**IN THE** **SOCIAL WORKERS COMPLAINTS**

**AND DISCIPLINARY TRIBUNAL**  **REF: 23/21P**

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| **Under** | The Social Workers Registration Act 2003 (the **Act**) |
| **In the matter** | A disciplinary charge laid against a registered social worker under Part 4 of the Act |
| **Between** | **A Professional Conduct Committee** appointed by the **Social Workers Registration Board** |
| **And** | **Ms [H]** of [city], registered social worker  **Practitioner** |

**Decision on Liability, Penalty and Non-Publication**

**Dated: 8 March 2024**

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Representatives: Ellie Wilson, Govett Quilliam and Ruth James for the Professional Conduct Committee

Anselm Williams, for Ms [H]

Tribunal: Catherine Garvey (Chair), Dr Sonya Hunt, Sue Jarvis, Andrea McKenzie (registered social workers), Jackie Pearse (layperson).

Gay Fraser (Hearing Officer)

**Background**

1. Ms [H] faces a disciplinary charge relating to convictions under the Harmful Digital Communications Act 2015 (HDC Act 2015) for content posted on social media about two of her former colleagues in 2021. The respondent is no longer practising as a social worker and nor is she registered with the Board but was at the relevant time.
2. The respondent is the subject of a previous finding of this tribunal in relation to a charge that included similar allegations.[[1]](#footnote-2) The parties were notified of the likelihood of some crossover in the tribunal composition from the first matter, due to the limited number of members currently appointed and available. No objection was raised by either party.
3. This matter proceeded on the basis of an Agreed Summary of Facts, at a hearing conducted by audio-visual link on 7 February 2024. After deliberating, the Tribunal gave an oral indication of our findings that (but for the previous proceeding) we would have ordered censure and cancellation; and that permanent non-publication orders would be made. We now set out the reason for these findings.

**The Charge**

1. The charge is dated 13 September 2023 and laid pursuant to s75 of the Social Workers Registration Act 2003 (the Act). The particulars of the charge read:
2. That on [date], Ms [H] was convicted at the [City] District Court of two offences of causing harm by posting digital communications against section 22 of the Harmful Digital Communications Act 2015 (causing harm by posting digital communication), each offence being punishable by a term of imprisonment of 3 months or longer, in that:
   1. On [date], Ms [H] engaged in conduct that was threatening and/or harassing towards Ms F, a former colleague Ms [H] had worked with during [year] and [year], namely by sending 10 direct messages to Ms F on social media from Ms [H]’s social media profile.
   2. Between [date] and [date], Ms [H] engaged in conduct that was threatening and/or harassing towards Ms R, a former colleague Ms [H] had worked with during [year] and [year], namely by:
      1. Sending 20 direct messages to Ms R on social media using a fictitious account; and
3. The offences were committed in circumstances that either separately or cumulatively, reflect adversely on Ms [H]’s fitness to practise as a social worker.

**The Agreed Summary of Facts**

1. An undated Agreed Summary of Facts (the Summary of Facts) was signed by the respondent and the presiding member of the Professional Conduct Committee (PCC). It records that the respondent worked with the two victims of her harassment identified as Ms F and Ms R, in [year] and [year], in the social work department of a government organisation. The respondent used her own Facebook profile as well as a false account to publish threatening and derogatory comments about her two former colleagues. The Summary of Facts records[[2]](#footnote-3):

Victim one (Ms F)

5. On [date], Ms [H] sent a Facebook message to Ms F. On [date], Ms [H] sent a further 10 Facebook messages to Ms R.

6. These messages included such content as “Enjoy your sleepless night bitch lol” and “I will continue to bad mouth you to everyone that comes into contact with you professionally and personally.”

7. In that judgment, Judge D.G Harvey described the messages sent by Ms [H] as “*dreadful*”.

Victim two

8. At 2.53 on [date] Ms [H] created a Facebook account under the name “[name]”. Using that account, Ms [H] then sent a message to Ms R. Between [dates], Ms R received 36 messages from “[name].”

