

Jaqueline Maree Broomhall, you have pleaded guilty to one count of insertion of false information as data, contrary to s 257E of the *Criminal Code*, one count of computer related fraud contrary to s 257B(c) of the *Criminal Code*, two counts of forgery contrary to s 278 of the *Criminal Code* and two counts of uttering contrary to s 279 of the *Criminal Code*. In summary, over a period of about seven years, you falsely entered into the Tasmanian Health Service Financial System, a series of false or altered patient claims for reimbursement and unlawfully obtained for yourself a substantial amount of money. In total, you obtained the amount of \$398,534.28 from your employer and directed that amount into bank accounts operated by or controlled by you.

For a period of 15 years, you were employed as an Administrative Assistant by the Tasmanian Health Service, in the area of transport and patient services. One of your responsibilities was to enter patient claims for reimbursement into the Health Department's finance system, known as Finance One Patient Travel. Essentially, this was a retrospective scheme that made payments to patients who were required to travel outside of their region to access specialist medical treatments. A patient would complete a form, claiming reimbursement of costs expended. You would then process that claim via the Finance One Patient Travel system and authorise the system to reimburse the payment directly into the client's bank account.

Between November 2008 and February 2017, you fraudulently transferred 331 payments into five separate bank accounts that were connected to you. You did this by putting fictitious patient details into the Finance One Patient Travel system, and then used a second employee's log in details to approve the claim, and authorise payment into the five bank accounts. One hundred and twelve transactions were sent to a bank account in the name of "Jacqueline and Clint Broomhall" (that was account ending 1368). The total value of transactions sent to this account was \$174,189.62. One hundred and twelve transactions were sent to an account held in your name alone (this was account ending 9707). The total amount sent to this account was \$138,820.32. You also used a bank account belonging to your sister (account ending 5246). The total amount sent to this account was \$113,025.42. You told your sister the monies you were directing to her account were part of a salary sacrifice scheme. After sending the money to your sister's account, it was then re-directed to a bank account controlled by you. You also used a bank account in your daughter's name (account ending 0680). The amount sent to this account was \$23,226.98.

On two occasions, you physically altered a paper claim that had been submitted by a patient. On 18 May 2009, you duplicated and altered a claim that had been submitted by a patient, Desmond Watts. You increased the number of trips for the treatment that he had originally claimed from eight to 25. You then processed the claim with your sister's bank account details as the recipient account. This resulted in a payment of \$1,596.00 being fraudulently directed into your sister's account.

On 19 October 2009, you altered an original claim form that had been submitted by patient Peter Triffett. He had sought reimbursement in respect to transport costs alone. You altered it by including a claim for reimbursement for accommodation charges also. You then authorised a payment into your husband's bank account of \$1,730.92. The two acts of altering the claims

submitted by patients, and authorising payments in respect to them, encompass the forgery and uttering charges.

Your criminal behaviour was detected in late January 2017 when another employee, Mr Warden, received a call from a patient enquiring about the status of an outstanding reimbursement. Whilst conducting enquiries into that claim, Mr Warden noticed some unusual payments that had been made to a New South Wales resident. Because it was unusual for payments to be made outside of Tasmania, Mr Warden investigated the matter further and discovered a number of anomalies in respect to several claims; including false addresses that had been used, payments that had been made out of area and reference numbers that were missing. This led to Mr Warden speaking to the employee whose log in details had been used to process the suspicious claims. It was discovered that the employee whose log in details had been used, did not, as part of her usual work, process any claims, but nevertheless had log in details assigned to her in case she was required to fill in for others in the event of an absence. You knew this employee's log in details and used them to authorise many of the fraudulent claims you processed. In doing that, you betrayed the trust of your co-workers and exposed them to the risk of being wrongly accused of your criminal behaviour.

