

Social Workers Complaints and Disciplinary Tribunal

Social Workers Registration Act 2003

BEFORE THE SOCIAL WORKERS COMPLAINTS AND DISCIPLINARY TRIBUNAL

REF **01/SWCDT T22/20P**

UNDER the Social Workers Registration Act (“the Act”)

IN THE MATTER of a disciplinary charge laid against a social worker
under Part 4 of the Act.

BETWEEN **A PROFESSIONAL CONDUCT COMMITTEE**

appointed by the SOCIAL WORKERS REGISTRATION

BOARD

AND **KERRY BURRIDGE** formerly or otherwise known as

KERRY STEWARD of Palmerston North, registered
social worker

Practitioner

HEARING Held at Palmerston North on 4 and 5 April 2023

Tribunal reconvened to consider penalty, by AVL on 13 April 2023 at
4.00pm

MEMBERS Ms J C Hughson (Chairperson)
Dr S Hunt, Ms A McKenzie, and Ms S Jarvis (registered social
workers)
Ms N Walker (layperson)

Ms G J Fraser (Hearing Officer)
Ms J Kennedy (Stenographer)

APPEARANCES Ms E Wilson and Mr J Adcock for the Professional Conduct
Committee
No appearance by or for the practitioner

Introduction

1. Kerry Burrridge (Ms Burrridge), formerly or otherwise known as Kerry Steward, obtained registration as a social worker on 26 September 2014. At the relevant times Ms Burrridge worked as a senior practitioner in the Care and Protection team at the Manawatū office of Oranga Tamariki, in Palmerston North. Her casework was focussed on children in State care¹. Ms Burrridge was responsible for ensuring the daily needs of the children on her caseload were met, which would require her to maintain regular contact with them (at least 8-weekly visits), completing court reviews annually, attending whānau hui and review meetings, and working with lawyers and other professionals.²
2. Ms Burrridge worked for Oranga Tamariki from around 2010 until her employment terminated in 2020³. As at the date of the hearing, Ms Burrridge did not hold a current practising certificate.
3. In May 2022, following an investigation, a Professional Conduct Committee (PCC) appointed by the Social Workers Registration Board (the Board) laid a disciplinary charge⁴ against Ms Burrridge. The charge, as amended, was comprised of three particulars, the conduct alleged in which was said either individually or cumulatively to amount to professional misconduct under section 82(1)(a) and 82(2)(a) or (d) of the Social Workers Registration Act 2003 (the Act) or alternatively, conduct that is unbecoming of a social worker and reflects adversely on her fitness to practise as a social worker ('conduct unbecoming') under section 82(1)(b) of the Act.
4. The particulars or the charge were that while practising as a social worker:
 - Between April 2020 and on or around August 2020, Ms Burrridge failed to maintain professional boundaries with the family of a client on her caseload by:
 - Entering into a close personal relationship with Mr X, the brother of a client on her caseload; and/or

¹ Children in the custody of the Chief Executive.

² Brief of Evidence of Monica Miranda at [[4] to [6].

³ Brief of Evidence of Sherrie Mitchell at [4].

⁴ At the hearing the Tribunal granted leave for the PCC to amend the charge dated 31 May 2022. Leave was granted pursuant to Clause 14 of Schedule 2 to the Act. The amended charge more precisely articulated the alleged professional misconduct. Ms Burrridge had been served with the PCC's application to amend the charge, in late 2022.

- Permitting Mr X’s use of a cell phone number allocated to Ms Burrridge as a method of contact between him and probation services; and/or
 - Visiting Mr X in prison outside of work hours; and/or
 - Attending the X family home, in her personal vehicle and outside of work hours on 17 June 2020. (Particular 1)
 - Between April 2020 and on or around August 2020, Ms Burrridge (Particular 2):
 - Failed to identify and/or adequately disclose the actual or potential conflicts of interest arising from the relationship she had formed with members of the X family and particularly Mr X; and/or
 - Failed to take adequate steps to manage the conflict of interest arising from the relationship she had formed with members the X family in that:
 - i. Ms Burrridge failed to seek out appropriate supervision with regard to the relationship formed with members of Mr X’s family; and/or
 - ii. Ms Burrridge continued to provide social work services to the X family notwithstanding the close relationship formed with members of the X family.
 - Between April 2020 and on or around August 2020, Ms Burrridge failed to attend and/or engage in regular professional supervision (Particular 3).
5. Prior to the matters charged coming to the attention of the Site Manager at the Manawatū office in July 2020, the Tribunal was told that Ms Burrridge had an unblemished work history at Oranga Tamariki.⁵

Legal Principles

Purposes of professional discipline

6. The primary purpose of the Social Workers Registration Act 2003 is to provide mechanisms for the protection of the safety of members of the public by ensuring that social workers are competent and accountable for the way in which they practise. ⁶ A further purpose is to “enhance the professionalism of social workers”.⁷ The disciplinary

⁵ Transcript, page 11 (evidence of Monica Miranda, Site Manager).

⁶ SWR Act, section 3(a).

⁷ SWR Act, section 3(d).

regime in Part 4 of the Act is one of the mechanisms by which the purposes of the Act are fulfilled.

7. As to the purpose of disciplinary powers in *A v A Professional Conduct Committee*⁸ it was said at [77]-[82]:

“The purpose of such sanctions as these, this Court said in *Brake v PCC of the Medical Council*...was captured in *Dentice v Valuers Board*... Eichelbaum CJ:

Such provisions exist to enforce a high standard of propriety and professional conduct; to ensure that no person unfitted because of his or her conduct should be allowed to practise the profession in question: to protect both the public and the profession itself, against persons unfit to practice; and to enable the profession or calling as a body, to ensure that the conduct of its members confirm to the standards generally expected of them...Obviously and distinctly, it is in the public interest that...a high standard of conduct should be maintained.”

8. There is also a punitive element to disciplinary proceedings under the Act. This is reflected in the fact that the Tribunal has the power to fine (section 83(1)(c) and censure (section 83(1)(b) registered social workers who commit disciplinary offences in terms of section 82 of the Act.

Onus and Standard of Proof

9. The onus of proving the Charge was on the PCC.
10. As to the standard of proof, the appropriate standard is proof to the reasonable satisfaction of the Tribunal on the balance of probabilities (rather than the criminal standard). This is a static standard. However, as the seriousness of an allegation rises, so does the cogency of the evidence required to satisfy the standard⁹.

Grounds for social worker discipline

11. Section 82 of the Act defines the grounds on which a registered social worker may be disciplined. Section 82(1) provides that the Tribunal can impose certain disciplinary sanctions set out in section 83 if, relevantly, the Tribunal is satisfied the social worker has been guilty of professional misconduct (section 82(1)(a)) or if the social worker has been guilty of conduct that is unbecoming of a social worker and reflects adversely on the social worker’s fitness to practise as a social worker (section 82(1)(b)).

⁸ [2008] NZHC 1387.

⁹ *A v A Professional Conduct Committee of the Medical Council of New Zealand* [2018] NZHC 1623 at paras [11] – [16] and as confirmed in *Z v Dental Council Complaints Assessment Committee* [2009] 1 NZLR 1 (SC) endorsing the comments of Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336.

12. Section 82(2) of the Act provides that a social worker is guilty of professional misconduct if he or she, relevantly, breaches the Code of Conduct (section 82(2)(a)) or commits an act or omission that, in the opinion of the Tribunal, has brought or is likely to bring discredit to the social work profession (section 82(2)(d)).
13. In previous decisions the Tribunal has adopted a two-step approach to assessing professional misconduct:
 - The first step requires an objective analysis of whether the social worker’s acts or omissions can reasonably be regarded by the Tribunal as constituting a breach of the Code or was an act or omission that could reasonably be regarded by the Tribunal as constituting a departure from acceptable professional standards that brings or would likely bring discredit to the profession.
 - If the Tribunal is so satisfied, the second step requires the Tribunal to form an opinion as to whether those acts or omissions warrant discipline for the purposes of protecting the public and/or enhancing the professionalism of social workers. This step is commonly referred to as the “threshold”.
14. In assessing conduct against the standard of avoiding conduct that puts the reputation of the social work profession at risk, or brings the profession into disrepute, “bringing discredit” on the nursing profession was considered in *Collie v Nursing Council of New Zealand*¹⁰ where at paragraph [28] Gendall J considered a definition of this:

“To discredit is to bring harm to the repute of the profession. The standard must be an objective standard for the question to be asked by the Council being whether reasonable members of the public, informed and with the knowledge of all the factual circumstances, could reasonably conclude that the reputation and good-standing of the nursing profession was lowered by the behaviour of the nurse concerned.”
15. The Tribunal accepted the submission for the PCC that if the Tribunal forms the view that the conduct would be considered by members of the social work profession and the public to be unacceptable, then it is conduct which brings or would likely bring discredit to the profession.
16. As to the threshold step, the Court of Appeal in *F v Medical Practitioners Disciplinary Tribunal*¹¹ expressed the issue as being that in cases of both professional misconduct

¹⁰ High Court, Wellington Registry, AP300/99, 5 September 2000.

¹¹ [2005] 3 NZLR 774 (CA)

and ‘conduct unbecoming’ “it will be necessary to decide if there has been a departure from accepted standards *and then whether the departure is significant enough to warrant sanction* [emphasis added].”¹² The threshold has been described as “not unduly high”, as the degree of seriousness beyond the mere fact that the conduct warrants sanction is a matter to be reflected on in penalty.¹³ However, the threshold is to be reached with care having regard to the purposes of the Act and the implications for the social worker.

17. The two-stage test for professional misconduct is an objective one and does not allow the Tribunal to consider matters personal to the practitioner in any significant way when objectively assessing whether there has been professional misconduct (or ‘conduct unbecoming’).¹⁴ Personal factors may be given full consideration at the penalty stage if a charge is found to have been established.
18. This approach to the Tribunal’s assessment of professional misconduct recognises that it cannot be that every departure from accepted professional standards or every unwise or immoral act by a social worker in his or her professional or personal life amounts to professional misconduct for the purposes of section 82(1)(a) (or ‘conduct unbecoming’ for the purposes of section 82(1)(b)¹⁵).
19. As to the standards to be applied, in *B v Medical Council*¹⁶, Elias J (as she was then) stated:

“The structure of the disciplinary processes set up by the Act, which rely in part upon judgement by a practitioner’s peers, emphasises that the best guide to what is acceptable professional conduct is the standards applied by competent, ethical, and responsible practitioners. But the inclusion of lay representatives in the disciplinary process and the right of appeal to this court indicates that usual professional practice, while significant, may not always be determinative: the standards applied must ultimately be for the Court to determine, having taken into account all the circumstances including not only usual professional practice

¹² Above fn. 11 at [80].

¹³ *Martin v Director of Proceedings* [2010] NZAR 33, Courtney J at [32]. In *Johns v Director of Proceedings*¹³ Moore J noted that “given the wide range of conduct which might attract sanction in this jurisdiction [health practitioners], the threshold should not set [sic] unduly high. It is a threshold to be reached with care having regard to the purposes of the Act and the implications for the practitioner.”

¹⁴ *Cole v Professional Conduct Committee of the Nursing Council* [2017] NZHC 1178, at [126]-[130]. *Martin v Director of Proceedings* [2010] NZAR 333.

¹⁵ For reasons which will be apparent from the discussion below, and the Tribunal’s findings, it is not necessary to refer to the Tribunal’s approach to whether established conduct amounts to ‘conduct unbecoming’.

¹⁶ Noted at [2005] 3 NZLR 810.

but also patient interests and community expectations, including the expectation that professional standards not be permitted to lag. The disciplinary process in part is one of setting standards.”

20. In *Moore v Nursing Council of New Zealand*¹⁷ the High Court stated:

Whilst the views of the members of the profession may assist the Tribunal in reaching a decision as to whether the behaviour falls into the category of deserving of disciplinary sanction are relevant, in the end the Tribunal must itself act in a representative capacity and endeavour to formulate the standards which are themselves representative. As was said by Gallen “J in *Faris v Medical Practitioners Disciplinary Committee* (supra) at 71-72:”

“...the disciplinary committee is to be regarded as a representative body. It would be impracticable and undesirable to endeavour to set standards by some kind of referendum. Those standards must be fixed by the members of the committee themselves, but in doing so they must bear in mind they act in a representative capacity and must endeavour to formulate standards which are themselves seen as representative, rather than expression of their own personal views. The standards are professional in nature and need to be seen in that light. No doubt there are certain difficulties theoretically in arriving at and expressing such standards. However, this is the way in which professional bodies have always acted and in practical terms I think there would be little difficulty in determining those standards in an acceptable way. That view is in accordance with comments in *Ongley v Medical Council of New Zealand*.”