9. The content of these messages included:

“Still bullying people? Fabricating stories? Screwing Managers? To get what you want. You’re a piece of shit and karma is a bitch.”

10. The messages became more personal, and included Ms R’s full name, despite that not being her name on Facebook. The messages continued, including:

‘U *shit useless social worker with a fat ass full of shit that sucks her managers cocks.*”

1. Ms R reported the messages she received to the Police on [date], and again when she received further messages the following day. When approached, the respondent acknowledged to the Police that she was responsible for the messages.
2. Criminal charges were laid under the HDC Act 2015. The respondent entered guilty pleas on [date].[[3]](#footnote-4) The respondent was convicted and discharged. Both Ms R and Ms F were recorded in the District Court Judge’s findings to be fearful for their safety, and the Judge described the Respondent’s messages as “*awful*”. The Summary of Facts records the Judge as finding:

I form the view that this offending was both sustained and thought-out. It clearly has affected both of these ladies, and Ms [R] in particular was reduced to a state of fear. I have no doubt that this offending is properly described as moderately serious.

1. The Police Summary of Facts was included in the evidence and contains further examples of the respondent’s messages. They are vindictive, threatening and abusive. The Tribunal also received written submissions on behalf of the PCC and the respondent, an affidavit by the respondent dated 30 January 2024 and an agreed bundle of documents including correspondence from counsel for the respondent to the PCC dated 17 January 2023, the PCC report dated 28 April 2023 determining to refer the matter to the Tribunal, and email correspondence from counsel for the PCC notifying the Board of the respondent’s convictions on 7 April 2022.

**Legal Principles**

1. The onus of proof rests with the PCC, on the balance of probabilities.
2. The respondent’s registration was cancelled by the Tribunal in a decision dated [date].[[4]](#footnote-5) Both parties accepted that we have jurisdiction to consider the charge on the basis that the respondent was registered at the time of the conduct in question, being the events in the charge, and the convictions under the HDC Act 2015. Section 134 of the Act provides:

The cancellation or suspension of a social worker’s registration or the suspension of their practising certificate does not affect their liability for any act or default occurring before the cancellation or suspension.

1. Counsel for the respondent did challenge whether we should hear the charge at all, essentially on the basis that the matter ought (it was submitted) to have been dealt with at the same time as the first charge. Counsel submitted that the respondent is prejudiced by the PCC not prosecuting the charge when it came to its attention in 2022, and we should take no further action.
2. Section 75(3) of the Act states:

As soon as reasonably practicable after a charge is laid before the Tribunal, its Chairperson must convene a hearing to consider the charge.

1. It is possible that the prosecutor may seek leave to withdraw a charge and that the Tribunal will consider whether such application is appropriate in reliance on its ability to regulate its procedure under Schedule 2 of the Act. That was not the case here. Nor is it the role of the Tribunal to review the decision of the PCC to investigate and lay a charge.
2. Section 82 of the Act sets out the grounds on which the Tribunal may make orders. Pursuant to s 82(1)(c) the grounds for discipline include circumstances in which:
   1. a registered social worker has been convicted of an offence that is punishable by imprisonment for a term of three months or longer, and
   2. that offence was committed in circumstances that reflect adversely on the social worker’s fitness to practise as a social worker.
3. The offences for which the respondent was convicted under s 22 of the HDC Act 2015 are qualifying offences in that they carry a maximum penalty of two years’ imprisonment (or a fine not exceeding $50,000).
4. As to the second limb of s 82(1)(c), fitness to practise is not defined by the Act. Guidance is available in authorities in this and other professional disciplinary jurisdictions. Counsel for the PCC referred to this Tribunal’s decision in *Hanley*[[5]](#footnote-6)as confirming that the requirement to consider the circumstances of the charge does not mean that we must find that the practitioner is in fact unfit to practise. Rather the Tribunal should be satisfied that the conduct is:

Of a kind that is inconsistent with what might be expected from a practitioner who acts in compliance with the standards normally observed by those who are fit to practise medicine. Not every divergence from recognised standards will reflect adversely on a practitioner’s fitness to practise. It is a matter of degree.[[6]](#footnote-7)