Further investigations were undertaken and it became apparent there were a significant number of claims that were not genuine. It also became apparent that these illegitimate claims were linked to you. In January 2017, the manager at Tasmanian Health Services spoke to you about the anomalies. You denied responsibility and said you had no understanding as to how the anomalies could have occurred. Shortly after this conversation with the manager, you left your place of employment, saying you were going to the chemist to obtain Panadol. Shortly after you had left, you rang your manager and said "*Call off the police, it was me, I did it, I'm going to kill myself and I love you all*". The manager told you to pull the car over and he would come and collect you. You ended the call.

Approximately 30 minutes later, you again called and said you had crashed head on into a truck. You were taken by ambulance to the Mersey Hospital. Your manager attended the hospital and located you. You apologised for embarrassing the Tasmanian Health Department.

You also told your manager that one of the accounts you had utilised was your own personal ANZ Bank account and that the other bank accounts that were utilised by you had been set up specifically for the purpose of depositing the fraudulently obtained money.

In my view, there must have been a reasonable degree of planning involved in your fraudulent behaviour. As indicated, you set up bank accounts specifically for the purpose of funnelling the funds. You lied to your sister about the purpose behind using her account. You obtained and utilised the log in details of other staff members. For a period of over seven years, you were able to utilise your position of trust to commit repeated acts of dishonesty. Your fraudulent activities went undetected for a long period of time. This alone speaks to the degree of planning and deceit involved. Your conduct was a very serious abuse of the trust your employer had placed in you. At no point did you desist from your behaviour. It only came to an end when others became suspicious of a number of the entries that you had made.

It is noteworthy that no individual patient was adversely affected by your fraudulent conduct. Although, of course, funds within the Tasmanian health system, both then and now, are a precious commodity and your stealing of them undoubtedly had a flow on effect to the general community. It certainly counts in your favour that you have repaid \$300,000.00 to the

Department of Health and Human Services. By way of a Deed of Settlement this amount has been accepted as full satisfaction of the amount owing. The monies that were repaid came from an early release of your superannuation funds and from money provided by family members. Given your age and your inevitable conviction for this matter, you are unlikely to be able to re-establish an equivalent superannuation fund so as to support your retirement. I accept therefore that in repaying the funds, you have incurred personal sacrifice and this carries weight in the sentencing process (see *Williams v Tasmania* [2014] TASCCA 2 at [12]).

I take into account your plea of guilty. Whilst it could not be said to be an early one, I accept there are legitimate reasons associated with the delay in finalising this matter. I am told that prior to the matter being committed to the Supreme Court, an indication had been made by your counsel that the matter would resolve without the need for a trial. There were, however, issues surrounding quantum and because of the volume of material that had to be considered in resolving that issue, it was not able to be finally resolved until this year. There has also been a substantial delay involved in obtaining a psychiatric reports. I sentence on the basis that the delay is a neutral factor. The plea of guilty retains a utilitarian value. It facilitates the course of justice and avoids the need for what would have been a lengthy and potentially complicated fraud trial.

As to matters personal to you, you are now 53 years of age having been born in 1967. Prior to November 2008, when you commenced this course of criminal conduct, you had been of good character, had not offended against the criminal law and had led a useful and industrious life. Whilst your childhood had some difficulties, you successfully finished your schooling and went on to work in the retail industry for a period of about 15 years, before obtaining employment in various arms of the Department of Health. You met your husband in your late teenage years and have been married to him for 29 years. You have two adult children.

