

TEACHING COUNCIL

NEW ZEALAND | Matatū Aotearoa

Complaints Assessment Committee (CAC) v Praneta Sharma

NZTDT 2018/51

Teacher Praneta Sharma was subject to a number of allegations relating to her conduct which the CAC argued amounted to serious misconduct. Ms Sharma accepted this.

The result: Ms Sharma was censured for her serious misconduct and her registration was cancelled. The register was updated to reflect this, and she was required to contribute to the costs of both the CAC and the Tribunal. There are no non-publication orders for this case.

On 25 March 2019 the Disciplinary Tribunal released its decision in relation to Ms Sharma following a hearing on the papers. Ms Sharma was a registered teacher with a full practising certificate and was working in early childhood care.

The CAC brought a number of allegations against Ms Sharma on the basis that each charge amounts to serious misconduct in its own right and that when considered together the threshold is readily met. The charges were:

- That while head teacher she left the teaching team out of ratio contrary to the levels required by the Education (Early Childhood) Regulations 2008. This includes on one occasion where she left a teacher outside and alone with between 28 and 34 children,
- That while responsible for sleep checks on children in the sleep room at intervals of no more than ten minutes she did not check on the children in the sleep room between 1.50pm and 2.35pm. Ms Sharma then falsified the sleep check register by writing in eight time records for checks which she did not perform,
- That Ms Sharma failed to engage in professional, respectful and collaborative relationships with her colleagues between March and May 2017,
- That she gave false information in her application to another childcare provider and facilitated others to give false information for her,
- That she provided false information about her referees and misrepresented her employment position.

Ms Sharma in response admitted to not having a great relationship with her team and that she knew about the sleep checks policy and did not offer an explanation of why she falsified the sleep check register. She also accepted that her conduct in relation to her applications at other childcare providers was unacceptable.

The Tribunal found that Ms Sharma's conduct met the threshold of serious misconduct as set out in s378 of the Education Act. In particular the Tribunal found that Ms Sharma's behaviour highlights a preparedness to act dishonestly to serve her own ends and she lied about compliance with policies designed to keep children safe. Combined with consciously providing false information Ms Sharma's actions reflected adversely on her fitness to teach and brought the teaching profession into disrepute.

Ms Sharma's counsel submitted that she be provided with a "second chance" and that her registration should not be cancelled. However, the Tribunal considered that this case represented a "*clear-cut example*" of the worst kind of misconduct by a practitioner for which the maximum penalty of cancellation is reserved". The Tribunal also ordered Ms Sharma pay 40% of the CAC's actual and reasonable costs and \$458 towards the Tribunal's costs.



BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

UNDER the Education Act 1989

IN THE MATTER of a charge of serious misconduct referred by the Complaints Assessment Committee to the New Zealand Teachers Disciplinary Tribunal

BETWEEN **THE COMPLAINTS ASSESSMENT COMMITTEE**

Referrer

AND **PRANETA SHARMA**

Respondent

DECISION OF THE TRIBUNAL

Tribunal: Nicholas Chisnall (Deputy Chair), Maria Johnson and Tangi Utikere

Hearing: On the papers

Decision: 25 March 2019

Counsel: M Mortimer for the referrer
A Talakai for the respondent

Introduction

[1] The Complaints Assessment Committee (the CAC) charges Praneta Sharma with serious misconduct and/or conduct otherwise entitling the Tribunal to exercise its powers. Its notice of charge, which is dated 22 August 2018, is lengthy. It contains a constellation of allegations against the respondent and provides:

Arising from the Mandatory Report from Beststart Educare Ltd, Karaka:

a. Between March 2017 and May 2017:

- i. On 5 May 2017, left the team out of ratio in breach of the Education Early Childhood services Regulations 2008; and/or
- ii. Signed the sleep check book, without checking on the children; and or
- iii. Between March 2017 and May 2017, failed to engage in professional, respectful and collaborative relationships with colleagues, in breach of the Code of Ethics, in her role as Head Teacher, resulting in a loss of trust and confidence in her leadership; and/or

