

RSW5/SWDT/2019 – Ms K

Charge

Between 28-30 July 2021 the Social Workers Complaints and Disciplinary Tribunal (the Tribunal) heard a charge laid by a Professional Conduct Committee (PCC), against Ms K, registered social worker (the social worker).

The charge alleged that:

1. Between 4 January 2012 and 8 December 2015, the social worker accessed CYRAS records that related to her family members or other persons known to her and;
2. In December 2016, the social worker provided a confidential report to the Family Court as part of an application by the daughter of the social worker's partner to have the daughter's two children, returned to the daughter's care.

The social worker's conduct breached principles 1, 4, 7 and 9 of the Code of Conduct issued by the Social Workers Registration Board pursuant to section 105 of the Social Workers Registration Act 2003. This conduct considered individually and/or cumulatively constitutes:

- (a) Professional misconduct pursuant to s 82(2)(a) or 82(2)(d) of the Act; or, in the alternative;
- (b) Conduct that is unbecoming of a social worker and reflects adversely on her fitness to practise as a social worker pursuant to s 82(1)(b) of the Act.

Background

Particular 1

Over the period 4 January 2012 to 8 December 2015, the social worker accessed CYRAS records for her family or herself as a client when she was not allocated to those files as a social worker.

CYRAS is an acronym for Care and Protection, Youth Justice, Residential and Adoption Services. CYRAS is an electronic case management system used by Oranga Tamariki which records a broad range of information. Employees using CYRAS are identified and can access the system through a unique code. Access is recorded through an electronic footprint which indicates when records are opened or edited.

If a conflict of interest exists between an employee and client of Oranga Tamariki, a confidential classification must be applied to related records, to prevent employees from viewing them.

In this case, confidential classifications which should have been applied to records of the social worker's family were not carefully enforced. The social worker was only able to access the records in question because they were not made confidential until 28 February 2013.

On 4 January 2012, the social worker entered a Report of Concern (ROC) directly into CYRAS as a result of family concerns.

On 15 November 2012, the social worker accessed records of family or persons known to her. The social worker claimed that she had been asked to enter her own address in preparation for a Family Group Conference (FGC). The CYRAS footprint showed 21 entries. The social worker accessed a range of case notes, FGC consultations, FGC referrals, a Care Protection Resource Panel Advice, a Family Whānau Agreement and an FGC invitation list. The social worker ought not to have had any reason to access records pre-dating 15 November.

On 20 November 2012 the social worker accessed the CYRAS records of her partner's family on three occasions within the space of less than two minutes. The social worker stated that she would have been checking if the FGC Coordinator had left a note.

On 22 November the social worker accessed the CYRAS records on 17 occasions over about 7 minutes. Again, her explanation was that she was looking for the FGC Coordinator's note.

On 26 November the social worker briefly accessed the records over the course of one minute, and again on 30 November accessed a variety of records for a period of about three minutes. The social worker again accessed the CYRAS records of her partner's family on 3 and 5 December 2012 over similarly short periods of time.

The social worker accessed the caregiver application and files of her partner's family on 30 January, 1, 4 and 14 February 2013. She said that she was asked by a senior regional manager to look at the application file.

Three incidents of inappropriate access to CYRAS in March, November and December 2015 did not relate to the social worker's family. It was later established that there was a legitimate explanation for this access.

Particular 2

On 2 July 2013, the social worker and her partner underwent a parenting assessment arranged by Oranga Tamariki's Specialist Services. This was to assess the social worker and her partner's suitability to provide long term care for two of their grandchildren.

In December 2016, the social worker decided to annex the parenting assessment report to an affidavit filed in the Family Court. This was in support of a without notice application by the social worker's daughter in law for day-to-day care of two of her children.

While the report was stated to be confidential, the social worker viewed that since the report held her own personal information, she could use it as she saw fit. The social worker did not approach Specialist Services to discuss the release of the report or seek their permission to use it.

Finding

Particular 1

The Tribunal did not have jurisdiction to establish a charge for the 4 January 2012 incident. The social worker was neither registered nor provisionally registered at this time.

The Tribunal considered that the social worker's access to CYRAS on 15 November 2012 was within the Tribunal's jurisdiction. The date was one week before her registration was issued. The social worker must have been required to provide detailed evidence of her competency in support of registration. This process must have started well before 15 November.

The Tribunal found that other than when she entered her address, and when she looked at the caregiver application on request, the social worker accessed confidential records without justification. The social worker allowed her personal interests to override her professional obligations to respect the privacy of Oranga Tamariki clients and to respect the confidentiality of CYRAS records.

The Tribunal found that the social worker acted in breach of Principle 1 and 3 of the Code of Conduct. When all incidents were considered as part of a course of conduct over the period 15 November 2012 to 14 February 2013, the threshold for discipline was met.

Particular 2

The Tribunal viewed that in attaching the parenting assessment to her affidavit, the social worker ought to have carefully reflected on whether this was appropriate and consulted Specialist Services. The social worker acted in breach of principles 1.1, 7 and 9 of the Code of Conduct.

The Tribunal was under the impression that the social worker used confidential information when she felt this would serve her purpose, when it clearly could not be considered her personal information. The social worker did not use the report for its intended purpose.

Though the conduct occurred in the social worker's personal life, social workers are in positions of trust and confidence. They must also have high standards in their personal lives. It is expected that every social worker will understand and adhere to this Code.

When considered cumulatively with Particular 1 the Tribunal found that this warranted disciplinary sanction.

Penalty

The Tribunal ordered that the social worker:

- Is censured;
- Is subject to conditions;
- Pay costs totalling \$2,500.00 in contribution to the hearing.

The Tribunal further directed publication of this decision and a summary.