

PERMANENT NON-PUBLICATION ORDERS

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2023-55

RARO TE MANA O TE
UNDER THE

the Education and Training Act 2020
(**the Act**)

MŌ TE TAKE
IN THE MATTER OF

of a charge referred to the Tribunal

I WAENGA I A
BETWEEN

**COMPLAINTS ASSESSMENT
COMMITTEE (CAC)**

Kaiwhiu | Prosecutor

ME
AND

[REDACTED]
[REDACTED]
(Authorisation [REDACTED])

Kaiurupare / Respondent

Hei Māngai | Appearance

E Mok, Meredith Connell for the CAC
A Williams, for the respondent

MINUTE-LEAVE TO WITHDRAW CHARGE

7 August 2024

Background | Tāhuhu kōrero

[1] The Complaints Assessment Committee laid a notice of charge on 8 September 2023. The charge pleaded serious misconduct or conduct otherwise entitling the Tribunal to exercise its powers under s500 of the Education and Training Act 2020, in relation to an all-staff email sent by Mr [REDACTED] while he was working at [REDACTED] in [REDACTED].

The matter was scheduled for a first pre-hearing conference on 5 July 2024.

Application to withdraw charge

[2] By memorandum dated 3 July 2024 the CAC sought leave to withdraw the charge against Mr [REDACTED]. The application is made in reliance on r25A of the Teaching Council Rules 2016. The grounds for the application are:

Following the referral to the Tribunal and an assessment of the available evidence and public interest factors by counsel for the Committee¹, the Committee has determined that the charge against Mr [REDACTED] should be withdrawn. The contents of the email in question do not provide a sufficient evidential foundation to establish a level of inappropriateness necessary to found a finding of either serious misconduct or misconduct simpliciter, and public interest considerations weight against the prosecution continuing.

[3] The CAC also submit that in the circumstances it is appropriate to order non-publication of Mr [REDACTED] name and identifying details and the name of the initiator, being [REDACTED]

[4] By email dated 6 August 2024, counsel for Mr [REDACTED] confirmed that there is no objection to the charge being withdrawn. There is no issue as to costs.

Discussion | Whakawhiti kōrero

[5] The jurisdiction of the Tribunal to grant leave to withdraw a charge arises from the Teaching Council Rules 2016. Rule 24 provides that the Tribunal may regulate its own procedures. Rule 25A was inserted by the Teaching Council Amendment Rules 2023 on 29 July 2023 and provides:

1.No charge laid with, or matter referred to the Disciplinary Tribunal may be withdrawn except with leave of the Disciplinary Tribunal.

2.On any application for leave to withdraw a charge the Disciplinary Tribunal may-

- (a) grant leave on any terms and subject to any conditions it thinks fit; or
- (b) dismiss the application.

¹ The memorandum refers here to the Solicitor-General's Prosecution Guidelines.

[6] Given the CAC's position, and the confirmation on behalf of Mr [REDACTED], I accept that the matter should not proceed and in particular there is no public interest in declining the application.

[7] It is also appropriate that there be no publication of the notice of charge, or Mr [REDACTED] name and identifying particulars (which includes the name of [REDACTED]). I am satisfied that Rule 24 is adequate to cover such an order in the circumstances.

Directions | Ngā Whakahau

[8] Accordingly, the following orders are made:

- (a) Leave to withdraw the charge is granted.
- (b) Costs lie where they fall.
- (c) Permanent orders for non-publication of Mr [REDACTED] name and identifying particulars in the context of the notice of charge are made, by consent.

Dated: 7 August 2024



C Garvey
Deputy Chair of the New Zealand Teacher's
Disciplinary Tribunal