

**BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL**

**NZTD 2023/06**

UNDER  
WĀHANGA

the Education and Training Act  
2020

IN THE MATTER  
MŌ TE TAKE  
BETWEEN  
I WAENGA I A

of a charge referred to the Tribunal

**COMPLAINTS ASSESSMENT  
COMMITTEE (CAC)**

Prosecutor/Referrer | Kaiwhiu

AND  
ME

**HELEN TAYLOR-YOUNG**

Respondent | Kaiurupare

Hearing | Te Rongonga

30 November 2023

Representation | Hei Māngai

R Belcher and N Murden for the CAC  
J Brown for Respondent

Tribunal panel | Pae Taraipiunara

T J Mackenzie (Deputy Chair), R  
McInerney, L Arndt

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**DECISION OF THE TRIBUNAL**

TE MENETI O TE RŪNANGA RONGONGA TŌMUA I WHAKATŪRIA  
18 December 2023

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## **Background**

[1] Ms Taylor-Young has been referred to the Tribunal by the Complaints Assessment Committee (CAC) for several instances of conduct related to alcohol consumption.

[2] The Notice of Referral (and charge) is as follows:<sup>1</sup>

### ***Convictions***

1. Ms Taylor-Young has been convicted of the following offences:

- a. Conviction for driving with excess blood alcohol, which is an offence under section 56(2) of the Land Transport Act 1998 and carries a maximum penalty of 3 months' imprisonment (convicted and sentenced in the Nelson District Court on 29 September 2020);
- b. Conviction for driving while disqualified, which is an offence under section 32 of the Land Transport Act 1998 and carries a maximum penalty of 3 months' imprisonment (convicted on 2 February 2021 and sentenced in the Nelson District Court on 30 March 2021).

### ***Serious Misconduct***

2. The CAC charges that the respondent has engaged in serious misconduct and/or conduct otherwise entitling the Disciplinary Tribunal to exercise its powers.

Particulars of charge:

- a. Between 2019 and 6 November 2020, Ms Taylor-Young drank alcohol and/or was under the influence of alcohol while:
  - i. at school; and/or
  - ii. attending hui or events outside of school or otherwise fulfilling her professional duties as principal.
- b. Between 29 September 2020 and 6 November 2020, Ms Taylor-Young:
  - i. Failed to disclose her excess blood alcohol conviction to the Victory Primary School Board of Trustees and/or the Teaching Council, and/or
  - ii. misrepresented the circumstances of her excess blood alcohol conviction in a disciplinary meeting with Victory Primary School;

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<sup>1</sup> The Tribunal has by consent made a small amendment to paragraph 2 of the charge to make the serious misconduct charge clear and distinct from the referral aspect.

## The agreed facts

[3] The parties reached an agreed set of facts, as follows:

1. The respondent, Helen Taylor-Young, is a fully registered teacher. She first became fully registered in 1990. Ms Taylor-Young's practising certificate will expire on 14 September 2023.
2. Before Ms Taylor-Young resigned on 25 November 2022, she was employed as the principal at Victory Primary School, Nelson (**School**). Ms Taylor-Young started in that role in 2014.
3. Ms Taylor-Young is not currently employed as a teacher.
4. In October 2019, Ms Taylor-Young [REDACTED] [REDACTED] She was on sick leave from October 2019 until April 2020. She returned to reduced duties at the School from May 2020 onwards.
5. On 18 November 2020, the Teaching Council (**Council**) received a self-report from Ms Taylor- Young disclosing that she had been convicted of driving with excess blood alcohol in the Nelson District Court on 29 September 2020.
6. On 19 January 2021, the Council received a mandatory report filed by Andrew Murray, Limited Statutory Manager (**LSM**) of the School, alleging that Ms Taylor-Young did not disclose her conviction to the School, was dishonest about why she was unable to drive, and consumed/was under the influence of alcohol while at school.

### *Conviction for driving with excess blood alcohol*

7. At approximately 5:11 pm on Friday, 18 September 2020, Ms Taylor-Young was stopped by Police while driving on Vanguard Street, Nelson. Breath test procedures were commenced, and a positive result was returned. Ms Taylor-Young elected to have a blood sample taken. On analysis, the sample was found to contain 108 milligrams of alcohol per 100 millilitres of blood, more than double the legal limit of 50 milligrams of alcohol per 100 millilitres of blood. Ms Taylor-Young was charged with driving with excess blood alcohol.
8. On 29 September 2020, Ms Taylor-Young appeared in the Nelson District Court and pleaded guilty to the charge. She was sentenced to a fine of \$500 and disqualified from driving for six months.

