

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2023] NZEmpC 174
EMPC 160/2023**

IN THE MATTER OF a challenge to a determination of the
 Employment Relations Authority

AND IN THE MATTER OF an application for non-publication order

BETWEEN KIRSTY HILFORD
 Plaintiff

AND WHANGĀREI BOYS' HIGH SCHOOL
 BOARD OF TRUSTEES
 Defendant

Hearing: On the papers

Appearances: A Halse, advocate for plaintiff
 R Harrison, counsel for defendant

Judgment: 5 October 2023

**JUDGMENT OF JUDGE B A CORKILL
(Application for non-publication order)**

[1] On 24 April 2023, I issued a judgment granting leave to Kirsty Hilford to file a de novo challenge to a determination of the Employment Relations Authority, out of time.¹

[2] That has resulted in the present challenge being filed. It is opposed by the Board of Trustees of Whangārei Boys' High School. I shall refer to this proceeding as EMPC 160/2023.

¹ *Hilford v Board of Trustees of Whangārei Boys' High School* [2023] NZEmpC 63.

[3] The matter has been set down for a judicial settlement conference, and if that does not result in a resolution, then a fixture for a substantive hearing.

[4] A common bundle of documents has been prepared for these events, and an issue of non-publication of the names and identifying details of students from the school arises from that bundle.

[5] In the earlier proceeding (EMPC 233/2022), I directed that certain documents concerning students, as well as the names and identifying details of any student of the school, were to be the subject of a non-publication order.²

[6] Arguably, the order made in EMPC 233/2022 would apply to documents in EMPC 160/2023. However, it is necessary to consider making a mirror order in this proceeding, pursuant to the Court's broad discretion as to non-publication under sch 3 cl 12 of the Employment Relations Act 2000, for the avoidance of doubt.

[7] Mr Harrison, counsel for the defendant, filed a memorandum outlining certain documents contained in the bundle which he said may contain identifying details of students.³

[8] Mr Harrison says the listed documents include those that were subject to the ruling in EMPC 233/2022, but there are also other documents that were not part of the earlier proceeding which it is understood the plaintiff holds and intends to produce. The Court is told that whilst in most instances, but not all, student names have been redacted, there are nonetheless other identifying details which would enable students to be identified. Accordingly, Mr Harrison seeks an order in this proceeding which would protect such information.

[9] Mr Halse, advocate for the plaintiff, advises that Mrs Hilford has no objection to the proposal made on behalf of the school, and that she supports non-publication of student names or details that could identify them.

² *Hilford v Board of Trustees of Whangārei Boys' High School* [2023] NZEmpC 36 at [8].

³ Documents 4–6, 10, 13–14, 19–20, 23, 23.1, 31 and 36.

[10] In the circumstances, I agree it is appropriate to make an order that all documents referring to the names and identifying details of any student from the school are to be the subject of a non-publication order. I make that order accordingly.

[11] If evidence is given at the hearing which contains references to names and identifying details of any students from the school, the trial Judge should be invited to consider whether further orders are necessary in those circumstances.

[12] Costs are reserved.

B A Corkill
Judge

Judgment signed at 3.15 pm on 5 October 2023