

**BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL**

**DECISION NO:** NZTDT 2023-40

**UNDER THE** Education and Training Act 2020

**IN THE MATTER** of a charge laid by a **COMPLAINTS ASSESSMENT COMMITTEE** against [REDACTED]  
[REDACTED]  
registered teacher (Registration Number [REDACTED]), of Christchurch

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**Hearing held on the papers on Monday, 11 December 2023**

**Tribunal:** Jo Hughson (Deputy Chairperson),  
Will Flavell and Ross Brown (registered teachers)  
  
Shannon Hullett (Tribunal Coordinator)

**Appearances:** Elena Mok and Jesscia Ah Koy for the Complaints  
Assessment Committee  
  
[REDACTED]  
  
Mr Chris Shannon for University of Canterbury  
in respect of application for non-publication order

**Decision:** 24 January 2024

## Summary

- [1] ██████ first registered as a teacher in June 2014. He held a provisional practising certificate from May 2014 to July 2020. ██████ voluntarily deregistered on 31 May 2022 and no longer works in the teaching profession.
- [2] From 2018 to 2021, ██████ worked as a ██████ tutor at the University of Canterbury. He was previously employed as a secondary teacher at a secondary school in 2014 and at ██████ School from July 2014 to December 2018. ██████ is a co-educational ██████ school. Students from ██████ can enrol in, and study select courses at the University of Canterbury.
- [3] A Complaints Assessment Committee (CAC) was established to investigate matters about the conduct of ██████ that were the subject of a complaint that the University of Canterbury had made to the Teaching Council of Aotearoa New Zealand. At the conclusion of its investigation, the CAC laid a charge<sup>1</sup> alleging that between 7 September and 5 December 2021 inclusive, ██████ sent Ms S (16 years old) inappropriate messages and emails including:
- i. telling Ms S that he had a crush on her.
  - ii. telling Ms S that he loved her and had romantic feelings for her;  
and
  - iii. referring to Ms S as his girlfriend and talking about being in a relationship with her.
- [4] This conduct was alleged 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).

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<sup>1</sup> Notice of Charge dated 20 June 2023 signed by the Chair of the Complaints Assessment Committee, Lynda Harris.

- [5] The hearing proceeded on the papers. The evidence produced by the CAC was an agreed summary of facts which ██████████ had signed on 29 August 2023<sup>2</sup>. ██████████ accepted the charge.
- [6] Written submissions were received from Counsel for the CAC addressing the issues of liability, penalty, and non-publication orders. ██████████ filed a brief submission in response as to costs and name suppression, and he also provided two character references. During these proceedings, ██████████ also provided a letter from a registered clinical psychologist he has been consulting since late 2022, in support of his application for permanent name suppression.
- [7] The Tribunal found the Charge made out and that ██████████ conduct amounted to serious misconduct (when the conduct in each of the sub-particulars is considered individually and cumulatively), as that term is defined in section 10 of the Act.
- [8] For the reasons given below, the decision of the Tribunal is that penalties should be ordered against ██████████. The Tribunal is making an order of censure. In addition, the Tribunal is making an order directing the Teaching Council to impose conditions on a subsequent practising certificate issued to ██████████, should he apply successfully to be re-registered. In this regard, it was an agreed fact that ██████████ had expressed to the CAC that he would like to teach again in the future, although he acknowledged that he could not do so presently due to his health circumstances (anxiety and depression).
- [9] ██████████ is also being ordered to contribute towards the costs of the CAC and the Teaching Council associated with these proceedings.
- [10] Had ██████████ been registered at the time of the hearing, in view of the objective gravity of his misconduct, the Tribunal would also have made an order suspending his registration for a period of six months.
- [11] The Tribunal decided it would be proper to exercise its discretion and make a permanent order prohibiting ██████████ name from publication. This order is being having regard to ██████████ health interests as they were disclosed in the evidence that was produced to the Tribunal. It is also being made to ensure that the permanent order the Tribunal is making suppressing Ms S's name from publication (to protect her privacy and wellbeing interests) is not undermined.

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<sup>2</sup> Agreed Summary of Facts dated 29 August signed by ██████████ and then Counsel for the CAC M Djurich.

[12] The Tribunal is also making a permanent order suppressing from publication the name of the school the student attended at the material time [REDACTED]. This order is also being made primarily to ensure that the Tribunal's order in respect of Ms S's name is not undermined.

[13] For reasons given later in this decision, the Tribunal is declining to exercise its discretion to order the non-publication of the name of the University of Canterbury. However, an order is being made permanently suppressing the fact that it was the [REDACTED] in which [REDACTED] worked as a tutor at the relevant time and that the course Ms S studied (with [REDACTED] as her tutor) was a [REDACTED] course.

### **Factual Findings**

[14] The Tribunal made the following findings of fact based on the evidence in the Agreed Summary of Facts.

[15] In 2021, Ms S was a 16-year-old student studying at [REDACTED] (School). [REDACTED] was 33 years old.

[16] In the first semester of 2021, [REDACTED] visited the School to assist its students who were taking the University of Canterbury [REDACTED] course. Ms S was interested in taking a [REDACTED] course called [REDACTED] in semester 2, so she and [REDACTED] exchanged email addresses. Ms S enrolled in the course which commenced in July 2021.

[17] As a tutor for this course, [REDACTED] met with students in person and corresponded with them online. Ms S and [REDACTED] met approximately ten times in person on the University grounds. From mid-August 2021, when New Zealand went into a nationwide COVID-19 lockdown, they communicated via email and Zoom.

[18] During email communications with Ms S, [REDACTED] would frequently end his emails with comments such as, "*hope you have a good day*" and type a heart shape. He also mixed personal communication with discussions about the course, over email.

