

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

DECISION NO: NZTDT 2023/13

UNDER THE Education and Training Act 2020

IN THE MATTER of a charge laid by a **COMPLAINTS ASSESSMENT COMMITTEE** against **SEELANDRAN RAMIAH** registered teacher, of Auckland (Registration Number 217660)

Hearing held on the papers on Thursday, 28 March 2024

Tribunal: Jo Hughson (Deputy Chairperson),
Gael Ashworth and Demian Shaver (registered teachers)

Kelly Caldicott (Tribunal Coordinator)

Appearances: Elena Mok, Counsel for the Complaints Assessment Committee

Jo Martin, NZPPTA, for Mr Ramiah

Joy Walpole Williams,
Counsel for James Cook High School
(as to non-publication orders)

Decision: 1 May 2024

Summary

- [1] At the material times between 2020 and 5 May 2022, Mr Ramiah was employed as Assistant Principal at James Cook High School, a co-educational secondary school for students in Years 9 to 13, in South Auckland. In this role Mr Ramiah was responsible for student engagement and wellbeing. Mr Ramiah had taught at James Cook High School for several decades¹. He had first registered as a teacher in 1999.
- [2] Mr Ramiah was dismissed from his employment at James Cook High School effective from 27 May 2022. On 24 May 2022 he had signed a voluntary undertaking with the Teaching Council | Matatū Aotearoa (the Teaching Council) not to teach. Mr Ramiah is not currently working in the teaching profession as his last practising certificate has expired.
- [3] A Complaints Assessment Committee (CAC) was established to investigate matters about the conduct of Mr Ramiah that were the subject of a mandatory report that the Principal of James Cook High School (Mr Grant McMillan) made to the Teaching Council in May 2022. At the conclusion of its investigation, the CAC laid a charge² alleging that Mr Ramiah:
- (a) Between 2020 and 5 May 2022, engaged in inappropriate conduct towards Student A who was a female Year 12 student in 2022.
 - (b) Between August 2021 and April 2022, engaged in inappropriate conduct towards Student B who was a female Year 13 student in 2022.
 - (c) During March 2022 and April 2022, engaged in inappropriate conduct towards Student C, who was a female Year 13 student in 2022; and
 - (d) Between March 2022 and April 2022, engaged in inappropriate conduct towards a James Cook High School staff member, Ms X.
- [4] The charge was comprised of numerous particulars and sub-particulars of the alleged inappropriate conduct towards these three students and the staff member, many of which alleged conduct of a sexual nature; including inappropriate sexualised communications and sexual activity with Student A; similarly encouraging Students

¹ Memorandum of Counsel for James Cook High School dated 18 December 2023 at [3].

² Amended Notice of Charge dated 12 April 2023 signed by the Chair of the CAC, Matt Fraser.

B and C to engage in sexualised communications with him and keep them secret; and trying to instigate similar conversations with one of his colleagues, Ms X, who was in a non-teaching role at the school and who was many years his junior and a recent graduate of the School.

- [5] These acts charged were alleged, separately and cumulatively, to amount to serious misconduct. Alternatively, it was alleged the conduct amounted to conduct which otherwise entitled the Tribunal to exercise its powers pursuant to section 500 of the Education and Training Act 2020 (the Act).
- [6] A copy of the Notice of Charge (as it was amended) is attached as an Appendix to this decision.
- [7] The hearing proceeded on the papers. The evidence produced by the CAC was a summary of agreed facts which Mr Ramiah had signed on 15 September 2023³. Screenshots of relevant text messages were produced. Mr Ramiah accepted the Charge.
- [8] Written submissions were received from Counsel for the CAC and for Mr Ramiah addressing the issues of liability, penalty, and non-publication orders. Written submissions as to non-publication orders were received from Counsel for the James Cook High School Board of Trustees
- [9] The Tribunal found the Charge made out and that separately and cumulatively Mr Ramiah's actions amounted to serious misconduct as that term is defined in section 10 of the Act.
- [10] For the reasons given below, the decision of the Tribunal is that penalties should be ordered against Mr Ramiah. The Tribunal is making an order cancelling Mr Ramiah's registration and Mr Ramiah is being censured. He is also being ordered to contribute towards the costs of the CAC and the Teaching Council associated with these proceedings.
- [11] The Tribunal decided it would not be proper to exercise its discretion and make a permanent order prohibiting Mr Ramiah's name from publication. The public interest factors which favour name publication when a teacher is found guilty of a disciplinary offence, were considered to outweigh Mr Ramiah's private interests.

³ Summary of Agreed Facts dated 15 September 2023 signed by Mr Ramiah.

- [12] To protect the privacy and wellbeing interests of the students involved, and the staff member, there are to be permanent non-publication orders in respect the students and the staff member' s names. They may be identified only as Student A, Student B, Student C and Ms X. There is also to be a permanent order suppressing from publication the screenshots of the text messages which contain pictures of Student A. If those screenshots were published there is a real risk that Student A will be identified.
- [13] James Cook High School Board of Trustees did not wish for the name of the School to be suppressed. Counsel indicated that rather, on balance, the Board would prefer that Mr Ramiah's and the School's name were permitted to be published so that the Board can be open and transparent with its school community about Mr Ramiah's conduct and so that it may ensure anyone in the school community impacted by the conduct may obtain support through the avenues the School can offer. Further, other potential complainants may come forwards and have the support available to do so to the appropriate authorities, and publication would ensure that other staff and other schools are to not subject to any suspicion that they could be the subject of the matters the Tribunal has considered.
- [14] Mr Ramiah sought permanent suppression of his name, and the name of his wife (now estranged), any details related to his wife's personal, health and medical history as well as any details related to his daughter's wellbeing (that were relied on in support of Mr Ramiah's application). The Tribunal did not consider that the private interests Mr Ramiah advanced were sufficient to outweigh the overwhelming public interest in him being identified in connection with his offending. More is said about this below.
- [15] The Tribunal concluded that it would not be proper to suppress the name of the School; the public interest factors heavily favour publication of both the School's name and Mr Ramiah's name.
- [16] In relation to Mr Ramiah's wife and his daughter, the Tribunal was satisfied on the evidence it received that it would be proper to make permanent non-publication orders in respect of their names and [REDACTED]. These orders are being made to provide at least some degree of protection of the privacy, and health and wellbeing interests of Mr Ramiah's wife and daughter. Mr Ramiah's wife may be identified only as Ms Z, and his daughter as Ms ZA in any publication relating to these proceedings.

[17] There will also be permanent orders suppressing from publication the personal, employment (including occupation) and medical information the Tribunal received about Mr Ramiah's wife, and any medical and personal information about the health and wellbeing of his daughter.

Factual Findings

[18] The Tribunal made the following findings of fact based on the evidence in the Summary of Agreed Facts, and the screenshots of relevant text messages that were produced.

Inappropriate conduct towards Student A (Particular 1a)

[19] At the time of the mandatory report to the Teaching Council, Student A was a Year 12 student at James Cook High School (JCHS), aged 16 years old in May 2022. She turned 17 years old shortly after the mandatory report was made (her birth date being in June 2005).

[20] Mr Ramiah's contact with Student A started when she was in Year 10 at JCHS in 2020. Student A initially approached Mr Ramiah for support with an incident involving her exchange of images with an older student, who then subsequently shared those images with his friends. Student A felt harassed by this student and his friends and their comments about her body. Mr Ramiah helped in bringing an end to that behaviour.

[21] Since that time, Mr Ramiah and Student A were regularly in contact, with Student A approaching Mr Ramiah to discuss personal issues and home life. Student A saw Mr Ramiah as her only point of contact. The pair developed a close relationship, whereby Mr Ramiah would support, encourage, and counsel Student A and help her through her issues. Interaction between Mr Ramiah and Student A took place either on school premises, including alone in his office, or via text messages between their personal cell phones.

[22] Student A was particularly vulnerable. She suffered anxieties relating to her appearance and weight as a result of the incident in 2020 involving the exchange of images with another older student. Student A had also previously engaged in self-harm and suffered from depression. Although she had previously had the support of a professional counsellor, Student A did not have one at the time of these events, instead entrusting her issues in Mr Ramiah. Being responsible for student

engagement and wellbeing, Mr Ramiah was aware of this and of Student A's vulnerabilities.

Messages exchanged with Student A

[23] At some point in 2020, Student A obtained Mr Ramiah's personal cell phone number.

