

[2] The Committee determined that Mr Mangalassery did not breach his ethical obligations or the Code of Conduct.² However, the Committee considered that Mr Mangalassery should receive mentoring and/or counselling to develop his social work practice because of other concerns with his actions.³

[3] On 16 December 2019, after having considered the Committee's recommendations, the Board decided to implement these measures.

The decisions of the courts below

[4] Mr Mangalassery appealed against the decision of the Board to the District Court. On 22 February 2021, Judge McIlraith held that the Board should have referred the complaint back to the Committee for further consideration.⁴

[5] Mr Mangalassery appealed to the High Court, arguing that the District Court Judge was wrong to refer the matter back to the Committee.⁵ The appeal was dismissed. The High Court held that the Committee had jurisdiction to make a recommendation under s 71(1)(b)(v) of the Social Workers Registration Act 2003 (SWR Act) even in circumstances where it has determined that there was no basis to the complaint.⁶

[6] The Court of Appeal declined Mr Mangalassery's application for leave to appeal.⁷ The Court said it was unclear whether there was jurisdiction to hear the appeal.⁸ In any event, the matter was case specific and thus did not raise any issues of

² Kāhui Whakamana Tauwhiro | Social Workers Registration Board "Social Workers Registration Board Code of Conduct" <swrb.govt.nz>.

³ *Mangalassery v Social Workers Registration Board* [2021] NZHC 1594 (van Bohemen J) [HC judgment] at [16]–[20] and [71].

⁴ *Mangalassery v Social Workers Registration Board* [2021] NZDC 2809 (Judge McIlraith) [DC judgment] at [51].

⁵ HC judgment, above n 3, at [4].

⁶ At [106]–[121]. The Judge noted that in fact the Committee had not determined there was no basis to the complaint. Rather, it had only determined there was no breach of ethical duties or the Code of Conduct.

⁷ *Mangalassery v Social Workers Registration Board* [2021] NZCA 509 (French and Courtney JJ) [CA judgment].

⁸ See the discussion of jurisdiction issues at [22]–[33]. The Court determined it was unnecessary to express any definitive view on the issue as it was of the view that even if there was jurisdiction leave to appeal would still be declined.

general importance.⁹ The Court was of the view that the proposed appeal would be doomed to fail given the breadth of the Committee's powers under the SWR Act.¹⁰

Our assessment

[7] We do not need to deal with the issue of jurisdiction. This is because the application for leave to appeal cannot succeed. There are no exceptional circumstances justifying this Court granting leave to appeal directly against the decision of the High Court.¹¹ Further, there is in any event no question of general or public importance that would satisfy the criteria for leave to appeal.¹² There is also no risk of a substantial miscarriage of justice in the civil sense arising in this case.¹³

[8] Before the Court of Appeal, the Board did not seek costs and accordingly that Court did not award costs.¹⁴ The Board has sought costs before this Court. The Board has had to file submissions before this Court and there is no reason to deviate from the general rule that costs will be awarded to a successful party.

Result

[9] The application for leave to appeal is dismissed.

[10] The applicant must pay the respondent costs of \$2,500.

Solicitors:
Rice Speir, Auckland for Respondent

⁹ At [34]. The Court accepted that the Committee did not find there was no basis to the complaint. It found merely that there had been no breach of ethical rules or the Code of Conduct.

¹⁰ At [34].

¹¹ Senior Courts Act 2016, s 75(b); see *White v Auckland District Health Board* [2007] NZSC 64, (2007) 18 PRNZ 698 at [6] for the "extremely compelling circumstances" test which applies to leapfrog appeals to the Supreme Court in situations where the Court of Appeal has declined leave to appeal.

¹² Senior Courts Act 2016, s 74(2)(a).

¹³ Section 74(2)(b). See also *Junior Farms Ltd v Hampton Securities Ltd (in liq)* [2006] NZSC 60, (2006) 18 PRNZ 369 at [5].

¹⁴ CA judgment, above n 7, at [35].