[19] In an email to Ms S on 14 August 2021, [REDACTED] stated the following in response to a compliment from Ms S about his lecturing of a particular [REDACTED] class: "*Thank you for the kind words regarding my lecture. I appreciate them. [heart shape].*"

[20] █████ concluded that same email, in which he had provided information regarding other █████ courses on offer at the University of Canterbury, with the following (in relation to a comment about Ms S enjoying reading on rainy days):

Rain and darkness does sound like the best combination. Well, the light required to read is acceptable I suppose! I recall the same difficulties with family members insisting on far too much light...unfortunately I never found any method of convincing them to stop...good luck!

[21] Further, on 23 August 2021, █████ shared the link to the course's Zoom lecture and then stated:

Last night I spent some time writing a short story and really enjoyed it:) Thank you for motivating me to do so <3

I hope your day goes well,

█████ [first name]

[22] In another email sent on 23 August 2021, █████ discussed an occasion when during a Zoom call with his students, a few students were drinking. He then concluded the email by stating:

Enjoy your afternoon, might chat █████ with you later today or next week

Depending on your schedule and such,

█████ [first name]

[23] Then, on or about 7 September 2021, █████ sent Ms S a message to tell her he had a "crush" on her. After this message, Ms S stopped communicating with █████

[24] █████ then began emailing Ms S from a personal account, sending long emails of a personal nature, describing his personal life and feelings. Ms S blocked █████ personal email account but Ms S did not block █████ university emails, as some of the emails he sent were related to the █████ course.

[25] On 4 October 2021, █████ concluded an email about █████ with the following:

Miss chatting █████ with you mate,

█████ [first name]

[26] On 11 October 2021, [REDACTED] wrote to Ms S via email, with the subject line "My [Ms S]", stating:

My [Ms S]

I think today will be the strangest, best, and most mundane day of my life. I have woken up to find that my pills are working. The source of my confidence that this is the case isn't something I can identify or articulate. They are working, I am here, and that is just something I somehow know. The first thing of note that I need to do is write this to you. It has to be now, even though you may not be in a position to believe the words yet and I may not send it today. But, I will send this at some point, hopefully today, and I have to write it now.

This close to the events might be the best vantage point I ever have to reflect on them. Only a few hours into my first day under the effects of selective serotonin inhibitors and it's already hard to appreciate what it was like two days ago. I remember in the typical sense, specific events and details, but what it felt like to be in that state is hazy. Appreciating an irrational state of mind is not something rational minds are well equipped to do. This is why I have to write this now, I expect what understanding I have of what it was like will fade quickly.

You went out of your way to take on a huge burden for me. Far out of your way. For months. A large burden. It is extremely difficult to speak to counterfactuals in cases like this. That difficulty notwithstanding, I believe your support saved my life on multiple occasions. Thank you.

My feelings for you have been an interesting point of stability throughout the past few months. I want to say now the same thing I've said a few times recently, but needs to be repeated in this state. S[], I love you. I do not know the full nature of this love, but I know some things about it. It's the love for someone who knows the very worst parts of me and is still there to accept me. My bond with the person I am willing to hurt so badly in order to save myself. This is the love for the best friend I will ever have.

There is something I want to be clear about and needs to be among the first things I say to you: I have romantic feelings for you. Strong ones. I think it is possible I love you romantically as well as in the sense I just described, but I don't yet know that for sure. What I have read informs me that romantic love is not something you feel this quickly, that you can feel things just as strongly as love but they don't become proper romantic love until after they endure long enough. Specifics and labels aside, I want you to be mine in a romantic sense.

We have a lot to talk about and maybe we will decide to leave most of it unsaid, for now at least. Or, maybe we'll talk about all of it. I don't want to explore the reasons we shouldn't be together in what I am writing now. Primarily because I don't care enough about them to think they are relevant to the decision, even though they dearly are. S [], be mine and let's work the rest out afterwards.

There is so much more that needs to be said, but I think this covers what I have to say right now. This has taken me several hours to write and in that time I've realized I have to send it today, now, as I am finishing it I knew when I started that it had to be written today and now that it's finished I know it has to be sent before you come online for the afternoon. I have to tell you that you saved me. That I love you and you are the best friend I will ever have. That I want you to be mine, right now.

Regardless of what happens from now, you'll be a part of me forever. Thank you,

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[27] After Ms S received this email, she made a complaint to the University of Canterbury. However, that email was lost due to an IT issue.

[28] Ms S also disclosed the 26 November 2021 email to a male teacher at ■ School, shortly after having received it. This was subsequently escalated within the School. On 30 November 2021, the School made a complaint to University.

[29] On 5 December 2021, ■ sent a further email to Ms S, in which he referred to her as his girlfriend, talked about their "*relationship*", and stated:

First day with a new girlfriend

Life is good over here

A lot is going wrong, my brain is still not my own

I am very happy

The best way to meet someone, I cant beleive [sic] it

You went through so, so much for us.

I am extremely lucky

Everything will be okay

Life is exciting, we will do it together.

[30] Ms S deleted most of the emails she received from [REDACTED] because she did not want them and felt uncomfortable.

[31] During an independent investigation undertaken by the University of Canterbury, [REDACTED] disclosed that he had been struggling with his mental health in 2021. He offered two explanations for the emails he accepted he had sent to Ms S. [REDACTED] said he was suffering from depression and anxiety at the time and that he was still suffering from mental health conditions. His second explanation was that he believed he was in a relationship with an online persona, who he believed was Ms S. [REDACTED] accepted the emails he had sent to Ms S were “creepy” and that he had a “romantic interest” in Ms S. After the investigation, [REDACTED] employment at the University was terminated.