[24] Between 11 April 2022 and 5 May 2022, Mr Ramiah exchanged a significant number of messages with Student A, including texts, photos and videos. The pair exchanged over 2,000 messages during this time, including outside of school hours, on weekends, and late at night or in the early hours of the morning. Most of the messages had no educational context and related primarily to Student A's personal issues, particularly in relation to her anxieties surrounding her body and weight. Over this period, the messages sent by Mr Ramiah became increasingly sexualised, and involved him exploiting his position towards Student A.

[25] Mr Ramiah exchanged multiple messages with Student A that were of a sexual nature. On multiple occasions, he messaged her describing what he would like to do with her sexually, or with others, as well as describing his previous sexual activity with others. He also sent Student A messages saying that he cared for her, loved her and that she was "gorgeous" or "sexy". For example, on one occasion, the following messages were exchanged:

Mr Ramiah (13 April, 11:32pm): Don't worry. I had a boner earlier just thinking about you

Student A: Ohhh ok ok

Mr Ramiah: I hate seeing you so vulnerable

Even now I have mixed emotions about you

Student A: Embarrassing

Mr Ramiah: No hun

Mixed emotions – my body is confused on how to react to you. On the one hand I wanna be supportive and just wrap you in my protective blanket. On the other my body gets fucking hot for you

Either way, you mean so much to me

[26] On Thursday, 14 April 2022 (a school day), the following messages were exchanged after Mr Ramiah sent a photo to Student A with his trousers undone and a bulge in his boxer shorts:

Mr Ramiah (14 April, 1:15pm): The least you can do is show me yours [emoji]
Student A: I wasn't wet I was just cold
Mr Ramiah: Fuck off [emoji]. Wet wet wet [emoji]
Student A: Noo
Mr Ramiah: Ok. Im gonna send for you and do a finger tip test [emoji]

[27] On other occasions, Mr Ramiah sent Student A the following text messages:

- a. "Hun, i gotta crash now. Im fucked! Goodnight babe. Hopefully ill get to see you tomorrow. Love you [love heart emoji]"
- b. "You really drive me wild".
- c. "Honest. If we were alone and safe I would have had you on the floor with my face buried inside".
- d. "You are so sexy and hot".
- e. "I'm in love with your ass. I wanna eat it up [love heart kiss emoji] Well to be fair I wanna eat your pussy too".
- f. (In response to asking Student A if she knew what his thoughts were) "To spread you (sic) legs apart and lick your pussy so bad".
- g. "I really had this idea of having you sitting on the chair with your legs open on either side of the armrests and me kneeling in front of you licking you until you had a climax".

[28] Mr Ramiah also sent Student A messages discussing his sexual pleasures with others and wanting to know intimate details of Student A's sexual interactions with other people. Mr Ramiah also suggested to Student A that they should disclose and share their sexual experiences with others.

Sexually explicit photographs and videos

- [29] On numerous occasions during the period 12 April 2022 to 5 May 2022, Mr Ramiah and Student A exchanged nude, semi-nude, or sexually explicit photographs and videos of themselves and others.
- [30] Initial photos exchanged related to Student A sending photos of herself standing on weighing scales with just her lower leg and feet showing, demonstrating to Mr Ramiah her continuing weight loss. However, in this period, further messages were exchanged between them including photos of Student A wearing just a towel, wearing only her underwear, a topless photo and a fully nude photo – many of which were either encouraged or explicitly requested by Mr Ramiah.
- [31] Mr Ramiah also sent several photos to Student A demonstrating his varying states of sexual arousal over their conversations. Such photos included:
- a. A photo of his groin area with his trousers undone and a “bulge” in his boxer shorts.
 - b. A nude picture of himself including his erect penis.
 - c. A semi-nude picture of himself showing his flaccid penis.
 - d. A photo of himself in the bath (legs showing but no other nudity visible).
 - e. Several photos of his groin area, showing his stained underwear.
- [32] Mr Ramiah sent Student A pornographic videos of other women masturbating. He also offered Student A the use of a vibrator, and asked Student A to video herself using it.

Inappropriate / sexual touching of Student A

- [33] During the same period (12 April 2022 to 5 May 2022), Mr Ramiah inappropriately touched Student A. On one occasion, on Thursday, 14 April 2022, Mr Ramiah touched Student A’s bottom when she was in his office. Mr Ramiah indicated in his text messages that this was “spontaneous”, having been “taken over by desire” and was a “natural reaction to someone he loves and is crazy to [po]ssess” (sic). He sent several messages to Student A describing how it felt, including:

Mr Ramiah (14 April, 9.59pm): The feel of your ass under my hand was so hot.
And you have a fucking sexy as pussy.

I could feel my fingers sinking inside it

[34] Mr Ramiah also commented on touching Student A's bottom in the Reception area at school, whilst in close proximity to other members of staff.

[35] Further, when on gate duty on 14 April 2022, Mr Ramiah had an erection when he hugged Student A, asking her if she felt it, to which she replied she did.

Gave Student A a sex toy

[36] On 2 May 2022, Mr Ramiah offered Student A the use of a vibrator at home or at school. He offered for Student A to use it in the office next to his, explaining to her how to use it and also offering to use the vibrator on Student A himself. After initially refusing, Student A messaged Mr Ramiah later that evening to tell him she would take the vibrator, arranging to collect it from Mr Ramiah's office the following day, which she did. This was confirmed in a message exchange between them later that day:

Mr Ramiah: Maybe its time to excite yourself

...

Student A: How

Mr Ramiah: You have the vibrator ffs

Inappropriate discussion of Student A's weight loss

[37] As above, a large aspect of the pastoral care provided by Mr Ramiah was in respect of Student A's anxieties relating to her body and weight following an incident with an older student in 2020. Much of the message exchange between Student A and Mr Ramiah was therefore in relation to these issues.

[38] On occasions where their discussion turned to Student A's body or weight loss, Student A either sent or was encouraged by Mr Ramiah to send photos of her body or of her standing on weighing scales. On many occasions, Mr Ramiah would comment on Student A's weight loss, showing an air of concern (at one point suggesting she may have an eating disorder), but then proceeding to make multiple inappropriate comments. The following messages are some examples of the comments made by Mr Ramiah:

a. "Just trust me. Youre gorgeous [emoji]" (sic);

- b. (In response to being sent a photo by Student A of her stood on weighing scales) “That’s good hun. Waiting to see what you are by this afternoon. So eat well today. And can you hold your phone higher when you take the pic please?”
- c. (in response to being sent a topless photo of Student A) “OMG!!! Full frontal? Wow. You look amazing [fire emoji]”.
- d. “What’s your weight today? And you better not lie!”
- e. “Send me a pic of every time you weigh yourself”.
- f. “But I have to say youre very shapely [fire emoji]” (sic).

Asked Student A to keep the relationship/communications private

[39] Upon discovery of the messages on Student A’s cell phone, Student A was interviewed by the Principal of JCHS and asked if anybody else in the school knew of her and Mr Ramiah’s message exchanges. Student A confirmed that nobody else knew because Mr Ramiah told her to keep it secret.

[40] This is supported by a further message exchange between Mr Ramiah to Student A on 3 May 2022 following an exchange only minutes earlier about the handing over of the vibrator and Mr Ramiah telling Student A, “I want you so badly”, “I wanna do things with you that will make your toes curl” and “I wanna make you cum”. In that exchange, Mr Ramiah asked Student A not to open messages next to other people:

Mr Ramiah: Haha. I told you I NEVER lie to you. I need help to wipe it dry. Any volunteers? [Halo emoji]

Student A: Im at school don’t send. Its [sic] so risky

Mr Ramiah: Then make sure not to open next to someone

Inappropriate conduct towards Student B (Particular 1b)

[41] In 2022, Student B was a Year 13 student at JCHS.

[42] Mr Ramiah’s contact with Student B started in August 2021 just before the COVID-19 Delta lockdown in Auckland. Mr Ramiah would send another student over to Student B’s classes with a note asking her to join him in his office. This occurred approximately twice a week. During those meetings, Mr Ramiah would talk to her

about his sex life, including him masturbating. Mr Ramiah also spoke about the affairs that he had with former students from JCHS and his neighbour.

[43] During the period August 2021 to April 2022, Mr Ramiah coerced Student B to download a social media app called 'Signal' in his office so that he could message her after school, including sending her explicit messages. The Tribunal understands that Signal is an end-to-end encryption app that is one of the more secure private messaging apps in terms of privacy. Mr Ramiah asked Student B to use a nickname for him so as not to identify that the messages originated from him. Although Student B received several messages from Mr Ramiah, she did not read them and deleted the app as soon as she got home.

