New Zealand Health Practitioners Disciplinary Tribunal

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DECISION NO.: 7/Med04/03P

IN THE MATTER of the Health Practitioners Competence Assurance Act 2003

AND

IN THE MATTER of disciplinary proceedings against **ADAM JEREMY NUTTALL** practitioner formerly of Queenstown

BEFORE THE HEALTH PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING by telephone conference on 17 and 29 March 2005

PRESENT: Dr D B Collins QC - Chair
Dr L Henneveld, Dr R De Luca PhD, Dr R S J Gellatly and Dr P Jacobs (members)

APPEARANCES: Ms J Hughson for Professional Conduct Committee
Mr M Parker for respondent
Ms G J Fraser – Executive Officer
(for first part of call only)

Introduction

1. Doctor Nuttall is registered in New Zealand as a medical practitioner. Doctor Nuttall formerly practised in Queenstown. He now practises in Australia.

2. On 23 December 2004 a Professional Conduct Committee ("PCC") laid a charge against Dr Nuttall with the Tribunal. The charge was laid pursuant to s91(1)(b) Health Practitioners Competence Assurance Act 2003 ("HPCA Act").

3. The charge contains very serious allegations. The allegations can be summarised as follows:

   (a) Doctor Nuttall entered into an inappropriate and/or sexual relationship with a patient, in circumstances where Dr Nuttall was aware his patient was in a vulnerable state because of her marital problems and **[not for publication by Order of Tribunal]** for which she was being counselled by Dr Nuttall. This particular of the charge refers to the period around June 1993.

   (b) From June 1993 to August/September 1994 Dr Nuttall continued to treat the complainant and her children even though he had entered into a sexual relationship with her.

   (c) From 1995 to at least 31 March 1998 Dr Nuttall continued to prescribe medication and write medical reports for the complainant, despite the fact they were having a sexual relationship, and

   (d) Doctor Nuttall failed to take adequate notes of the complainant's consultations.

4. The charge alleges Dr Nuttall's conduct, when viewed separately or cumulatively amounted to professional misconduct as defined in s.100(1) of the HPCA Act[1].

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[1] Professional Misconduct is defined in s.100(1)(a) and (b) of the HPCA Act to mean:
"(a) … any act or omission that, in the judgment of the Tribunal, amounts to malpractice or negligence in relation to the scope of practice in respect of which the practitioner was registered at the time the conduct occurred: or
(b) … any act or omission that, in the judgment of the Tribunal, has brought or was likely to bring discredit to the profession that the health practitioner practiced at the time the conduct occurred."

5. The charge is set down to be heard in Wellington on 31 March and 1 April 2005.

6. Doctor Nuttall has applied for orders suppressing publication of his name and identifying features pending the Tribunal determining the charge laid against him.

7. The PCC has sought orders suppressing publication of the name and identifying features of the complainant and her children.

8. The PCC has also sought an order permitting the complainant to give her evidence from behind a screen, shielding her from Dr Nuttall.

9. These and another application were initially heard by the Tribunal on 17 March. Doctor Nuttall's application for interim name suppression and the PCC's application that the complainant give her evidence behind a screen were adjourned to 29 March for two reasons:

   9.1 To enable the complainant to see Dr Nuttall's affidavit and provide instructions to counsel for the PCC;

   9.2 To enable counsel for Dr Nuttall to make submissions on whether or not the Tribunal has jurisdiction to order a complainant be permitted to give their evidence from behind a screen.

   The matters referred to in paragraphs 9.1 and 9.2 were attended to and submissions received on 23 March. The Easter period prevented the Tribunal reconvening to consider the outstanding applications until the evening of 29 March.

10. In this decision the Tribunal explains its reasons for:

   10.1 Declining Dr Nuttall's application for interim name suppression;

   10.2 Granting the complainant and her children permanent name suppression;

   10.3 Deciding it has jurisdiction to permit a witness to give evidence from behind a screen in appropriate circumstances.

