

## RSW14SWDT2020 – (Ms G)

### Charge

On 19 to 21 September 2022 the Social Workers Complaints and Disciplinary Tribunal (the Tribunal) heard a charge laid by a Professional Conduct Committee (PCC), against Ms G, registered social worker (the social worker). The Tribunal reconvened in private on 26 October 2022 to consider closing submissions and deliberate.

The charge alleged that:

1. Between August 2015 and February 2018, the social worker failed to work with Ms I cooperatively in the best interests of social work clients, including [N] and [H], including in the following ways.

The social worker:

- a. utilised a directive and bullying approach to supervision of Ms I;
  - b. failed to inform Ms I about the case consultation of 25 January 2018 that was held to discuss the placement of the children in the care of Mr N and Ms H;
  - c. did not discuss the outcome of the case consultation on 25 January 2018 with Ms I and led Ms I to believe it was not Ms I's role to provide support to Mr N and Ms H after the children were removed from their care.
2. Between August 2015 and February 2018, the social worker failed to make adequate records of concerns about or interactions with Mr N and Ms H including:
    - a. The social worker had been told about concerns by other Oranga Tamariki staff about how Mr N and Ms H were treating the children and did not make any record of those concerns;
    - b. On or about 31 May 2017, the social worker failed to make a record of a meeting held with Mr N and Ms H and failed to follow up on concerns raised by Mr N and Ms H during that meeting.
  3. Between August 2015 and February 2018 the social worker failed to follow up, or ensure Ms I followed up, concerns the social worker had heard about Mr N and Ms H.
  4. On or about 25 January 2018 the social worker provided inaccurate information at a case consult held to discuss the placement of the children in the care of Mr N and Ms H by saying that 'considerable work' had been done with Mr N and Ms H which was not accurate.
  5. On or about 9 February 2018 the social worker wrote a letter to Mr N and Ms H informing them that the children in their care were to be removed, which did not adequately inform Mr N and Ms H of the reasons for that decision.
  6. On or about 9 February 2018 the social worker signed the names of Ms A and Ms E to the letter written to Mr N and Ms H without their permission.

7. The social worker failed to ensure that appropriate support was provided to Mr N and Ms H after the children were removed from their care.
8. The social worker's conduct breached principles 1, 4, 5, 8 and 10 of the Code of conduct (March 2016) issued by the Social Worker's Registration Board pursuant to s 105 of the Act.

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 practice as a social worker pursuant to s 82(1)(b) of the Act.

## **Background**

The social worker was the supervisor for five social workers in the caregiving team, including Ms I. Supervision sessions occurred on a frequent basis with Ms I although no records of these sessions were provided to the Tribunal. Ms I believed she was micromanaged and felt bullied by the social worker. Ms I was also the caregiver social worker for Mr N and Ms H.

Mr N and Ms H are long term caregivers to two boys, Master G and Master W. In November 2016 they were asked to provide respite care for Master L. This progressed to long term care. The three boys went into respite care while Mr H and Ms N went on holiday for a week. While away, the caregivers were advised by email that the three boys would not be returning to their care. The reasons given (and criticism of this letter formed particular 5 of the charge) were alleged issues with communication between the caregivers and Oranga Tamariki staff, lack of teamwork between Mr H and Ms N, their regimented attitude around their care of the children, lack of love and affection and understanding about whanau remaining in the children's lives.

## **Finding**

The Tribunal dismissed the charge.

Particular 1(a). The Tribunal accepted that Ms I felt upset by the level of direction being given but finds that the social worker held reasonable expectations to meet KPIs, as her position required. A supervisor being directive does not in and of itself warrant criticism.

Particular 1(b). Not proved. The Tribunal found in the circumstances it was not the social worker's responsibility to inform Ms I.

Particular 1 (c). The Tribunal found that the social worker did not discuss the case consultation with Ms I and provide instruction on giving support as she ought to have done. However, the evidence does not establish that the social worker led Ms I to believe it was not Ms I's role to

provide support. The Tribunal did not consider the finding to the extent it was made reached the threshold for discipline.

Particular 2(a). Not proved. The Tribunal found no evidence that the social worker held concerns that were not already shared by or known to her Oranga Tamariki social work colleagues and no evidence that she had the responsibility to record those concerns.

Particular 2(b). Proved but did not warrant disciplinary sanction. The social worker did not document her interactions with the caregivers in December 2016. She did not make a record of the meeting in May 2017 but neither did Ms A who the Tribunal considers had the primary responsibility for doing so. The focus of the meeting was the caregivers' complaints about the care and protection team and various other professionals, these being matters which were outside the social worker's remit to follow up.

Particular 3. Not proved. In the absence of evidence that the social worker heard concerns other than those already discussed, the Tribunal found the particular not proved.

Particular 4. The Tribunal did not consider that the social worker's input at the consult was deliberately misleading or inaccurate. It was not ultimately determinative of the collective decision to remove all three children. The decision to remove Master L had already been made. The decision to remove the other boys was a collective one. The Tribunal was not satisfied to the requisite standard that the social worker used 'considerable work' in the context described. The particular was proved but did not warrant disciplinary sanction.

Particular 5. Not proved. The Tribunal was critical of the communication, but considered that it reflected the documented discussion of removal of the children from the caregivers' care. The Tribunal observed that the process leading to the removal of the children did not reflect the Oranga Tamariki Case Consult policy and there were several shortcomings including a lack of consultation with the caregivers and children and other relevant personnel. These shortcomings impacted on the robustness of the decision and led to an undue emphasis on the social worker as the person tasked with communicating the decision.

Particular 6. Not proved. On the balance of probabilities, the Tribunal found that the social worker did discuss the names to be put on the letter and believed she had permission to include the names of Ms A and Ms E.

Particular 7. Proved but did not warrant disciplinary sanction. The Tribunal did find that the social worker failed to ensure that appropriate support was provided to the caregivers after the children were removed from their care. This failure was a breach of principle 5 of the Code. However, the Tribunal found that this fell short of the threshold of warranting discipline. The social worker was not alone in the obligation to provide support. Not all breaches of the Code warrant disciplinary sanction and to punish the social worker for this breach would be a disproportionate response based on the evidence before the Tribunal.

**Costs**

The Act is silent as to costs in favour of a social worker who is wholly or partly successful in defending a disciplinary charge. The Tribunal sought submissions from counsel on this matter.

The Tribunal considered the submissions, relevant sections of the Act and approaches by similar Tribunals. In the absence of an express statutory provision empowering the Tribunal to order costs in favour of a social worker, the Tribunal found that it does not have jurisdiction to do so.

The Tribunal directed publication of this decision and a summary subject to the suppression orders it imposed.