### *Conviction for driving whilst disqualified*

9. Later on 29 September 2020, being the day she was sentenced for driving with excess blood alcohol, Ms Taylor-Young was stopped by Police as she was driving on Collingwood Street, Nelson. She was charged with driving whilst disqualified.
10. On 2 February 2021, Ms Taylor-Young appeared in the Nelson District Court and pleaded guilty to the charge. She explained that she believed the disqualification started at midnight on the day of her previous sentencing. She was convicted of the offence but received no further penalty.

*Dishonesty regarding the nature of her conviction*

11. Ms Taylor-Young was convicted of driving with excess blood alcohol on 29 September 2020.
12. Ms Taylor-Young did not report her conviction to the School's Board of Trustees (**Board**) until 6 November 2020.
13. On 12 October 2020, the Chair of the Board, Hayley Campbell, met with Ms Taylor-Young to discuss concerns around allegations that Ms Taylor-Young was consuming alcohol at school. Ms Taylor-Young told her that she was not driving at the moment as a health precaution. At no point during this meeting did she disclose to Ms Campbell that she had been disqualified from driving by the Court, following her drink driving conviction.
14. Ms Taylor-Young also failed to inform the Teaching Council of her conviction, as is required under section 493 of the Act, until 18 November 2020.

*Consumption of alcohol at school*

15. On a number of occasions between 2019 and 6 November 2020, Ms Taylor-Young consumed and was under the influence of alcohol at school.
16. Before Ms Taylor-Young's medical event in October 2019, the following observations were made by other staff members while at school:
  - a. Ms Taylor-Young's breath smelt of alcohol on her breath on several occasions. On one occasion this was as early as 7:30am. On another occasion in August 2019, a staff member smelt alcohol on her breath in the morning on the day that ERO visited the School.
  - b. Ms Taylor-Young left meetings frequently to go to the bathroom, taking a large handbag with her.
  - c. Ms Taylor-Young went to her car and drank out of a bottle she kept there.
  - d. Ms Taylor-Young brushed her teeth at school, used mouthwash frequently throughout the day, and the bathroom smelt like alcohol after she had been in there.
17. On 10 August 2020, Ms Taylor-Young took a pink wine can out of her bag and put it in a rubbish bag which was sitting in the hallway outside the staff toilet at the School.
18. On 18 September 2020, Ms Taylor-Young worked a full day at School. She then attended a hui with the Board of Trustees which finished at 5:00pm. At approximately 5:11pm, Ms Taylor-Young was pulled over by the Police and was found to be over the legal blood alcohol limit for driving. She was intoxicated at the hui with the Board of Trustees.
19. On 24 September 2020, Ms Taylor-Young was in the staffroom kitchen just prior to a meeting with the Board. She took an empty pink wine can from her bag and put it in the rubbish bin.
20. In Term 4 of 2020, the Deputy Principals were in Ms Taylor-Young's office with a student. They lifted a Pasifika headband down from Ms Taylor-

Young's shelf so the student could have a look at it. There was an unopened pink wine can inside the headband.

21. The School's *Alcohol on School Campus* policy outlines that staff will not consume or be under the influence of alcohol, when the school is open for instruction or they have responsibility for students, including EOTC activities.

#### *Intoxication at events outside of school*

22. Between 2019 and 6 November 2020, Ms Taylor-Young was intoxicated while attending events outside of school.
23. On 18 August 2020, at a meeting attended by principals in the Nelson area, Ms Taylor-Young left the meeting multiple times and sat in her car. She arrived at lunch slurring her words and didn't seem well. She spent a long time in the bathroom and a pink wine can was found in the bathroom rubbish bin afterwards.
24. On 24 September 2020, Ms Taylor-Young attended a poroporoaki (farewell) at the community centre. When she arrived, Ms Taylor-Young was slurring her words and appeared unsteady on her feet. During the poroporoaki she called out, whooped, and joined in when other people were singing their waiata. Ms Taylor-Young was also one of the speakers at the event. Although a proficient speaker of te reo, her speech did not make sense. After the poroporoaki, Ms Taylor-Young dropped food on herself and the floor, dropped her glasses, and bumped into a chair. Her breath smelt of alcohol.
25. On 30 October 2020, at the Hieke Annual Conference at the Alpine Lodge, Lake Rotoiti, Ms Taylor-Young won a bottle of wine before the morning tea break. Ms Taylor-Young did not return to the conference after morning tea. At lunchtime, she was incoherent and unsteady on her feet.