PART I – Dr Nuttall's application for interim name suppression

Basis of Application

11. Doctor Nuttall's application for interim name suppression is based upon the following matters set out in a brief affidavit received by the Tribunal on 16 March 2005:

    11.1 The allegations against Dr Nuttall are grave, and "as yet unproven";

    11.2 The risk of publicity adversely affecting his reputation and employment in Australia;

    11.3 The risk of publicity adversely affecting his former wife and his children who live in New Zealand.

Basis of Opposition

12. In her written submissions, senior counsel for the PCC (Ms McDonald QC) has summarised the basis of the PCC's opposition to Dr Nuttall's application in the following way:

> *"(a) The public interest requires that there be publication of Dr Nuttall's name; and*
>
> *(b) The circumstances disclosed by Dr Nuttall are insufficient to justify interim suppression of name, either alone or in combination, and/or do not counter balance the public interest factors in this case; and*
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> *(c) It is not desirable that Dr Nuttall's name be suppressed on an interim basis."*

Evidence

13. The Tribunal has received the briefs of evidence relied upon by the PCC and Dr Nuttall's proposed brief of evidence.

14. It is apparent from the evidence received that many factors are agreed upon. In particular it appears to be agreed:

    14.1 The complainant became a patient of Dr Nuttall's in October 1991;

14.2 Doctor Nuttall counselled the complainant for **[not for publication by Order of Tribunal]**;

14.3 The complainant and Dr Nuttall entered into a sexual relationship. The exact date their sexual relationship commenced is disputed;

14.4 After their sexual relationship commenced Dr Nuttall did provide some professional services to the complainant and her children;

14.5 The complainant and Dr Nuttall lived together overseas from approximately January 2002 to September 2003.

15. The Tribunal notes that notwithstanding his acceptance of the fact that he provided some professional services to the complainant and her children after forming a romantic relationship with her, Dr Nuttall believes the formal doctor/patient relationship terminated before they had intercourse.

16. In his statement of evidence Dr Nuttall has said:

> *"… while I disagree with minor elements of the particulars of the charge against me (for instance in relation to the exact time a sexual relationship began between me and … I admit (as I did to the PCC that I:*
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> *(a) Entered into an inappropriate, and later a sexual relationship with …; and*
>
> *(b) Continued to treat … and her children as I indicated above; and*
>
> *(c) Prescribed medication for … while we were in an inappropriate and sexual relationship;*
>
> *(d) Failed to take adequate notes of my consultation with her.*
>
> *… I acknowledge that the failures I have admitted above amount to professional misconduct …".*

Relevant Legislation

17. In earlier decisions[2] the Tribunal set out the relevant legislative provisions and an analysis of public interest considerations. Paragraphs 18 to 31 of this decision have been adopted from those earlier decisions.

18. The starting point when considering applications for name suppression by health professionals is s.95(1) and (2) of the HPCA Act, which substantially replicates s.106(1) and (2) of the Medical Practitioners Act 1995. Subsections 95(1) and (2) of the HPCA Act provide:

> *"(1) Every hearing of the Tribunal must be held in public unless the Tribunal orders otherwise under this section …*
>
> *(2) If, after having regard to the interests of any person (including, without limitation, the privacy of any complainant) and to the public interest, the Tribunal is satisfied that it is desirable to do so, it may (on application by any of the parties or on its own initiative) make one or more of the following orders:*
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> *…*
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> *(d) an order prohibiting the publication of the name, or any particulars of the affairs, of any person".*

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[2] *Re T* (supra); *Re Aladdin* 4Den04/02D; 5Den05/04D 21 March 2005;

19. Subsection 95(1) of the HPCA Act emphasises the Tribunal's hearings are to be held in public unless the Tribunal, in its discretion applies the powers conferred on the Tribunal by s.95(2) of the Act. Another exception to the presumption that the Tribunal's hearings will be conducted in public can be found in s.97 which creates special protections for witnesses required to give evidence of a sexual, intimate or distressing nature.

20. Whereas s.95(1) of the HPCA Act contains a presumption that the Tribunal's hearings shall be held in public, there is no presumption in s.95(2) of the Act. Where the Tribunal considers an application to suppress the name of any person appearing before the Tribunal, the Tribunal is required to consider whether it is desirable to prohibit publication of the name of the applicant after considering:

20.1 The interests of any person (including the unlimited right of a complainant to privacy); and

20.2 The public interest.

Public Interest

21. As foreshadowed by Ms McDonald's submissions the following public interest considerations have been evaluated by the Tribunal when considering Dr Nuttall's application:

    21.1 Openness and transparency of the disciplinary process;

    21.2 Accountability of the disciplinary process;

    21.3 The public interest in knowing the name of a doctor charged with a disciplinary offence;

    21.4 The importance of freedom of speech and the right enshrined in s.14 New Zealand Bill of Rights Act 1990[3];

    21.5 The extent to which other doctors may be unfairly impugned if Dr Nuttall's application is granted.

22. Each of these considerations will now be examined by reference to Dr Nuttall's application. In focusing on these public interest considerations the Tribunal notes no specific submissions were received relating to the complainant's interests in this case. The interests of the complainants have been subsumed into the public interest factors urged upon the Tribunal by the counsel for the PCC.