[44] At some point during the same period, Mr Ramiah gave Student B a book which he encouraged her to read. Mr Ramiah asked that she not show the book to anyone or tell anyone that it was he who gave it to her. The book featured a picture of a woman wearing lingerie on the front cover, and Mr Ramiah commented how the book made him feel sexual.

[45] On a separate occasion, during an interaction with Student B on school premises, Mr Ramiah offered her the use of a sex toy which was in his bag in his office, to which Student B said, "No. I don't want to."

[46] Interaction with Mr Ramiah ceased around the first or second week of Term 1 of 2022, after Student B stopped talking to him and started to avoid him.

Inappropriate conduct towards Student C (Particular 1c)

[47] In 2022, Student C was a Year 13 student at JCHS.

[48] Mr Ramiah's contact with Student C began around the beginning of March 2022. Mr Ramiah was Student C's ako⁴ teacher and he would call her to come and sit with him. Initial conversations focussed on common ground between them, but they gradually became more personal in nature. Despite having other classes to attend, Mr Ramiah would request that Student C stay in 'Ako', with him marking her as present in her next class despite her not being in attendance and him telling teachers she had an "educational meeting".

⁴ In te ao Māori, the concept of ako describes a teaching and learning relationship where the educator is also learning from the student. It is grounded in reciprocity and is about building productive relationships between teacher and students and among students, where everyone is valued and empowered to learn with and from each other.

- [49] Like Student B, Mr Ramiah would talk to Student C about his sex life and relationships with others, including sexual relationships he had with other students. He also discussed his relationship with a woman in South Africa where they would exchange sexual messages and videos, in addition to his “kinks” and what he did and did not like sexually.
- [50] Mr Ramiah also offered to show or send Student C explicit videos of him ejaculating, which she declined. He also encouraged her to live freely and to not be in a relationship with her boyfriend, but to “have fun”. He commented on how he could help girls with sexual things and was a “pro” at helping girls masturbate and offering to tell her how to masturbate.
- [51] Also, like with Student B, Mr Ramiah coerced Student C into downloading the Signal app so that he could send her messages, asking Student C to save his name as someone else so nobody would know it was him. He also asked her not tell anyone. Thereafter, Mr Ramiah would send messages to her saying, “Hey, sexy” or “Hi beautiful” or words to that effect.
- [52] Mr Ramiah continued to message Student C via Signal, but seeing where it was leading, she chose to ignore them. Despite this, Mr Ramiah continued to contact her on school premises, which made Student C feel uncomfortable. This included kicking her on the bottom to get her attention when she was walking to the library with Student B. When Student C turned around, Mr Ramiah just laughed. Also, when Student C just sitting (on school premises) and he saw her, he would walk over and hug her. Student C described Mr Ramiah as “really touchy and really close”.
- [53] On 1 April 2022, Mr Ramiah signed Student C’s and two other girls’ shirts with the following comments:
- a. ‘Ramiahs babe’
 - b. ‘Pty [property] of Ramiah’
 - c. Ramiah’s hubba hubba!’
- [54] Contact ceased after 1 April 2022 and Student C deleted all messages from Mr Ramiah, as well as the apps.

Inappropriate conduct towards JCHS staff member Ms X (Particular 1d)

- [55] In February 2022, Ms X was employed in a non-teaching role at JCHS for a fixed-term period under an initiative where recent former students could gain practical experience [REDACTED], better equipping them to enter the workplace. Ms X had finished her education at JCHS in December 2020, only 14 months earlier. Not only was Ms X of a similar age to Students B and C (18 years of age at the time), but there was also a significant difference in position between her and Mr Ramiah, as well as a clear imbalance of power and control.
- [56] On 19 May 2022, Ms X disclosed to the Principal, Mr McMillan, that towards the end of March 2022 up to early April 2022, she had been the subject of sexual harassment from Mr Ramiah in the form of verbal conversations and text messages.
- [57] Whilst Ms X initially engaged with Mr Ramiah's interactions, including sometimes responding, she did so reluctantly before ceasing further engagement following support from Vitae, a workplace wellbeing and employee assistance service offered free to all staff at JCHS. Ms X had been directed to Vitae by another staff member who noticed something was wrong.
- [58] The conversations between Ms X and Mr Ramiah were sexual in nature and involved sexualised language. Mr Ramiah would comment on her body, including her breasts, bottom, and pelvic area, describing what he would like to do to her both physically and sexually.
- [59] Like Students A, B and C, Mr Ramiah also spoke to Ms X about his relationships with other women. He also told Ms X that he was in an open relationship with his wife and, like with Student C, encouraged her to not be bound by loyalty to her partner but to "have fun" and experiment.
- [60] During this period, Mr Ramiah also sent photos of himself and parts of his body to Ms X, including his penis. He also sent her videos of him masturbating. On multiple occasions, Mr Ramiah also encouraged Ms X to send images of her body to him, which Ms X initially felt pressured and trapped into doing. Eventually she ceased to do so.
- [61] To avoid copies of the messages, photos and videos being visible within her 'gallery' on her cell phone, Ms X stored them within her 'Recently deleted' album. However, due to retention timescales within this folder set by the phone manufacturer, these

have since been automatically deleted and were not available to show Mr McMillan when she disclosed Mr Ramiah's behaviour to him.

- [62] As a result of Mr Ramiah's conduct, Ms X felt anxious about being at work, finding it difficult to get out of bed in the morning to go to work. This resulted in Ms X being absent from work on a number of days.

School process

- [63] On 4 May 2022, the day the concerns in respect of Student A came to the light, the Principal, Mr McMillan, informed Mr Ramiah that he had been made aware of his interactions with Student A and would be gathering further information with a view to initiating formal processes. Mr Ramiah was advised that he would be placed on paid discretionary leave, with a further meeting to be held to determine whether he should be suspended on pay.
- [64] On 6 May 2022, Mr McMillan advised Mr Ramiah that he had interviewed Student A and obtained screenshots of all messages and interactions with her, and that consideration was now being given to suspending him from teaching pending full investigation. Mr Ramiah was notified that, should formal disciplinary processes commence and there be a finding of serious misconduct, dismissal without notice was a potential outcome. Mr McMillan also informed Mr Ramiah that, due to the seriousness of the allegations, he was obligated to file a report with the Teaching Council.
- [65] On 9 May 2022, Mr Ramiah met with Mr McMillan via Zoom, together with a PPTA Field Officer. During that meeting, Mr Ramiah advised that he had no rebuttal and no mitigation in respect of the matters raised relating to his actions towards Student A. Mr Ramiah was subsequently suspended with pay pending a full investigation.
- [66] On 11 May 2022, Mr Ramiah was informed that the School had initiated a formal disciplinary process, and he was invited to a disciplinary meeting.
- [67] On 12 May 2022, Mr Ramiah wrote to the Board of Trustees confirming that he had no rebuttal to the allegations in respect of Student A, acknowledging the enormous discomfort he has caused her and his feelings of shame and personal disgrace as a result of his "indiscretion".
- [68] On 13 May 2022, Mr Ramiah appeared before the Board's Disciplinary Committee, supported by a PPTA Field Officer, where he made both written and verbal statements to the Committee taking responsibility for his actions and the effect of

these on Student A. The Committee determined that Mr Ramiah's actions did amount to serious misconduct, and he was consequently dismissed from his position at JCHS.

[69] Following his dismissal, on 18 May 2022 Mr McMillan submitted a mandatory reporting form to the Teaching Council. A voluntary undertaking was provided from the Triage Committee of the Teaching Council to Mr Ramiah, requesting that he not teach pending the conclusion of any proceedings that may arise. This was signed on 24 May 2022.

[70] Following the mandatory report, Mr McMillan made two further disclosures to the Teaching Council in respect of Ms X, and Students B and C, on 27 May 2022 and 29 June 2022 respectively.

[71] It was after receiving the mandatory report, that the Teaching Council's Triage Committee referred the matters contained in the report, to the CAC for investigation.

Mr Ramiah's comments

[72] In multiple written responses provided to the Lead Investigator, for the benefit of the Investigator's report to the CAC, Mr Ramiah accepted full responsibility for his actions in relation to Student A and acknowledged there was no way forward but to give up his teaching certificate and to resign permanently from the profession. He acknowledged the inappropriateness of his actions and said he has accepted the "very obvious" consequences of them.

[73] In relation to the allegations relating to Students B and C, Mr Ramiah opted not to respond. He explained this was on the basis that this might be seen as him defending his actions but acknowledged that his actions had brought great disrepute to the profession, his family and himself, and that he would accept the outcome of the Committee process.