1. It is also well established that fitness to practise can encompass matters that fall outside a social worker’s workplace or professional practise. This is consistent with the approach to fitness that is taken in other professional jurisdictions.
2. It is also consistent with the Social Workers Registration Board Code of Conduct (the Code), which exemplifies the broad responsibility that social workers have to their immediate clients and whānau, colleagues, the profession and the wider community. Counsel for the PCC referred to guidance on the expectations for communication with colleagues, and references to the application of the Code to a social worker’s personal and professional life. Counsel highlighted principles 8.1, 8.3 and 8.4 as to courteous, respectful and constructive communication and principle 9.1, which requires social workers to:

Maintain a high standard of professional and personal behaviour – avoid activities, work or non-work that may in any way bring the social work profession into disrepute; the same standards of conduct are expected when using social media and electronic forms of communication.

1. Although the Act does not include a mandatory self-report of convictions by the social worker, it does require that the Registrar of the court notify the Board when a qualifying conviction is entered: s 63. This does not always happen and did not in this case. However, principle 9.8 of the Code sets out an expectation that if a social worker is found guilty of a criminal offence, they will notify the Board “*without delay*”.

**Discussion – Liability**

1. The manner and timing of notification of the convictions to the Board underscores the respondent’s concerns that she has been prejudiced. Counsel for the PCC conducting the first investigation into the respondent notified the Board on 7 April 2022, together with a copy of the Summary of Facts from the District Court. The Board then chose to refer the matter to a PCC, pursuant to s 65A(2)(a). The PCC investigated and in the usual course, offered the respondent an opportunity to be heard. After completing its investigation the PCC also had options available to it pursuant to s 71, one of which was to lay a disciplinary charge: s 71(1)(c).
2. Both parties outlined a chronology to advance the competing contentions that the two matters could, or could not, reasonably have been addressed together once notice of the convictions was given. We have set out the pertinent dates and included further events in italics. There is no suggestion that the earlier Tribunal was aware of the convictions that form the basis of this charge when it dealt with the first charge against the respondent:

*September [dates]* – *harassment of colleague/former colleague by the respondent, which was particularised in the first charge*.

[date] the respondent’s registration and practising certificate are suspended *by the Board following a notification of concerns from the respondent’s employer. The suspension is not reinstated at any time.*

[date] – the respondent commences the communications against Ms F. *The PCC investigation into the first allegations is ongoing.*

[date] ~ the respondent commences the communications against Ms R.

[date] – the respondent’s conduct is reported to the Police.

[date] – the respondent pleads guilty to charges under the HDC Act 2015.

[date] – the respondent is convicted and discharged of the offences.

7 April 2022 – counsel for the PCC notifies the Board of the conviction and provides the sentencing notes.

*8-10* May 2022 – via subcommittee, the Board resolves to refer the convictions to a PCC.

[date] – liability hearing on the first charge. The respondent does not participate.

29 June 2022 – Board notifies the respondent that the second convictions will be referred to a PCC.

[date] – penalty hearing in relation to the first charge.

*18 August 2022 – Board appoints a PCC pursuant to s 66 to consider the convictions the subject of this charge.[[7]](#footnote-8)*

[date] – Tribunal issues decision cancelling the respondent’s registration.

*17 January 2023 – Respondent replies to PCC regarding information gathered. No dispute of facts but counsel urges PCC to take no further action.[[8]](#footnote-9)*

*6 April 2023 – draft PCC determination sent to the respondent, no response*.[[9]](#footnote-10)