Ms Burridge’s non-participation

21. Ms Burridge did not attend the hearing, and nor did she give any indication at any time prior, that she wished to participate in the proceedings or attend the hearing.
22. The Tribunal’s Hearing Officer, Ms Fraser, gave evidence at the beginning of the hearing, and produced correspondence¹⁸, confirming that the Notice of the Proceedings (which gave details of the charge) and other Tribunal documentation including information about the pre-hearing meeting to be held on 2 September by AVL, was personally served on Ms Burridge by a document server, on Monday, 11 July 2022 at a Palmerston North address. The process server reported that Ms Burridge provided identification and stated that she was now known as Kerry Steward, but she had previously been known as Kerry Burridge. Ms Burridge signed an Acknowledgement of Service.

¹⁷ High Court, Wellington, AP100/00, 18 December 2000.

¹⁸ Document 1 – Timeline of Correspondence with Ms Burridge and annexed correspondence.

23. Ms Burridge did not attend the pre-hearing meeting held on 2 September 2022. The Minute of that meeting was emailed to Ms Burridge at her icloud.com email address from which the Tribunal understood she had corresponded with Counsel for the PCC during the PCC's investigation (in particular, the day before the charge was laid).¹⁹ The Minute notified the parties that the charge was to be heard in Palmerston North, on Wednesday, 15 February 2023, through to and including Friday, 17 February 2023. A letter confirming the hearing dates, and the composition of the Tribunal to hear the charge, and copies of the briefs of evidence filed by the PCC as well as the PCC's application for leave to amend the charge, were emailed to Ms Burridge on 7 November 2022 and personally served on her on 9 November 2022, by a process server. In that correspondence Ms Burridge was reminded about the hearing dates and hearing venue. Ms Burridge signed and dated an Acknowledgement of Service.
24. By email dated 19 December 2022 Ms Fraser asked Ms Burridge to let her know with some urgency, whether she intended to provide any evidence on her behalf or any information that she may wish to have passed on to the Tribunal for consideration at the hearing. Ms Burridge did not respond.
25. Ms Fraser confirmed in her evidence that the hearing was adjourned because of a serious personal issue for one of the Tribunal members and she stated she had emailed Ms Burridge at her icloud.com email address to notify her of this, on 30 January 2023. Further, on Monday, 13 February 2023 Ms Fraser emailed Ms Burridge to advise that the hearing had been rescheduled to Tuesday and Wednesday, 4 and 5 April 2023.²⁰
26. Ms Fraser's evidence was that Ms Burridge had not replied to any correspondence she had sent her, apart from her having acknowledged service of the documents that had been served on her personally on the two separate occasions noted above, by the process server. Ms Fraser confirmed she had not had any contact with Ms Burridge between 13 February 2023 and the first hearing day (4 April 2023).
27. Ms Fraser gave further evidence during the hearing, also under oath, that none of her emails to Ms Burridge had been returned as undeliverable, or otherwise returned to

¹⁹ Counsel for the PCC, Ms Wilson, had, lawfully, acted as the legal adviser to the PCC during its investigation.

²⁰ Transcript, page 234

her, and that Ms Burridge had never previously contacted her and notified her of any change in or alternative or new email address.²¹

28. The Tribunal inferred that had Ms Burridge attended the hearing venue on the initial dates that were notified to her, she would have contacted the Tribunal.
29. Given all those circumstances, the Tribunal was satisfied that Ms Burridge had adequate notice of the hearing, and the Tribunal was content to proceed to hear and determine the charge in Ms Burridge's absence.

The evidence in support of the charge:

30. The PCC proceeded by way of formal proof. Evidence in respect of the charge was called as follows (summarised).
31. **Natalie Noble:** Ms Noble is a Service Manager for the Department of Corrections based in Community Corrections in Palmerston North. She manages the Youth Team of probation officers who manage offenders under the age of 25 years, and the people in their care²². Her evidence was that in the period April 2020 to 20 July 2020 she was made aware of concerns about Ms Burridge and her relationship with Mr X who had been under the parole management of the Department of Corrections (Corrections) since his release from prison on 14 January 2020²³. Mr X was one of the adult brothers (aged around 22-years²⁴) of one of her clients. One of the concerns was that Corrections' listed telephone number provided by Mr X was a number that belonged to Ms Burridge. Corrections staff were required to contact Mr X using Ms Burridge's phone number on several occasions. Ms Noble referred to a Corrections Offender Note for Mr X²⁵ which shows that on 3 April 2020 (which was during the Covid-19 Level 4 lockdown when Community Corrections was closed), when Ms Burridge made contact with probation, the officer (Ms P) was advised that if they phoned at a particular time, Mr X would answer the phone; and that on 23 April 2020, Mr X contacted probation using

²¹ Transcript, page 235. Ms Fraser gave further evidence because as Counsel for the PCC were about to make closing submissions as to liability on the second day of the hearing, a reporter from the Manawatū Standard (which had published a report about the proceedings on Stuff 4 April 2023) who was present passed a handwritten note through the Hearing Officer to the Chairperson; the note was to the effect that Ms Burridge had contacted media and advised that she did not know anything about the hearing.

²² Transcript, page 40.

²³ Bundle of Documents (BD) at page 46.

²⁴ Transcript, page 119.

²⁵ BD, page 43.

Ms Burridge's phone number. The officer (Ms P) phoned back the same day and spoke to Ms Burridge.

32. Ms Noble stated that Corrections staff later reported (mid-July 2020) they had observed that there appeared to be an ongoing relationship between Ms Burridge (whom it was understood was the social worker for Mr X's younger brother) and Mr X when he was an inmate at Manawatū prison. Mr X had been returned to prison because he had breached his parole orders (some time before 20 June 2020)²⁶. Ms Noble's evidence was that the booked visits on the Integrated Offender Management System (IOMS) demonstrated that Ms Burridge visited Mr X nine times between 20 June 2020 and 15 July 2020 under the name "Kerry Steward". "Kerry Steward" was a listed visitor on the Visits System, as a "friend" of Mr X²⁷. On 20 July 2020, after speaking to a colleague at the prison and Mr X's probation officer, and reviewing Mr X's IOMS case-notes, Ms Noble reported the concerns to Monica Miranda who is the Site Manager of the Oranga Tamariki office in Palmerston North. At the hearing Ms Noble stated that there were a further eight visits recorded as booked by Ms Burridge to Mr X between 18 July 2020 and 12 August 2020²⁸ (17 booked visits in total between 20 June 2020 and 12 August 2020 with "a couple that weren't attended").²⁹ Ms Miranda, and Ms Mitchell who was Ms Burridge's line manager and supervisor, told the Tribunal they were not aware of the further eight visits.
33. The Tribunal reviewed an email in the PCC's Bundle of Documents between New Zealand Police and Ms Miranda dated 7 July 2020³⁰ in which Police had reported to Ms Miranda that "a few weeks ago" during a routine bail check at the X whānau address "one evening at about 8.30pm", Police located a vehicle that was identified as belonging to Ms Burridge, parked at the address for some time. Mr X's adult brother was sitting in the front passenger seat and a young child, who the Tribunal understood was Ms Burridge's daughter, was in the back seat.

²⁶ Transcript, page 38.

²⁷ Ms Noble stated that a person who wants to have contact with a prisoner must make an application to the prison, which is then approved or denied. Transcript, page 35.

²⁸ Booked visits on 18, 22, 25 and 29 July 2020, and 1, 5, 8 and 12 August 2020. Transcript, page 36.

²⁹ Transcript, pages 36 and 37.

³⁰ BD, page 44. The Tribunal received a statement from Sergeant David Marshall who is a Constable in the New Zealand Police. He was in charge of Youth Services on 7 July 2020. In his statement he confirmed he sent this email to Ms Miranda at Oranga Tamariki. The Tribunal received Sergeant Marshall's statement under Clause 6(1) of Schedule 2 to the Act.

34. **Sherrie Mitchell:** Ms Mitchell was Ms Burridge’s line manager and supervisor at Oranga Tamariki from the time Ms Mitchell commenced in the role of Services for Children and Families Supervisor in the Palmerston North office. Ms Mitchell has been employed by Oranga Tamariki for 32 years and has been at the Manawatū site for approximately nine years, reporting to Ms Miranda. She described her role as involving her providing support to the social workers in her team, mentoring and coaching, and professional supervision and development. Ms Mitchell described Ms Burridge as a very analytical, and competent social worker, and a caring person who was well-liked in the team and generally easy to work with.
35. Ms Mitchell gave evidence about Ms Burridge’s supervision which she said she and Ms Burridge had scheduled fortnightly for at least an hour, in line with Oranga Tamariki’s National policy on supervision.³¹ Ms Mitchell said she had been Ms Burridge’s supervisor for 6 or 7 years³². She told the Tribunal that Ms Burridge could be difficult to get into supervision; she preferred to work independently and would often be unavailable or away from the office when supervision was scheduled. She said this was consistent over the 6-7 years she supervised her³³. Ms Mitchell said she would send a recurring meeting invitation to Ms Burridge for supervision in her Microsoft Outlook calendar diary, some of which were accepted but others declined - although she (Ms Mitchell) said she did not know they had been declined until she went in to look at the calendar herself³⁴. Ms Mitchell stated that when supervision was missed, she would catch up with Ms Burridge in person and by email, but she said face-to-face supervision was “difficult”. She said she tried to have discussions with Ms Burridge about this, but she could not recall what Ms Burridge’s response was³⁵.
36. Ms Mitchell’s evidence was that she had been unable to locate a copy of Ms Burridge’s supervision record. She said, “unfortunately it appears it has been incorrectly archived”. Ms Mitchell was questioned by Tribunal members about the unavailability of the supervision file and the process of recording supervision notes. Ms Mitchell told the

³¹ BD, page 38. Transcript, page 52.

³² Transcript, page 77.

³³ Transcript, page 77.

³⁴ Ms Mitchell said that members of her team had shared calendars. Transcript, page 65.

³⁵ Transcript, page 62.

Tribunal that these are typed up as a word document, and printed but she said she never saved these documents electronically; they were placed on a physical file.

37. Ms Mitchell told the Tribunal that Ms Burridge’s caseload was typical for her team and included a mix of cases that did not need too much work, but then some “really high needs clients”. Ms Mitchell said that Ms Burridge tended to devote large amounts of time to particular families, one of which was the X family, who she described as “a high needs case” and a family that engaged with Ms Burridge “really well” (she confirmed that Ms Burridge’s introduction to the family was through her case work for Mr X’s younger brother and she had been working with him for a significant period – for several years³⁶). Ms Mitchell recalled this was one of the cases that she recalls Ms Burridge discussing with her in supervision, but she said nothing that was said raised any concerns for her about Ms Burridge’s relationship with the whānau, or any specific whānau members “for the majority of the time she [Ms Burridge] worked for them”.
38. Ms Mitchell then outlined how concerns about Ms Burridge’s involvement with members of the X family came to her attention. She referred to a traumatic event Ms Burridge suffered in her personal life which hugely impacted her (in or around October 2019), and the support that was provided to Ms Burridge through this. Ms Mitchell told the Tribunal that she noticed a decline in Ms Burridge’s practice standards from that time³⁷. She stated that in around May 2020 she and Ms Miranda had met with Ms Burridge and given her “some reminders about the need to enforce boundaries with some of the rangatahi in her care”, which she said Ms Burridge was receptive to. Ms Mitchell told the Tribunal this conversation arose after a bottle of alcohol belonging to a young client of Ms Burridge’s, had been found in one of the work vehicles.³⁸ Ms Mitchell could not recall if a record was kept of the conversation.³⁹
39. Ms Mitchell then described an incident on the morning of Sunday, 4 July 2020 when she said Ms Burridge phoned her in a distressed state; a rangatahi in Ms Burridge’s care (the same rangatahi whose bottle of alcohol had been found in a work vehicle) and the brother of Mr X had attended her home at 1am that morning. Ms Mitchell said she

³⁶ But less than five years. Transcript, page 57.