#### **Teacher's Response**

26. On 6 November 2020, a meeting was held between Ms Taylor-Young and the LSM, Mr Murray. Their respective representatives from NZEI and NZSTA were present. She accepted the conviction for drink driving and advised the Board she had also been charged with driving whilst disqualified. In explanation for not advising the School or the Teaching Council she stated that as a result of a [REDACTED] in October 2019 she did not comprehend her reporting obligations. She denied drinking alcohol at school. [REDACTED]
27. Ms Taylor-Young responded to the CAC investigation through her NZEI representative on 3 August 2022. She did not address the allegations. [REDACTED]
28. Ms Taylor-Young declined to attend the CAC hearing on 3 November 2022.

#### *Impairment Assessment*

29. Ms Taylor-Young undertook a voluntary impairment assessment. The impairment report, dated 1 June 2022, noted that at the time of the report, Ms Taylor-Young continued to have ongoing effects from her [REDACTED] in October 2019. [REDACTED]

[REDACTED]  
[REDACTED]

30. The report writer considered that Ms Taylor-Young's Type 2 diabetes would not have led to episodes of impairment such as slurred speech or unsteadiness on her feet.

31. The report writer noted that Ms Taylor-Young did not currently have capacity to return to teaching and that it was difficult to ascertain if this would ever be a possibility. She noted that [REDACTED] [REDACTED] would be required to determine Ms Taylor-Young's ability to return to teaching.

### **Adverse finding**

[4] We are first called upon to consider whether to make an adverse finding over the convictions.

[5] In this case Ms Taylor-Young agrees that an adverse finding should be made.

[6] We consider that to be an appropriate concession. The two convictions, and particularly one for driving whilst disqualified immediately after having been disqualified, do not reach the level required for an adverse finding.

[7] The second aspect of this case involves the serious misconduct charge. Again this is accepted by Ms Taylor-Young.

[8] We again are in agreement. Attending at school under the influence (and at school events) leave us in no doubt that this was serious misconduct. The slow disclosure to her employer and the Teaching Council compounds this.

[9] This is conduct that could have adversely affected students, seriously brings Ms Taylor-Young's fitness into question, and brings considerable disrepute on the profession. Likewise the Reporting Rules are triggered as it again brings the profession into disrepute.

[10] We therefore have no difficulty in finding that serious misconduct has been made out.

### **Penalty**

[11] This is conduct that in total is nearing the more serious end of the scale, so that cancellation of registration now becomes a live issue.

[12] Ms Taylor-Young posits significant blame for these events on [REDACTED] [REDACTED]. We don't doubt that the [REDACTED] increased her stress and use of alcohol as an outlet for that. However, the facts disclose that the alcohol problem and conduct was prevalent well before that accident.

[13] We note that Ms Taylor-Young is remorseful for the position she has found herself in. She has cooperated with the CAC process including reaching

agreed facts, particularly over the more difficult issues of alcohol use at school. She is currently not teaching and may not again.

[14] The CAC have suggested the following outcomes as appropriate in this case:

- (a) Ms Taylor-Young must not resume teaching until she provides to the Council a report from her doctor, counsellor or health practitioner that she is fit to return to teach.
- (b) Upon new employment as a teacher, Ms Taylor-Young is to provide to the Council a relapse prevention plan.
- (c) Upon new employment as a teacher, Ms Taylor-Young is to engage with a mentor in the school for one year, the mentor to be agreed upon by the Teaching Council. The mentor must be aware of this Tribunal decision and Ms Taylor-Young's background. The mentor must report back to the Council on Ms Taylor-Young's engagement with the mentoring every 6 months.
- (d) Ms Young must disclose the Tribunal's decision in this matter to any future or prospective employer, in the education sector, for two years.

[15] A censure and annotation is also suggested as appropriate.

[16] Ms Taylor-Young agrees with the penalties suggested.

[17] Our decision on penalty is as follows. We consider that a censure is appropriate to condemn this conduct. A censure is now ordered.

[18] We also consider that annotation of the register for two years should occur, with the register marked "censured and conditions apply".

[19] Regarding the balance of conditions. The Tribunal is not left as confident as it would have hoped to be in Ms Taylor-Young's current position, particularly if she did decide to take up teaching again. We have very little evidence as to her current medical situation going forward, particularly around alcohol abuse. Whilst we have a letter from her doctor, this is focused on the [REDACTED] and possible effects of publication, and surprisingly to us does not mention alcohol. There is little to displace the concerns we are left with by the two convictions and the sustained alcohol problem that permeated her working life both in and around school (and her personal life as well of course).