28 April 2023 – PCC determines to lay this disciplinary charge.

14 September 2023 – the charge is filed in the Tribunal.

1. The respondent is the author of her own misfortune due to her conduct and must take some responsibility for any lost opportunity to deal with the charges together, given she did not meet her ethical obligation to self-report the criminal convictions. However, we can sympathise that the matter has taken some time to resolve and that there may have been the possibility of a single hearing, reducing costs and the spectre of a second round of publicity.
2. We accept the PCC’s submissions as to the process that is required to be followed by the Board, on receipt of notice of a conviction, and then by a PCC once that notice has been referred. The PCC were clearly aware of the earlier proceedings and cancellation of the respondent’s registration but determined that it was appropriate to pursue a disciplinary charge because of the seriousness with which it viewed the respondent’s conduct. We have insufficient evidence to make any assessment of whether there ought to have been consideration of the matters being dealt with together, albeit that would have caused delay while the PCC decided whether to pursue the convictions. Nor is it our role to review the PCC’s procedures. We do consider this is pertinent to costs, however, which we discuss below.
3. We deal with the actual facts leading to the convictions very briefly. The Summary of Facts sets out deliberate and harmful behaviour by the respondent towards two former colleagues. A conviction under s 22 requires the court to be satisfied that there was intention to cause harm, that an ordinary reasonable person would be harmed, and the victim was harmed. This highlights the serious nature of the conduct.
4. Clearly the respondent had a long-harboured and deep discontent with her former colleagues. Regardless, the manner in which she communicated was highly offensive and inappropriate and clearly in breach of the expectations set out in the Code and reflects adversely on the respondent’s fitness to practise as a social worker. The fact that the conduct occurred after she came under investigation for similar conduct is aggravating, as is the failure to notify the Board of the criminal charges, or the convictions. Accordingly we find the charge proved.

**Discussion-Penalty**

1. Having found the charge proved we must then consider whether it is appropriate to order any of the penalties set out in s 83 of the Act. Both parties acknowledge that any penalty will be indicative, given the respondent is not registered, has pursued new qualifications and has not indicated any intention to re-register and practise as a social worker in the future. Evidence was given by the respondent regarding study towards qualifications in a wholly different profession, and her affidavit refers to coming to terms with not again practising as a social worker, after the cancellation of her registration.
2. We consider it is useful to set out our findings. In this way we can fulfil the standard setting function of the Tribunal, and to enhance professionalism by sending a clear message as to the types of conduct that cannot be tolerated. Counsel for the PCC also referred to the deterrent function of discipline.
3. Counsel for the PCC provided helpful submissions setting out the principles of penalty, and we have taken these into account. In short, penalty must reflect the principles and purposes of the Act. The multiple factors set out in *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand[[10]](#footnote-11)* are also applicable, For a case involving similar facts (to a degree) counsel for the PCC referred us to *Professional Conduct Committee v R*[[11]](#footnote-12) a decision of the Health Practitioners Disciplinary Tribunal (HPDT) under the Health Practitioners Competence Assurance Act 2003. The practitioner faced an array of charges including referral of convictions under the HDC Act. The HPDT said:

[75] A finding that a conviction reflects adversely on a practitioner’s fitness to practise does not require a finding that there has been a breach of the professions Code of Ethics, but the Codes are one context in which to assess the practitioner’s conduct.

[76] On the first conviction for emailing Ms [S], Mr [U] and Ms [A] the contact was all aimed at harming Mr [G]. We agree…that his conduct raises serious questions about Mr [R]’s honesty, integrity, and respect for others…Under [the relevant professional code of ethics] he was obliged to act in a manner that promotes public trust and confidence in pharmacists and enhances the reputation of the profession. He sent emails under the name of [] and had his former partner pretend to be someone else in order to cause further harm …This was dishonest, lacked integrity and respect for others… it is conduct that might bring the profession into disrepute or impair the public’s confidence in the pharmacy profession …The Tribunal has no hesitation in finding that the conviction reflects adversely on Mr [R]’s fitness to practise.

1. It is usual to identify aggravating and mitigating factors when considering penalty. The following are aggravating factors in this case:
   1. The content and extent of the respondent’s online harassment. This was repeated misconduct and caused the victims to fear for their safety.
   2. The offending occurred while the respondent was under investigation by the PCC for conduct including similar behaviour.
   3. The failure to self-report. The respondent was an experienced social worker and ought to have been aware of this ethical obligation.
   4. Apparent lack of insight and remorse. As submitted by counsel for the PCC the respondent’s affidavit does not include any reference to her victims and the harm that was caused to them.
2. With regard to mitigating factors, the respondent pleaded guilty both in the District Court and before this Tribunal. The respondent’s affidavit refers to her behaviour being “*very out of character*” and that it arose out of bullying she says she experienced. She states that she feels “*ashamed and sad about my actions but have had to accept this is part of the consequences of how I behaved*.” With regard to the impact of her mental health the respondent writes:

[7] I was diagnosed with depression and began taking anti-depressant medication, prescribed by my General Practitioner at the time…[he] was very concerned about me and I began to regularly attend appointments so he could monitor my well-being. I also began attending counselling at [counselling centre].