[32] The University of Canterbury (through its HR department) made a complaint about [REDACTED] to the Teaching Council on 15 May 2022.

[33] The Council made initial contact with [REDACTED] on 18 May 2022, and he requested voluntary de-registration. He was deregistered on 31 May 2022.

[34] Matters were referred to the CAC for investigation, on 17 June 2022. During the CAC investigation, [REDACTED] was offered the opportunity to undergo a voluntary impairment assessment and he participated in this process. The impairment report (dated 2 April 2023) prepared by Dr Lynn McBain concluded that [REDACTED] had several mental health diagnoses and that psychotic symptoms, complicated by depression, could have led to irrational and inappropriate behaviours in 2021.

[35] The impairment report was produced to the Tribunal. It noted that ADHD was diagnosed in February 2021 and that [REDACTED] has possible Autistic spectrum disorder and Social Anxiety disorder/possible Panic disorder but that none of those diagnoses explain [REDACTED] behaviour towards Ms S.

[36] The CAC considered the impairment report and completed its investigation. As part of this process [REDACTED] provided an apology letter which included the following comments:

I am writing to apologize and express regret for my actions: I am sorry. I regret the harm I have caused to the victim of my actions and the problems that have resulted for so many people in the aftermath. While I was extremely compromised during the period in question, they are still my actions and I am ashamed.



[37] Although he said he was “*extremely compromised*” at the time, ██████████ accepted his actions. He assured the CAC that, when he was “*sane*”, his behaviour was professional and responsible, and that his actions, while “*delusional and psychotic*”, do not reflect the person and the teacher that he is.

[38] ██████████ explained to the CAC that he voluntarily deregistered as a teacher as he knew he was not well enough to teach. He said that at the time he intended never to teach again, as he thought he would not recover. He stated that he had made significant progress with medication and therapy. He said his treatment was ongoing and steadily progressing, and that he still struggles with anxiety and depression but no longer suffers from psychosis.

[39] As noted, ██████████ told the CAC that he would like to teach again in the future, although he acknowledged that he could not do so presently, because of his anxiety and depression.

### **Legal Principles - Liability**

[40] It was for the CAC to prove the Charge on the balance of probabilities.

[41] 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.

[42] This test is conjunctive<sup>3</sup>. 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.

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<sup>3</sup> *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.

- [43] In relation to limb (1)(i)(a), “likely” means that the risk or possibility is one that is real; it must not be fanciful and one which cannot be discounted<sup>4</sup>.
- [44] 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.<sup>5</sup>
- [45] As for conduct that may bring the teaching profession into disrepute in limb (a)(iii), 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.<sup>6</sup>
- [46] In terms of the Teaching Council’s criteria for reporting serious misconduct (limb (b)), 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 Teaching Council’s 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.
- [47] In this case, the CAC relied on Rule 9(1)(k). This is a “catch all” provision<sup>7</sup> in relation to both acts and omissions that bring or are likely to bring the teaching profession into disrepute. The test is in essence the same as for limb (a)(iii).

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<sup>4</sup> *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”.

<sup>5</sup> This is the approach taken to “fitness to practise” for the purposes of the Health Practitioners Competence Assurance Act 2003, and the approach which has been taken to the test for “fitness to be a teacher”, by this Tribunal in previous decisions.

<sup>6</sup> *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].

<sup>7</sup> *Teacher Y v Education Council of New Zealand* [2019] NZCA 637 at [69].

[48] Rule 9(2) is clear that the conduct in paragraph (k) may be a single act, or a number of acts forming part of a pattern of behaviour, even if some of the acts when viewed in isolation are minor or trivial.

[49] Personal factors raised by the teacher may be considered at the penalty stage if a charge is found to have been established.<sup>8</sup> Subjective matters that are personal to the respondent teacher are not to be considered in any significant way when the Tribunal objectively assesses whether there has been serious misconduct. In this case, the Tribunal considered [REDACTED] mental health situation, mostly at the penalty stage.

### **Proof of allegations and findings on the Charge**

[50] The Tribunal found that the alleged acts in the Charge were proved, on the evidence received.

[51] [REDACTED] 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.

[52] The Tribunal considered [REDACTED] conduct in the following light. [REDACTED] misconduct occurred in the context of his tutoring role at the University of Canterbury. He was a provisionally registered teacher at the time and his conduct in tutoring students had a teaching component. [REDACTED] had also had previous links to Ms S's school as a teacher. He met Ms S by virtue of those links when he visited the School to assist students who were enrolled in a University [REDACTED] course offered as part of the STAR (Secondary Tertiary Alignment Resource) programme. This was in his capacity as a [REDACTED] tutor rather than a secondary teacher, but it was not within the scope of his employment by the University to visit students at their school. The Tribunal accepted the CAC's submission that it is reasonable to infer that [REDACTED] status as a former teacher at the School and relationship with the School was an important reason for his presence at the School in 2021. [REDACTED] course of conduct towards Ms S therefore reflects both on his suitability to be a teacher and on the reputation of the teaching profession.

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

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<sup>8</sup> See *Martin v Director of Proceedings* [2010] NZAR 333 and *Cole v Professional Conduct Committee of the Nursing Council of New Zealand* [2017] NZHC 1178, at [126]-[130] applied in previous decisions of this Tribunal.