[20] Therefore we consider that some adjustment to the conditions is required to ensure we can have more confidence of a safe return (if there was to be one). We impose the following conditions:

- I. Ms Taylor-Young must not resume teaching until she provides to the Council a report from a health practitioner that has provided treatment to her for alcohol abuse (whether that be a counsellor or doctor) which states that she is successfully abstaining from alcohol.
- II. Ms Taylor-Young must not resume teaching until she provides to the Council an affidavit (from her) stating that she is successfully abstaining

from alcohol and has been doing so for at least six months before applying to the Council to teach again.

- III. Before starting any new employment as a teacher, Ms Taylor-Young is to provide to the Council a relapse prevention plan for their approval.
- IV. Upon new employment as a teacher, Ms Taylor-Young is to engage with a mentor from within either the school or the education sector, the mentor to be agreed upon by the Teaching Council. The mentor must be aware of this Tribunal decision and Ms Taylor-Young's background. The mentor must report back to the Council on Ms Taylor-Young's engagement with the mentoring every 6 months. This condition will run for two calendar years from the date of this decision.
- V. Ms Taylor-Young must disclose this Tribunal decision to any future or prospective teaching employer for two years prior to commencing any employment. This period is to run from when any employment commences, and only runs whilst employed. For example if Ms Taylor was employed in four different roles, each for six months, in each of the next four years, the condition would operate through each of those six month periods until discharged after a cumulative 24 months of employment.

### **Costs**

[21] The self-report aspect of this case (the convictions) does not attract a costs liability. However the misconduct aspect does. To address this, the CAC seeks 30% of its total costs. The Tribunal considers this to be a reasonable approach.

[22] The costs claim is:

<b>Complaints Assessment Committee Costs</b>	<b>Amount</b>
Costs of Complaints Assessment Committee (GST exclusive)	\$1,618.94
Legal costs and disbursements for Tribunal proceedings (GST exclusive)	\$7,073.00
<b>TOTAL COSTS</b>	<b>\$8,691.94</b>
<b>TOTAL COSTS SOUGHT (30% of costs)</b>	<b>\$2,607.58</b>

[23] For an agreed matter (both as to facts, liability and penalty) heard on the papers we consider that reasonable legal costs are \$5000. The costs order we therefore make is:

CAC costs: \$1618.94

Legal costs for CAC: \$5,000

$\$6618.94 / 30\% = \$1985.86$

[24] Tribunal costs are \$1455. 40% = \$582 and is now also ordered.



## Publication

[25] Ms Taylor-Young seeks permanent non publication of her name and any identifying details.

[26] Section 501(6) of the Education and Training Act 2020 provides as follows:

If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may make any 1 or more of the following orders:

(a) an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:

(b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:

(c) an order prohibiting the publication of the name, or any particulars of the affairs, of the person charged or any other person.

[27] The default position is that Tribunal hearings are to be conducted in public. Consequently the names of teachers who are the subject of these proceedings are to be published. The Tribunal can only make one or more of the orders for non-publication if we are of the opinion that it is proper to do so, having regard to the interest of any person (including, without limitation, the privacy of the complainant, if any) and to the public interest.

[28] The purposes underlying the principle of open justice are well settled. In *CAC v McMillan*, the Tribunal said that the presumption of open reporting “exists regardless of any need to protect the public”.<sup>2</sup> Nonetheless, that is an important purpose behind open publication in disciplinary proceedings in respect to practitioners whose profession brings them into close contact with the public.

[29] In *NZTDT v Teacher* the Tribunal noted that the transparent administration of the law also serves the important purpose of maintaining the public’s confidence in the profession.<sup>3</sup>

[30] In *CAC v Finch* the Tribunal described a two-step approach to non-publication that mirrors that used in other disciplinary contexts.<sup>4</sup> The first step, which is a threshold question, requires deliberative judgment on the part of the Tribunal as to whether it is satisfied that the consequence(s) relied upon would

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<sup>2</sup> *CAC v McMillan* NZTDT 2016/52.

<sup>3</sup> *NZTDT v Teacher* 2016/27,26.

<sup>4</sup> *CAC v Finch* NZTDT 2016/11.

be “likely” to follow if no order was made.

[31] In the context of the statutory test, “likely” simply means that there must be an “appreciable” or “real” risk. Consistent with the approach taken in *CAC v Teacher*,<sup>5</sup> we have adopted the meaning of “likely” described by the Court of Appeal in *R v W*.<sup>6</sup> The Court said there that “real”, “appreciable”, “substantial” and “serious” are all qualifying adjectives for “likely”. They bring out that the risk or possibility is one that must not be fanciful and cannot be discounted.