[8] I decided not to engage in the [first] disciplinary proceedings because of my mental health and the impact it would have on me.

[9] Months after I was convicted for my offending, the tribunal released a decision censuring me and cancelling my registration. This decision was initially difficult to accept, but eventually I came to terms with the fact that I could no longer work as a Social Worker and my career in that field was over.

1. The respondent refers to her decision to undertake post-graduate studies and enter a different field. She has held some part time work while studying, but states that she “*recently*” lost this employment and believes that this was due to her employer learning of the publicity around her earlier disciplinary proceedings.[[12]](#footnote-13) In response to a question from the Tribunal, counsel for the respondent advised that she continues to study towards a qualification and has not obtained employment.
2. The Tribunal was concerned at the potential harm that can be caused by online harassment and abuse, and that social workers should be very aware of this through their training and practise and be careful to avoid engaging in such conduct.
3. Perhaps because of the cancellation of the respondent’s registration, we were not given evidence as to the prospects of rehabilitation. For example, the Tribunal is usually assisted by a respondent’s reflections on the conduct at issue and factors which influenced their behaviour, and any steps taken professionally and/or personally to ensure that similar conduct would not occur again.
4. Having to determine this matter on the basis only of the evidence before us, and given the nature of the offending, we would have ordered cancellation. The nature of the offending was serious, and there is no evidence that a rehabilitative penalty would be appropriate in this particular case. A censure would also be appropriate. We consider that such a finding is consistent with other cases where the Tribunal has cancelled registration for misconduct of a serious nature and where there is a lack of evidence of the ability to mitigate future risk of harm to members of the public or profession through rehabilitative steps. Counsel for the PCC also referred us to cases of cancellation in the HPDT where the charge involved allegations of harassment, in the absence of directly analogous cases in this jurisdiction (other than the respondent’s own).[[13]](#footnote-14)

**Non-Publication**

1. The respondent made an application for permanent orders suppressing publication of her name and identifying particulars, supported by the affidavit already referred to. Interim orders were made by the Chair prior to the hearing pending determination of any permanent orders by the full Tribunal.

1. The power of the Tribunal to make non-publication orders is under s79 of the Act. The starting point is that hearings are to be public. This presumption may be displaced if, having regard to the interest of any person (including the privacy of any complainant) and to the public interest, and the Tribunal is satisfied that it is desirable to do so we may make orders prohibiting publication of details including names, identifying particulars and/or the evidence produced at a hearing.
2. The Act also requires us to consider whether there needs to be special protection for certain witnesses. This includes a witness if the evidence in the Tribunal’s opinion relates to or involves a matter that may require them to give intimate or distressing evidence: s79(1)(b)(ii). As this matter proceeded on the basis of an agreed summary of facts, evidence of the victims was not required to be produced. However, the evidence includes some of the content of the respondent’s messages and there is a potential for harm to those persons if the matter is published at this point. The earlier publicity regarding the first Tribunal proceedings included detailed references to the messages and the circumstances in which they were sent. Out of caution (as they are not named in documents before the Tribunal) we will make an order that the names of the victims not be published.
3. The grounds for the respondent’s application were submitted by counsel as follows:

The respondent seeks suppression of her name for the reasons set out in the affidavit filed with this memorandum. The earlier proceedings and subsequent media attention have taken a significant toll on her mental health and further publication is likely to cause more harm.