³⁷ Transcript page 67-68.

³⁸ Transcript, page 68.

³⁹ Transcript, page 68.

thanked Ms Burridge for letting her know and told her they would reallocate both rangatahi from her caseload. She said she and the Acting Practice Manager met with Ms Burridge the next day and Ms Burridge was distressed and completed an incident report (SOSHI)⁴⁰. Ms Mitchell stated that it was shortly after this that she became aware that Oranga Tamariki had received a notification from Police that Ms Burridge's car had been found at the X household, after hours; and the notification from Corrections about Ms Burridge's recent prison visits to Mr X. Ms Mitchell said she was shocked that Ms Burridge had not mentioned "having a relationship with [Mr X]" at any stage, despite discussing the X family during supervision, and after the incident on 4 July 2020.

40. Ms Mitchell told the Tribunal about her involvement, with Ms Miranda, in a disciplinary process that began in early August 2020. She produced a letter that Ms Burridge had written for this⁴¹. Ms Mitchell said she reviewed Ms Burridge's leave records and confirmed that all of Ms Burridge's visits to Mr X in prison (the first nine up to 15 July 2022) had been either during recorded leave, outside of work hours, or while she had been on TOIL (time off in lieu⁴²) (that is, Ms Burridge did not visit Mr X during work hours). Ms Mitchell, in answer to a question from Tribunal member Nicole Walker, stated that she was not aware of the eight further prison visits from 18 July 2020 to 12 August 2020 that Ms Noble had mentioned in her evidence at the hearing, and she had not checked those visits with Ms Burridge's record of when she was at work⁴³.
41. Ms Mitchell denied that Ms Burridge had told her about the nature of her relationship with Mr X, but she stated she did recall Ms Burridge making a casual, passing comment to her in May or June 2020 (which she said would have been before the prison visits⁴⁴) about getting "too close" to the X family (but not with reference to a particular individual within the family) and that she needed to get that case, and one other, off her caseload. Ms Mitchell said when she indicated in response that she would look at reallocating those two cases, Ms Burridge said that is not what she meant; just that she

⁴⁰ The SOSHI was not produced to the Tribunal. Ms Mitchell stated that this is made online, but she said she is not sure how long they are kept. Transcript, page 69.

⁴¹ BD page 64.

⁴² Ms Mitchell explained that a staff member must request TOIL and this has to be approved. In answer to a question from the Chair, Ms Mitchell confirmed that as Ms Burridge's line manager, she pre-approved Ms Burridge's applications for TOIL and these then went through to Ms Miranda for full approval. Transcript, page 68.

⁴³ Transcript, page 62.

⁴⁴ Transcript, page 71.

was thinking of discharging the section 101 orders on the two cases which would discharge them from the care of Oranga Tamariki. Ms Mitchell could not recall if she had documented this exchange anywhere, but she confirmed she did not ask Ms Burrige any specific questions about what she meant by “getting too close”. She said she did not have any concerns when Ms Burrige made this comment⁴⁵. She also said that discussion about the comment would have needed to be in a face-to-face supervision discussion.⁴⁶ She said there was no follow up supervision and no specific conversations between her and Ms Burrige about Mr X.

42. Ms Mitchell said that Ms Burrige did not elaborate on her comment about getting close to the X family at any stage although Ms Burrige had mentioned in the past that she had dropped off food to the X family during the Covid lockdown (which Ms Mitchell said was not out of character for Ms Burrige). Ms Mitchell initially stated that she struggled to recall whether Ms Burrige ever talked to her about going to prison to visit Mr X, but then stated that Ms Burrige “absolutely [did] not” mention she was visiting Mr X in prison⁴⁷. She said she was not aware she was meeting with Mr X in prison until it came to Oranga Tamariki’s notice (in July 2020). Ms Mitchell stated further “I am certain that I was not aware that Kerry was visiting [Mr X] in prison with such frequency”. With reference to what were meetings with Mr X every couple of days over a month (referring to the first nine of Ms Burrige’s prison visits to 15 July 2022), Ms Mitchell commented that this is far in excess of how much she would expect a social worker to be meeting with a whānau member who was imprisoned, and she would not expect Ms Burrige to be meeting with Mr X for work related reasons at all, unless she was arranging a whānau hui (but even then she would expect to see maybe one meeting with him).
43. **Monica Cecelia Miranda:** Ms Miranda has been the Site Manager at the Manawatū office of Oranga Tamariki since 2014. Ms Mitchell reports to Ms Miranda and Ms Miranda provides her with monthly coaching in her capacity also as Ms Mitchell’s supervisor. Ms Miranda confirmed that Ms Mitchell’s supervision responsibilities are

⁴⁵ Transcript, page 70.

⁴⁶ Transcript, pages 65 and 70.

⁴⁷ Transcript, page 73.

one of Ms Mitchell's KPIs that she (Ms Miranda) is responsible for monitoring. Ms Burrige was part of the team Ms Miranda managed.

44. Ms Miranda described Ms Burrige as a good social worker who was client-focused, committed, caring, had "great" relationships with stakeholders, and good report writing skills. Ms Miranda stated that Ms Burrige advocated well for the tamariki on her caseload. However, her evidence was that over time she noticed a deterioration in Ms Burrige's performance, which she said became more noticeable in the Covid-19 Level 4 lockdown and coincided with some personal circumstances in Ms Burrige's life (for which she was given access to EAP). Ms Miranda confirmed that she and Ms Mitchell had conversations with Ms Burrige about personal boundaries and interactions with clients; and about her not always recording where she was going. She was unable to give dates for those conversations.⁴⁸ Ms Miranda said Ms Burrige responded well to her during those meetings. Ms Miranda stated she was aware that Ms Mitchell was working hard with Ms Burrige to try and get her into supervision and that this was an ongoing process for them. When asked by Tribunal member Sue Jarvis why more was not done over the seven years or so that the supervisory relationship between Ms Mitchell and Ms Burrige was not working (and Ms Miranda was aware of that), Ms Miranda stated that she believed Ms Mitchell was the only supervisor able to build enough of a relationship with Ms Burrige and she believed that it would have been difficult to get Ms Burrige to supervision no matter who was supervising her. Ms Miranda stated it was difficult to comment, without having Ms Burrige's supervision folder, on the issue of Ms Burrige having been signed off by Ms Mitchell for an APC annually in circumstances where both Ms Mitchell and Ms Miranda were aware Ms Burrige had not been meeting her supervision responsibility.⁴⁹ In response to the Chair advising Ms Miranda that Ms Burrige had told the PCC that she had not had any supervision for two years, and that any conversations she had with her "so-called supervisor were usually at her desk" Ms Miranda stated "That's not correct. Supervision didn't occur as often as it should have, but it certainly wasn't for a two-year period with

⁴⁸ Transcript, page 105.

⁴⁹ Transcript, pages 106-107.

no supervision”⁵⁰ and she referred to “ad hoc kind of case-by-case discussion”⁵¹ having occurred.

45. Ms Miranda stated that in June 2020 she was made aware of the beer bottle incident referred to above, and she said she discussed this with Ms Burrridge and put a plan in place in terms of her needing to catch up with her supervisor daily, have a work plan, have time in the office and that visits needed to be structured and they needed to know where she was. Ms Mitchell said these plans were not followed through because of incidents involving the whānau of a client on Ms Burrridge’s caseload, the X whānau.
46. Ms Miranda confirmed the first incident she became aware of related to the incident on 4 July 2020 which Ms Mitchell had spoken about. Ms Miranda stated that on the SOSHI that Ms Burrridge completed, she had detailed that she had let her separate client and Mr X’s brother (who was the other adult brother of her X client) into her home because she did not want their actions (the client was aggressive and intoxicated) to wake her children, who were sleeping.
47. The second matter Ms Miranda stated, was her being made aware by Police on 7 July 2020 that Ms Burrridge’s vehicle had been found parked (for some time) in the driveway at the X whānau address on the evening of 17 June 2020 during a routine bail check on Mr X’s adult brother. Ms Miranda said Police informed her that Mr X’s adult brother was in the front passenger seat, there was someone in the driver’s seat, and a young child in the back seat.
48. Ms Miranda said the third matter was an email she received from Corrections on 20 July 2020 notifying her of concerns about Ms Burrridge’s relationship with Mr X, with reference to Mr X only being able to be reached through Ms Burrridge’s phone, and to the prison visits during both work and personal time; nine visits from 20 June 2020 to 15 July 2020. Ms Miranda, like Ms Mitchell, stated she was unaware of the further booked visits Ms Noble had spoken to the Tribunal about, up to 12 August 2020.
49. Ms Miranda described her involvement in the employment disciplinary process involving Ms Burrridge that was commenced on 7 August 2020. She referred to a letter Ms Burrridge read from during her second meeting, and this was before the Tribunal in the PCC’s Bundle of Documents. During the course of the employment investigation Ms

⁵⁰ Transcript, page 114.

⁵¹ Transcript, page 114.

Burridge made a number of written, and according to Ms Miranda, verbal statements that she had entered into a close personal relationship with Mr X. Ms Miranda explained that during the first meeting, Ms Burridge had said the reason she had been at the X home on the evening Police found her car there, was because she was returning a hoodie that she had washed for her client and that she had done that because her client did not have a mother and she wanted to support the family. In relation to the prison visits, Ms Miranda said Ms Burridge told her she had become close to the family and wanted to support Mr X because there was no-one else to support him. Ms Miranda said she was led to believe from what Ms Burridge told her, that Ms Burridge had built an inappropriate relationship with Mr X.

50. Ms Miranda stated that Ms Burridge also reported that she had disclosed to her supervisor, Ms Mitchell that she had been getting “too close” to the X whānau.
51. Similarly, the Tribunal had before it Ms Burridge’s letter of 5 October 2020 when she responded to notes that recorded Ms Mitchell maintained that Ms Burridge had not disclosed the nature of her relationship with Mr X to her, or sought to have his whānau removed from her caseload.⁵²
52. It is noted that the Tribunal did not have regard to any of Ms Miranda’s evidence to the extent that it referred to her views during, and the outcome of, the employment process. None of that evidence was relevant to the objective assessment the Tribunal was required to make of the matters charged.
53. Ms Miranda was questioned extensively by the Tribunal members about Ms Burridge’s supervision file and the explanations she gave for why the physical file could not be located. Ms Miranda referred to a terminally unwell administrator who was responsible for keeping and archiving the supervision files⁵³, and an office refurbishment in around August and September 2022 when files were “sent off and put away”. She was unable to confirm whether she had Ms Burridge’s supervision file during the disciplinary process she led in August to October 2020. Ms Miranda said that Ms Burridge’s file is not the only file that is missing⁵⁴; and she told the Tribunal that she was unable to

⁵² BD, page 88.

⁵³ Referring to a system called TRIM, and the files being boxed up and sent to Wellington, Transcript, page 96.

⁵⁴ Transcript, page 131.

confirm whether Ms Burridge’s file had been located on the TRIM system, or not⁵⁵. She suggested that further inquiries were being made to locate the file, however, as at the date of this decision, the Tribunal had not been advised that the file or any other relevant supervision records had been found.

54. Towards the end of her evidence in chief on the afternoon of 4 April 2023, Ms Miranda referred to a spreadsheet she said is kept which records the supervision attendance of her team members. Ms Miranda advised that she would need to check if it was still available⁵⁶. Counsel for the PCC then indicated that attempts to obtain this information before the hearing had been fruitless but further inquiries were being made as to whether the spreadsheet could be sourced and made available to the Tribunal. On the morning of 5 April 2023, Counsel for the PCC advised that the spreadsheet had been located and that Ms Miranda was being recalled to produce it⁵⁷.
55. When she was recalled, Ms Miranda said that the spreadsheet was a document that was part of a process she implemented so she could get a snapshot of when supervision was occurring and when it was not, and the reasons why not. She said it was an administrative tool that is completed by the administrator of the team for whom the administrator was responsible for typing up supervision notes.⁵⁸ Ms Miranda said that before Covid-19 she would review the spreadsheet monthly⁵⁹, and the supervisors also had access to the document. Ms Miranda said also that overnight she had gone back and reviewed her “coaching notes” for Ms Mitchell, and she said there had been a number of discussions between her and Ms Mitchell⁶⁰ from around March 2020 about Ms Burridge’s supervision and Ms Mitchell’s need for support to have conversations with Ms Burridge. However, Ms Miranda did not produce the coaching notes. She said she did not recall having conversations with Ms Burridge by herself, about supervision

⁵⁵ Transcript, page 131.