<u>Openness and Transparency of Disciplinary Proceedings</u>

23. The following cases illustrate the importance of openness in judicial proceedings:

    23.1 In *M v Police*[4] Fisher J said:

    > *"In general the healthy winds of publicity should blow through the workings of the Courts. The public should know what is going on in their public institutions. It is important that justice be seen to be done".*

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[3] "Freedom of expression – everyone has a right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any forum".

[4] (1991) CRNZ 14

23.2 In R v Liddell[5] the Court of Appeal said:

> *"… the starting point must always be the importance in a democracy of … open judicial proceedings …."*

23.3 In *Lewis v Wilson & Horton Ltd*[6] the Court of Appeal reaffirmed what it had said in *Liddell.* The Court noted:

> *"…the starting point must always be …the importance of open judicial proceedings …."*

24. To these leading cases can be added *Scott v Scott*[7] and *Home Office v Harman*[8] where Lords Shaw and Diplock explained the rationale for openness in civil proceedings.

25. The Tribunal appreciates it is neither a criminal nor a civil Court. However, as Frater J noted in *Director of Proceedings v I*[9] when explaining the scope of s.106 of the Medical Practitioners Act 1995:

> *"The presumption in s.106(1) of the Act, in fair and public hearings makes it clear that, as in proceedings before the civil and criminal Courts, the starting point in any consideration of the procedure to be followed in medical disciplinary proceedings must also be the principle of open justice."*

Accountability of the Disciplinary Process

26. Closely aligned to the concept of openness and transparency is the need to ensure that the disciplinary process is accountable and that members of the public and profession can have confidence in its processes. This point was noted by Baragwanath J in *Director of Proceedings v Nursing Council* [10] where His Honour drew upon the writings of Jeremy Bentham and Viscount Haldane in *Scott v Scott* to illustrate the importance of accountability in professional disciplinary proceedings.

Public Interest in Knowing the Identity of a Doctor Charged With a Disciplinary Offence

27. There is a well recognised public interest in members of the public, as well as other members of the profession knowing the identity of a health professional charged with a

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5 [1995] 1 NZLR 538
6 [2003] 3 NZLR 546
7 [1913] AC 47
8 [1982] 1 All ER 532
9 [2004] NZAR 635
10 [1999] 3 NZLR 360

disciplinary offence. The interest lies in providing members of the public and other members of the profession with information which may influence their decision to consult with the person who is the subject of the charge.

28. The public interest in knowing the identity of a health professional who is the subject of a disciplinary charge was referred to in *Director of Proceedings v Nursing Council* under the heading of "Education and alerting the community to risk". It was also a factor referred to in *F v Medical Practitioners Disciplinary Tribunal*[11] where the Court, relying on *S v Wellington District Law Society*[12] noted:

> *"(a) The public interest is the interest of the public, including members of the profession, who have a right to know about proceedings affecting a practitioner …*
>
> *(c) In considering the public interest the Tribunal is required to consider the extent to which publication of the proceedings would provide some degree of protection to the public or the profession …".*

Importance of Freedom of Speech and the Right Enshrined in s.14 New Zealand Bill of Rights Act 1990

29. The public interest in preserving freedom of speech and allowing the media "as surrogates of the public" to report Tribunal proceedings has been approved on a number of occasions by appellate Courts[13].

30. The Tribunal does not know if the media proposes reporting anything about the charges faced by Dr Nuttall. If the media wish to publish reports about the Tribunal's proceedings and identify Dr Nuttall then clearly the importance of freedom of speech enshrined in s.14 New Zealand Bill of Rights Act 1990 is a factor which weighs against Dr Nuttall's application.

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[11] Unreported HC Auckland, AP21-SW01-5 December 01, Laurenson J
[12] [2001] NZAR 465
[13] See for example, *Liddell* and *Lewis* (supra)

Unfairly Impugning Other Doctors

31. A further factor in the public interest is the concern that other doctors may be unfairly impugned if Dr Nuttall's name is suppressed. This point has been emphasised on numerous occasions in Criminal Courts where Judges have declined name suppression to avoid suspicion falling on other members of the profession.