- (a) ██████████ conduct was likely to, and did, adversely affect the emotional wellbeing of Ms S who was a student at the time. It involved sending inappropriate emails to Ms S over a two-month period. Although he was her tutor rather than her teacher, Ms S was a student and ██████████ was aware of that given the way they came to be in contact with each other. ██████████ conduct included him sending Ms S long emails of a personal nature from a private email account, describing his personal life and feelings, and making romantic advances towards her. Ms S deleted most of the emails she received from ██████████ because she did not want them and felt uncomfortable. She also blocked ██████████ personal email account. Limb (a)(i) is met.
- (b) Limb (a)(ii) is also met. The emails demonstrate ██████████ failure to appreciate and respect appropriate professional boundaries with learners, even if Ms S was not his student in the usual sense. His conduct reflects adversely on his fitness to be a teacher. The Tribunal was also concerned that the conduct occurred at times when ██████████ was taking medication to manage his mental health conditions. If the conduct occurred notwithstanding him having taken steps to manage those conditions, then this does raise questions about his fitness to be a teacher.
- (c) ██████████ conduct was likely to bring the reputation of the teaching profession into disrepute. Reasonable members of the public expect teachers to maintain appropriate boundaries with young people and in this case, given ██████████ demonstrated lack of professionalism in his emails, and the adverse impact of his actions on a student, the public would likely reasonably conclude that ██████████ behaviour lowered the reputation of the profession. Limb (a)(iii) is also met.
- (d) For the same reason, Rule 9(1)(k) is also met. The fact that Ms S was not ██████████ student does not mean this rule is not triggered. In *Taurapa*<sup>9</sup> the Tribunal found that rule 9(1)(k) was engaged by a teacher's conduct in romantically pursuing a student who did not attend the school where he taught. The conduct issue related to the teacher's inability to grasp the inappropriateness of pursuing a relationship despite being aware of the student's age and the fact that she was still attending high school. In this

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<sup>9</sup> *CAC v Taurapa* NZTDT 2022/27 at [103].

case, the inappropriateness is heightened because it occurred in the context of ██████ engaging with Ms S in a tutoring capacity, which would likely have had considerable cross-over with his teaching practice.

[54] It was for those reasons, the Tribunal had no difficulty concluding that ██████ course of conduct in sending inappropriate messages to a 16-year-old student he was tutoring at the University of Canterbury in 2021, was serious misconduct. His conduct was a substantial falling short of the high standards expected of every registered teacher and was wholly inappropriate behaviour that warrants disciplinary sanction.

[55] The Tribunal wishes to remind members of the profession of the Tribunal's statement in *CAC v Teacher I*<sup>10</sup> (discussed below) about inappropriate relationships that have not involved physical touching:

...teachers must understand that the wrongdoing starts before or without a physical relationship. It should be remembered that a teacher's treatment of a student as a friend can have a detrimental effect on a student, sometimes more than a sexual relationship. When a teacher thinks of a student as a son or daughter, friend, confidant, lover or object of desire, they need to be aware that the boundaries of the teacher/student relationship are blurred. When the teacher's feelings are manifested whether by way of conversations of a personal nature, flirtatious behaviour, special treatment or intimate contact, then the teacher has exploited his or her position and the teacher/student relationship has been violated.

### **Penalty**

[56] Having made an adverse finding 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*

[57] 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 through the provision of a safe learning environment, maintain proper professional standards (through general and/or specific deterrence so that

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<sup>10</sup> *CAC v Teacher I* NZTDT 2017/12, 18 January 2018.

the public is protected from poor practice and from people unfit to teach), and maintain the public's confidence in the teaching profession<sup>11</sup>.

[58] In determining the appropriate penalty, the purpose is not to punish the teacher for their misbehaviour, although the penalty outcome may be perceived by the teacher as having that effect.

[59] The Tribunal's task is to identify the least restrictive option which meets the seriousness of the case and discharges the Tribunal's obligations to the public and the teaching profession.<sup>12</sup>

[60] 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*<sup>13</sup>. His Honour identified eight factors as relevant whenever an appropriate penalty is being determined in proceedings of this nature. Those factors are:

- (a) What penalty most appropriately protects the public.
- (b) The Tribunal must be mindful of the fact that it plays an important role in setting professional standards.
- (c) Penalties imposed may have a punitive function.
- (d) Where it is appropriate, the Tribunal must consider rehabilitating the professional.<sup>14</sup>
- (e) The Tribunal should strive to ensure that any penalty imposed is comparable to penalties imposed in similar circumstances.
- (f) It is important for the Tribunal to assess the practitioner's behaviour against the spectrum of sentencing options that are available. In doing so, the Tribunal must try to ensure that the maximum penalties are reserved for the worst offenders.

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<sup>11</sup> As discussed in *CAC v McMillan* NZTDT 2016/52 at [23] (Education Act 1989). This approach has continued to be endorsed as appropriate under the Education and Training Act 2020. For example, *CAC v Teacher* NZTDT 2022/10, 4 November 2022 at [28].

<sup>12</sup> *CAC v Teacher X* NZTDT 2020/33, 14 December 2020 at [33]-[34].

<sup>13</sup> [2012] NZHC 3354 at [44]-[51].

<sup>14</sup> *CAC v Teacher* NZTDT 2016/55 at [30].

- (g) The Tribunal should endeavour to impose a penalty that is the least restrictive that can reasonably be imposed in the circumstances.
- (h) It is important for the Tribunal to assess whether the penalty it is to impose is fair, reasonable, and proportionate in the circumstances presented to the Tribunal, or not.

*Relevant considerations*

- [61] The Tribunal considered the relevant penalty principles including previous comparable cases, as well as the evidence it received in relation to [REDACTED] mental health conditions.
- [62] The Tribunal was satisfied that it was appropriate to exercise its discretion and impose a formal penalty, despite that [REDACTED] is no longer registered as a teacher.
- [63] [REDACTED] conduct was serious in nature. It contained aspects of the inappropriate romantic relationships formed in *Burrell-Smith*<sup>15</sup> and the inappropriate discussion of personal mental health matters that were a feature in *CAC v Teacher*<sup>16</sup>. However, unlike in this case, in both those cases concerns about the maintenance of appropriate boundaries had been raised with the teachers prior to the misconduct the Tribunal reviewed.
- [64] [REDACTED] communications persisted even after Ms S stopped communicating with him.