⁵⁶ Transcript, page 132.

⁵⁷ Document 10 – Spreadsheet produced by Ms Miranda– November 2019–October 2020. Counsel for the PCC also sought leave to amend particular 3 of the charge relating to supervision to include a wider period back to November 2019, however the Tribunal declined to grant leave on the basis that would be procedurally inappropriate, and a breach of natural justice given that Ms Burridge was not on notice, and the wider period was not covered of the PCC investigation. However, the Tribunal agreed to the production of the spreadsheet and indicated the wider period would be considered in terms of context. Transcript pages 136 and 136.

⁵⁸ Transcript, page 163.

⁵⁹ Transcript, page 166.

⁶⁰ Transcript, page 166.

expectations; a support plan was never put in place⁶¹, and the issue of Ms Burridge's non-compliance with her supervision obligation was never raised as an issue under the terms of her employment contract.⁶²

56. Ms Miranda confirmed that Ms Mitchell was responsible for approving Ms Burridge's leave and that it was their (Ms Mitchell and Ms Burridge) joint responsibility to renegotiate supervision dates if scheduled supervision coincided with leave dates; Ms Miranda agreed with the Tribunal's observation that that had not happened.
57. The Tribunal's review of the spreadsheet during the discussion the members had with Ms Miranda, revealed that Ms Burridge had participated in supervision only, at most, two or three times between November 2019 and September 2020⁶³. Surprisingly, despite that, Ms Miranda stated that at no point did she have any reason to review Ms Burridge's supervision file to correlate what had been recorded on the spreadsheet.⁶⁴
58. When asked by Tribunal member Nicole Walker why Ms Mitchell was unable to produce the emails of draft supervision notes that were sent to the parties to review (which was Ms Miranda's evidence), Ms Miranda stated "A lot of our notes when we changed our system have got archived as well, and also the notes that Sherrie had were maintained by her workplace admin, so I would need to ask her if she's got any notes on her computer system. I don't believe she's been able to get those, but I need to go back and confirm."⁶⁵ In response to an earlier question from Tribunal member Walker who had observed that other of Ms Mitchell's social workers whose supervision was recorded on the spreadsheet also had quite a lot of "no-shows", Ms Miranda said "I can't answer that". When re-examined, Ms Miranda stated that none of Ms Mitchell's supervisees, Ms Burridge included, had ever raised any concerns about supervision.⁶⁶
59. **Stacey Muir:** The Tribunal received an affidavit from Ms Muir who was the presiding member of the PCC. Ms Burridge's engagement with the PCC was outlined and a transcript of Ms Burridge's interview with the PCC on 9 February 2022⁶⁷ was produced,

⁶¹ Transcript, page 169.

⁶² Transcript, page 169.

⁶³ Transcript, page 183.

⁶⁴ Transcript, page 179.

⁶⁵ Transcript, page 180.

⁶⁶ Transcript, page 187.

⁶⁷ Transcript page 132.

as were several documents that Ms Burrridge provided to the PCC.⁶⁸ These included various documents Ms Burrridge had filed in an employment dispute she had with Oranga Tamariki (a personal grievance). The Tribunal had regard to the transcript primarily for the purposes of confirming that although Ms Burrridge appeared to resile from her earlier statements during the employment investigation about whether she was in a personal relationship with Mr X, she did maintain her position that she had disclosed her connection to the X family to Ms Mitchell in May or June 2020.

60. **Matthew Rankine (expert witness):** Dr Rankine is a Senior Lecturer in Social Work at the University of Auckland, and the Programme Director of the Professional Supervision Programme. Dr Rankin has a BA, a Masters in Social Work, a Post Graduate Diploma in Supervision, and a Doctorate in Social Work. He is also an external supervisor with his own private practice. Dr Rankine was called to give expert evidence on professional supervision, and boundary issues that arise when a social worker enters a personal relationship with a family member of a client, as was alleged here⁶⁹.
61. Dr Rankine discussed supervision generally and the need for supervision to be regular and consistent. He explained that supervision is a dual responsibility between supervisee and supervisor, and both need to participate for supervision to be an effective process. His evidence was that the supervisor's role is to facilitate a time-bound reflective process and use an integrative model of practice. Dr Rankine stated that within busy statutory environments where reducing risk and public stigma are paramount, caseload and administrative workload pressures can be "enormous". He said that often in this environment, supervision becomes irregular due to other perceived priorities.⁷⁰ Dr Rankine told the Tribunal he had a sense that that was what was happening in Ms Burrridge's case⁷¹. Dr Rankine said that at a basic level, if

⁶⁸ BD, pages 136-143.

⁶⁹ Leave was granted in late 2022 for Dr Rankine to give his evidence by audio-visual link (AVL).

⁷⁰ Brief of Evidence at [6] and [7]. Dr Rankine referred to some relevant papers he had authored or co-authored including Rankine M & Thompson A 'Asking the dumb questions: A mixed-method survey of reflective supervision with statutory child protection social workers' *Aotearoa New Zealand Social Work*, 34(1), 55-71 doi.org/10.111577/anzswj-vol34iss1d904; and Rankine M (2017) Making the connections: A practice model for reflective supervision. *Aotearoa New Zealand Social Work*, 29(3), 66-78 doi 10.11157/anzswj-vol29iss3id377.

⁷¹ Transcript, page 148. Dr Rankine expressed his view that "the administrative workload within these environments is usually very high, and my experience also is because of these factors usually the first thing to fall off the radar on a regular and consistent basis is supervision". Transcript pages 148 and 149.

supervision is cancelled for any reason, it is both party's responsibility to reschedule and prioritise.

62. Dr Rankine then discussed how professional boundaries become blurred when a social worker enters a personal relationship with a client's family member/s. He explained that for the client, judgement around their best interests becomes clouded because of the other relational dynamics at play. These are not conducive to child-centred practice and effective decision-making when working with a family in a professional capacity.⁷² With reference to Principles 1, 5 and 6 of the Code of Conduct, Dr Rankine explained that when boundaries are compromised in this way, a social worker is no longer operating at a professional level. Decision-making based on the client and the client's wellbeing is compromised and it is unlikely the child's rights and best interests will be upheld. Dr Rankine discussed the need for the professional relationship to end if a personal relationship commences, because of the conflict of interest associated with the crossing of the professional boundary.⁷³
63. Dr Rankine discussed the obligations of both a supervisor and a supervisee if a personal relationship is identified. He noted that whilst a supervisee may "raise the item of blurred boundaries" in supervision they may not be clear about the specifics. However, there must be an open and honest commitment to discussing their worries in a formal supervision session. The role of the supervisor is to clarify the potential issue raised by the supervisee and the impact of the issue on self, others, the organisation, the social work profession, and key stakeholders. With reference to Ms Mitchell's dual responsibility to line manage and supervise Ms Burridge, which he said involved a conflict in those roles⁷⁴, Dr Rankine stated that this situation can create a power dynamic where the supervisor also has managerial responsibility of their staff and team. His evidence was that supervisors in those circumstances should have the appropriate training to be competent in using the necessary skills to separate out managerial duties and reflection in supervision. Once the issue has been explored with the supervisee, then ethical issues can be highlighted, and a plan implemented.⁷⁵

⁷² Brief of Evidence at [10].

⁷³ Brief of Evidence at [15].

⁷⁴ Transcript, page 153.

⁷⁵ Brief of Evidence at [19].

64. With reference to the evidence in this case that he had reviewed, Dr Rankine stated that if a supervisee notifies their supervisor that they are “getting too close” to a family, he does not consider that to be a disclosure because stating (in an ad hoc way) they are “too close” could mean many different things to different people. His evidence was that it is a social worker’s ethical responsibility to discuss the concerns they have about their work, and they should prioritise them on their “supervision agenda”; as formal professional supervision provides the forum for discussion (particularly when a social worker works in child protection where decisions should never be made in isolation). However, Dr Rankine’s evidence was that the supervisor has a role to critically unpack and reflect on feelings, professional relationships, organisational factors, and the wider environment of practice, within professional supervision. He stated that “hearing a supervisee saying they are “too close” to a family should instigate further critical questioning by the supervisor to examine what the supervisee meant, what was happening and what needed to happen next. This unpacking needs to occur within the supervisory space”⁷⁶. As above, it was Ms Mitchell’s evidence that supervision did not occur after Ms Burrige’s disclosure that she was getting too close to the X family. Dr Rankine’s evidence was that the supervisee and the supervisor equally have responsibility to ensure that supervision occurs and if it needs to be rescheduled, then that should be to a suitable time as soon as possible⁷⁷.
65. With reference to the evidence that Ms Burrige had disclosed informally in May or June 2020 that she was getting “too close” to the X family, Dr Rankine stated this in his opinion that was not a disclosure in supervision. He said that his understanding of supervision is that it is “formalised”, “uninterrupted” and “regular”, not informal chats.⁷⁸ He said he formed the view that Ms Burrige had engaged in a relationship other than a professional relationship with a member of the X family who was not her client, and because of this his sense was that it was harder for Ms Burrige to see the ethical quandary when that relationship became diluted or changed into something else, referring to the tendency as humans to normalise such relationships (if boundaries

⁷⁶ Brief of Evidence at [20]-[21].

⁷⁷ Transcript, page 141.

⁷⁸ Transcript, page 149.

are being crossed).⁷⁹ Dr Rankine's view is that as soon as Ms Burrige started having doubts or felt disoriented, she should have discussed that with her supervisor.⁸⁰ He stated that if Ms Burrige commented that she was "getting too close", this would raise a red flag in terms of potential blurred boundaries and Ms Mitchell, as the supervisor should then have indicated to Ms Burrige she would like to know more and have organised supervision as soon as possible and put the matter on top of the agenda and ask Ms Burrige "so, what do you mean by 'getting too close' to this family?"⁸¹

66. In answer to questions from Tribunal member Nicole Walker, Dr Rankine said that in his opinion, having reviewed Ms Miranda's spreadsheet, it appeared there had been an ongoing pattern of supervision not occurring due to non-attendance for quite a substantial period and that it appeared there was little done to address the issue of non-attendance. He stated that in his view, that should have been something that the supervisor who has accountability to the process of supervision, should have raised with the supervisee.⁸²
67. In answer to a question from the Chairperson about how he would expect supervision notes to be documented, Dr Rankine said the supervisor should take supervision notes and "absolutely I always save the notes"; to document generically the key issues that were raised in supervision, the key steps discussed around planning of action and who is going to do what by when. He said he sees recording and documenting supervision as part of the accountability the supervisor needs to have to the supervision.⁸³ It was in the context of this discussion that Dr Rankine responded to a question from Tribunal member Sue Jarvis by stating that he does not see professional supervision as case direction and so discussion about specific cases is management, not professional supervision.⁸⁴

⁷⁹ Transcript, page 149.

⁸⁰ Transcript, page 150.

⁸¹ Transcript, pages 151 and 152.

⁸² Transcript, page 154.

⁸³ Transcript, page 159-160.

⁸⁴ Transcript, page 160.

Tribunal's consideration of the charge:

Relevant standards

Code of Conduct

68. It is well established that ethical documents established by the Board as the professional body are relevant to determining the standards reasonably expected of a social worker, and therefore in considering whether their acts or omissions amount to misconduct.
69. The standards which should apply in situations such as the present are evident from the Code of Conduct issued by the Board pursuant to section 105 of the Act. The March 2016 version of the Code of Conduct applied in relation to the conduct the Tribunal reviewed in this case as it was alleged to have occurred in 2020.
70. However, the Code of Conduct should be regarded only as a guide to the minimum standards expected of social workers, or as one of the factors to be considered by the Tribunal in exercising its independent judgement as to whether in the particular circumstances there was a professional breach.⁸⁵
71. The Code of Conduct extends beyond professional practice to personal conduct and integrity.⁸⁶ It does not prescribe, in detail, every behaviour expected of a social worker.
72. The Code of Conduct also serves as a means by which clients and the public can know the standards of conduct that they can reasonably expect from social workers.

