

RSW9/SWDT/2020 – RSW X – name suppressed

Charge

On 6 August 2020 a Professional Conduct Committee (PCC) of the Social Workers Registration Board (the Board) laid a charge of conduct unbecoming a social worker that reflects adversely on her fitness to practise as a social worker, and in the alternative, professional misconduct against RSW X, a registered social worker of Auckland. (social worker).

The charge alleged that the social worker:

Between 2017 and 2018, created two fake identification cards representing that she was employed by Work and Income New Zealand and Oranga Tamariki, when in fact she was not employed by either of those agencies, and/or

In or around July 2018, the social worker displayed the ID cards on a lanyard around her neck when visiting a client in hospital as part of her social work practice, and/or

During the hospital visit the social worker did not correct a charge nurse who stated that the social worker was from Oranga Tamariki.

The nature and extent of the social worker's conduct reflects adversely on her fitness to practise and/or breached Principles 1 and/or 9 of the Code of Conduct issued by the Board.

Background

Information provided to the Tribunal in support of an application for name suppression indicated that the social worker was not registered as a social worker at the time of the alleged conduct, although she was working as a social worker (on an unregistered basis, as she was at that time entitled to). The social worker was not registered with the Board until October 2018.

On 15 October 2020 the Chairperson issued a Minute inviting the parties to address the Tribunal on the issue of whether or not the Tribunal has jurisdiction to review conduct by a registered social worker which is alleged to amount to professional misconduct or conduct unbecoming when that conduct is alleged to have occurred prior to the social worker's registration as a social worker.

Both Counsel for the PCC and Counsel for the social worker submitted that the Tribunal had jurisdiction to hear the Charge.

Finding

At a hearing on Friday 16 October 2020 the full Tribunal considered the issue of jurisdiction.

The Tribunal found that it does not have jurisdiction over pre-registration conduct that is charged as professional misconduct or 'conduct unbecoming'. It is not the role of the Tribunal to enforce disciplinary findings against social workers, under the provisions of the Act for conduct occurring during a period when they were, lawfully, practising social work without being registered to do so and were not bound by all that registration entails.

That the Tribunal does not have jurisdiction over pre-registration conduct does not pose a risk to the protection of the public or the maintenance of professional standards. The Act provides adequate mechanisms to ensure the competence and fitness of social workers for conduct occurring before they register. This includes provisions for the prosecution of offences under the Act for conduct that may have arisen while a social worker was not registered, and the Board's fitness to practise procedures for registration and the issuing and renewal of practising certificates.

Having found the Tribunal did not have jurisdiction to deal with the Charge, the Tribunal decided that the appropriate course was to strike out the charge.

In a separate Minute of 2 February 2021, the Tribunal directed publication of its decision and a summary.

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