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<sup>15</sup> *CAC v Burrell Smith* NZTDT 2014/73, 14 November 2014. The 24-year-old teacher formed inappropriate relationships with two 16-year-olds. The misconduct included texting and calling the students, sometimes at a late hour, with intimate messages and endearments such as “I love you”. The communications had a romantic dimension without being explicitly sexual in nature and the relationships did not involve physical intimacy. The misconduct was aggravated by the fact that prior to the relevant communications, the teacher had received specific support and guidance from his school in response to other inappropriate interactions with students. The Tribunal cancelled the teacher’s registration and censured him.

<sup>16</sup> *CAC v Teacher* NZTDT 2019/9, 19 June 2019. The teacher formed an inappropriate relationship with two 16-year-old students. The teacher and Student A exchanged approximately 100 emails which progressed beyond school work to personal matters (including the teacher encouraging student A to confide in him about personal and highly sensitive information about her mental health). In turn, the teacher disclosed his own personal experiences including about his mental health and alcohol abuse issues. He used terms of endearment such as “baby girl” and “sweetheart” although it was accepted there was no sexual or romantic motive to his conduct. He engaged in similar inappropriate correspondence with Student B. The Tribunal made orders of censure, suspension and conditions on resumption of practice.

- [65] While he was not Ms S's teacher specifically, the Tribunal accepted the CAC's submission that this did not render the conduct any less serious, given the context in which it occurred and the clear parallels between teaching and tutoring.
- [66] Although there was no physical intimacy, ██████████ communications with Ms S included explicit confessions of love, similar to what had occurred in *Burrell-Smith* and *Teacher I*<sup>17</sup>. ██████████ email to Ms S of 26 November 2021 included the statements "I want you to be mine", "I love you", and "be mine and let's work out the rest afterwards". Those statements are evidence of ██████████ desire to pursue a romantic relationship with Ms S.
- [67] Ultimately, the Tribunal agreed with the CAC's submission that ██████████ conduct is less serious than in *Burrell-Smith* and *Teacher I* although it did note that ██████████ was around 10 years older than Mr Burrell-Smith and Teacher I. For that reason, the Tribunal agreed with the CAC that ██████████ actions cannot be attributed to immaturity or inexperience, even though ██████████ was still provisionally registered. However, unlike in *Burrell-Smith*, ██████████ has expressed some insight into his conduct and the Tribunal considered that he does have some appreciation of the importance of the need to maintain professional boundaries.
- [68] The Tribunal accepted the CAC's submission that the fact that ██████████ disclosures to Ms S of his mental health and treatment coincided with romantic advances towards her directly compares to the conduct the Tribunal reviewed in *CAC v Teacher*. The Tribunal was very concerned about the statements which would likely have placed a significant emotional burden on Ms S including "[y]ou went out of your way to take on a huge burden for me...I believe your support saved my life on multiple occasions" and "you are the best friend I will ever have".
- [69] It was indicated that the CAC was not aware of any personal aggravating factors relevant to ██████████ such as prior disciplinary history. The Tribunal proceeded on the basis that he has no disciplinary history and viewed this as a mitigating factor.

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<sup>17</sup> *CAC v Teacher I* NZTDT 2017/12, 18 January 2018. Teacher I was a provisionally registered teacher who engaged in an inappropriate relationship with a 16-year-old student in his English class. He added the student on Instagram and their communications moved beyond being about schoolwork to becoming "friend-based" and continued over text, Snapchat, and Instagram. It became romantic and on at least one occasion the teacher texted the student, "I love you". On another occasions, the teacher drove the student and a friend out late at night without their parents' consent. The Tribunal made orders of censure and cancellation of Teacher I's registration.



[70] As for other mitigating factors, the Tribunal accepted the following submissions that were made for the CAC:

- (a) To his credit, ██████████ has accepted his conduct. He has cooperated with the disciplinary process and has displayed some insight into his actions. He has expressed remorse for his actions and has apologised.
- (b) As noted, the impairment report obtained from the Teaching Council's Impairment Committee, concluded that ██████████ has several mental health diagnoses including psychotic symptoms complicated by depression. That said, the only independent evidence ██████████ filed about the impact of his mental health issues on his conduct towards Ms S was a brief statement from Karen Fincham who is a registered clinical psychologist. Ms Fincham opined that "*I believe that ██████████ was not only seriously unwell in 2021, suffering from a significant psychotic episode...*" There was no evidence produced to the Tribunal about precisely which aspects of ██████████ conduct proceeded from psychotic delusion, or how his actions were otherwise affected by his mental health disorders.
- (c) At the time of some of his conduct, ██████████ was in treatment. In this regard, in his email to Ms S of 26 November 2021 ██████████ referred to the fact that he had started taking SSRIs that day. It was after this that ██████████ emailed Ms S and referred to her as his girlfriend<sup>18</sup>.
- (d) In his apology letter in April 2023 to the CAC, ██████████ referred to having made "*significant progress with medication and therapy*". However apart from Ms Fincham's letter there was no evidence before the Tribunal about what steps ██████████ has undertaken to address the causes of his conduct towards Ms S.
- (e) For those reasons, while mental health issues may have contributed to some of ██████████ conduct, they do not justify or excuse it.

[71] The Tribunal considered the two references ██████████ filed. One was from a Senior Lecturer at the University of Canterbury who had supervised ██████████ study and worked with him as a tutor for several courses he (the referee) coordinated between

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<sup>18</sup> ASOF at [20].

