

CONCERNING

an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006

AND

CONCERNING

a determination of the [X] Standards Committee [X]

BETWEEN

JQ

Applicant

AND

IR

Respondent

DECISION

The names and identifying details of the parties in this decision have been changed.

Introduction

[1] Mr JQ has applied for a review of a decision by the [X] Standards Committee [X] (the Committee) to take no further action in respect of his complaint concerning correspondence Ms IR sent on behalf of the [ABC] Board (the Board) under her name as the Boards' Legal Advisor, and advice she may have provided to the Board.

Background

[2] The background facts are set out in the Committee's decision, and the areas of disagreement on Mr JQ's part are noted.

Review

[3] Mr JQ attended a review hearing on 27 November 2017. Ms IR was not required to attend and did not exercise her right to do so.

[4] In his application for review, Mr JQ maintains Ms IR should be the subject of disciplinary sanction, or should at least undertake further education, because of a letter she wrote which began:

I write on behalf of the [ABC] Board [(ABCB)].

[5] Mr JQ takes issue with the letter because it was:

...submitted to the [family] court to give credence to the orchestrated litany of lies and omissions by the [ABC] worker.

[6] Ms IR's letter confirms the Board's view that correspondence from the children's grandmother was sent by her personally, not by her in her capacity as a [ABC] worker, and that from the Board's perspective there is no blurring of the boundaries that raises professional concern.

[7] Ms IR moves from the use of the personal pronoun "I" at the start of her letter, to "we" in the body of it where she communicates the Board's decision. Mr JQ's view is that her choice of personal pronoun indicates she is, or considers herself to be, part of the Board rather than separate to it. He speaks of "tribalism" in government departments, and argues Ms IR's involvement as part of the Board is evidence that she has not maintained the rule of law as she is obliged to as an officer of the court.

[8] Mr JQ says he is a former teacher, and his view is that Ms IR could have avoided any possible criticism if she had used "they" rather than "we".

[9] Ms IR could have used "they" rather than "we". However, objectively read, it is clear from the first line of her letter, and Ms IR's signs off as "Legal Advisor", that the letter is written on behalf of the Board. There is no reason to believe Ms IR is a member of the Board. There is reason to believe she is Legal Advisor to it.

[10] Mr JQ believes the position set out in Ms IR's correspondence is not true. On that basis, he contends Ms IR has misled the Family Court and the New Zealand Law Society (NZLS), and he and/or his son may well have been disadvantaged in the Family Court proceeding as a result. Mr JQ is unsure what advice Ms IR gave to the Board, and is concerned about its quality.

[11] Any advice Ms IR may have provided to the Board is privileged and there are no grounds on which to seek disclosure through the process of complaint or review.

[12] The grounds of Mr JQ's application for review rests on the premise that a letter from Ms IR is somehow relevant to the Family Court's assessment of where the best interests of the children that were the subjects of the Family Court proceeding may lay. While the Board's view may alter the weight attached to the evidence, it is not necessarily the case that the altered weight somehow disadvantages Mr JQ or his son. In any event, the process of review is not the place to challenge the credibility of a witness in a Family Court proceeding.

[13] If, as it appears, Mr JQ disagrees with the Board's view, as expressed by Ms IR in her letter, he may be able to challenge that somehow, but no such challenge can be determined by this Office.

[14] No professional standards issue is raised by Ms IR's choice of personal pronoun. As there is absolutely no evidence of conduct on the part of Ms IR that could possibly be construed as unsatisfactory or misconduct, there is no basis on which to modify or reverse the Committee's decision. It is therefore confirmed.

Decision

Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006 the decision of the Standards Committee is confirmed.

DATED this 28th day of November 2017

D Thresher
Legal Complaints Review Officer

In accordance with s 213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

Mr JQ as the Applicant
 Ms IR as the Respondent
☒ Standards Committee ☒
 The New Zealand Law Society