1. In oral submissions, counsel submitted that a comprehensive psychiatric assessment for the purposes of supporting the application was beyond the respondent’s means. He also observed that had this matter been dealt with together with the first charge, the respondent would have avoided the prospect of further publicity; and that this is not a case in which there is the potential for publicity to bring forward other complainants.
2. Counsel advised that the respondent sought permanent name suppression in the criminal proceedings and that this was unsuccessful but notwithstanding this, no further publicity followed the original articles.
3. The respondent’s affidavit annexes two media articles dated [date] published about the Tribunal’s findings and accompanied by a photograph of the respondent. The respondent states:

[11] The publication of these articles took a huge toll on my mental health. My family and I are very close, and it was very stressful for them. Their anguish exacerbated the stress and shame that I felt and ultimately, put a huge strain on our relationship.

1. The respondent goes on to refer to embarrassment caused to her brother, and his disappointment in her, and to guilt relating to her mother suffering a heart attack shortly after the publicity. The respondent states that while her parents were very supportive, the publicity also caused embarrassment to them socially. She states that she withdrew from relationships and was concerned at how others viewed her when she returned to work (in different employment). The respondent describes the publicity as leading to “*probably one of the worst times in my life*” and that she sought medical help and was prescribed antidepressant and sleep medication, which she continues to take.
2. The respondent states that it took her “*a long time”* to get over the publication of the Tribunal’s decision and she refers to slowly rebuilding relationships with family members. The respondent states that she is:

[24] …extremely worried about the impact that further media reporting will have on my ability to locate suitable employment after I finish my studies.

[25] I have made a difficult decision to retrain and have dedicated significant time and effort to achieve that. It would be completely devastating to me if all that were in vain. I am worried that further media reporting will compromise my ability to obtain employment in that field.

1. The PCC accepted that the respondent has suffered from the earlier publication, and that fresh publicity may impact her further. The PCC however oppose a permanent order. It was submitted that the grounds relied on by the respondent are “*entirely consistent with those demonstrated by others who have applied for suppression previously in this Tribunal, and been declined*.” Counsel referred to *PCC v Luisi*[[14]](#footnote-15), and to three decisions of the HPDT[[15]](#footnote-16) by way of example of the threshold that should be met before an order is made. Counsel for the PCC also submitted that given the use of a false name by the respondent to send some of the offending Facebook messages there is the potential that other victims may be encouraged to come forward following publication.
2. Whether it is desirable to make an order will always be determined on a case-by-case basis, but we appreciate the need for consistency and to ensure that the threshold for permanent orders is suitably high, being something more than the ordinary consequences that are anticipated to follow publication of adverse findings. We agree with the PCC to the extent that the embarrassment felt by the respondent’s family is one such ordinary consequence.
3. In reaching our decision we have considered the submissions made, and taken into account the following: the time elapsed since the offending, the fact that the respondent is no longer a registered social worker and is retraining in a completely different profession, the risk of harm to her mental health and the risk we perceive to her former colleagues who were the subject of her harassment and misconduct. There is also some force in the respondent’s submissions regarding the potential for additional publicity and harm than would have been the case had the two charges been disposed of together. We also note that the false name used by the respondent was the same name falsely used by her previously, in conduct that was dealt with in the first disciplinary proceedings. That false name was published in [date], providing an opportunity for others to come forward.
4. On balance, we consider that it is desirable to make an order for non-publication.
5. In terms of identifying particulars, we acknowledge some difficulty given the previous proceeding and some inevitability that the respondent will be identifiable to some members of the public even reading a redacted version of this decision. We consider that identifying particulars include the respondent’s former places of employment as a social worker, namely [employer 1] (which was the subject of an order in the first proceedings) and the [employer 2] (which was named in the first proceedings). Publicity linking this case specifically to the first proceeding would also identify the respondent. The fact that the respondent has faced another charge is relevant to how we have dealt with this matter so in itself cannot be suppressed.