2018 and 2021. The referee attested to ██████ exemplary character and conduct prior to his mental health difficulties in 2021. The second reference was from another Senior Lecturer at the University who confirmed that ██████ was and continues to be held in “very esteem” at the University, and that he was “*an extremely hardworking, well-liked, and conscientious teacher and colleague*”. The referee referred to ██████ “*severe and debilitating mental health issues in 2021*” and “*the tragedy of his illness*”. Both referees wished ██████ a return to full health. The second referee stated that he very much hopes that ██████ will be allowed to resume his teaching career when he is well again and that he believes it would be “*a terrible waste of talent if he is not*”.

### *Discussion and findings*

- [72] The CAC submitted that had ██████ not already voluntarily deregistered as a teacher, the appropriate starting point would have been cancellation of ██████ registration or a period of suspension. Because of ██████ voluntary deregistration these orders were not available to the Tribunal. The Tribunal considered that were those orders available then a six-month period of suspension of ██████ registration would have been part of a proportionate penalty response in this case given the gravity of his misconduct, and the need to set and maintain professional standards, and maintain the public’s confidence in the teaching profession.
- [73] The CAC sought an order of censure, and an order directing the Teaching Council to impose conditions on any subsequent practising certificate that may be issued to ██████ should he successfully apply for re-registration (which would require him to meet the “fit and proper person” test in the Act<sup>19</sup>).
- [74] The Tribunal considered that a censure would be appropriate and is making such an order to mark the Tribunal’s disapproval of and serious disquiet about ██████ behaviour towards Ms S.
- [75] The Tribunal accepted the submission for the CAC that even although satisfaction of the fit and proper person test (were ██████ to apply to be registered again) would likely involve an assessment of the impact of ██████ mental health conditions on his fitness to teach, the protective purposes of the disciplinary regime would best be met by making an order directing the Teaching Council to impose

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<sup>19</sup> Education and Training Act 2020, Schedule 3, cl 2(b), 4.

conditions on the practising certificate it may decide to issue to ██████ should he successfully re-register. Even though ██████ conduct towards Ms S did not occur when ██████ was her teacher, there were clear parallels between his role as a tutor and his role as a teacher. His conduct showed a lack of appreciation of appropriate boundaries towards learners. For public protection reasons, the conditions the Teaching Council is directed to impose are to be as follows:

- (a) ██████ must practise under the supervision of a senior manager in his education sector employer for a period of 24-months. The focus of the supervision is to be on the management of relationships and professional boundaries. The supervisor to provide updates to the Manager: Teacher Practice (or equivalent) in the Teaching Council on a quarterly basis.
- (b) ██████ must undergo a 24-month period of mentoring by an external mentor of ██████ choice but approved by the Manager: Teacher Practice (or equivalent) in the Teaching Council. The focus of the mentoring is to be on the setting and maintenance of professional boundaries. The external mentor to provide quarterly updates to the Manager: Teacher Practice. The costs associated with the external mentoring are to be met by ██████
- (c) ██████ must inform any prospective employers in the education sector of the Tribunal's decision for a period of 12-months from the date of issue of Mr ██████ practising certificate should he successfully re-register as a teacher.

[76] The Tribunal considered that these conditions will also ensure that ██████ receives proper oversight and support should he return to teaching practice, and that they will provide some degree of protection for the public.

#### *Costs*

[77] The CAC sought an order requiring ██████ to pay a contribution towards its costs in the prosecution of the Charge.

[78] It is usual for an award of costs to be made against a teacher once a disciplinary 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, to avoid the need for the profession as a whole to meet all the costs.

- [79] 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 section 500(1)(i) (Teaching Council costs of conducting the hearing).
- [80] The general rule is that where a charge is found proved, the starting point is 50% of the CAC's costs.<sup>20</sup> The legal principles which apply to costs include, but are not limited to, that costs are not in the nature of a penalty or to punish, the practitioner's means should be taken into account (particularly if a reduced order is sought), and the level of costs should not deter other practitioners from defending a charge.
- [81] In cases where the charge has been heard on the papers (where the teacher has admitted a charge and fully cooperated in bringing the matter to an end, as was the case here), these typically attract a costs order in the region of 40% of the costs and expenses incurred by the CAC (exclusive of GST).
- [82] The CAC's prosecution costs (Meredith Connell) were indicated to be \$13,539.60 exclusive of GST, which the Tribunal considered were reasonable.
- [83] In this case, the Tribunal reached the view that an order that ██████████ make a 35% contribution to the CAC's costs as claimed, would be reasonable and appropriate. This takes account of ██████████ acceptance of liability and agreement to proceed with a hearing on the papers with the benefit of an agreed summary of facts, as well as ██████████ financial means to the extent they are known. In that regard, the letter from Ms Fincham refers to ██████████ not having been in paid employment for some time. In his brief written statement filed in reply to the CAC's submissions, ██████████ confirmed that his ongoing mental health difficulties have prevented him from earning any income for the last two years.
- [84] Accordingly, the Tribunal is making an order pursuant to section 500(1)(h) that ██████████ is to pay the sum of \$4,738.86 (exclusive of GST) to the CAC<sup>21</sup>.
- [85] As for the costs of conducting the hearing, the Tribunal is making an order that ██████████ make a 40% contribution towards those costs (estimated to be \$1,455

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<sup>20</sup> Practice Note of the Teachers Disciplinary Tribunal, Practice Note 1: Costs, 1 April 2022 at [4].

<sup>21</sup> Costs Schedule of the CAC dated 22 November 2022 signed by Counsel for the CAC, Ms Mok.

exclusive of GST<sup>22</sup>), being payment of the sum of \$582.00 to the Teaching Council. This order is made under section 500(1)(i).

