

Case Law - Maddock V Devon County Council (13 AUGUST 2003) (QBD)

M was a single mother. Social Services had been involved in the upbringing of her son, A, almost since his birth. A's name had been placed on the child protection register under the category of emotional abuse. He spent much of his childhood in the care of foster parents. In 1996, when A was 14, M started work, employed by the council through its social services department, as an enabler in a Unit supporting people with physical and/or sensory disabilities and mental health issues. A year later, M obtained a place on a course leading to a Diploma in Social Work.

When the council became aware of M's acceptance on the course it raised its' concerns with the university about M's suitability to qualify to become a social worker. In particular, the council was concerned that M had refused to accept any responsibility for the considerable signs of disturbance which A had exhibited during his childhood. A report containing information from M's family social work files was sent to the university under cover of letter. As a result of the council's disclosure, the university removed M from the course after conducting its own inquiry and giving M an opportunity to put her case.

M sued the council, claiming damages for breach of confidentiality, negligent misstatements which she said gave an unfair and misleading impression of her parenting skills and her fitness to be a social worker, and infringement of her article 8 rights under the European Convention. She alleged that as result of the council's disclosures she was removed from the course and so deprived of the chance of earning a living as a social worker.

The council accepted that there was an obligation of confidentiality in respect of the files but argued that the disclosure of the information was necessary in the public interest.

The court held that the report and letters sent to the university by the council were neither negligent nor unfair. In making its disclosure to the university, the council owed a duty of care to M to ensure the accuracy of the matters disclosed. It was just and reasonable to impose such a duty on the council given that it was aware that the university might act on the information disclosed to it and that the result could well be M's exclusion from her course. There was no reason why a public duty to make a disclosure should be inconsistent with a private duty to the subject of the disclosure to ensure the accuracy of the matters disclosed. The fact that the report on M's involvement with social services which was sent to the university was not negligent or unfair was irrelevant to whether the council had breached its duty of confidence to M. It was no defence to a breach of confidence claim that the information disclosed was true.

The court's analysis of the duty of confidentiality owed was that the primary obligation lay on the council to decide whether or not to make the disclosure and there was no requirement for it to obtain a ruling from the court before doing so. In this case, the council's disclosure was not a disproportionate reaction to the perceived problem. It was proper for the council to draw the university's attention to its concerns so that the university could make its own decision. It was a matter of public interest that unsuitable persons should not become social workers. The council had properly considered whether to make disclosure of the information and there was no breach of confidence in making the disclosures contained in the report and its cover letter. It followed that there was no infringement of M's rights under article 8 of the Convention.

The court added that, in general, as a matter of good practice, before making a disclosure in a case such as this, a party in the council's position should inform the subject of the disclosure of that intention in enough time to enable that person to seek an injunction from the courts. A

failure to do so, however, even if it did breach good practice, did not of itself create a breach of the duty of confidence