[74] Whilst he accepted his conduct towards Ms X, Mr Ramiah maintained the communication was mutual.

Legal Principles - Liability

[75] The onus of proving the charge was on the CAC, on the balance of probabilities.

[76] The definition of serious misconduct in section 10 of the Act is:

Serious misconduct means conduct by a teacher –

- (a) that-
 - (i) adversely affects, or is likely to adversely affect, the wellbeing or learning of 1 or more students; or
 - (ii) reflects adversely on the teacher's fitness to be a teacher; or
 - (iii) may bring the teaching profession into disrepute; and
- (b) that is of a character or severity that meets the Teaching Council's criteria for reporting serious misconduct.

[77] This test is conjunctive⁵. That means that at least one of the criteria under limb (a) as well as limb (b) must be met for conduct to amount to serious misconduct.

[78] In relation to limb (1)(a)(i), "likely" means that the risk or possibility is one that must not be fanciful and cannot be discounted⁶.

[79] Previous Tribunal decisions demonstrate that "fitness to be a teacher" in limb (a)(ii) includes conduct that, when considered objectively, will have a negative impact on the trust and confidence which the public is entitled to have in the teacher and the teaching profession as a whole, including conduct which falls below the standards legitimately expected of a member of the profession, whether of a teaching character or not.

[80] As for conduct that may bring the teaching profession into disrepute, the question to be asked by the Tribunal is whether reasonable members of the public, informed of all the facts and circumstances, could reasonably conclude that the reputation and good standing of the teaching profession would be lowered by the behaviour of the teacher concerned.⁷

[81] As to the Teaching Council's criteria for reporting serious misconduct (limb (b)), broadly, a teacher's employer must immediately report to the Teaching Council if the employer has reason to believe the teacher has committed a serious breach of the

⁵ *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018, at [64] with reference to the definition in section 378 of the Education Act 1989.

⁶ *CAC v Marsom* NZTDT 2018/25 adopting the meaning of "likely" in the name suppression context as described by the Court of Appeal in *R v W* [1998] 1 NZLR 35 – "real", "appreciable", "substantial" and "serious" are qualifying adjectives for "likely".

⁷ *CAC v Teacher C* NZTDT 2016/40 28 June 2018 at [203] citing *Collie v Nursing Council of New Zealand* [2001] NZAR 74 (HC) at [28]. This test was applied in *Teacher Y v Education Council of Aotearoa New Zealand*, above fn. 5 at [48].

Code of Professional Responsibility. The examples of conduct that is of the nature and severity to amount to a serious breach of the Code are set out in rule 9 of the Teaching Council Rules 2016.

[82] In this case, the CAC relied on rules 9(1)(b), 9(1)(e), 9(1)(f), and 9(1)(k). Rule 9(1)(k) of the Teaching Council Rules 2016 is a “catch all” provision⁸ in relation to both acts and omissions that bring or are likely to bring the teaching profession into disrepute.

Relevant standards

[83] The Tribunal assessed Mr Ramiah’s conduct against the relevant standards of ethical and professional conduct set out in the Code of Professional Responsibility, and as set and maintained by previous cases involving similar conduct.

[84] Clause 1 sets the expectation that teachers are expected to engage in professional, respectful, and collaborative relationships with colleagues to ensure public trust and confidence in the teaching profession, as well as to contribute to a professional culture that supports and upholds the Code (clause 1.2 and 1.5). This includes communicating with a colleague in an appropriate manner.

[85] Clause 1.3 sets the expectation that maintaining public trust and confidence in the teaching profession requires teachers to demonstrate a high standard of professional behaviour and integrity. The guidance to the Code refers to “behaving in a way that damages the trust or confidence that my learners, their family and whānau, my colleagues or others have in me as a teacher” as conduct that will breach this section of the Code.

[86] Clause 2.1 reads:

I will work in the best interests of learners by promoting the wellbeing of learners and protecting them from harm.

[87] Clause 2.2 sets the expectation that teachers will work in the best interests of learners by engaging in ethical and professional relationships with learners that respect professional boundaries. As examples of conduct that will breach appropriate professional boundaries with learners, the guidance in the Code refers to engaging in a romantic or having sexual or intimate conduct with a learner. It also refers to encouraging a learner to develop an inappropriate emotional dependency on a teacher, privately meeting with a student outside the education setting without

⁸ *Teacher Y v Education Council of New Zealand* [2019] NZCA 637 at [69].

a valid context, adopting a role with a learner that is inappropriate and beyond the scope of the teaching position, and communicating with a learner about very personal and/or sexual matters without a valid context.

Findings on the Charge

[88] The Tribunal was satisfied that each of the alleged acts were proved based on the evidence in the summary of agreed facts and in respect of Student A, the screenshots of the text communications that were produced and reviewed by the Tribunal.

[89] Mr Ramiah accepted that his conduct was serious misconduct. However, the Tribunal was itself, required to consider whether the conduct was serious misconduct for the purposes of the Act.

[90] The Tribunal concluded that considered objectively, there could be no doubt that Mr Ramiah's conduct met the test for serious misconduct.

[91] The Tribunal accepted the following submissions of Counsel for the CAC:

- (a) Mr Ramiah's conduct adversely affected, or was likely to adversely affect, Student A's learning and wellbeing. Student A was highly vulnerable due to her young age, body-image issues, and history of self-harm. She entrusted Mr Ramiah with these issues. Mr Ramiah continued to communicate with Student A outside the learning context and this encouraged her to develop an unhealthy dependence on him. In doing so, Mr Ramiah crossed the professional boundary.
- (b) Mr Ramiah communicated with Student A via text message, exchanging wholly inappropriate and sexualised messages with her, over several months in 2022. The messaging was clearly intended for Mr Ramiah's own sexual gratification, and at the expense of Student A's needs. For example, in some messages, Mr Ramiah initially appeared to show concern for Student A's expressions of anxiety and insecurities, but he would then, in the same conversation, proceed to encourage Student A to engage in messaging about sexual topics and to send nude photographs to him. In one exchange⁹ in response to a picture from Student A showing her standing on scales, Mr Ramiah responded, "that's good" and "eat well

⁹ ASOF, page 64.

today” and he then proceeded to ask Student A to hold the phone up higher the next time she took a photograph. In another exchange, Mr Ramiah expressed concern about Student A possibly having an eating disorder. He then turned the conversation to him touching her in his office and his sexual desires for her.¹⁰

- (c) The text messages also refer to an occasion where Mr Ramiah touched Student A’s bottom, and likely her vagina, at school¹¹ and him hugging her when he had an erection, as well as asking if Student A enjoyed “what happened in the office”¹². These instances of sexual contact, by their nature, would likely have impacted Student A’s physical and emotional wellbeing as Mr Ramiah was her teacher. Mr Ramiah would also pressure Student A in his communications with her. One example is when he told her to use a sex toy on herself, despite her expressing reluctance, and sent her explicit pictures of himself despite her telling him not to.¹³
- (d) Mr Ramiah’s conduct also adversely affected or was likely to adversely affect the wellbeing of Students B and C. Mr Ramiah would talk to Student B and Student C about his sex life and relationships with others, including sexual relationships he supposedly had with other students. He pressured Student B and C to download the “Signal” social media app so he would send them messages. Both Students B and C were made to feel uncomfortable, and there was evidence of both students attempting to avoid Mr Ramiah on the school grounds after his contact with them. Despite the students’ obvious discomfort, Mr Ramiah’s conduct was persistent.
- (e) Mr Ramiah’ conduct plainly reflects adversely on his fitness to be a teacher. Teachers are required to maintain appropriate professional boundaries with learners. Mr Ramiah’s conduct was wholly incompatible

¹⁰ ASOF, pages 33 to 37.

¹¹ ASOF, page 36 – “your pussy felt so soft”, although the contact does not appear to have been skin to skin.

¹² ASOF at [19] and [20].

¹³ ASOF, page 116, “till you went against me and still sent me the pic” in reference to a photo, page 105.

with that requirement. His conduct in allowing and encouraging Student A to become emotionally dependent on him involved a serious breach of trust and lack of professionalism.