[86] If [REDACTED] wishes to enter a payment arrangement in respect of these costs, then he should take that up with the Teaching Council.

### **Non-publication orders**

#### *Name of student, Ms S*

[87] The CAC submitted it was appropriate for the interim non-publication order that had been made in August 2023 in respect of the name of the student, Ms S, to be made permanent.<sup>23</sup>

[88] The Tribunal was of the view that there is no public interest in Ms S's name being published, and her privacy interests and status as a learner at the time of the relevant conduct render suppression proper. Further, identification of Ms S is not necessary to explain or contextualise any of the evidence that has been produced to the Tribunal. A permanent order suppressing Ms S's name is made accordingly.

[89] Ms S's first name was included in parts of the agreed summary of facts reproducing the emails [REDACTED] sent her. The Tribunal has not recorded Ms S's first name in this decision given the permanent order it is making in respect of her name.

#### *Respondent's name*

[90] [REDACTED] sought a permanent order suppressing his name from publication. The order was sought on the basis that publication will have an adverse impact on his mental health and ongoing recovery. The evidence provided in support of [REDACTED] application was the letter from his clinical psychologist Ms Fincham. Ms Fincham stated that "*exposing [REDACTED] name would further exacerbate his mental health recovery*".

[91] Counsel for the CAC indicated that the CAC was neutral as to the order sought by [REDACTED] and that the Committee would abide the Tribunal's decision.

[92] 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

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<sup>22</sup> Schedule of Teaching Council's Costs for the hearing.

<sup>23</sup> Interim order dated 24 August 2023.

justice maintains public confidence in the relevant profession through the transparent administration of the law.<sup>24</sup> In previous cases, the Tribunal has endorsed the statement of Fisher J in *M v Police*<sup>25</sup> 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.

[93] 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.

[94] 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.<sup>26</sup>

[95] The threshold to be met is a high one but not as high as in the criminal jurisdiction in the Courts. “Proper” sits below “exceptional” which is required in the criminal context and is more aligned with “desirable” which is what is required under the Health Practitioners Competence Assurance Act 2003.

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<sup>24</sup> *CAC v Teacher* NZTDT 2016/27 at [66].

<sup>25</sup> *M v Police* (1981) 8 CRNZ 14 at [15] cited in *CAC v Howarth* NZTDT 2019/87, January 2021 at [57].

<sup>26</sup> *CAC v Teacher* NZTDT 2016/27 at [61]; recently referred to in *CAC v Howarth* (above).

[96] 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.

[97] 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.

[98] 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, but also 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.

[99] In *Dr Tonga v Director of Proceedings*<sup>27</sup> 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.

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<sup>27</sup> High Court, 21 February 2006, CIV-2005-409-002244, Panckhurst J.

[100] The Tribunal considered those same points can be made in respect of what is “proper” where a charge of serious misconduct by a teacher has been established.

[101] As for private interests, Gendall J in *Anderson v PCC*<sup>28</sup> 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.

[102] Significantly, in *CAC v Teacher* (above) the Tribunal held at [30] that:

In order to justify a conclusion that it is proper to order name suppressing there must be a real risk that publication will adversely affect a teacher’s rehabilitation and recovery from a mental illness or other ways the teacher will be affected in a serious way, beyond the ordinary embarrassment, distress, anxiety and shame which will afflict any teacher who is the subject of a published disciplinary decision. The evidence must provide sufficiently detailed information about the condition of the teacher which might cause such particular adverse effects. A bare assertion by a teacher that a condition exists or that they will suffer beyond the norm will not usually be sufficient.

[103] ██████████ underwent a voluntary impairment process and there is no doubt that he has previously been diagnosed with serious mental health conditions which may

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<sup>28</sup> *Anderson v PCC of the Medical Council of New Zealand* CIV 2008-485-1646, 14 November 2008, Gendall J.



have contributed to his actions towards Ms S. Ms Fincham's letter of 17 August 2023 confirms that he still struggles with his mental health.

[104] ██████████ has previously stated that he no longer experiences psychosis although Ms Fincham referred to "*transitory, psychotic phenomena*" in her letter. She commented that ██████████ poor mental health has been ongoing, despite treatment interventions, though this appears to be attributable to stress and anxiety associated with these proceedings as opposed to the prospect of publication specifically. The CAC acknowledged that ██████████ conditions are said to have affected his ability to work since the end of 2021, and therefore appear to have had a considerable impact on him.

[105] Balancing the competing private interests of ██████████ (his mental health conditions) and the public interest in naming him in connection with these proceedings, the Tribunal concluded that there is a proper basis to displace the principle of open justice and order that ██████████ name is not to be published. The Tribunal considered that ██████████ health circumstances are more than ordinary hardships and expected consequences of him having been found guilty of serious misconduct. In the Tribunal's view, it can reasonably be concluded that there is a real risk there will be adverse consequences for ██████████ beyond the expected level of embarrassment or discomfort were his name to be published (in terms of his rehabilitation and recovery).

[106] As part of the Tribunal's exercise of deliberative judgement, the Tribunal also considered the risk that naming ██████████ may undermine the permanent order being made in respect of the student. The Tribunal considers there is a real risk that the student may be identified were ██████████ to be named, given the unique setting in which he misconducted himself. That is another reason why the Tribunal determined that it would be proper to order the suppression of ██████████ name.

#### *The School*

[107] Although ██████████ School did not make an application for a permanent non-publication order, an interim order had been in place prior to the hearing. The Tribunal reviewed this and concluded that to ensure the permanent order it is making in respect of the name of the student is not undermined, the School's name should also be suppressed. An order is being made accordingly. The order extends to the suppression of the nature of the school ██████████ ██████████, which the Tribunal considers is an identifying feature.