[32] In deciding whether there is a likely risk, the Tribunal must come to a judicial decision on the evidence before it. This does not impose a persuasive burden on the party seeking non-publication.

[33] If so satisfied, the Tribunal must then determine whether it is proper for the presumption to be displaced. This requires the Tribunal to consider, “the more general need to strike a balance between open justice considerations and the interests of the party who seeks suppression”.<sup>7</sup>

[34] In *Y v Attorney-General* the Court of Appeal noted that while a balance must be struck between open justice considerations and the interests of a party who seeks suppression, “[A] professional person facing a disciplinary charge is likely to find it difficult to advance anything that displaces the presumption in favour of disclosure”.<sup>8</sup>

[35] The Court of Appeal in *Y* also referred to its decision in *X v Standards Committee (No 1) of the New Zealand Law Society*, where the Court had stated:<sup>9</sup>

The public interest and open justice principles generally favour the publication of the names of practitioners facing disciplinary charges so that existing and prospective clients of the practitioner may make informed choices about who is to represent them. That principle is well established in the disciplinary context and has been recently confirmed in *Rowley*.

[36] In *J v New Zealand Institute of Chartered Accountants Appeals Council* Gwynn J considered the applicable principles for suppression in professional disciplinary matters.<sup>10</sup> That case concerned a Chartered Accountant’s disciplinary decision. Although the specific statutory wording in that legislation used the term “appropriate” (instead of “proper”), we consider the observations

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<sup>5</sup> *CAC v Teacher* NZTDT 2016/68, at [46].

<sup>6</sup> *R v W* [1998] 1 NZLR 35 (CA)

<sup>7</sup> *Hart v Standards Committee (No 1) of the New Zealand Law Society* [2012] NZSC 4, at [3].

<sup>8</sup> *Y v Attorney-General* [2016] NZCA 474, [2016] NZFLR 911, [2016] NZAR 1512, (2016) 23 PRNZ 452 (at [32]).

<sup>9</sup> *X v Standards Committee (No 1) of the New Zealand Law Society* [2011] NZCA 676 at [18].

<sup>10</sup> *J v New Zealand Institute of Chartered Accountants Appeals Council* [2020] NZHC 1566.

of the Court are of application here. Gwynn J stated:

[85] Publication decisions in disciplinary cases are inevitably fact-specific, requiring the weighing of the public interest with the particular interests of any person in the context of the facts of the case under review. There is not a single universally applicable threshold. The degree of impact on the interests of any person required to make non-publication appropriate will lessen as does the degree of public interest militating in favour of publication (for instance, where a practitioner is unlikely to repeat an isolated error). Nonetheless, because of the public interest factors underpinning publication of professional disciplinary decisions, that standard will generally be high.

[86] I do not consider the use of the word “appropriate” in r 13.62 adds content to the test usually applied in the civil jurisdiction or sets a threshold lower than that applying in the civil jurisdiction. The rule is broad and sets out neither a specific threshold nor mandatory specific considerations. The question will simply be, having regard to the public interest and the interests of the affected parties, what is appropriate in the particular circumstances.

(citations omitted).

[37] Having set out the general principles above, we will turn now to consider the various publication issues that arise here.

[38] The argument advanced to displace the presumption of open justice is that Ms Taylor-Young is [REDACTED], due to her [REDACTED] and other medical issues [REDACTED]. Her doctor considers that publication [REDACTED].

[39] We accept that consequences of [REDACTED] are likely. We have some sympathy for Ms Taylor-Young [REDACTED].

[40] However, we do not consider that the situation is at a level so as to make it proper to displace the presumption of open justice. There are considerable public interest factors in seeing open justice prevail in a case involving a teacher being under the influence of alcohol whilst at school and school events, and at a time that drink driving and disqualified driving offences were occurring.

[41] With respect to Ms Taylor-Young, the effects of publication that are raised here are fairly common for any respondent in this position. The Tribunal has said many times before that if [REDACTED] were sufficient to displace the presumption of open justice, then there would be little point in open justice as near all cases would become suppressed.

[42] We do not consider that it is proper to order non-publication of Ms Taylor-Young’s name. Accordingly any interim orders are now discharged and

there are no permanent non-publication orders.

[43] We will however make an order for non-publication of the [REDACTED] noted in [38] above.



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**T J Mackenzie**  
**Deputy Chair**  
**New Zealand Teacher's Disciplinary Tribunal /**  
**Te Upoko Tuarua o Te Rōpū Whakaraupapa o Aotearoa**