Blurring of professional boundaries by entering close personal relationship with family member of client

73. In this case the Tribunal was asked to review conduct that involved an alleged blurring of professional boundaries by a social worker entering a close personal relationship with a family member of a direct client of the social worker.
74. The preamble to the Code of Conduct demonstrates that the Board intended for 'client' to be broadly defined where it states that 'Client' may refer to an individual adult or child; a student; a family, whānau, or aiga; a group, an organisation; or part of an organisation.
75. Relevantly, the Code provides:

⁸⁵ *Staitte v Psychologists Board* High Court, Christchurch AP52/98, 18 December 1998, Young J.

⁸⁶ The Preamble to the Code notes that "[b]ecause they are in positions of trust and confidence [registered social workers] must also have high standards in their personal lives".

- **Principle 1 (Act with integrity and honesty)** requires social workers to act honestly and ethically in all personal and professional behaviour, be responsible for their own actions and decisions, be reliable, dependent and trustworthy, communicate in an appropriate, open, accurate and straightforward way, and not work in a situation where there is a conflict of interest.⁸⁷ In relation to not working in a situation where there is a conflict of interest the Code requires social workers to discuss potential or actual conflicts of interest (both professional and personal) with the client and take all reasonable steps to protect the client’s interests as much as possible. Further, social workers are required to tell a supervisor or employer about any potential or actual conflicts of interest and if they cannot be resolved then end the relationship and refer the client appropriately.
- **Principle 4 (Be competent and responsible for your professional development)** requires social workers to work in a safe way, to provide good-quality, effective client service, and be accountable for the quality of their work.⁸⁸
- **Principle 5 (Protect the rights and promote the interests of clients)** requires social workers to maintain personal and professional boundaries and not form inappropriate relationships with clients or those close to them⁸⁹. The guidance in the Code notes:⁹⁰

The overwhelming majority of social workers maintain clear and professional boundaries with clients. However, like all professionals, you need to be vigilant in your efforts to avoid inappropriate dual relationships. Within the professional relationship there is almost always an imbalance of power due to your authority, specialised knowledge, ability to access privileged information, and influence as a social worker. You may also have a professional relationship with the client’s family/whānau and others close to the client that may increase their vulnerability.
- The commentary to the Code states that “you need to be aware of and avoid any conflicts of interest that mean you can’t be totally professional and impartial.”

⁸⁷ Code of Conduct at [1.1]- [1.3], [1.4], [1.5] and [1.7].

⁸⁸ Code of Conduct at [4.3], [4.4] and [4.5].

⁸⁹ Code of Conduct, Principle 5.8.

⁹⁰ Code of Conduct at page 15. This position is echoed in the ANZASW Code of Ethics. 30 August 2019, page 12 which states “We respect persons with whom we work by maintaining appropriate professional boundaries that inform our involvement with them.” It is also set out in the SWRB Competence Standards.

- **Principle 6 (Strive to maintain the trust and confidence of clients)** requires social workers to treat clients with respect and dignity, **and** behave in a professional manner.⁹¹
- **Principle 9 (Maintain public trust and confidence in the social work profession)** requires social workers to maintain a high standard of professional and personal behaviour and to avoid activities, work or non-work, that may in any way bring the social work profession into disrepute.⁹² Principle 9.2 requires social workers to refrain from acting in ways that can be interpreted as, or actually result in them (or those close to them) gaining personal benefit from their social work position.

Supervision

76. As to supervision, the Code of Conduct sets out that social workers are expected to actively participate in supervision and critically reflect on practice (Principle 4.10).

77. This is elaborated on in the commentary to the Code, which is reinforced by the Boards' Competence Standard 10, as follows⁹³:

The SWRB expects you to have regular and appropriate supervision. The SWRB requires that you take part in supervision at least monthly. You must take an active part in supervision, be responsible for bringing issues to supervision, and be open and honest with your supervisor.

78. The Tribunal considered that these Principles of the Code are relevant to the conduct which the Tribunal reviewed in this case.

79. The Tribunal also accepted the submission for the PCC that when undertaking its objective assessment of the conduct charged, it would be assisted by previous Tribunal cases where professional misconduct had been found where social workers had entered personal relationships with clients or former clients. The Tribunal considered some of those cases including *PCC v Lynch*⁹⁴ where the social worker had formed a relationship with a client of the Salvation Army where she worked, although the client was not a

⁹¹ Code of Conduct at [6.1]. [6.2]. [6.3], and [6.4].

⁹² Code of Conduct [1.1], Bundle at p 67.

⁹³ Code of Conduct, page 7. This is reinforced by Competence Standard 10 (Represents the social work profession with integrity and professionalism)

⁹⁴ *PCC v Lynch* 03/SWCDT21/18P.

direct client of the social worker. The relationship had involved the social worker spending a significant amount of time with the client and sending and receiving calls and text messages. The Tribunal also considered *CAC v Austin*⁹⁵ a case with quite analogous facts to the present case, where the social worker had admitted entering an intense personal relationship with a former client which had involved moving the client to her home after he had been discharged from her care, permitting him to use her car, and being listed as the client's next of kin, as well as engaging in text and phone conversations (but the relationship was not sexual). An additional feature of that case was that Ms Austin had failed to disclose the actual or potential conflict of interest arising and had failed to discuss the situation in supervision. In *CAC v Surowiez-Lepper*⁹⁶ the social worker formed a friendship with an elderly former client and received gifts and cash from the former client. In *CAC v Curson*⁹⁷ the social worker had assisted a close friend who had been found to possess child pornography. He failed to identify the conflict of interest arising because of the nature of the friendship. The social worker faced associated charges of having failed to keep adequate notes and disposing of evidence of child pornography from the computer. All these cases involved breaches of professional boundaries that the Tribunal considered amounted to professional misconduct.⁹⁸

Summary

80. In summary, the primary reference point when considering the particulars of the charge was the guidance obtained from the Code of Conduct, many of the principles in which are reinforced by the Board's Competence Standards and/or the ANZASW Code of Ethics. However, previous comparable Tribunal cases also assisted as to the relevant standards. The Tribunal considered that if it formed the view that a registered social worker's professional or personal behaviour would be considered by members of the profession and the public as unacceptable, or inappropriate, or in breach of the Code,

⁹⁵ *CAC v Austin* RSW2/D2/SWDT/2016, 9 September 2016.

⁹⁶ *CAC v Surowiez-Lepper* RSW3/D2/SWDT/2015, 10 August 2015.

⁹⁷ *CAC v Curson* 01/08/SWDT, 4 September 2008.

⁹⁸ See also *CAC v Kathleen Noble* RSW13/D1/SWDT/2020.

then it was conduct which puts at risk the practitioner's professional integrity and the public's trust and confidence in the social work profession.

The Charge:

Discussion

81. The PCC submitted⁹⁹ that Ms Burridge's conduct as particularised in the amended charge had been established on the evidence outlined above, and that the conduct in each of the particulars was professional misconduct (or 'conduct unbecoming'). The Tribunal accepted that most, but not all the allegations were established as conduct that met the threshold for discipline.

Particular 1 – failure to maintain professional boundaries with family of a client on her caseload

82. As to Particular 1 of the charge, the Tribunal was satisfied the evidence established on the balance of probabilities that:

- Between April 2020 and on or around August 2020, while practising as a registered social worker Ms Burridge entered into a close personal relationship with Mr X, who was the brother of a current client on her caseload (1(a)); and
- In that period Ms Burridge permitted Mr X's use of a cell phone number allocated to her as a method of contact between him and probation services (1(b)); and
- Also in that period, Ms Burridge visited Mr X in prison outside of work hours (1(c)); and
- On 17 June 2020, Ms Burridge attended the X family home, in her personal vehicle and outside of work hours (1(d)).

Entered into close personal relationship with Mr X, brother of client

83. As to why the Tribunal found that the facts underpinning particular 1(a) were proved:

84. The evidence established that Ms Burridge was client X's social worker for several years and that he was not deallocated from her caseload until after 4 July 2020.¹⁰⁰

⁹⁹ Submissions for the PCC as to Liability (written and oral as per Transcript)

¹⁰⁰ Brief of Evidence of Ms Mitchell, at [21].

85. In the statements Ms Burrige wrote that were produced to the Tribunal she confirmed her close personal relationship with her client's brother, Mr X. Those statements included:

- In her Statement of Problem which her lawyer filed in the Employment Relations Authority it was noted "the Applicant [Ms Burrige] accepts that she did develop a close personal relationship with X (a brother of one of the clients the Applicant was managing)"¹⁰¹
- Ms Burrige swore an affidavit on 23 December 2020 in which she deposed that she confirmed the factual matters set out in the Statement of Problem.¹⁰²
- In an undated handwritten statement Ms Burrige wrote:

In regards to the complaint, yes I admit I did form an emotional connection with [Mr X]. he was kind and offered support. Yes he is the adult brother of one of my old clients and I am truly remorseful for allowing this to occur. Being as weak as I was blurred my professional boundaries and I acted inappropriately.

...

...I admit to forming a close friendship with [Mr X].....this happened quickly and know that this was wrong.

....

I am truly sorry for blurring my boundaries with [Mr X].
- A signed letter dated 18 September 2020¹⁰³ in which Ms Burrige wrote she had acknowledged she had developed a close personal relationship with Mr X and had visited him in Manawatū prison over a number of months; and that she accepted that she hugged and kissed him in prison when they greeted each other; and that she had never suggested or claimed the visits were for a legitimate business purpose.
- These written admissions were supported by further admissions Ms Burrige made verbally during her employer's disciplinary process including that she had been supporting Mr X, visiting him in prison and they "didn't realise getting so close, happened quickly" and "didn't realise I was so vulnerable because of current circumstances, not like me this has never happened before (crying)". Ms

¹⁰¹ Affidavit of Stacey Muir, exhibit A.

¹⁰² BD, page 40.

¹⁰³ BD at pages 76-78.

Burrige stated she had had conversations with Mr X who realised that the relationship could not continue because of the boundary issues.¹⁰⁴

- There are references to the relationship in the minutes of the employment investigation meeting held on 1 September 2020¹⁰⁵ where Ms Burrige details a friendship forming over the “lockdown period”, and an emotional relationship beginning when Mr X was in prison. Ms Burrige accepted there was a conflict of interest.
- Ms Miranda gave evidence of Ms Burrige having commented to her that “he get’s me” with reference to Mr X.¹⁰⁶

86. The Tribunal noted that in her interview with the PCC Ms Burrige stated that she had met with Mr X only to assist to prepare his brother (her client) to transition out of care; and that her previous admissions were simply what Oranga Tamariki wanted to hear; she also said that she had been suffering from ‘reactive depression’ because of turbulent events in her personal life. The Tribunal placed more weight on Ms Burrige’s previous written evidence, as summarised, as this was comprised of a sworn affidavit, two signed letters and a handwritten letter and was consistent throughout the employment investigation and the subsequent personal grievance proceedings Ms Burrige brought against Oranga Tamariki (during which she was represented by counsel). Further, the admissions were consistent with other evidence the Tribunal received including the evidence of Ms Noble as to the frequency of the prison visits, reports of Ms Burrige having dropped off a pasta bake to the X whānau¹⁰⁷, the visit on 4 July 2020, and Ms Burrige’s own statements that she had told her supervisor about the close relationship she had with Mr X.

Permitted Mr X’s use of a cell phone number allocated to her as a method of contact between him and probation services

87. As to why the Tribunal was satisfied particular 1(b) was proved, the evidence produced by Ms Noble established that Corrections’ calls to Mr X were returned by Ms Burrige on 1 April 2020 and later, on 23 April 2020, Corrections received a voice message from

¹⁰⁴ Notes of employment investigation meeting held on 11 August 2020

¹⁰⁵ BD, pages 59-62.

¹⁰⁶ Transcript, page 108, line 28.

¹⁰⁷ Transcript, page 12, line 2.