- (f) Mr Ramiah's conduct towards Students B and C, which also involved a gross breach of professional boundaries, similarly reflects adversely on his fitness to be a teacher.
- (g) Mr Ramiah's conduct towards Ms X also calls into questions Mr Ramiah's understanding of acceptable boundaries given she was of a similar age to Students B and C, and she had recently completed her secondary education at the School. It is clear that on the evidence that Ms X was a reluctant participant in what was occurring and Mr Ramiah ought to have appreciated that given that Ms X eventually stopped responding and the power imbalance at play (Ms X being a junior staff member and Mr Ramiah was an Assistant Principal). Mr Ramiah's conduct in commenting on Ms X's body and describing what he wanted to do to her sexually was inappropriate and unprofessional.
- (h) That Mr Ramiah's conduct reflects adversely on his fitness to be a teacher is demonstrated by reference to several breaches of the Code of Professional Responsibility (clauses 1.2, 1.5, 1.3, 2.1 and 2.2). In respect of clause 2.1, Mr Ramiah put his own interests first in his interactions with these students, abusing his position of authority for his own sexual gratification. Engaging in conversations with students with sexual content and touching students sexually was a breach of clause 1.3. given the well-known impact breaches of professional boundaries can have on learners. Mr Ramiah's conduct involved much of the behaviour exemplified in respect of clause 2.2.
- (i) Reasonable members of the public assessing Mr Ramiah's conduct would consider that the reputation and good standing of the teaching profession was lowered by his conduct. He engaged in inappropriate sexualised conduct towards multiple students and a junior colleague, and such conduct undermined the good standing of the profession as a whole.
- (j) For those reasons each of the criteria in limb (a) are met.
- (k) As for the second limb, Mr Ramiah's conduct meets several of the reporting criteria in Rule 9 of the Rules:

- a. The key rules engaged are rules ((1)(b) (breach of professional boundaries) and rule (k) (conduct bringing disrepute to the profession). There were repeated crossings of the professional boundary (physical and emotional) with several students and conduct towards a colleague that brings the teaching profession into disrepute.
- b. Rule 9(1)(b) (emotional; abuse likely to cause harm to a younger person) and Rule 9(1)(f) (viewing, accessing, creating, sharing or possession pornographic material while at school, or while engaged in business relating to a school) are also engaged.
- c. As for rule 9(1)(b), Mr Ramiah's actions in commenting on Student A's weight loss and requiring her to send him pictures of her weight regularly could be said to amount to emotional abuse. Mr Ramiah would often comment on Student A's weight loss and her physical appearance. Requiring her to send pictures to him went beyond the bounds of professional concern and involved him monitoring Student A's appearance for his own gratification. Further, in some exchanges with Student A, Mr Ramiah would express frustration when she would not comply or engage as he wanted. One example was after he asked Student A about what he had said that surprised her about his past, she answered, "Threesome" to which he asked :why>". When Student A said, "I don't know", Mr Ramiah responded "Ask ffs". Student A promptly ended the conversation.¹⁴ Similarly, after he suggested, "maybe its time to excite yourself [sic]" and Student A asked how, Mr Ramiah responded "You have the vibrator ffs"¹⁵. In another exchange, Mr Ramiah told Student A to "have a shitty day...hope its going to get worse"¹⁶. It is clear from Student A's responses that these messages upset her.
- d. In terms of rule 9(1)(f), Mr Ramiah took and sent explicit photos of himself and encouraged Student A to do so. This was when he was supposed to be engaging with Student A in a pastoral role. The content

¹⁴ ASOF, page 148.

¹⁵ ASOF, page 157.

¹⁶ ASOF, page 158.

was created when Mr Ramiah was engaging in school business (in terms of his professional role with responsibility for student engagement and wellbeing). One of the photos, which showed a bulge in his pants, was sent while Mr Ramiah was in his office at school¹⁷.

[92] For those reasons the conjunctive test is met. Mr Ramiah's conduct, when the particulars in the Charge are considered individually and cumulatively, was serious misconduct. The Charge is established.

Penalty

[93] Having made adverse findings of serious misconduct, the Tribunal was entitled to exercise its powers under section 500 of the Act. The Tribunal could do one or more of the things set out in section 500(1).

Penalty Principles

[94] It is well established that the primary purposes of the imposition of disciplinary penalties against teachers who have been found guilty of a disciplinary offence are to protect the public and maintain professional standards (through general and/or specific deterrence¹⁸ so that the public is protected from poor practice and from people unfit to teach), and to maintain the public's confidence in the teaching profession¹⁹.

[95] Each purpose must be addressed in its own right; a particular case may not give rise to significant protection concerns but the maintenance of professional standards may require certain orders to be made.

[96] In previous decisions the Tribunal has accepted as the appropriate sentencing principles those identified by Collins J in *Roberts v Professional Conduct Committee of the Nursing Council*²⁰. His Honour identified eight factors as relevant whenever an appropriate penalty is being determined in proceedings of this nature. Those factors have been referred to in previous decisions of the Tribunal and need not be repeated here. Importantly, the Tribunal should endeavour to impose a penalty that is the least

¹⁷ ASOF, pages 28 and 29.

¹⁸ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1 (SC).

¹⁹ As discussed in *CAC v McMillan* NZTDT 2016/52 at [23].

²⁰ [2012] NZHC 3354 at [44]-[51].

restrictive that can reasonably be imposed in the circumstances, and the Tribunal must assess whether the penalty it is to impose is fair, reasonable and proportionate in the circumstances presented to the Tribunal.

[97] In *Fuli-Makaua*²¹ this Tribunal recognised that cancellation of a teacher's registration will be appropriate in two overlapping situations, namely where:

- (a) The offending is sufficiently serious that no outcome short of deregistration sufficiently reflects the adverse effect on the teacher's fitness to teach, or its tendency to lower the reputation of the profession; and
- (b) The teacher has not taken adequate rehabilitative steps to address the issues underlying their conduct. This may indicate a level of apparent ongoing risk that leaves no option but to deregister.

Discussion

[98] The Tribunal considered the relevant penalty principles including previous cases that involved teachers breaching professional boundaries with learners, as well as the evidence, and the submissions that were made for the CAC and Mr Ramiah.

[99] Although each case inevitably turn on its own facts, the Tribunal was guided by the penalty outcomes in previous comparable cases that were referred to by Counsel for the CAC:

- (a) *Teacher X*²²; the teacher formed an inappropriate relationship with a Year 13 student, Student F, During 2018, Student F started to visit Teacher X for guidance about his future career options. They began to catch up regularly on a professional basis. Their professional relationship began to develop into a friendship. Student F's parents messaged Teacher X about concerns they with Student F's girlfriend. Teacher X encouraged him to seek pastoral care, but Student F did not engage and instead spent more time in Teacher X's office. The relationship developed further. Student F would go in Teacher X's car to town to get lunch. They kept in contact via Snapchat and Facebook messenger outside of school hours. Eventually they shared with each other that they had feeling beyond what was appropriate for a student and a teacher. The relationship led to Teacher X

²¹ *CAC v Fuli-Makaua* NZTDT 2017/40, 5 June 2018, at [54].

²² *CAC v Teacher X* NZTDT 2020/43, 29 March 2021.

kissing Student F on multiple occasions. The teacher accepted that her conduct was serious misconduct and the Tribunal agreed. Her registration was cancelled, and she was censured.

- (b) In *Kelsey Allen*²³ in late 2014, in her first year of teaching, Ms Allen entered a sexual relationship with one of her Year 13 students who was 18 years old. The relationship involved kissing, oral sex, and sexual intercourse, as well as extensive text message communication which often took place in the late hours of the day and early hours of the morning. Ms Allen accepted she took on the role of counselling the student without any adequate training or experience. She did so without notifying her principal or the guidance counsellor of the student's need for support. Ms Allen denied the extent of her text messaging and sexual relationship when she was initially asked about this by the principal and then the Teaching Council. The conduct was aggravated by the fact that it occurred during the school year, lasted for months, and the teacher was actively dishonest in the aftermath. The Tribunal characterised Ms Allen's conduct as being of such a serious nature that it could not discharge its responsibilities to the public and the teaching profession by making any orders less than cancellation of registration and censure.
- (c) In *Taurapa*²⁴, the teacher engaged in a personal and sexual relationship with a 15/16-year-old female student. The relationship evolved from initial grooming with attention and gifts, to a sexualised relationship. After the student's 16th birthday, the relationship progressed into daily personal messaging, sexual discussions, exchanges of sexual images, kissing, oral sex, and digital penetration. During this time, the student was emotionally vulnerable and had prior mental health issues. The Tribunal found that Mr Taurapa had "rapidly moved her through a range of intimate chapters". Mr Taurapa also engaged in inappropriate communications with another young teenaged woman who was still at school and who worked at the school where Mr Taurapa boarded. The Tribunal considered this type of

²³ *CAC v Kelsey Allen* NZTDT 2015/24, 23 September 2015.

