple occasions the caregiver took the man to his (the caregiver's) home, where the man watched television for lengthy periods. On one occasion the caregiver slept while the man watched television. On a number of occasions the caregiver pinched the man's ears, hit him on the head and engaged in rough play. The caregiver left the man alone in a vehicle while he was fishing or shopping. The caregiver took the man with him while he did his son's paper round.

The man's sister complained to the disability service provider about the services provided to her brother. The disability service provider conducted an investigation but did not interview the man. A resolution meeting was unsuccessful.

It was held that the caregiver breached Right 4(1) for failing to provide services to the man with reasonable care and skill.

The disability service provider breached Right 4(1) for failing to have in place adequate systems and processes to provide safe and appropriate services for the man, and Right 10(3) for failing to facilitate the fair, simple and speedy resolution of the

The Director of Proceedings decided not to take proceedings against the caregiver.

The Director of Proceedings filed a claim at the Human Rights Review Tribunal which proceeded by agreement. The Human Rights Review Tribunal made a declaration that the disability services provider had breached Right 4(1) of the Code.