Mr X, using Ms Burridge's phone. When the voice messages were returned, Ms Burridge answered.¹⁰⁸ The Tribunal considered that for Mr X to have placed calls on Ms Burridge's phone, he had to have done so with her knowledge or consent. Further, Ms Noble's evidence was that many times after that event on 23 April 2020, Probation were only able to contact Mr X using Ms Burridge's phone.¹⁰⁹

Visiting Mr X in prison outside of work hours

88. In terms of particular 1(c) there was ample evidence that Ms Burridge attended Mr X in prison outside of work hours and for non-work (personal) purposes. The evidence included the email that Corrections sent to Ms Miranda on 20 July 2020 detailing the nine visits up to 15 July 2020¹¹⁰, the Corrections' email indicating that visits continued even when the X client had been deallocated from Ms Burridge's caseload as he was on 6 July 2020; and Ms Burridge's signed letter of 18 September 2020 in which she stated she only visited Mr X in prison while she was on leave, or on TOIL.¹¹¹

Attending the X family home in personal vehicle outside of work hours

89. As for particular 1(d), it was not in dispute that Ms Burridge attended the X family home in her personal vehicle on 17 June 2020, in the evening. Ms Burridge had stated that she was dropping a hoodie that she had washed to her client at the address, "as he had minimal clothes and wanted his hoodie. I believed at the time I did the right thing by dropping the garment off. I did not enter the house. [Mr X's adult brother] came out and saw me in the car."¹¹² Ms Burridge repeated this statement when she was interviewed by the PCC¹¹³ explaining that her client was cold and needed his hoodie. When she was interviewed by Ms Miranda during the employment investigation, Ms Burridge confirmed that the child in the car was her daughter.¹¹⁴

Assessment of established conduct

90. The Tribunal considered that when the conduct in each of particulars (1)(a) (entering close personal relationship with client's brother) and (c) (visiting client's brother in prison out of work hours on multiple occasions) is considered on its own, the conduct

¹⁰⁸ BD, page 53.

¹⁰⁹ Brief of Evidence of Ms Noble at [4].

¹¹⁰ BD, page 36.

¹¹¹ Brief of Evidence of Ms Mitchell at [31].

¹¹² BD, page 78.

¹¹³ BD, pages 156-158.

¹¹⁴ BD, page 158.

was professional misconduct pursuant to section 82(1)(b) of the Act. It was conduct that involved failures to maintain professional boundaries with the family of a client which amounted to serious breaches of the Code of Conduct and the commission of acts that, in the opinion of the Tribunal, have brought or are likely to bring discredit to the social work profession (section 82(2)(a) and (d)). The conduct in each of these particulars is inconsistent with what might be expected for a social worker who acts in accordance with the standards normally observed by those who are fit to practise social work. In the Tribunal's objective view, the conduct in each of these particulars is sufficiently serious to warrant discipline.

91. The Tribunal was not satisfied the conduct in each of particulars 1(b) (permitting use of cellphone) and 1(d) (attending the X family home in her personal vehicle outside of work hours) met the test for professional misconduct when those particulars are considered on their own. That is because although the conduct involved the further blurring of professional boundaries and did not meet principle 5 of the Code of Conduct, in the Tribunal's opinion the conduct was not sufficiently serious on its own to warrant discipline. However, when that conduct is considered together with the conduct in particulars 1(a) and 1(c), the proven conduct in those particulars involved failures by Ms BurrIDGE to maintain professional boundaries with the family of a client on her caseload, which when considered cumulatively was sufficiently serious to warrant discipline.
92. As such Ms BurrIDGE's departures from acceptable standards were professional misconduct. A finding of this nature is necessary to protect the public, and to set and/or maintain acceptable professional standards.
93. It is noted that the Tribunal received evidence of other conduct that indicated Ms BurrIDGE had blurred and breached professional boundaries with the wider X family. Because of the way in which particular 1 of the charge was framed, the Tribunal limited its findings to the four matters charged. However, the other conduct was considered as relevant context. The visit by Mr X's adult brother and another of Ms BurrIDGE's clients to her home, intoxicated at 1am on 4 July 2020 was one such matter. Another was the drop-off of a pasta bake to the X whānau during the Covid-19 lockdown. These additional matters (which were not disputed) although not charged, did support the view the Tribunal reached that Ms BurrIDGE, by her conduct, had failed to maintain professional boundaries with the family of a current client on her caseload in the period

April 2020 to August 2020; and that this conduct involved breaches of the Code of Conduct, brought discredit to the social work profession and was sufficiently serious to warrant discipline.

Particular 2 – management of conflict of interest

94. As to Particular 2, the Tribunal was satisfied that the evidence established that between April 2020 and on or around August 2020:

- Ms BurrIDGE failed to adequately disclose the actual or potential conflicts of interest arising from the relationship she had formed with members of the X family, and particularly Mr X (particular 2(a)); and she
- Failed to take adequate steps to manage the conflict of interest arising from the relationship she had formed with members of the X family in that she continued to provide social work services to the X client notwithstanding the close relationship formed with members of the X family (particular 2(b)(ii)).

95. As to the extent to which particular 2(a) was established, and why, both Ms BurrIDGE and her supervisor accepted that at least Ms BurrIDGE advised Ms Mitchell that she was “getting too close” to the X whānau. The Tribunal was unable to be satisfied on the balance of probabilities that Ms BurrIDGE’s disclosure went further than this either at that time, or on another occasion, to advise Ms Mitchell that she was visiting Mr X in prison.

96. As to the timing of Ms BurrIDGE’s disclosure that she was “getting too close” to the X whānau, the Tribunal considered this was more likely to have been in June 2020. The Tribunal placed weight on Ms Miranda’s evidence in that regard, and Ms Mitchell timed the disclosure as in May or June 2020. It has been established that by then Ms BurrIDGE and Mr X had formed a friendship; in April 2020, she had permitted him to use her cellphone as a method of contact between him and probation services and there had been several calls; there had also been the delivery of food to the family home during the lockdown.

97. Any disclosure that Ms BurrIDGE had visited Mr X in prison, if that had been made, can only have been on 20 June 2020, at the earliest, Certainly by that time, there had already been a pattern of behaviour that ought to have given Ms BurrIDGE pause, as discussed

above (the phone use and calls in April 2020, the pasta-bake drop off during the Covid lockdown, and the car incident and hoodie delivery on 17 June 2020).

98. The Tribunal considered that it was incumbent on Ms BurrIDGE to disclose further details about why she was concerned that she was “getting too close” to the X family, even if by then the relationship that developed with Mr X had not yet developed beyond a friendship. There was no evidence that Mr X was singled out in Ms BurrIDGE’s disclosure to Ms Mitchell (and Ms Mitchell’s evidence was that he was not singled out) and the Tribunal formed the view the conversation where the disclosure was made was scant in that it did not include important information like the fact that Ms BurrIDGE had allowed Mr X to use her mobile phone to contact Probation Services in April 2020.
99. The Tribunal was not satisfied that Ms BurrIDGE failed to identify that she was in a conflict-of-interest situation, which was one of the matters alleged in particular 2(a). On the evidence before the Tribunal, the Tribunal was satisfied that Ms BurrIDGE, knew or must have known, from as early as April 2020, that her relationship with Mr X was more involved than the type of relationship a social worker, working professionally, ought to have with the brother of a client. Certainly, by the time the prison visiting commenced, the Tribunal considered that Ms BurrIDGE knew or ought to have known that by her conduct she was failing to maintain professional boundaries with the X whānau because of her developing friendship and emotional connection with Mr X.
100. As soon as the prison visiting commenced, in the Tribunal’s objective view, it was incumbent on Ms BurrIDGE to disclose the developing situation to her manager/supervisor, Ms Mitchell. There were opportunities for her to do this including the numerous occasions when she was applying to Ms Mitchell for TOIL. The Tribunal was satisfied that Ms BurrIDGE did not disclose the frequency of the prison visiting to Ms Mitchell or mention it as a reason for her applications for TOIL. Nor did Ms BurrIDGE disclose the eight further booked visits between 20 July 2020 and 12 August 2020. Both Ms Miranda and Ms Mitchell were clear that they were unaware of those additional booked visits and the Tribunal accepted their evidence about that. The fact is that Ms BurrIDGE continued to visit Mr X in prison on a regular basis for around two months without disclosing the visiting to her manager/supervisor or to the Site Manager (if she had been unable to disclose to her line manager).

101. In terms of particular 2(b), as discussed, Ms Burrige admitted that she recognised that a personal relationship was developing between herself and Mr X. The Tribunal was satisfied that Ms Burrige did not adequately disclose to Ms Mitchell as her manager and supervisor, about the actual or potential conflict of interest she faced. Further, the Tribunal considered that Ms Burrige did not take steps to manage the conflict of interest by taking urgent steps to end the relationship and requesting that her client be reallocated to another social worker. Rather, the Tribunal found that Ms Burrige continued to visit Mr X in prison, while at the same time she continued to provide social work services to her client (Mr X's younger brother) up until he was reallocated in early July 2020 (that is, even after she told Ms Mitchell she was getting too close to the family). Had Ms Burrige been adhering to expected standards, in the Tribunal's objective opinion, she would have taken deliberate and intentional steps to have her client deallocated from her caseload. It could reasonably have been expected that Ms Burrige would prioritise these matters including initiating a more formal discussion with her manager, or if necessary, Ms Miranda as the Site Manager, and to have her client reallocated as soon as reasonably possible. For those reasons the Tribunal was satisfied the allegation in 2(b)(ii) was established.
102. The Tribunal was not satisfied that the allegation in particular 2(b)(i), which alleged that Ms Burrige failed to seek out appropriate supervision with regard to the relationship formed with members of the X family, was established as professional misconduct. The Tribunal found that Ms Burrige did inform Ms Mitchell that she was getting too close to the X family and there was an informal discussion between them about the possibility of the X client being taken off her caseload, in May or, more likely, June 2020. The Tribunal is satisfied that Ms Burrige did not take active steps to initiate a formal supervision session to discuss this, when she should have given the conflict-of-interest situation that had arisen or was arising for her by then. There has been a breach of standards. However, the Tribunal was unable to be satisfied that Ms Mitchell as the supervisor, took any such steps to facilitate supervision either. In the Tribunal's view, it was incumbent on the supervisor to enquire further of Ms Burrige and ensure that a discussion was had, given the nature of Ms Burrige's disclosure; and even more so if Ms Burrige herself took no steps to initiate a more formal discussion. On one view of the evidence, it could be considered that Ms Burrige was let down by her supervisor's

omission to arrange and insist on her (Ms Burrridge) participating in a formal supervision session so the matter of her getting too close to the family, could be discussed and a plan put in place to keep Ms Burrridge safe.

103. In any event, given that supervision remains a “dual responsibility” and the circumstances the Tribunal has found were at play, the Tribunal considered it would be unfair and unreasonable to make an adverse finding that Ms Burrridge is guilty of professional misconduct for failing to seek out appropriate supervision to manage the conflict of interest that had arisen from the relationship she had formed with members of her client’s family.
104. That said, the Tribunal considered that the established conduct in particulars 2 (a) and 2 (b)(ii), considered individually and then cumulatively, involved serious breaches of the Code of Conduct and the commission of acts that, in the opinion of the Tribunal, have brought or are likely to bring discredit to the social work profession (section 82(2)(a) and (d)). Further, that the conduct in each of those particulars was sufficiently serious to warrant discipline particularly for the purpose of setting and/or maintaining professional standards.

Particular 3 – failure to engage in supervision

105. In respect of Particular 3, the Tribunal found that between April 2020 and on or around August 2020, Ms Burrridge did not attend or engage in regular, formal, professional supervision.
106. The Tribunal took into account Ms Mitchell’s evidence that Ms Burrridge was difficult to get into supervision. Ms Burrridge, in the various documents she authored that were before the Tribunal, acknowledged to the PCC that she had not engaged in supervision, saying she had not had any supervision for two years. However, the evidence the Tribunal received, including from Ms Mitchell and in documents Ms Burrridge has written, did appear to establish that there were regular informal chats or casual checking in between Ms Burrridge and Ms Mitchell including by phone, text, or email.¹¹⁵ Ms Mitchell and Ms Miranda suggested this sort of checking in was a form of ‘informal supervision’. In that regard, the Tribunal preferred Dr Rankine’s expert opinion that that

¹¹⁵ BD, page 174.

is not the sort of supervision contemplated by the Board; that supervision is a more formal process that requires an agenda, active participation of the supervisor and supervisee, and records to be kept of the sessions. Informal chats or casual chats do not constitute 'supervision' as that term is understood in the wider social work profession.

