

Health Practitioners Disciplinary Tribunal
The Director of Proceedings v Allen — 13 December 2005

On 13 December 2005 the Health Practitioners Disciplinary Tribunal upheld a charge of professional misconduct laid against an occupational therapist, Ms Sonja Allen of Auckland. The Director of Proceedings alleged that Ms Allen had formed a personal relationship that was harmful and/or potentially harmful to the complainant, who was her client.

Ms Allen was employed by the Waitemata District Health Board in a service that provided occupational therapy to persons who were also receiving assistance from mental health services. Ms Allen's role involved her providing individual career counselling to clients and liaising with mental health care teams in respect of clients' needs.

The complainant was referred to the service in March 2001 and Ms Allen was assigned as his occupational therapist. The complainant's diagnosis was "anxiety/depressive/panic disorder". In November 2002 after the complainant started emailing Ms E, a community support worker employed in the service where Ms Allen worked, it was agreed between Ms E, Ms Allen and the team manager that email correspondence in relation to his designing signs for the service was acceptable. The complainant was comfortable engaging through email and found that he could effectively communicate with others by email. The team manager emphasised that they were to limit their email contact to the task and not to build up relationships.

However, Ms Allen later admitted that she and the complainant were in regular contact outside of work hours by email and MSN, often in the middle of the night, and often several times a night. The communications continued from mid-November 2002 to early May 2003, and the parties had revealed a large amount of personal information to each other. They had also met outside of work hours on two occasions. Ms Allen had sent the complainant an email birthday card from overseas and had brought back small gifts for him from her holiday.

The complainant developed feelings for Ms Allen and told Ms Allen of this. When Ms Allen explained that these feelings were not reciprocated, the complainant was very upset. He sent her an email saying, "I am off to secure a length of rope for myself now". In May 2003 Ms Allen informed her team manager of the situation.

The Tribunal found that the shortcomings amounted to incidents of "negligence" pursuant to s100(1)(a) of the Act. It observed the difference in

power between occupational therapists and clients, noting the professional fiduciary obligation on the occupational therapist to meet the needs of the client above his or her own needs. Further, because of the difficulty for an occupational therapist to maintain objectivity and professional judgement if a friendship develops, the quality of services provided to a client may be compromised. The case provided evidence that the nature and risk of transference is such that when a friendship between occupational therapist and client ends, the damage to the client may be quite severe.

The Tribunal ordered that for a period of three years from the date Ms Allen recommences practice, she must consult with and comply with any instructions or training given on boundary identification and maintenance. She was also ordered to pay \$15,000 costs towards the prosecution.

A copy of the Tribunal's decision may be found at www.hpdt.org.nz.