Decision

32. The Tribunal has carefully weighed Dr Nuttall's interests (including the interests of his former wife and children) against the public interest considerations identified in this decision.

33. The Tribunal does not believe that Dr Nuttall's personal interests, and the interests of his former wife and children outweigh the public interest factors referred to in this decision. The Tribunal has concluded that it is not desirable to grant Dr Nuttall's application.

34. In assessing Dr Nuttall's personal interests the Tribunal has had particular regard to the following:

    34.1 The allegations against Dr Nuttall are very serious;

    34.2 Doctor Nuttall has indicated he accepts significant wrong doing on his part;

    34.3 Doctor Nuttall no longer practises medicine in New Zealand;

    34.4 It is anticipated the Tribunal will be able to deliver its decision in relation to the charge very quickly. It is unlikely any real purpose will be served by an interim suppression order that may last just a matter of days.

35. In assessing the interests of Dr Nuttall's former wife the Tribunal has noted:

    35.1 Doctor Nuttall's former wife does not use the surname "Nuttall";

    35.2 Doctor Nuttall's former wife has already had to cope with the fact Dr Nuttall and the complainant lived together and made no secret of their relationship;

36. In considering the interests of Dr Nuttall's children the Tribunal has not been told their ages but notes they live with their mother and have previously had to come to terms with the fact their father and the complainant formed a relationship.

37. The Tribunal believes that it is unlikely that Dr Nuttall's former wife, and his children will suffer significant additional harm if his application is declined.

38. The Tribunal is very satisfied that the public interest considerations and in particular:

38.1 The need for openness and transparency in the disciplinary process;

38.2 The need for the disciplinary process being accountable;

38.3 The public and the profession's interest in knowing the identity of a doctor facing a serious disciplinary charge; and

38.4 The need to avoid unfairly impugning other doctors

significantly outweigh the personal interest factors urged upon the Tribunal by Dr Nuttall. The Tribunal concludes it is not desirable to suppress publication of Dr Nuttall's name and identifying features, even on an interim basis.

PART II – Complainant's application for Orders suppressing publication of her name and the names of her children

39. The PCC has sought orders prohibiting publication of the name and any identifying features of the complainant and her children. This application was not opposed by Dr Nuttall.

40. When the Tribunal convened on 17 March it resolved to grant orders prohibiting publication of the name of the complainant and her children. The Tribunal now explains its reasons for that decision.

41. The application was based on the following grounds:

41.1 The evidence of the complainant involves matters of a sexual nature involving the complainant and Dr Nuttall. Disclosure of those matters, and other details of the complainant's medical history in a way which identifies the complainant would invariably cause embarrassment and distress to the complainant.

41.2 The evidence before the Tribunal involves health information about two of the complainant's three children. There is no public interest in having that information disclosed in a way which identifies the complainant's children.

41.3 It would be very embarrassing and distressing to the complainant's children to be publicly named and identified in conjunction with the evidence the Tribunal will consider about the sexual relationship between the complainant and Dr Nuttall.

Relevant Legislation

42. Section 95(2)(d) HPCA Act requires the Tribunal to be satisfied that it is desirable to prohibit publication of the name of any witness after having regard to the interests of that person and the public interest. Section 92(2) places special emphasis on the complainant's right to privacy which is described in s92(2) as being "without limitation".

43. In addition to the emphasis contained in s92(2)(d) to the Tribunal respecting the privacy of the complainant, the Tribunal must also have regard to the special protections set out in s.97. Section 97 provides:

> *"**97 Special protection for certain witnesses***
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> *(1) This section applies to evidence to be given by a witness at a hearing by the Tribunal that –*
>
> *(a) relates to or involves a sexual matter; or*
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> *(b) in the Tribunal's opinion, relates to or involves some other matter that may require the witness to give intimate or distressing evidence.*
>
> *(2) Before a witness at a hearing by the Tribunal begins to give oral evidence to which this section applies, the presiding officer must –*
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> *(a) tell the witness that he or she has a right to give the evidence in private; and*

(b) ask if the witness wishes to give the evidence in private.