²⁴ *CAC v Taurapa* NZTDT 2022/27, 4 April 2023.

conduct made cancellation a near presumption²⁵ and that no outcome other than cancellation would be appropriate because of the nature of the conduct and the lack of Mr Taurapa's insight or acceptance of his actions and their impact. The Tribunal noted that even if there was acceptance and insight, cancellation would still have been called for because of the seriousness of the conduct.

[100] The Tribunal agreed with the CAC that Mr Ramiah's conduct was comparable to Teacher X's, but more serious because of the exploitation of Student A's particular vulnerabilities about her body image, and because he targeted multiple young women. Further, Mr Ramiah encouraged the students to keep their communications secret, suggesting he was aware of the inappropriate nature of his conduct and actively taking steps to conceal it. Mr Ramiah's conduct had similarities to Mr Taurapa's because there was an exploitation of a student with particular vulnerabilities, steps taken to groom students, and to encourage them to develop an unhealthy emotional reliance, and a shift to the relationship serving the teacher's needs.

[101] The Tribunal also agreed with the CAC that although Mr Ramiah's sexual conduct was not as extensive as in *Allen*, the case is comparable in gravity because of the nature of the communications and conduct engaged in, and the overt sexual purpose behind Mr Ramiah's behaviour. Mr Ramiah's conduct towards Student A also involved an element of counselling before sexual conduct occurred, and an element of concealment. Further, it occurred when Mr Ramiah was in a leadership role with pastoral care responsibilities (unlike Ms Allen who was a beginning teacher with provisional registration). Mr Ramiah ought to have appreciated the need to maintain boundaries, but instead, he exploited his position.

[102] The CAC acknowledged the following further matters, which the Tribunal accepted as relevant to, and took account of in its consideration of penalty:

- (a) Mr Ramiah's conduct sits at the upper end of the spectrum of seriousness for cases of this kind taking into account:
 - a. That Mr Ramiah commenced a sexual relationship with Student A after he had encouraged her to develop an unhealthy emotional reliance on him, and where he must have appreciated her vulnerability because of

²⁵ At [105].

her issues with body image and weight, and her history of depression and self-harm. Mr Ramiah's conduct towards each of the students involved gross breaches of trust and abuse of his position of responsibility, heightened by his pastoral duties towards them as an assistant principal with responsibility for student wellbeing.

- b. Mr Ramiah's conduct involved more than one student, apparently for his own sexual gratification and regardless of the students' wellbeing. He was persistent and forced his demands on the students despite them expressing discomfort. For example, Mr Ramiah continued to cajole Student A into using a vibrator on herself despite her initially refusing to take it, and he continued contacting Student C even when she ignored his messages.
- c. Mr Ramiah was also persistent in his contact with his colleague Ms X. There was a power imbalance in their relationship. His conduct had a significant impact on her wellbeing. She felt pressured, trapped and was anxious being at work. She would take frequent absences from work and found it difficult to get up in the morning.
- d. Mr Ramiah encouraged the students to keep his interactions with them secret, using Signal. The emphasis on the need for concealment demonstrates that Mr Ramiah knew his conduct was inappropriate, but he proceeded with it, with flagrant disregard for his professional obligations as a teacher.

- (b) There was a pattern of behaviour over an extended period with Mr Ramiah pursuing relationships with four young women which he ought to have recognised was wholly inappropriate and contrary to the professional standards expected of registered teachers.
- (c) There was no evidence of any aggravating features personal to Mr Ramiah.
- (d) In terms of personal mitigating features, Mr Ramiah had no disciplinary history and he accepted responsibility for the conduct which formed the basis of the Charge. Although he continued to claim his contact with Ms X

was “mutual” during the PCC investigation²⁶, before the Tribunal he accepted he had engaged in serious misconduct.

- (e) Although Mr Ramiah has expressed some remorse for his inappropriate behaviour, his insight appears incomplete. He initially characterised his professional boundary breaches as an “indiscretion” and stated that his actions towards Student A had caused her “enormous discomfort”. The Tribunal considered this involved Mr Ramiah downplaying the seriousness of his conduct. There is little evidence that demonstrates that Mr Ramiah fully understands the impact of his conduct on the students and staff member, or the importance of the professional boundary and the seriousness of breaching the boundary.
- (f) Mr Ramiah has indicated he is no longer planning to work in the teaching profession and his practising certificate has expired. He was the subject of a voluntary undertaking to teach since his conduct was discovered and reported, and there was no evidence of any breach of the undertaking.

[103] For Mr Ramiah it was indicated that he recognises there has been considerable harm to others because of his actions. Further, that he is remorseful for the harm he has caused. A letter from a counselling service in Auckland dated 1 November 2023 was produced which reported that Mr Ramiah had attended three counselling sessions in October 2023. His representative, Ms Martin, advised that Mr Ramiah is “committed to completing the full counselling process”.

[104] No updating evidence of any rehabilitative steps Mr Ramiah has taken since 1 November 2023, was produced to the Tribunal for consideration at the hearing.

[105] The Tribunal was concerned that there is no evidence that Mr Ramiah has apologised to each of his victims.

Findings

[106] Cancellation of registration was sought by the CAC on the basis that Mr Ramiah’s conduct falls among the most serious cases that come before this Tribunal. The Tribunal agreed.

²⁶ ASOF at [59].

- [107] Mr Ramiah's actions were directed at four young females at his school, three being students and one being a junior colleague. Given that his conduct was persistent, repeated, and ongoing, and was wholly incompatible with his professional obligations the Tribunal was entirely satisfied that cancellation is the only outcome that adequately reflects the nature and gravity of Mr Ramiah's offending and that will meet the purposes of discipline.
- [108] Mr Ramiah agreed that cancellation of his registration would be appropriate.
- [109] The CAC also submitted that Mr Ramiah should be censured. Mr Ramiah agreed. Consistent with the penalties imposed in similar cases, the Tribunal concluded that it would be appropriate to censure Mr Ramiah to mark its serious disquiet about and disapproval of his conduct.
- [110] Looked at overall, the Tribunal was satisfied that orders of cancellation and censure (combined with costs orders, as discussed below) are the least restrictive penalty response to the very serious nature of Mr Ramiah's transgressions and the risk of repetition demonstrated by his pursuit of inappropriate relationships with four young women around the same time. In making these orders the Tribunal considers that it is also meeting its obligation to protect the public and maintain the standards of the teaching profession.
- [111] Accordingly, there will be an order cancelling Mr Ramiah's registration pursuant to section 500(1)(g) and Mr Ramiah is censured pursuant to section 500(1)(b).
- [112] In terms of costs, it is usual for an award of costs to be made against a teacher once a charge is established. A teacher who comes before the Tribunal should expect to make a proper contribution towards the reasonable costs that have been incurred. Otherwise, the teaching profession (as a whole) would need to meet all the costs of a proceeding that has been brought about by the teacher's own making.
- [113] Costs are at the discretion of the Tribunal and may be awarded under section 500(1)(h) (any party to pay costs to any other party) and (1)(i) (Teaching Council costs of conducting the hearing).

- [114] The CAC sought an order that Mr Ramiah pay a contribution to its costs noting the general rule that where a charge is established, the starting point is 50% of the CAC's costs.²⁷
- [115] In cases where the charge has been heard on the papers, these typically attract a costs order of 40% of the costs and expenses incurred by the CAC (exclusive of GST).
- [116] The CAC acknowledged that Mr Ramiah had engaged with the disciplinary process and a reduced order of 40% for the prosecution costs would be appropriate.
- [117] Mr Ramiah supported the CAC's submission that a contribution of 40% of the CAC's costs would be appropriate.
- [118] The CAC's costs were indicated to be \$17,757.00 exclusive of GST, which the Tribunal considered were reasonable²⁸. The Tribunal concluded that an order that Mr Ramiah make a 40% contribution toward those costs would be reasonable and appropriate.
- [119] Accordingly, the Tribunal is making an order pursuant to section 500(1)(h) that Mr Ramiah is to pay the sum of \$7,102.80 (exclusive of GST) to the CAC²⁹.
- [120] As for the costs of conducting the hearing, the Tribunal is making an order that Mr Ramiah make a 40% contribution towards those costs (estimated to be \$1,455 exclusive of GST³⁰), being payment of the sum of \$582.00 to the Teaching Council. This order is made under section 500(1)(i)

Non-publication orders

- [121] Prior to the hearing, interim orders were in effect in respect of the names of Students A, B and C, and Ms X. The CAC sought permanent orders, as well as an order permanently suppressing those screenshots of the text messages which contained

²⁷ Practice Note of the Teachers Disciplinary Tribunal, Practice Note 1: Costs, 1 April 2022 at [4].

