

7RSW10/SWDT/2020 – RSW S – name permanently suppressed

Charge

In October 2020 the Social Workers Complaints and Disciplinary Tribunal (SWCDT) heard a charge laid by a Professional Conduct Committee, against Ms S, provisionally registered social worker of Auckland (the social worker).

The charge alleged that the social worker:

- (i) Was convicted on 4 October 2019 in the Auckland District Court and sentenced to ten months' home detention for:
 - a. Attempting to pervert the course of justice;
 - b. Exposing a young person under the age of 16 to indecent material;
 - c. Two counts of supplying a class C drug to a person under the age of 18
 - d. Doing an indecent act on a young person;
 - e. Meeting a young person to commit an offence following communication.
- (ii) The nature and extent of her offending reflects adversely on her fitness to practise.
- (iii) Breached the Code of Conduct issued by the Social Workers Registration Board in that she failed to act with integrity and honesty, protect the rights and promote the interests of clients, drive to establish and maintain the trust and confidence of clients and failed to maintain public trust and confidence in the social work profession, acts that are likely to bring discredit to the social worker profession.

Background

The background to the convictions concerned the social worker's engagement with a 15-year old male client in an unlawful manner (sexual conduct with a person under 16 and exposing a young person to indecent material) and her supply of cannabis to him and to another 14-year old boy who was living with the 15-year old and their Oranga Tamariki-approved caregiver. There was inappropriate messaging via Facebook messaging between the social worker and one of her victims. There was also an attempt to pervert the course of justice arising from this conduct. The conduct occurred prior to the social worker's registration as a social worker and carried forward into the period when she was registered.

Findings

The Tribunal found that the offences were committed in circumstances that reflected adversely on the social worker's fitness to practise as a social worker and upheld the charge. The entering into an inappropriate relationship with a young and vulnerable client falls well below the

standard expected of a social worker. The social worker's conduct and decision-making reflect that she does not possess the values and qualities expected of a member of the social work profession and amounted to a significant divergence from the expected standard. The social worker entered an inappropriate relationship with a vulnerable client who was assigned to her for care and protection purposes. The relationship was prolonged and only came to an end because it was interrupted by a disclosure. The relationship was characterised by an emotional dependence, sexually explicit material, and the provision of an illicit substance (cannabis). These factors were aggravated by the fact that the victim was a young and vulnerable person, and the social worker was in a privileged position of trust.

The Tribunal found that the practitioner demonstrated a lack of judgement and good decision-making for a period of months over the course of the relationship. This included engaging in meeting with the victim outside her social work duties, continuing the communications over Messenger, using dishonesty to the first complainant's caregiver to create opportunities to see him, and sharing cannabis with both victims.

The conviction for attempting to pervert the course of justice involved the social worker encouraging a young vulnerable client to act in a dishonest way (to lie about their relationship) when dealing with authorities (Police) in an attempt by her to avoid detection or punishment. The Tribunal reasoned that while this may have been out of panic and fear rather than deliberate maliciousness (as the Judge found), the conduct raises questions about the practitioner's judgement and integrity and was conduct that fell short of the standards expected of members of the social work profession.

The Tribunal was satisfied that this was very serious offending by the practitioner and reflected adversely on her ability to discharge the ethical and professional obligations towards clients in her professional capacity as a social worker.

Jurisdiction

Consideration was given to whether the Tribunal had jurisdiction to make a finding of professional misconduct against the social worker in respect of the conduct that occurred prior to her registration, which was in mid-August 2018. The Tribunal was satisfied that in cases where the conduct charged is alleged to have occurred prior to registration and carried forward from that period into the period when he or she was registered, the pre-registration conduct is within reach of the Tribunal's jurisdiction.

Whether conduct which is alleged to have occurred entirely and exclusively prior to the practitioner's registration can be subject of a finding of professional misconduct or conduct unbecoming is a question that was determined by the Tribunal in the subsequent case of *RSW X*.

Finding

Penalty

The social worker was censured, and her registration was cancelled. The Tribunal concluded that there were no alternatives to cancellation of registration. It held that under no circumstances can conduct of the nature the social worker had engaged in and been convicted for, be tolerated in the social work profession. The Tribunal considered that the public requires protection from the social worker and a strong message must be sent to other social workers that engaging in an inappropriate relationship with a young person who is in the care and protection of the State, combined with supplying an illegal drug like cannabis to such persons, will not be countenanced. Nor will conduct that involves an attempt to pervert the course of justice by inviting a vulnerable young person to lie for him for her to avoid detection and punishment. The combination of such conduct was disgraceful and eroded the mana of the social work profession.

When imposing penalties, the Tribunal took into account that when the social worker was sentenced the District Court Judge considered that at the time of her offending, she was under a significant amount of stress including her child's admission to hospital, unresolved grief and loss including that which was associated with her upbringing, and relationship issues. Further, at the time of the offending the social worker was suffering from work pressure and stress associated with having a very high caseload, and no supervisor, due to staff changes. The Judge described this as "burnout in the worst sense". The Judge also noted that the offending was isolated, and he did not consider the social worker to have a high risk of reoffending against a child. The Judge commented also that this was "not the case of usual predatory behaviour seen in Court."

In her interview with the PCC the social worker had accepted full responsibility for her offending and the convictions. She acknowledged the effect of her actions on her victim and the other victims her offending created such as her own family.

The Tribunal ordered the social worker to pay 30% of the total costs and expenses of the hearing amounting to \$2,797.

The Tribunal directed that the decision and a summary of the decision be published.

A full and reasoned decision can be found on the Board's website at <https://swrb.govt.nz/public-and-employers/tribunal-decisions/>