I accept you suffer from some significant mental health difficulties. I have received and considered a number of reports from psychiatrist Dr George Hyde. Dr Hyde started treating you after the incident where you had intentionally driven your motor vehicle into an oncoming truck following your detection for these matters. He has diagnosed you with Bi-Polar Affective Disorder Type 2. Dr Hyde notes that initially you were diagnosed and treated for Major Depressive Disorder. He opines that this was a mis-diagnosis and that the correct diagnosis is Bi-Polar Affective Disorder. He refers in his report to two incidents which, in his view, exacerbated your mental health condition in the lead up to these crimes. He refers to an alleged incident of sexual harassment in your then workplace as well as alleged episodes of workplace bullying. Dr Hyde opines:

"The increased level of stress as a result of the alleged sexual harassment and alleged bullying, would have likely resulted in breakthrough mood episodes of Mrs Broomhall's undiagnosed and untreated Bi-Polar Affective Disorder, making her more likely to have impaired judgment and undertake impulsive actions... It is my opinion that her untreated Bi-Polar Affective Disorder would have significantly impacted upon her capacity to make reasonable judgments in the workplace... It is my opinion that her Bi-Polar Affective Disorder became clinically apparent in approximately the year 2000, eight years before her employment with the Department of Health in 2008...I believe Mrs Broomhall's undiagnosed and untreated hypomanic episodes (as part of her Bi-Polar Affective Disorder) would have contributed to her actions of alleged misappropriation of funds."

In a second report, Dr Hyde also opines that your misdiagnosis and treatment for Major Depressive Disorder with anti-depressants, may have worsened your Bi-Polar Affective Disorder. He states:

"Unfortunately, it is very likely that the treatment she was receiving for the period of 2008-2017 for her then diagnosis of Major Depressive Disorder was most likely making her actual condition (Bi-Polar Affective Disorder) clinically worse ... Mrs Broomhall was significantly, chronically and frequently mentally unwell with untreated Bi-Polar Affective Disorder through no fault of her own, or of her treating practitioners. It is also my opinion that the extent to which she was mentally unwell during this time would have likely affected her decision making capacity, levels of impulsivity and capacity to think clearly."

It is necessary to consider the extent to which the defendant's mental health condition contributed to the offending behaviour and the extent to which this impairment should appropriately affect sentence. The reports with which I have been provided do not directly address the Verdins principles. It is noteworthy that the ability of Dr Hyde to comment on the link between the defendant's mental health and the offending behaviour, is restricted by the fact that he did not treat her until February 2017. The opinion he offers as to the likely impact of her mental health condition upon her behaviour for the period 2008 – February 2017 is provided retrospectively. His reports comment upon direct clinical observations that he has undertaken since February 2017, but it is not clear from his reports what information, other than from family members, he had access to which described the behaviours or mental health of Mrs Broomhall in the period 2008 – 2017. What is apparent, however, is that the defendant clearly suffers from a significant and long term mental health disorder. The severity of that mental health disorder in the past has seen her regularly consult with, and be treated by, mental health professionals. It has also seen her attempt to take her life on more than one occasion.

Taking all those matters into account, I am satisfied that the defendant's mental health contributed in some unspecified way to the commission of the crimes. The defendant's poor mental health makes this a case whereby her moral culpability is lessened and that justifies a tempering of the role general deterrence and denunciation ought to play in the sentencing process. I also accept that the defendant's mental health condition is such that a period of imprisonment will be more onerous upon her than for a person who does not suffer from such mental health difficulties. To that end, some leniency is justified, but I have nothing before me to suggest prison services cannot safely accommodate a person who suffers from Bi-Polar Affective Disorder

That being said, it must also be borne in mind that the fraudulent behaviour went on for a very long period of time and whilst I accept Mrs Broomhall suffered from her mental health condition for all of that period of time, I am not of the view that she did not appreciate or have insight into her wrong doing. Indeed, some of her behaviours clearly suggest to the contrary. Throughout all of this period of time, Mrs Broomhall was still working and was still able to make day to day decisions and attend to day to day tasks associated with that employment. So, whilst I am prepared to sentence on the basis that general deterrence and denunciation should be moderated because the defendant's moral culpability is reduced, the application of those sentencing principles should not, in my view, be entirely eliminated from the sentencing exercise.