²⁸ Costs Schedule provided by Counsel for the CAC, dated 19 March 2024.

²⁹ Costs Schedule of the CAC at paragraph [9.3] of Submissions on behalf of the Complaints Assessment Committee.

³⁰ Schedule of Teaching Council's Costs for the hearing, dated February 2024.

photographs of Student A. Mr Ramiah did not oppose the CAC's application for permanent orders in respect of the names of these women.

[122] Also prior to the hearing there was an interim order suppressing Mr Ramiah's name. Mr Ramiah had sought an interim order on the ground that identifying him would risk identifying the students and his former colleague. This ground was not relied on in support of Mr Ramiah application for a permanent order.

[123] Mr Ramiah sought orders suppressing any details identifying his wife as well as any details related to her personal (employment), health, and medical history. He also sought a permanent order suppressing any details related to the wellbeing of his daughter.

[124] The Board of Trustees of James Cook High School were invited to consider their position on publication of the School's name, Counsel for the Board, by Memorandum, advised the Tribunal that because of the length of time he was teaching at the School the Board considered that further complaints could be forthcoming should Mr Ramiah's name be published. Further, that the School did not wish for its name to be suppressed. Rather, on balance, the Board preferred that Mr Ramiah's name could be published so that:

- (a) The Board can be open and transparent with its school community as to the "allegations" against Mr Ramiah.
- (b) The Board may ensure anyone in the school community impacted by the "allegations" may obtain support through the avenues it can offer.
- (c) Other potential complainants may come forward and have the support available to do so to the appropriate authorities.
- (d) Other staff and other schools are not subject to any suspicion that they could be the subject of the "allegations" if Mr Ramiah's and the school's names are suppressed.

Summary of relevant law

[125] The starting point when considering applications for non-publication orders is the principle of open justice. In a professional disciplinary context, the principle of open justice maintains public confidence in the relevant profession through the

transparent administration of the law.³¹ In previous cases, the Tribunal has endorsed the statement of Fisher J in *M v Police*³² at [15]:

In general, the healthy winds of publicity should blow through the workings of the Court. The public should know what is going on in their public institutions. It is important that justice should be seen to be done. That approach will be reinforced if the absence of publicity might cause suspicion to fall on other members of the community, if publicity might lead to the discovery of additional evidence or offences, or if the absence of publicity might present a defendant with an opportunity to reoffend.

- [126] The Tribunal’s jurisdiction to make non-publication orders is found in section 501(6) of the Act. An order can only be made under section 501(6) (a) to (c) if the Tribunal is of the opinion that it is proper to do so, having regard to the interests of any person (including, without limitation, the privacy of the complainant, if any) and the public interest.
- [127] When considering whether it is proper for the open justice principle to yield, the Tribunal needs to strike a balance between the public interest factors and the private interests advanced by the applicant. A two-step approach is usually followed by the Tribunal the first step of which is a threshold question, requiring deliberative judgement by the Tribunal whether, having regard to the various interests, it is “proper” to make a non-publication order. If the Tribunal concludes it is, then at the second stage the Tribunal may exercise its discretion and make the order sought.³³
- [128] “Proper” sits below “exceptional” which is required in the criminal jurisdiction in the Courts and is more aligned with “desirable” which is what is required under the Health Practitioners Competence Assurance Act 2003.
- [129] When deciding whether it is “proper” to make a non-publication order, the Tribunal must carefully evaluate the respective interests (private and public). The Tribunal’s principal objectives of protecting the public, maintaining professional standards, and maintaining public confidence in the teaching profession, are relevant to the balancing exercise. Suppression of the name of a teacher who has been found guilty

³¹ *CAC v Teacher* NZTDT 2016/27 at [66].

³² *M v Police* (1981) 8 CRNZ 14 at [15] cited in *CAC v Howarth* NZTDT 2019/87, January 2021 at [57].

³³ *CAC v Teacher* NZTDT 2016/27 at [61]; referred to in *CAC v Howarth* (above).

of serious misconduct has the potential to erode public trust and confidence in the teaching profession.

- [130] The relevant public interests to be evaluated are:
- (a) Openness and transparency of disciplinary proceedings
 - (b) Accountability of the disciplinary process. The disciplinary process needs to be accountable so that members of the public and the profession can have confidence in it.
 - (c) The public interest in knowing the identity of a teacher charged with a disciplinary offence.
 - (d) The importance of freedom of speech and the right enshrined in section 14 of the New Zealand Bill of Rights Act 1990.
 - (e) Unfairly impugning other teachers.

[131] The public interest in knowing the identity of a teacher charged with a disciplinary offence includes the right to know about proceedings affecting a teacher, as well as the protection of the public and their right to make an informed choice about the extent to which they engage with or interact with the teacher.

[132] In *Dr Tonga v Director of Proceedings*³⁴ the High Court, on the issue of permanent name suppression under the Health Practitioners Competence Assurance Act 2003 following an adverse disciplinary finding, made the following point:

[F]ollowing an adverse disciplinary finding more weighty factors are necessary before permanent suppression will be desirable. This, I think, follows from the protective nature of the jurisdiction. Once an adverse finding has been made, the probability must be that public interest considerations will require that the name of the practitioner be published in a preponderance of cases. Thus, the statutory test of what is 'desirable' is necessarily flexible. Prior to the substantive hearing of the charges the balance in terms of what is desirable may incline in favour of the private interest of the practitioner. After the hearing, by which time the evidence is out and findings have been made, what is desirable may well be different, the more so where professional misconduct has been established.

³⁴ High Court, 21 February 2006, CIV-2005-409-002244, Panckhurst J.

[133] Those same points can be made in respect of what is “proper” where a charge of serious misconduct by a teacher has been established.

[134] As for private interests, Gendall J in *Anderson v PCC*³⁵ agreed with Panckhurst J’s statement in *Dr Tonga* as follows:

[36] Private interests will include the health interests of a practitioner, matters that may affect a family and their wellbeing, and rehabilitation. Correspondingly, interests such as protection of the public, maintenance of professional standards, both openness and ‘transparency’ and accountability of the disciplinary process, the basic value of freedom to receive and impart information, the public interest knowing the identity of a practitioner found guilty of professional misconduct, the risk of other doctors’ reputations being affected by suspicion, are all factors to be weighed on the scales.

[37] Those factors were also referred to at some length in the Tribunal. Of course, publication of a practitioner’s name is often seen by the practitioner to be punitive, but its purpose is to protect and advance the public interest by ensuring that it is informed of the disciplinary process and of practitioners who may be guilty of malpractice or professional misconduct. It reflects also the principles of openness of such proceedings, and freedom to receive and impart information.

[135] In *Anderson*, when considering a submission that the decision not to suppress the publication of the doctor’s name was inconsistent with the Tribunal ordering non-publication of matters which might identify his wife and children, Gendall J commented, relevantly, at [54]:

I have given careful consideration to that submission but do not accept that it is a reason that makes non-publication desirable. It will always be the case that association of a family to a named transgressor will arise in the minds of those who know him/her and the family. It does not usually arise from the publication of the practitioner’s name in the collective mind of the general public. It is implicit in the orders that the Tribunal made that it did not intend non ‘publication’ of information relating to the identification of the appellant’s wife and children, to mean that there be no publication of the practitioner’s name.

[136] The nature of the conduct found to warrant disciplinary sanction, including but not limited to the relative risk of some repetition, as well as the nature of the penalties imposed, are material considerations for the Tribunal when deciding whether it is

³⁵ *Anderson v PCC of the Medical Council of New Zealand* CIV 2008-485-1646, 14 November 2008, Gendall J.

proper to make a permanent non-publication order³⁶. The Tribunal considers that the public interest in publication of a teacher's name is strengthened when the teacher's registration has been cancelled (or suspended), when there are concerns about a teacher's judgement or decision-making, or where the teacher poses an ongoing risk of harm including but not limited to schools, learners, and school communities³⁷.

[137] Put another way, where severe sanctions are imposed such as cancellation or suspension, the Tribunal is entitled to determine that the established serious misconduct weighs in favour of publication of the teacher's name. This is not conflating name suppression with the imposition of penalties. Nor is declining to make a non-publication order in circumstances such as these a matter of holding the teacher to account publicly. Rather, where there has been a pattern of serious errors or behaviours, publication is usually proper to achieve the Tribunal's objectives of protecting the public and maintaining professional standards. In a situation where the teacher's conduct was highly serious and involved gross professional boundary breaches, for example, the Tribunal's view is that there is a material protective element which heightens the public interest in publication.