107. The Tribunal was significantly concerned by the evidence it received in the form of Ms Miranda's spreadsheet, as to the apparent issues with the supervision that was or was not being engaged in by members of the team Ms BurrIDGE worked in at the Manawatū office of Oranga Tamariki in the period charged (and back at least as far as November 2019). Ms Miranda's evidence was that she implemented the spreadsheet process so she could review, monthly, whether supervision was being engaged in, or not by the social workers in the relevant team. The Tribunal considered it must have been apparent to Ms Miranda that Ms BurrIDGE (and other social workers in her team), were not meeting their supervision requirements, or having formal supervision sessions as often as they were contractually or professionally required to (in Ms BurrIDGE's case, fortnightly as per Oranga Tamariki's national policy or at least monthly, as per the Board's policy).
108. As to the spreadsheet itself, the Tribunal was concerned that the spreadsheet had been found overnight during the hearing and was tabled late (at the hearing). There were no records produced which backed up or supported what was recorded in the spreadsheet (for example, Ms BurrIDGE's missing supervision file or typed supervision records), and Ms Mitchell did not have an opportunity to discuss any of the information recorded in the spreadsheet as she had already given her evidence by the time the spreadsheet was located. This combination of circumstances meant the Tribunal was unable to be reassured the spreadsheet was a complete or accurate record. Nevertheless, on its face the spreadsheet did give a snapshot of supervision in the Manawatū office of Oranga Tamariki in the period from November 2019 to mid-2020 - which was that Ms BurrIDGE and many other social workers who were managed by Ms Mitchell (who was managed by Ms Miranda who reviewed the spreadsheet), were not attending supervision as required, or were not meeting their supervision obligations.
109. Although the Tribunal did not have the benefit of hearing from Ms BurrIDGE, on the evidence before it, it was inclined to the view that Ms BurrIDGE's statement to the PCC that she had not had any supervision for two years, was likely close to the reality of the

situation as it was for her in the period which encompassed April 2020 to August 2020 (in terms of the formal supervision that was discussed by Dr Rankine). The Tribunal noted Ms Burridge's comment to the PCC that despite having a good relationship with Ms Mitchell, she received no supervision; that it was "always scheduled, but it was kind of really a smokescreen".

110. In any event, on the evidence the Tribunal received, and without having been able to review Ms Burridge's supervision file, the Tribunal was not prepared to make an adverse finding in relation to the conduct alleged in Particular 3. It did not consider it fair or reasonable to make Ms Burridge a scapegoat, in circumstances where her failures to meet standards relevant to supervision were not entirely of her own making.
111. The Tribunal noted that had the supervision process been operating as it should have been at the relevant times, then the situation Ms Burridge found herself in with Mr X and the related blurring of boundaries for which she is now being disciplined, may well not have arisen. This is the very reason why active participation in supervision is vital for all social workers, to ensure ongoing fitness to practise. Supervision ought never be treated as a "tick box exercise", and it is incumbent on both supervisor and supervisee to ensure the process is actively engaged in. Not all responsibility lies with the social worker who is under supervision. As Dr Rankine stated, supervision is the dual responsibility of the supervisee and the supervisor.
112. It was for all those reasons the Tribunal concluded that it would not make an adverse finding against Ms Burridge in respect of the conduct in particular 3.

Summary

113. In the Tribunal's opinion, the established conduct taken cumulatively and viewed objectively, was conduct that reflects adversely on Ms Burridge's reputation and the reputation of the social work profession in breach of the relevant principles of the Code of Conduct. It was conduct that the Tribunal considered endangered the reputation of the social work profession because the essence of the profession is that it works to protect and enhance clients who are in vulnerable social and economic positions, as was her client (Mr X's younger brother) and his family.
114. Social workers are expected not to put themselves in a position where they may act to the detriment of those clients. Viewed objectively, the Tribunal considered that a

reasonable member of the public would consider the conduct unacceptable for a social worker in a position of trust and working closely with a vulnerable member of the community. For that reason, the Tribunal accepted the submission for the PCC that the (established) conduct represented a significant departure from standards reasonably to be expected of a social worker.

115. The Tribunal considers that given the implicit power imbalance in a social worker-client relationship, and the breach of trust that is involved where there is a breach of professional boundaries, this will likely adversely impact the client involved. As the Tribunal observed in *PCC v Moeke*¹¹⁶ maintaining appropriate professional boundaries is a fundamental skill, obligation, and professional discipline for all social workers. Social workers who lack the ability to maintain appropriate professional boundaries complicate relationships with clients in a way that is likely to be damaging to the client. This is not an acceptable discharge of a social worker's professional and ethical obligations.

Penalty

116. Where the Tribunal makes an adverse finding of professional misconduct under section 82(1) of the Act it may make any one or all the penalty orders specified in section 83(1) of the SWR Act.

117. The penalty which is imposed must fulfil the functions connected to the purpose of the Act which is to protect the public and maintain (and/or set) professional standards to enhance the professionalism of social workers. There is also a punitive element.

118. In previous decisions of the Tribunal, the Tribunal has adopted the sentencing principles which apply in the Health Practitioners Disciplinary Tribunal, which were identified by Collins J in *Roberts v Professional Conduct Committee*¹¹⁷:

- What penalty most appropriately protects the public.
- The important role the Tribunal plays in setting professional standards.
- The penalties imposed may have a punitive function but protection of the public and setting professional standards are the most important factors.

¹¹⁶ *PCC v Moeke* SWCDT RSW 11=D2-SWDT-2020.

¹¹⁷ [2012] NZHC 3354, at [44]-[55],

- Where appropriate, the rehabilitation of the social worker involved.
- That any penalty imposed is comparable to other penalties imposed on social workers in similar circumstances.
- Assessing the social worker’s behaviour against the spectrum of sentencing options available and trying to ensure that the maximum penalties are reserved for the worst offenders.
- An endeavour to impose a penalty that is the least restrictive that can reasonably be imposed in the circumstances.
- Whether the penalty proposed is fair, reasonable, and proportionate in the circumstances presented.

119. The Court in *Roberts v Professional Conduct Committee* referred to the penalty imposition as involving a “finely balanced judgement” and it not being “a formulaic exercise”.

120. In *Singh v Director of Proceedings*¹¹⁸ at [62] Ellis J highlighted that the principal focus of penalty imposition must be on protection of the health and safety of the public and that this object has primacy over any punitive purposes. His Honour concluded:

“In terms of the general approach to be taken and principles to be applied, it also seems clear to me that care must be taken not to analogise too far with the criminal sentencing process. As the Supreme Court noted in *Z* the relevant societal interests in each case are different...”

Cases

121. Counsel for the PCC referred again to previous comparable cases and the penalties imposed in those cases.

122. In *CAC v Surowiez-Lepper* the Tribunal ordered censure and cancellation of registration for what was found to have been “gross misconduct”.¹¹⁹

123. The aggravating features of that case were that Mrs G was elderly and had been specifically referred to the Wellington City Mission because she lived alone and needed support. The practitioner blurred the boundaries of the personal and professional relationship, and Mrs G was vulnerable to Ms Surowiez-Lepper’s deception. The

¹¹⁸ [2014] NZHC 2848.

¹¹⁹ Prior to the Act being amended in February 2019, in order to make a cancellation order the Tribunal had to have first found that the conduct in question was “gross misconduct”,

behaviour was ceased only when Mrs G questioned her conduct. The only mitigating factor was that Ms Surowiez-Lepper did not defend the proceedings and accepted her actions were wrong, although the Tribunal found that she lacked any significant insight into her harm.

124. In *PCC v Lynch* the Tribunal ordered cancellation of registration, censure, and costs. However, that case involved conduct that went beyond the Tribunal reviewing professional boundary breaches. That said, the Tribunal did highlight the seriousness and significance of a social worker engaging in any form of inappropriate, unprofessional, or personal relationship with a client (whether a direct client or not).
125. In *CAC v Curson*, the Tribunal suspended Mr Curson and ordered him to practise under supervision for a period after he resumed practice. The Tribunal also ordered a six-month suspension in *CAC v Kathleen Noble*¹²⁰ (as well as a censure and a requirement to undertake a relevant professional development programme) which was another case involving breaches of the professional boundary.
126. The penalties imposed in the most directly comparable case, *CAC v Austin* included censure, conditions on practice which were directed at Ms Austin's fitness to practise being assessed and monthly supervision by a Board-approved professional peer (with a focus on the management of professional boundaries and ethical dilemmas). The Tribunal indicated that a period of suspension would have been appropriate, had the social worker not been out of practice.
127. It was submitted for the PCC, and accepted by the Tribunal that the formation of a close personal relationship went to the heart of Ms Burridge's role as a social worker. As Dr Rankine stated, personal boundaries are of the utmost importance when working with vulnerable clients like children who are under the care of Oranga Tamariki. Where these lines are blurred, and objectivity is lost, a social worker is no longer working at a professional level.
128. The Tribunal accepted the PCC's submission that an experienced social worker like Ms Burridge should have been alive to the importance of maintaining these professional boundaries, and the potential impacts a breach could have. Added to this was Ms Burridge's failure to adequately declare the relationship and the continued social work

¹²⁰ *CAC v Kathleen Noble* RSW13/D1/SWDT/2020

she did for her client in circumstances where her professional judgement was potentially compromised; all she made was a partial, off-hand comment to her supervisor that she was getting too close to the family. Had the matter been addressed in supervision, adequate measures may have been put in place to address the situation, but regrettably this did not occur.

129. It was submitted for the PCC that in those circumstances, the appropriate penalty was a combination of orders including censure, a period of suspension for 18 months, a requirement that Ms BurrIDGE undertake further training with an emphasis on the Code of Conduct and professional boundaries, and an order requiring Ms BurrIDGE to contribute to the costs incurred by the PCC and the Tribunal in these proceedings.

Aggravating and mitigating features

130. The Tribunal considered that the established conduct it has reviewed in this case and the circumstances of the offending are approaching the most serious end of the spectrum in terms of conduct on the part of a registered social worker that requires disciplinary sanction.

131. The Tribunal accepted the submission for the PCC that the following features of Ms BurrIDGE's conduct added to its gravity:

- Ms BurrIDGE was working for a young person in her care, who was inherently vulnerable (as a client of Oranga Tamariki). In her client's case, the need to maintain and promote professional boundaries was particularly acute.
- The reason Ms BurrIDGE met the X whānau (and Mr X in particular) was due to her professional role as her young client X's social worker.
- There was a power imbalance in the relationship between Ms BurrIDGE and Mr X because of the significant age gap between them and arising from Ms BurrIDGE's professional role as his younger brother's social worker.
- Ms BurrIDGE continued the relationship with Mr X when he was in prison and he was unable to contact her without positive action on Ms BurrIDGE's part.
- While there was no evidence of a sexual relationship, there was a reciprocal personal relationship from which Ms BurrIDGE would have gained intangible personal benefit.

- The relationship between Ms Burridge and Mr X formed over a period of months. Ms Burridge had sufficient opportunity to give her ‘pause’ into her actions and to take steps to manage the conflict-of-interest situation that was developing or had developed.
 - Ms Burridge continued to visit or have booked visits to Mr X in prison up until at least 12 August 2020, despite being on notice there would be an employment investigation into her conduct from at least 7 August 2020; and she did not disclose those post-15 July 2020 visits to her supervisor or the Site Manager at any time.
 - Ms Burridge is an experienced social worker who ought to be, and have been, well aware of the dangers of breaching professional boundaries; for her client, her employer, and her integrity and professional reputation.
132. In addition, the Tribunal was concerned that Ms Burridge had not appeared to have reflected on the impact or potential impact of her conduct for her client. He had been on her caseload for several years and had to be reallocated when it became apparent to Ms Burridge’s employer, that she had blurred professional boundaries with her client’s whānau. The effects of reallocation on the client and their wellbeing were likely significant, in the Tribunal’s view.
133. The PCC submitted that in mitigation, the following factors are relevant:
- Ms Burridge had, in the period prior to her misconduct (2019), undergone a traumatic event in her personal life which had a profound impact on her. While there was no evidence before the Tribunal of any formal diagnoses, the PCC accepted that Ms Burridge was impacted by the relevant event.
 - Ms Burridge has a previously unblemished record.
134. The Tribunal considered that another mitigating feature was the supervision situation for Ms Burridge prior to and during the period charged, which as will be apparent from the discussion earlier in this decision, was not all of Ms Burridge’s own making.
135. The Tribunal balanced the aggravating and mitigating factors, and it also assessed the sentencing principles, the previous cases in this Tribunal, and the seriousness of the established conduct. The Tribunal’s focus was on the protection of the public and on

maintaining professional standards in the context of the disciplinary regime under the Social Workers Registration Act 2003.