**Costs**

1. Section 83(e)(ii) and (iii) respectively provide that the Tribunal may order that a social worker pays part or all of the costs of and incidental to the PCC inquiry and the prosecution of the charge. An order for costs is discretionary, recognising in part that parties to a disciplinary proceeding are not on the same footing as parties to a civil proceeding, and the public element of such proceedings. It is common for costs to be sought on behalf of the PCC when a charge is successfully prosecuted. As with other penalties under s 83, the Tribunal will weigh various factors to reach an outcome that it considers is fair and reasonable in the circumstances.
2. After filing written submissions which indicated an application would be made for costs, counsel for the PCC advised that the PCC is neutral on the position of costs and will abide the Tribunal’s decision in this regard.
3. Counsel for the respondent submitted that no order for costs should be made, in reliance on the significant costs award in the first proceedings (over $30,000), the respondent’s limited means and further:

…the fact that this matter is being dealt with in a separate set of proceedings is a result of the applicant’s actions. It was aware of the convictions and the outcome prior to the first complaint proceeding to a hearing and it could easily have taken steps to include this matter in those proceedings. Any costs award in these proceedings would be onerous and unfounded.

1. In oral submissions Mr Williams expanded on this, submitting that had the PCC ensured that this matter was dealt with concurrently with the first proceedings that the outcome would have been the same, namely censure and cancellation.
2. We have determined not to make an order for costs against the respondent. This is consistent with the position taken by the PCC when it determined to lay the charge (noting at the conclusion of the report that it supported not pursuing a further award of costs).
3. We also consider that given the extent of costs for which the respondent is already liable, the fact this matter was dealt with by audio-visual link and with an agreed summary of facts, and the financial circumstances of the respondent insofar as these have been made known to us, it is appropriate to let costs lie where they fall. We do not make any finding in relation to whether the proceedings ought to have been consolidated but perceive that there may have been an opportunity lost in this regard.

**Indicative Orders and Orders for Non-Publication**

1. Accordingly, we make the following indicative orders:
   1. But-for the cancellation of the respondent’s registration we would have order cancellation and censure for the reasons set out above.
2. We make the following orders for non-publication:
   1. The name and identifying particulars of the respondent.
   2. The names of the victims referred to in the charge and Police Summary of Facts.

**Dated: 8 March 2024**

Catherine Garvey

Chair

**APPEAL NOTICE**

1. The parties have a right of appeal to the District Court pursuant to section 88 (2) and 88(3)(c) of the Social Workers Registration Act 2003.
2. Any appeal must be brought by notice of appeal in accordance with the rules of court, and within 20 working days from the date on which notice of the decision is given, or within any further time that the District Court Judge allows.

1. *[Decision]*. [↑](#footnote-ref-2)
2. This is quoted verbatim. The [month] dates in para 8 of the Summary of Facts all refer to [year]. [↑](#footnote-ref-3)
3. Summary of Facts at [16]. [↑](#footnote-ref-4)
4. n1 at [147]. [↑](#footnote-ref-5)
5. *PCC v Hanley* RSW10/D1/SWDT 2020 [↑](#footnote-ref-6)
6. At [5]. [↑](#footnote-ref-7)
7. Professional Conduct Committee Report dated 28 April 2023 at [1]. [↑](#footnote-ref-8)
8. n7 at [8]. [↑](#footnote-ref-9)
9. n7 at [4]. [↑](#footnote-ref-10)
10. *Roberts v Professional Conduct Committee of the Nursing Council* [2012] NZHC 3354 at [41] – [51]. [↑](#footnote-ref-11)
11. HPDT - 1353/Phar22/548P [↑](#footnote-ref-12)
12. Respondent’s affidavit at [22]. [↑](#footnote-ref-13)
13. *Professional Conduct Committee v Dy* [2018] HPDT 963/Nur17/401P; *Professional Conduct Committee v Hugill* [2020] HPDT 1114/Nur20/468P. [↑](#footnote-ref-14)
14. *Professional Conduct Committee v Luisi* RSW3/SWDT2/2019 [↑](#footnote-ref-15)
15. *Director of Proceedings v Crozier* 1359/Ost23/578D, 14 June 2023; *Professional Conduct Committee v Lal* 1294/Nur22/566P 25 January 2023 and *Professional Conduct Committee v Ms S* 1295/Nur22/543P, 8 March 2023. [↑](#footnote-ref-16)