*The University of Canterbury*

[108] The Tribunal then turned to consider the application that was made by the University of Canterbury for a permanent non-publication order in respect of the name of the University.

[109] At the pre-hearing conference on 24 August 2023, an interim order was made in respect of the name of the University as well as the name of an HR staff member at the University who is not referred to in this decision but who is referred to in the Notice of Charge. This followed consideration of a formal application that had been made by the University which was supported by affidavit evidence. The grounds of the application were:

- (a) The Charge relates to [REDACTED] actions towards Ms S, a student at the [REDACTED] School, who was enrolled in the University's STAR [REDACTED] programme in 2021. Few students from [REDACTED] were enrolled in this programme in 2021.
- (b) The real risk that publication of the University's name, particularly in the context of the STAR [REDACTED] programme at [REDACTED] School, may lead to the identification of Ms S.
- (c) To avoid the real risk of unfair suspicion falling on other male tutors at the University aside from [REDACTED] if the University is named but [REDACTED] name is suppressed.

[110] At that time, Counsel for the CAC had noted that the University's application appeared to be contingent on whether non-publication orders were made in respect of Ms S and [REDACTED]. Neither the CAC nor [REDACTED] opposed the making of interim orders in respect of the University or its HR staff member.

[111] The Tribunal considered carefully whether the interim order should be made permanent. When doing so, the Tribunal concluded that it would be proper to permanently suppress the name of the Department of [REDACTED] [REDACTED] where [REDACTED] worked as a tutor, and the fact that the course Ms S was undertaking was a [REDACTED] course (and the name and details of the course). The [REDACTED] course was likely small and limited in its reach and therefore naming the course could risk identifying Ms S. In this regard the Tribunal took into account the affidavit evidence filed by the University that only a

small number of students enrolled in the [REDACTED] STAR programme in 2021 and even fewer of those students came from [REDACTED] School. Thus, Ms S was in a very small, bespoke group of students. Were the Department and the School to be identified then there is a real risk that the student and [REDACTED] would be identified. That is, these orders are considered necessary to ensure that the permanent orders being made in respect of the student and [REDACTED] are not undermined by publication of these identifying features. Orders are being made accordingly in respect to those features.

[112] With those matters to be suppressed, that left the name of the University and its HR staff member, to be considered.

[113] Weighing the competing private and public interests, the Tribunal did not consider it likely that the University of Canterbury or its HR staff member (who was simply doing her job and in an entirely appropriate way), will suffer adverse effects beyond general disruption or fallout for the University which would displace the principle of open justice. Risk to reputation is not a reason in and of itself to suppress the name of a learning institution involved in disciplinary proceedings about a registered teacher. Nor is public perception of the institution. The Tribunal did not consider there were any other significant private interests that outweigh the public interest in the University being named in connection with these proceedings. In that regard the Tribunal considered whether there was a real risk that other male tutors employed by the University may be unfairly impugned were [REDACTED] name to be suppressed and the University named. The Tribunal did not consider this possibility to be a sufficiently weighty factor to displace the presumption in favour of publication of the University's name. Nor did the Tribunal consider that naming the University would lead to the identification of Ms S or [REDACTED]. The existence of the non-publication orders being made in relation to the School, the nature of the course Ms S was taking, and the Department in which [REDACTED] tutored was taken into account when the Tribunal considered these grounds of the University's application. .

[114] Of course, it will be a matter of public record that the employment of the male tutor who was the subject of these proceedings was terminated in 2022 and the respondent no longer works at the University.

### **Conclusion and Orders**

[115] The Charge is established. [REDACTED] is guilty of serious misconduct.

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

- (a) [REDACTED] is censured, pursuant to section 500(1)(b).
- (b) Pursuant to section 500(1)(j), the Teaching Council is directed to impose the following conditions on a subsequent practising certificate issued to [REDACTED] (should he successfully apply to be re-registered):
  - a. [REDACTED] must practise under the supervision of a senior manager in his education sector employer, for a period of 24-months. The focus of the supervision is to be on the management of relationships and professional boundaries. The supervisor is to provide updates to the Manager: Teacher Practice (or equivalent) in the Teaching Council on a quarterly basis,
  - b. [REDACTED] must undergo a 24-month period of mentoring by an external mentor of [REDACTED] choice but approved by the Manager: Teacher Practice (or equivalent) in the Teaching Council. The focus of the mentoring is to be on the maintenance of professional boundaries. The external mentor is to provide quarterly updates to the Manager: Teacher Practice. The costs associated with the external mentoring are to be met by [REDACTED]
  - c. [REDACTED] must inform any prospective employers in the education sector of the Tribunal's decision, for a period of 12-months from the date of issue of [REDACTED] first practising certificate should he successfully re-register as a teacher.
- (c) [REDACTED] is to pay \$4,738.86 (exclusive of GST) to the CAC as a contribution to its prosecution costs, pursuant to section 500(1)(h),
- (d) [REDACTED] 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(1)(6) prohibiting from publication:
  - a. The name of [REDACTED].
  - b. The name of the student, Ms S.
  - c. The name of the School where Ms S attended at the relevant time [REDACTED]  
[REDACTED]

- d. The name of the [REDACTED], the fact that the [REDACTED] at the University of Canterbury where [REDACTED] worked as a tutor, and the fact that the course Ms S was undertaking was a [REDACTED] course (and the name and details of the course). For the avoidance of doubt the name of the University of Canterbury is not covered by any of these orders and may be published.

**Dated at Wellington this 24th day  
of January 2024**



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**Jo**  
Deputy Chairperson

**Hughson**

## **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.