(3) If the witness wishes to give the evidence in private, the presiding officer must –

(a) ensure that only the people referred to in subsection (4) are present in the room in which the hearing is being held; and

(b) tell the witness that he or she has a right to request the presence of any person of his or her choice who agrees to be present; and

(c) tell the health practitioner concerned that he or she has a right to request the presence of any person of his or her choice who agrees to be present.

(4) If the witness wishes to give the evidence in private, only the following people may be present in the room while the witness is giving evidence:

(a) the members of the Tribunal:

(b) the health practitioner concerned:

(c) the person prosecuting the charge:

(d) any barrister or solicitor engaged in the proceedings:

(e) if the health practitioner's representative is not a barrister or solicitor, the representative:

(f) any officer of the Tribunal:

(g) any person responsible to the Tribunal for recording the proceedings:

(h) any accredited news media reporter:

(i) any person of the witness's choice who agrees to be present:

(j) any person of the health practitioner's choice who agrees to be present:

(k) any other person expressly permitted by the Tribunal to be present.

(5) The witness may object to the presence of a person of the health practitioner's choice; and, if the Tribunal upholds the objection, that person may not be present in the room while the witness is giving the evidence."

44. Also relevant is s.98 which prohibits publication of the names of complainants in sexual cases. Section 98 provides:

*"**98 Prohibition of publication of names of complainants in sexual cases***

> *(1) In this section, complainant means a person whose complaint against a health practitioner (whether made by the person or on the person's behalf) relates to sexual acts-*
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> *(a) that are alleged to have been performed on, or in respect of, the person; or*
>
> *(b) that the person is alleged to have been compelled or induced to perform.*
>
> *(2) No person may in any report or account of a hearing of the Tribunal publish the name of the complainant or any particulars likely to lead to the identification of the complainant unless-*
>
> *(a) the complainant is 16 years or older; and*
>
> *(b) the Tribunal makes an order permitting the publication.*
>
> *(3) However, the Tribunal must make an order under subsection (2)(b) if-*
>
> *(a) the complainant-*
>
> *(i) is 16 years or older (whether or not he or she was under 16 years when the acts referred to in sub-section (1) were alleged to have been performed);*
>
> *and*
>
> *(ii) applies to the Tribunal for the order; and*
>
> *(b) the Tribunal is satisfied that the complainant understands the nature and effect of the application.*
>
> *(4) If it thinks that the interests of the complainant require it to do so, the Tribunal may make an order under section 95(2)(b) forbidding publication of any report or account of any part of the evidence relating to the particulars of the acts referred to in subsection (1).*
>
> *(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding $10,000 who contravenes subsection (2).*
>
> *(6) Except for subsection (3), nothing in this section nor in section 97 limits the Tribunal's power to make an order under section 95."*

45. It is apparent that when ss97 and 98 are read in conjunction with s95(2)(d) the Tribunal is required to have special regard to a complainant's request for privacy, particularly in cases where complainants give evidence of a sexual, intimate or distressing nature.

45.1 The complainant's unlimited right to privacy in s92(2)(d); and

45.2 The prohibitions against publishing the names of complainants in sexual cases set out in s98 means that whenever a complainant in a sexual case seeks orders prohibiting publication of their name or identifying features it would be highly unusual for the Tribunal to refuse the complainant's request.

46. In this case, the complainant is required to give evidence of a sexual nature. She is also required to give evidence of an intimate and distressing nature. The Tribunal has no hesitation in granting the complainant's request that nothing be published which names or otherwise identifies her. The Tribunal is making this order pursuant to s95(2)(b) HPCA Act.

47. The complainant's children are now teenagers. They were patients of Dr Nuttall. There is evidence before the Tribunal about consultations which two of the complainant's children had with Dr Nuttall. The medical evidence is of a very personal nature. In addition, the complainant's children still live with her, and have been closely associated with the relationship that existed between the complainant and Dr Nuttall. The complainant's children moved with the complainant overseas and lived with the complainant and Dr Nuttall until late 2003.

48. The privacy interests of the complainant's children are clearly very significant. In addition, the Tribunal cannot identify any public interest considerations which necessitate publication of the names and identifying features of the complainant's children. Indeed, allowing publication of the names and identifying features of the complainant's children would substantially undermine the effect of the Tribunal's order prohibiting publication of the name and identifying features of the complainant.

49. The Tribunal accordingly concludes nothing should be published which names or otherwise identifies the complainant's children. That order is made pursuant to s95(2)(d) HPCA Act.

