

ALWU NEWSLETTER

THE OFFICIAL NEWSLETTER OF THE AOTEAROA LEGAL WORKERS' UNION

RUSSELL MCVEAGH PARTNER TRIBUNAL HEARING



After five years, the former Russell McVeagh partner accused of sexual misconduct against multiple summer clerks has admitted to unsatisfactory conduct before the New Zealand Lawyers and Conveyancers Disciplinary Tribunal. The Tribunal hearing went for five days. The Standards Committee lawyers were Dale La Hood and Tim Bain. The ex-Russell McVeagh partner's lawyers were Julian Long and Jordan Grimmer.

This hearing was the first of its kind. Despite systematic issues of sexual harassment and bullying in the profession, this was the first time a senior practitioner has had to sit before a Tribunal and answer to allegations of sexual assault. The process itself, as well as the reporting of the hearing, shows how far the profession has to go before it can adequately protect its members. For instance:

- **The delay to get to a hearing** - It is reported the Law Society was informed of the incidents in September 2016, the media reported on it in February 2018, and the Tribunal hearing took place in May 2021. This is too long for a partner who has been alleged of sexual assault to continue to practice without consequences or any support framework in place to ensure they are practicing safely.
- **The dialogue** - One of the charges against the ex-Russell McVeagh partner was for "consensual" sexual conduct with a summer clerk at the partner's home in 2015. ALWU firmly believes that for a partner and a summer clerk (particularly one assessed as extremely intoxicated) there is simply no such thing as consensual activities. As Mr La Hood said - "ultimately this was one of the most, if not the most, inherent power imbalances you can have." The word "consensual" should have never been used to describe this interaction. The ex-partner justified his actions as being "festive and merry" and with no sexual intent, but the ALWU stands firm that his acts were highly unacceptable, inappropriate, and amounted to sexual assault. It is damaging for a senior practitioner to say their actions were "boorish" or "boisterous" – the touching of someone's breasts and bottom is sexual assault.

- **The name suppression** - The ex-Russell McVeagh partner admitted to unsatisfactory conduct. Given this, and the importance of public safety, the ex-partner should be named. Those without privilege, status, and power are named all the time for their conduct – powerful lawyers should not be exempt from this. Due to the five-year delay, there is even more need for the ex-partner to be named. Clients and fellow practitioners are entitled to know the ex-partner’s name and make informed decisions about who they give work to, or who they work with.
- **The firm** - A significant thread throughout the hearing appears to be the firm and the damaging culture present at the time of the alleged assaults. The ex-Russell McVeagh partner had well known drinking habits, known to all at the firm – within a wider drinking culture at Russell McVeagh. The ex-partner was described throughout the hearing as “famous” for how much alcohol he could consume, and that when he was drunk, he was a different person. Witnesses described a team culture of “toxic masculinity”, inappropriate comments, and “laddish” culture. There were several references to exit interviews that detailed concerns employees leaving Russell McVeagh had about the ex-partner and the team’s culture. Where did these exit interviews go? Why were their concerns ignored for so long? Why did it take allegations of sexual assault by summer clerks for the ex-partner to resign? ALWU believes there should be consequences for the partnership for its breach of duties to the summer clerks and its failure to report the allegations to the Law Society.

ALWU exists of the back of the allegations of sexual assault at Russell McVeagh. This movement began with the witnesses and victims and the light their bravery shone on the widespread exploitation of young women in the legal profession. ALWU stands behind and supports the women who testified at the hearing and applauds their courage to seek necessary change within the legal profession.

ALWU is, however, very disappointed with the delays and drawn-out process. It undermines safety for the profession. As Mr La Hood said – “It is a privilege, not a right, to be a lawyer and it’s proper for the tribunal to uphold high standards.”



CHANGES TO THE LAWYERS AND CONVEYANCERS ACT



The new rules governing the behaviour of New Zealand lawyers will be in force from 1 July 2021. The new rules are a welcome change to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 with such changes providing further clarity on the standards of behaviour expected of lawyers when engaging with both clients and colleagues.

ALWU is heartened to see greater protections for the more vulnerable members of the legal profession. A particular emphasis on bullying, discrimination, racial and sexual harassment, and other unacceptable conduct within the workplace is at the core of the changes. The implemented changes were part of the recommendations by the Law Society's Independent Working Group chaired by Dame Silvia Cartwright which found the previous Law Society's rules of conduct unclear and ineffective.

Such changes include clearer definitions on bullying, discrimination and racial and sexual harassment. There are also new reporting requirements where unacceptable conduct must be reported to the Law Society to enable a proper regulatory response. For example, it must be reported within 14 days if a lawyer has been issued with a written warning or has been dismissed for bullying, discrimination or harassment. This is a significant change which puts the onus on law firms to ensure safety for its employees and the wider profession.

Each law practice will also need to implement effective policies to protect staff and clients and have a process for investigating allegations of unacceptable conduct. Furthermore, all law practices will need to nominate a designated lawyer to report annually to the Law Society on any investigations undertaken by their law practice. While the new rules also apply to in-house lawyers, they will not be required to have a designated lawyer.

These changes place a responsibility on lawyers and law practices to deal with and report unacceptable conduct rather than individual lawyers having to come forward and report. ALWU values this change – for too long the onus has been on individual legal workers to report. We know this is often an extremely difficult and frightening action to take within the workplace and profession and it is important to see that burden shared.

New Zealand Law Society Te Kāhui Ture o Aotearoa President Tiana Epati informed that widespread consultation had taken place within the profession before the rules were approved and that she is confident of such changes being supported by the profession. Ms Epati said, "Everyone has an individual part to play so the public can have trust and confidence in the legal profession". She further commented on the new rules being all lawyers' responsibility to uphold and follow: "while these Rules are one way the Law Society can bring about change, real and long-lasting change will only take place when everyone takes responsibility. That may be showing up to support a colleague, calling out inappropriate behaviour or helping to build a supportive, non-discriminatory environment within your legal workplace."

ALWU is supportive of the new rules and is hopeful that such changes will bring further awareness and clarity on unacceptable conduct within the workplace. The responsibility being placed on law firms to report is also a welcoming change which will create safer workplaces for our vulnerable legal workers – juniors and administrative / support staff.