

PRACTICE NOTE 2

Non-Publication/Private Hearing Orders

1 Background

- 1.1 This Practice Note is to be read in conjunction with the Social Workers Registration Act 2003 ("the Act"). Where there is any inconsistency with the provisions of the Act, the Act is to prevail.
- 1.2 This Practice Note is made in accordance with the Tribunal's power to regulate its own procedure under Clause 5(3)(a) of the Second Schedule of the Act.

2 Section 79 (Hearings of Tribunal to be public) Applications

- 2.1 Pursuant to section 79 of the Act, the default position will be that Tribunal hearings are conducted in public and the names of social workers who are the subject of those proceedings are published.
- 2.2 When a disciplinary charge is received by the Tribunal, no information regarding the charge or charges, including the names of the respondent social worker, the complainant, and any other person or persons affected by the charge will be disclosed by the Tribunal to any person other than members of the Tribunal and the Tribunal's administrative staff pending the receipt and determination of any applications made pursuant to section 79 of the Act.
- 2.3 All applications made under section 79 of the Act are to be submitted to the Tribunal strictly in accordance with any timetable set by the Tribunal and advised to the parties. Notice of the date by which such applications must be received by the Tribunal will be given to the parties and will usually be a date before the date of a pre-hearing meeting.
- 2.4 All applications should be made formally in writing and must clearly state the grounds on which the application is made. Applications should be accompanied by supporting evidence in the form of an affidavit or statutory declaration, where available.
- 2.5 At the Chairperson's discretion, informal applications which do not comply with these requirements may also be considered by the Tribunal.
- 2.6 The Tribunal will hear and determine applications made under section 79 as soon as reasonably practicable after an application is received.
- 2.7 Upon any such application being made, an interim order may be issued for the non-publication of the information which is the subject of the application, until the application is determined by the Tribunal.
- 2.8 In the event an application for any of the orders specified in section 79 is declined by the Tribunal, the default position will be that the Tribunal's decision to refuse to make an order will continue in force in accordance with section 90. However the Tribunal may, on notice of

an appeal made or to be made by any person directly affected by the decision and on further application, make an interim order under section 79(2)(d) pending further order of the District Court in relation to the appeal.

- 2.9 In the event that no application pursuant to section 79 is made by the specified date, and the Tribunal is not advised of any intention to seek such orders by the same specified date, the names of any respondent and/or complainant(s) may be disclosed, together with any other information relating to the charge as the Tribunal shall consider appropriate having regard to the rules of natural justice and the requirements of section 79 of the Act.
- 2.10 Unless the Tribunal or the Chairperson orders otherwise, no earlier than 28 working days after service of the Notice of Intention to Bring Disciplinary Proceedings on the respondent social worker, the Executive Officer is to publish a list of cases to be heard by the Tribunal identifying the name of the respondent and the place, date, and time of the hearing. In the event of an interim order being made under section 79, the Executive Officer may nevertheless publish the place, date, and time of the hearing, without reference to any details of the case which are the subject of a non-publication order.

3 Commencement of this Practice Note

- 3.1 This Practice note will apply from 1 July 2016.

Dated at Wellington this 30th day of June 2016



Jo Hughson

Chairperson | Social Workers Complaints and Disciplinary Tribunal