Penalty - findings

136. The Tribunal concluded that a penalty short of cancellation of registration would meet the purposes of the imposition of a disciplinary penalty and would be a proportionate response. To that extent, it accepted the PCC's submission that the appropriate starting point was a period of suspension.
137. The Tribunal considered that the public requires protection from Ms Burrige until it can be assured that she understands her professional and ethical obligations. There is also a need to maintain public confidence in the profession. A strong message needs to be sent to Ms Burrige and other social workers that engaging in behaviour of the nature the Tribunal has reviewed and found established, is serious and unacceptable in the profession and indicates that a social worker may be unfit to practise. The conduct was a significant departure from acceptable professional standards and eroded the mana of the social work profession.
138. However, the Tribunal also considered that Ms Burrige should be assisted with her rehabilitation and return to practice as a social worker and that it would be appropriate to reflect this in the penalty orders to be made. Both Ms Mitchell and Ms Miranda spoke highly of Ms Burrige's social work practice and the Tribunal considered there is a public interest in rehabilitating her so that she is not lost to the profession.
139. The Tribunal therefore concluded that in all the circumstances, the proportionate penalty overall and the least restrictive penalty that could reasonably be imposed to fulfil the purposes of the Act was as follows:
- A censure to denote the seriousness of the breaches of standards, to mark the Tribunal's disapproval of the conduct it has reviewed in this case in respect of which adverse findings have been made, and for standards maintenance. The public and members of the social work profession may learn from reading this decision that the practitioner was censured and further penalised for what was regarded as a serious falling short of professional standards.

- For the purposes of protecting the public and maintaining standards, an order suspending Ms Burridge’s registration as a social worker, for a period of six months.
- In addition, Ms Burridge is ordered to attend and complete a professional development programme, at her own expense, on the Code of Conduct and ethical practice, as approved by the Board. Any such programme must have an emphasis on professional boundaries (and to include managing conflicts of interest and related supervision) and the ethics of the social work profession. The Tribunal’s view is that unless and until such a course has been completed, there will remain a question about whether Ms Burridge is a fit and proper person to practise as a social worker and there is a risk of reoffending of a similar nature.
- As discussed below, Ms Burridge to pay \$12,300 towards the costs and expenses of the PCC in respect of its investigation and prosecution and she is to pay \$7000 towards the costs and expenses incidental to the Tribunal’s hearing.

140. The Tribunal also considered whether the imposition of a fine was appropriate and decided a fine would not be imposed. It considered that having a censure on Ms Burridge’s disciplinary record would have a sufficient deterrent (and punitive) effect, when combined with the period of suspension of registration. In addition, the Tribunal took account that Ms Burridge will bear the burden of costs to be paid in this proceeding (as discussed below) and the costs of the professional development imposed.

141. Ms Burridge did not seek name suppression. In itself, that will have had some penal consequences for her and any adverse publicity that that has already attracted¹²¹ and may attract. This was factored into the Tribunal’s consideration of the penalties.

142. In view of its findings and the circumstances of Ms Burridge’s offending, the Tribunal considered that suspension for a period of 18 months, as submitted by the PCC, would be a disproportionate or manifestly excessive penalty response to the offending it has found in this case. Further, the Tribunal had some regard for the length of time it had taken for the matter to be investigated and the charge laid, and the uncertainty that may have resulted for Ms Burridge in terms of her ability to work as a social worker in the meantime.

¹²¹ Media reports of the proceedings were published during the hearing on 4 and 5 April 2023.

143. The Tribunal wishes to record that the Board, as the registration authority, will be well placed to assess whether any conditions should be imposed should Ms Burrige seek to be issued with a practising certificate following her period of suspension. For example, the Board may consider that Ms Burrige would benefit from external professional supervision with a focus on reflection and boundaries in addition to any supervision provided by an employer (to ensure Ms Burrige is kept safe in her practise as a social worker, given the professional boundary issues the Tribunal has reviewed).

Costs

144. The PCC sought an order of costs. The general principles which need to be taken into account when considering costs orders¹²² are well settled and have been referred to in previous decisions of the Tribunal.

145. In essence the issue for the Tribunal is determining what proportion of the total costs should be borne by the social work profession as a whole and what proportion should be borne by the practitioner who has been responsible for those costs being incurred in the first place.

146. The general principles include that:

- The full cost of investigating and prosecuting a social worker should not fall on the social work profession (as a whole).
- Members of the profession who appear on disciplinary charges should make a proper contribution towards the costs of the investigation, prosecution, and the hearing¹²³.
- Costs are not to punish¹²⁴.
- A social worker's means, if known, are to be taken into account¹²⁵.
- A social worker has a right to defend himself or herself and should not be deterred by the risk of a costs order¹²⁶; and
- In a general way 50% of reasonable costs is a guide to an appropriate costs order subject to a discretion to adjust upwards or downwards¹²⁷.

¹²² *Vatsyayann v PCC* [2012] NZHC 1138.

¹²³ *G v New Zealand Psychologists Board* Gendall J, 5 April 2004, HC Wellington, CIV-2003-485-217; *Vasan v Medical Council of New Zealand* 18 December 1991, AP43/91 at page 15.

¹²⁴ *Gurusinghe v Medical Council of New Zealand* [1989] 1 NZLR 139 at 195.

¹²⁵ *Kaye v Auckland District Law Society* [1988] 1 NZLR 151.

¹²⁶ *Vasan* above fn. 77 and *Gurusinghe* above fn. 78.

¹²⁷ *Cooray v Preliminary Proceedings Committee* Unreported, High Court Wellington Registry, AP/23/94, 14

147. The normal approach for the Tribunal based on the authorities¹²⁸ is to start with a 50% contribution. Other factors may be taken into account to reduce or mitigate that proportion, or to increase that proportion. The balance of the investigation, prosecution, and the hearing after the order for costs must be met by Ms Burridge's colleagues (other members of the social work profession), through the Social Workers Registration Board.
148. The PCC indicated that the costs and expenses incurred for its investigation and prosecution of the Charge totalled \$61,755.50 (excluding GST). The costs for the Tribunal were estimated to be \$20,577.00 (excluding GST) which reflects that the costs associated with a public hearing are not insubstantial.
149. When the Tribunal gave a written indication of its liability findings after the hearing¹²⁹ the Tribunal directed Counsel for the PCC to serve Ms Burridge with a copy of the penalty submissions of the PCC which were called for by Tuesday, 11 April 2023. The Tribunal indicated to Ms Burridge that notwithstanding her non-engagement in the proceedings to date, if she wished to be heard on the matter of penalty, including costs, then she should contact the Hearing Officer, by noon on Thursday, 13 April 2023. Ms Burridge was advised that if she did not contact Ms Fraser by that time, the Tribunal would reconvene to consider penalty, on the papers. Ms Burridge was given the opportunity to make submissions and any comments on costs, and to assist her she was provided with the schedules of the PCC's and Tribunal's costs respectively. Ms Burridge responded to the Hearing Officer in three separate emails received within three minutes of each other on 6 April 2023, indicating in strong terms (among other things) that she would not be paying any costs.
150. The Tribunal proceeded based on the figures indicated by Counsel for the PCC and by the Hearing Officer and accepted that the total reasonable costs of the investigation, the prosecution and the hearing were in the vicinity of \$82,332.50. It is noted that these costs indications did not include any of the costs associated with the hearing needing to be adjourned on one occasion.
151. Because Ms Burridge's means were not known, they could not be taken into account.

September 1995, Doogue J, at page 9.

¹²⁸ *Cooray v Preliminary Proceedings* above fn. 83.

¹²⁹ Minute dated 6 April 2023.

152. It was submitted for the PCC that a costs order of 40% in respect of the PCC's and the Tribunal's costs would be appropriate, recognising that one of the particulars was not established, and that Ms Burridge did not participate in her hearing, which meant a formal proof hearing in-person in public was required.
153. All matters considered, the Tribunal was of the view that Ms Burridge should be ordered to pay a contribution toward the costs and expenses that have been incurred by the PCC and the Tribunal. The social work profession should not be expected to meet all the costs of the disciplinary process which has been initiated because of Ms Burridge's own actions and increased because of her failure to engage with the Tribunal's process. It was Ms Burridge's choice not to participate, but by doing so the PCC had no option but to proceed by way of formal proof which meant it was necessary to incur the more significant costs associated with a public hearing.
154. The Tribunal decided that the costs payable should be calculated after 30% of the total had been deducted from both the Tribunal's and the PCC's costs to take into account that not all particulars of the charge were made out. The costs ordered were calculated on the basis of \$40,000 for the PCC's estimated costs and expenses and \$14,400 for the Tribunal's costs and expenses (after the 30% reduction).
155. The Tribunal considered that Ms Burridge should be ordered to pay a contribution of 30% of those PCC's costs (\$12,300). This order reflects a substantial deduction from the starting point of 50% to allow for any saving from Ms Burridge's participation and cooperation with the PCC's investigation, and having regard to the fact that Ms Burridge will be unable to practise as a social worker for a period of 6 months which will likely have at least some impact on her financial means.
156. Further, there will be an order that Ms Burridge is to pay a \$7000 contribution towards the costs and expenses of and incidental to the Tribunal hearing, which she did not attend. This represents approximately 50% of the total costs and expenses taken into account by the Tribunal (as above, \$14,000), which is in line with costs orders made in other cases.
157. This means the orders of the Tribunal are that Ms Burridge is to pay \$19,300.00 for costs.
158. It is noted that section 87 of the Act provides that all costs and expenses ordered to be paid under section 83(1) are recoverable by the Board as a debt due to the Board. If Ms

Burrige wishes to enter a payment arrangement in relation to the costs and expenses she is being ordered to pay, then it will be for her to take that up with the Board.

Non-publication order

159. The Tribunal was satisfied that it is desirable to make permanent orders in respect of the names and identifying details of Ms Burrige's client [REDACTED], her client's adult brothers, one of whom is identified as Mr X in this decision [REDACTED] [REDACTED], and the X [REDACTED] family. Having regard to their privacy and wellbeing interests there is no public interest in any of these names and any identifying features being published in connection with these proceedings. Accordingly, as was announced orally at the commencement of the hearing, there will be permanent orders to that effect pursuant to section 79(2)(d) of the Act.
160. Ms Burrige did not seek an order prohibiting publication of her name. It is in the public interest and therefore desirable that her name can be published in connection with these disciplinary proceedings.
161. On its own motion, the Tribunal considered it desirable to make a permanent order suppressing from publication the details of, or any evidence it received relating to, the personal event Ms Burrige suffered in 2019 that is referred to in this decision; other than as that matter is reported in this decision, details or evidence relating to that matter are permanently prohibited from publication to protect Ms Burrige's privacy and wellbeing interests.

Result and Orders

162. The Charge against Ms Burrige is made out under section 82(1)(a) of the Social Workers Registration Act 2003. Ms Burrige's established conduct was professional misconduct.
163. Ms Burrige is censured (section 83(1)(b)).
164. Ms Burrige's registration as a social worker is suspended for six months (section 83(1)(a)(i)). This order is to take effect from the date of this decision.
165. Ms Burrige is ordered to undergo a professional development programme on the Code of Conduct and ethical practice in the social work profession, at her own expense. Any such programme must be approved by the Board and must have an emphasis on

professional boundaries (to include managing conflicts of interest and related supervision) and the ethics of the social work profession (section 83(1)(d)).

166. Ms Burridge is to pay \$12,300.00 by way of a contribution towards the total costs and expenses of and incidental to the PCC inquiry and the prosecution of the Charge (section 83(1)(e) (ii) and (iii))
167. Ms Burridge is to pay \$7,000.00 by way of a contribution towards the total costs and expenses of and incidental to the Tribunal's hearing (section 83(1)(e)(iv)).
168. There are to be permanent orders for non-publication of the names and identifying features of Ms Burridge's client, the client's two adult brothers, and the client's family name pursuant to section 79((2) (d)).
169. There is to be a permanent order for non-publication of the details of, or any evidence relating to, the personal event Ms Burridge suffered in 2019 that is referred to in this decision, other than as it is reported in this decision.
170. The Tribunal directs the Hearing Officer to request the Board Registrar to publish this decision on the Board's website and to publish a summary of the Tribunal's decision in the Board's professional publication to members of the social work profession.

DATED at Wellington this 31st day of May 2023.



Jo Hughson

Chairperson

Social Workers Complaints and Disciplinary Tribunal