Students A, B, C and Ms X

[138] The Tribunal had little difficulty concluding that it would be proper to make orders permanently suppressing the names of each of the students, and Mr Ramiah's colleague. In any publication about this case, the students may be referred to only as Students A, B and C and the colleague as Ms X, These orders are proper given the privacy and wellbeing interests of these individuals, the nature of the conduct they were subjected to, and (aside from Ms X) their status as learners at the time of the conduct. There is no public interest in the names of any of these young women being published.

[139] The order suppressing Ms X's name extends to the fact that at the relevant times she was employed as an [REDACTED]. That Ms X was employed in a non-teaching role may be published.

³⁶ *Ben-Dom v A Professional Conduct Committee of the Medical Council of New Zealand* [2020] NZHC 3094 (23 November 2020), Dobson J; *Johns v Director of Proceedings* [2017] NZHC 2843, Moore J.

³⁷ *ANG v PCC* [2016] NZHC 2949 and *B v B* HC Auckland HC 4/92, 6 April 1993 at [99].

[140] The Tribunal was satisfied that it would be proper to suppress from publication the screenshots of those text messages that contain pictures/photographs of Student A. If they were published there is a real risk that Student A would be identified.

[141] There will be orders accordingly.

Mr Ramiah's name

Mr Ramiah's application

[142] Mr Ramiah's application for a permanent order was based on the ground that there would be "potential harm" to his wife and daughter. His application was supported by an affidavit from Mr Ramiah's estranged wife, a letter from her GP, a letter from a colleague of hers, and details relevant to her professional status.

[143] The Tribunal considered that there is no proper basis, to displace the principle of open justice and order that Mr Ramiah's name is not to be published. The Tribunal considers it would not be fulfilling its obligation to protect the public and the teaching profession were it to make a permanent order. The extremely serious nature of Mr Ramiah's conduct means that there is a material protective feature which heightens the public interest in his name being published, in the Tribunal's opinion.

[144] The details of the nature of Mr Ramiah's offending that the Tribunal has reviewed are likely to already be out in the School community, There will be people in the community who are likely to know already that Mr Ramiah was the teacher involved in the conduct the Tribunal has reviewed.

[145] Further, on 1 March 2024 Mr Ramiah had pleaded guilty at the Manukau District Court to one representative charge of indecent communication with a young person under 16³⁸ and one representative charge of sexual conduct with a young person under 16³⁹. The Tribunal was advised by Counsel for the CAC that convictions have

³⁸ An offence against section 124A of the Crimes Act 1961, the maximum penalty for which 3 years' imprisonment.

³⁹ An offence against section 134 of the Crimes Act 1961. Penalties range from between 7 years' and 10 years' imprisonment, dependent in the nature of the contact.

These are specified offences under Schedule 2 of the Children's Act 2014. As a result, the Teaching Council is required to cancel Mr Ramiah's registration under the licensing provisions in the Education and Training Act 2020 (Schedule 3, clauses 2(e) and 6(1)(a)). As of the date of this decision the Tribunal (which is independent of the Teaching Council) has no knowledge of whether Mr Ramiah's registration has been cancelled via that process.

been entered and sentencing is set for 30 May 2024⁴⁰. Further, that Mr Ramiah's interim suppression in those proceedings has lapsed and he is not pursuing an appeal of the court's decision to decline suppression of his name.

[146] Members of the profession and the public reading this decision in its entirety will be made aware of all the circumstances of the offending, as well as Mr Ramiah's approach to the matter subsequently including in these proceedings (including his admissions and acceptance of responsibility). The Tribunal believes that it is not likely there will be adverse consequences for Mr Ramiah beyond the expected level of discomfort and embarrassment if his name were to be published more widely.

[147] However, the Tribunal was satisfied it would be proper to make permanent orders suppressing the names of Mr Ramiah's wife (Ms Z) and daughter (Ms ZA), and the details of their personal, health and medical histories and information about their current state of wellbeing. It is anticipated these orders will provide at least some degree of protection of their privacy and wellbeing interests. When making these orders the Tribunal took account of the [REDACTED]
[REDACTED]
[REDACTED] The Tribunal also took account of evidence in the [REDACTED]
[REDACTED]

[148] The Tribunal also considered it would be proper to suppress the fact that [REDACTED]
[REDACTED] to mitigate the risk of them being identified in connection with Mr Ramiah and his serious misconduct, in the collective mind of the general public.

[149] The Tribunal does not consider that there is a real risk that Ms Z's current or future employment will be adversely affected by the publication of Mr Ramiah's name. In the Tribunal's opinion, members of the public and the teaching profession who read this decision will learn that Ms Z was not involved in her husband's offending. The evidence the Tribunal received from Ms Z was that when she was first made aware of the allegations [REDACTED]
[REDACTED] The Tribunal has considerable sympathy for Ms Z and her family and the situation she and her family now find themselves in.

⁴⁰ CAC Memorandum providing update on criminal proceedings dated 14 March 2024.

[150] On balance the Tribunal was not satisfied there are sufficient private reasons at play, either alone or in combination, which outweigh the public interest in Mr Ramiah being named now that he has been found guilty of serious misconduct which has resulted in his registration being cancelled and him being censured. The private interests of Mr Ramiah's estranged wife, and his daughter are not sufficiently strong reasons to make it proper to suppress Mr Ramiah's name (but they are strong reasons to suppress the name of Mr Ramiah's wife and daughter).

[151] For those reasons the Tribunal decided to decline Mr Ramiah's application for permanent name suppression.

James Cook High School

[152] The Tribunal considered the interests of James Cook High School. The Tribunal decided it would not be proper to suppress the name of the School. The Tribunal placed significant weight on the grounds which the School Board relied on when indicating that it does not wish for the name of the School to be suppressed. There is a significant public interest in the School being identified, including to flush out any further complaints about Mr Ramiah's conduct, if any, and to enable the School to consult and provide support to members of the school community.

[153] There was no evidence of any concerns held that publishing the name of the School would give rise to a real risk that the students involved will be identified, and likewise the staff member. Given the orders the Tribunal is making in relation to these women, if there is any such risk then it is anticipated these orders will mitigate the risk of them being identified by members of the wider public when this decision is published with Mr Ramiah named.

Conclusion and Orders

[154] The Charge is established. Mr Ramiah is guilty of serious misconduct.

[155] The Tribunal's formal orders under the Education and Training Act 2020 are:

- (a) Mr Ramiah is censured, pursuant to section 500(1)(b).
- (b) Mr Ramiah's registration is cancelled, pursuant to section 500(1)(g).
- (c) Mr Ramiah is to pay \$7,102.80 to the CAC as a contribution to its costs, pursuant to section 500(1)(h),

- (d) Mr Ramiah is to pay \$582.00 to the Teaching Council in respect of the costs of conducting the hearing, pursuant to section 500(1)(i).
- (e) There are to be permanent orders under section 501(6) prohibiting from publication:
- a. the name of Student A.
 - b. the name of Student B.
 - c. the name of Student C.
 - d. the name of Mr Ramiah's colleague, [REDACTED] Ms X and her role as an [REDACTED]. For the avoidance of doubt, that she was employed in a non-teaching role at James Cook High School, may be published.
 - e. the screenshots of all text messages which contain photographs of Student A.
 - f. the names of Mr Ramiah's wife [REDACTED], [REDACTED] Mr Ramiah's wife may be identified only as Ms Z and her daughter as Ms ZA.
 - g. All personal, medical/health and employment (occupation) information of Ms Z and any personal information about Ms ZA's wellbeing.
 - h. The Tribunal Coordinator is directed to provide a copy of this decision to Counsel for James Cook High School at the same time as it is issued to the parties.

**Dated at Wellington this 1st day of
May 2024**



Jo Hughson
Deputy Chairperson

NOTICE

- 1 The teacher who is the subject of a decision by the Disciplinary Tribunal made under section 500 of the Education and Training Act 2020 may appeal against that decision to the District Court (section 504(1)).
- 2 The CAC may, with the leave of the Teaching Council, appeal to the District Court against a decision of the Disciplinary Tribunal made under section 500 (section 504(2)).
- 3 An appeal under section 504 must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows (section 504(3)).
- 4 Clause 5(2) to (6) of Schedule 3 applies to an appeal under section 504 as if it were an appeal under clause 5(1) of Schedule 3.