

Social work learning from Tribunal case: Siieli Vaiangina

The Social Workers Complaints and Disciplinary Tribunal recently considered a charge against a social worker for not disclosing a police investigation or a formal police warning when he renewed his Practising Certificate. The charge also alleged that the social worker did not co-operate with the Professional Conduct Committee's investigation in any meaningful way.

The social worker had been accused of sexual assault on a young person under 16, a charge he denied. The Police indicated that a conviction for criminal offending could have been pursued but there were concerns the young complainant would not have had the support of her family if the case had gone to prosecution. The SWRB requested an explanation for not disclosing the police investigation. The social worker's response was he was innocent and because the case had not gone to court, he had been unable to prove his innocence. He also said that, despite the police report, he did not believe there was anything to declare. The Tribunal found that the circumstances were concerning and that disclosing the police investigation was required. This is one of the key learnings from the case. It is critical that the trust and confidence the public holds in a social worker is upheld.

The Tribunal referred to the case we discussed in our April newsletter and observed that social workers often work with clients in unsupervised settings which requires a high level of trust. Principle one of the Code of Conduct requires social workers to act with integrity and honesty in their personal and professional lives. Principle nine requires a social worker to maintain the public's trust and confidence in the profession by avoiding any activities that could bring the social work profession into disrepute (9.1) and requires the social worker to be open, honest, and constructive in all dealings with employers, SWRB and other authorities (9.6).

In this case, the social worker did not co-operate with the PCC investigation. He was brief in his responses to the PCC and he did not provide the detailed information the PCC required, despite being given reasonable opportunities to respond. The PCC referred the Tribunal to other cases from similar regulatory authorities where those under investigation had failed to constructively engage, or honestly disclose information that could adversely affect their registration or Practising Certificate. The findings of these cases determined that a lack of engagement or dishonesty with a regulatory authority can justifiably lead to a disciplinary sanction.

The Tribunal considered the nature of the allegations, the omission of notifying the SWRB in the Practising Certificate renewal process; the lack of constructive engagement; and the fact that there was no evidence about the social worker's insights, intentions for social work practice, or any reflection on matters that might relate to future practice.

Alongside the breach of the Code of Conduct, the Tribunal's finding was that these omissions amounted to professional misconduct. The social worker was censured, his registration was cancelled, and he was ordered to pay costs. A social worker must disclose any pertinent matters to the Board, including around conduct, competence, and fitness to practise, in a timely way. The most obvious trigger for this is at renewal of their Practising Certificate. A formal police warning is clearly within the category of matters that warrant

disclosure. The social worker's failure to disclose in this instance constituted a breach of the Code of Conduct.

You might be interested to know there are several factors that need to be considered when a social worker is ordered to pay costs. One of those is that the ordering of costs cannot create undue hardship. While the usual starting point for costs in disciplinary proceedings is a contribution of 50%, the Tribunal noted that the social worker was in a difficult financial position and any burden imposed by a costs order would be borne heavily by his wife. With that said, the Tribunal considered an order of costs is appropriate when those who appear before it are found guilty, otherwise the profession would bear the entire cost of the proceedings. He was ordered to pay \$1000, which is a significant sum to the social worker, however, it is only a small proportion of the total costs.