I also note it was asserted during the plea in mitigation that a considerable portion of the stolen money was, in fact, used to assist patients where they had experienced a shortfall between actual cost and reimbursement entitlement. I find it difficult to accept that proposition. A review of the bank accounts into which the funds were funnelled, indicates that significant cash amounts were withdrawn from those accounts. It is most unlikely that Mrs Broomhall would have been in a position to provide cash to patients, or accommodation providers, to make up any shortfall. There is no direct evidence that Mrs Broomhall used any of the monies stolen for charitable purposes. Indeed, many of the claims involved the creation of false patient data. There was no actual patient who would have experienced such a shortfall. The two transactions which involved the physical alteration of documents deliberately increased the amount of the claim. There was no shortfall that the patient would have experienced. To assert that a substantial portion of the money was used for such charitable purposes is a mitigating factor. It is for the defendant to prove that mitigating factor on the balance of probabilities. Mrs Broomhall has not given evidence about the matter and there is not, in my view, an evidentiary basis from which I could properly reach satisfaction as to the same. It is impossible for me to determine how all of the monies were expended, but I will sentence on the basis that Mrs Broomhall was simply living beyond her means and enjoying the benefit of the additional monies in her day to day living.

Even making allowance for the defendant's mental health condition and the reduction in moral culpability that flows, this nevertheless remains a very serious case of fraud involving a very substantial amount of money taken over a long period of time by an employee in whom a high level of trust was placed. In a sustained, deliberate and methodical manner, Mrs Broomhall used her knowledge of the Patient Assistance Scheme to dishonestly benefit herself. Throughout that time, the defendant committed numerous separate acts of dishonesty. She actioned 331 fraudulent transactions into bank accounts operated or controlled by her. This was not a short lived, nor spontaneous enterprise. She did not voluntarily desist. It only stopped when it was discovered. Whilst I accept the severity of the sentence should be moderated because of the mental health condition to which I have referred, it cannot be moderated to the point that the sentence fails to respond to all applicable sentencing principles. It was argued on behalf of the defendant that a period of imprisonment would "*serve no purpose*". If it was only issues pertinent to the defendant that the sentence must address, such a submission may carry weight, but that is simply not the case. The sentence must be reflective of the overall seriousness of the criminal conduct and be just in all of the relevant circumstances.

There is no question this is a difficult sentencing task. Mrs Broomhall, I accept your life has been impacted by a significant mental health condition which is relevant to sentencing in the ways that I have enunciated. You are entitled to credit for the fact that you have paid restitution in the sum of \$300,000.00. These factors have to be measured against the fact you embarked upon a sustained course of serious criminal conduct involving a substantial amount of money. Abuse of trust by trusted employees is unfortunately not all that uncommon and there is a need to impose a sentence which condemns such behaviour, even if the condemnation is tempered because of your mental health.

I have given careful consideration to whether a sentence other than actual imprisonment can achieve the relevant sentencing aims. I had Mrs Broomhall assessed for a home detention order. Mrs Broomhall is not considered suitable because of her mental health condition and the adverse impact home detention is likely to have upon it. Regardless of that assessment, I have decided, in any event, a home detention order would not be an appropriate sentence to impose.

This matter is simply too serious. In all of the circumstances, a period of imprisonment must be imposed.

Mrs Broomhall, you are convicted of all matters. I impose a global sentence. You are sentenced to three years imprisonment. The last 12 months of that sentence will be suspended on condition that you not commit any offence punishable by imprisonment for a period of eighteen months following your release from custody. I order that you be eligible for parole after you have served one-half of the operative period of imprisonment. The effect of my sentencing order, Ms Broomhall, is that you will have a minimum of 12 months' imprisonment to serve before becoming eligible for parole. Upon your release from prison, you will have a 12 month period of suspended imprisonment hanging over your head for a period of eighteen months. Should you breach the condition of the suspended sentence, you may well be required to serve it. The law is a judge must activate a period of suspended imprisonment upon proof of breach unless it is unjust to do so.