PART III - Request for a screen

50. Section 97 HPCA Act makes it clear that the complainant is entitled to give her evidence in private if she wishes. If the complainant gives her evidence in private the only persons who will be present in the hearing room are those identified in s97(4) of the HPCA Act[14].

51. In addition to the protection set out in s97 HPCA Act, the complainant has requested that she give her evidence in a way which screens her from Dr Nuttall.

52. The Tribunal has received an affidavit from Ms Gutteridge, a clinical psychologist. Ms Gutteridge has treated the complainant since June 2004. Ms Gutteridge has described the complainant as being "*extremely vulnerable*" and "*… deeply traumatised by matters arising from her relationship with Dr Nuttall, and by the prospect of having to attend a hearing to give evidence, knowing Dr Nuttall will also be present"*. In her affidavit Ms Gutteridge expresses concern that the complainant may *"freeze" "(become hyperaroused and unable to respond)"* in the presence of Dr Nuttall.

53. Doctor Nuttall opposes the application for the complainant to be screened from him. His objection is based on a carefully constructed submission that the Tribunal has no jurisdiction to make the order sought.

54. The Tribunal has advised the parties that it will first determine if it has jurisdiction to allow a complainant to give evidence from behind a screen. If it has the jurisdiction the Tribunal will reserve its decision on whether or not it should make the order sought until the morning of the hearing so that counsel for the PCC can ascertain whether or not orders are required.

55. Mr Parker, counsel for Dr Nuttall, correctly points out that there is nothing in the HPCA Act which authorizes the Tribunal to allow a witness to give evidence whilst screened from the person appearing before the Tribunal.

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[14] Refer paragraph 43 of this decision

56. Clauses 5(1) and (3) of the First Schedule of the HPCA Act permits the Tribunal to regulate its own procedure in such manner as it thinks fit. That privilege is subject to the requirement the Tribunal observe the rules of natural justice.

57. The fact the HPCA Act does not contain provisions similar to those found in s23E(d) Evidence Act 1908 does not mean the Tribunal is powerless to grant the complainant's request that she give her evidence with a screen shielding her from Dr Nuttall . Section 23E Evidence Act 1908 enables criminal courts to allow complainants 17 years and younger (and some other complainants) to give evidence from behind a one way screen or partition in cases involving certain sexual offences. Section 23E Evidence Act 1908 was enacted in 1989.

58. Prior to the 1989 amendments to the Evidence Act 1908 the Court of Appeal held that, in criminal trials, the Judge, jury, witnesses and accused are all, in general in sight of each other. The Court held however that in some exceptional circumstances, especially those involving children giving evidence in sexual abuse cases, the Courts have a duty to modify their procedures to protect witnesses. The Court held that the inherent jurisdiction of the Court to control their own procedure provided a mechanism to protect witnesses by one way screens where that was shown to be reasonably necessary[15]. In *R v Holden*[16] the High Court relied on its inherent jurisdiction to allow an adult complainant to give evidence behind a one way screen. Other reported cases of assistance are *R v Daniels*[17]*; R v Coleman*[18]*; R v Mohe*[19].

59. Although the Tribunal does not have inherent jurisdiction, it has the ability to regulate its own procedures. To this end, the Tribunal derives considerable assistance and guidance from the cases referred to in paragraph 58. The Tribunal believes its power to regulate its own procedure enables it to grant a witness the ability to give evidence in a way which shields them by way of a one way screen from the doctor who is charged.

60. The Tribunal does not believe Dr Nuttall will be denied natural justice if the complainant cannot see him when she gives her evidence. Although it may be

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15 *R v Accused* (T4/88) [1989] 1 NZLR 660
16 High Court Auckland, T9/81 504, 31 August 1998, Randerson J
17 (1993) 10 CRNZ 165
18 (1996) 14 CRNZ 258
19 [1996] 1 NZLR 263

inconvenient, the Tribunal will ensure Mr Parker is able to observe the complainant give her evidence. Mr Parker and Dr Nuttall will have every opportunity they require to confer during the time that the complainant gives her evidence.

61. As mentioned earlier in this decision, the Tribunal will refrain from making orders on whether or not the complainant can give her evidence from behind a screen until the morning of the hearing.

62. The Tribunal advised the parties of its decision recorded above on 29 March 2005.

DATED at Wellington this 14th day of April 2005

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D B Collins QC

Chair

Health Practitioners Disciplinary Tribunal