Arising from the Mandatory Report from Mount Wellies Childcare

b. Between May 2017 and June 2017

- i. Provided false information in her written application and resume relating to her experience, provided to Mt Wellies Childcare during the recruitment process; and/or
- ii. Provided and/or arranged for the provision of false information orally during the recruitment process relating to her experience and references including:
 - a) Stated that a teacher who was a reference was a centre manager, when that person was an unqualified teacher; and/or
 - b) Stated that a teacher had worked together with her, under Ms Sharma's leadership, when they had not worked together; and/or
 - c) Stated that a teacher was centre manager and had worked under her leadership for one year, when they had not worked together; and/or
 - d) Arranged for her listed references to give false information when Mt Wellies Childcare conducted reference checks; and/or
- iii. Lied and misrepresented her position to progress your application for employment, by stating she was employed as the acting centre manager at Blossoms Educare, and could not start work for six weeks, when she was not employed and had resigned from her previous employment, following disciplinary matters being raised.

[2] The CAC's position is that each particular comprises, in its own right, "serious misconduct" as that term is defined in the Education Act 1989. The CAC also submits that when the allegations are considered on an aggregate basis, the threshold is readily met.

[3] Ms Sharma agreed to this matter being heard on the papers and accepts that her behaviour amounts to serious misconduct.

The facts

[4] What follows is taken from the agreed summary of facts provided by the parties:

PRANETA SHARMA (Ms Sharma) is a registered teacher with a full practising certificate currently employed at Kiwi Supertots Botany as a Teacher and Acting Team Leader.

1. The charges cover events occurring while Ms Sharma was employed at Best Start Educare Ltd, Karaka and Mt Wellies Childcare.

Mandatory Report One — BestStart Educare Ltd, Karaka

2. Ms Sharma was employed at BestStart Educare Ltd, Karaka (BestStart) as a Head Teacher from 10 March 2017 until her resignation on 16 May 2017.

Student-staff ratio left imbalanced

3. The Education (Early Childhood Services) Regulations 2008 provide ratios of staff and students that early childhood centres must ensure are met at all times.
4. The purpose of the student-staff ratios is to ensure that children are properly supervised, to minimise the risk of harm to students, and to ensure staff can respond adequately to any accident or emergency.
5. As head teacher, one of Ms Sharma's responsibilities was to ensure that staff were deployed in a way that maintained the appropriate student-staff ratios.
6. On 5 May twice left the teaching team at BestStart out of ratio contrary to the levels required by the Education (Early Childhood Services) Regulations 2008.
7. On one occasion on 5 May 2017, Ms Sharma left another teacher, Mr Amanpreet Pannu, outside alone with between 28 and 34 children.
8. For all-day services for children two years old and over, 21-30 students requires a minimum staffing of three persons. 31-40 students requires a minimum staffing of four persons.
9. Ms Sharma left Mr Pannu to talk to another teacher, Krina Kumar, in the sleep room. The sleep room door was closed meaning that the teachers inside could not supervise students outside the sleep room.

10. Mr Pannu summoned another member of staff, Ms Shay Moloney (Ms Moloney), to assist him in supervising the children outside. Mr Pannu was left supervising alone for less than five minutes.
11. On her return from the sleep room, Mr Pannu raised the issue of student-staff ratios with Ms Sharma, who did not accept at the time that she had done anything wrong.
12. Soon after that conversation, Ms Sharma again left to speak to other staff members elsewhere on the premises. As a result, Ms Moloney was left supervising the children outside alone.

Failed to follow sleep check procedure and falsified records

13. The Education (Early Childhood Services) Regulations 2008 and the Licensing Criteria for Early Childhood Education and Care Services 2008 require early childhood centres to conduct sleep check procedures on sleeping students.
14. These procedures include checks at a minimum of 10 minute intervals.
15. The sleep checks are conducted to ensure the wellbeing of students.
16. To comply with these requirements, BestStart operates a sleep check procedure whereby a staff member is assigned to carry out checks every five to ten minutes. The staff member records on a register the time of the check and signs the register to show the check has been done.
17. On 9 May was the staff member responsible for conducting sleep checks for part of the day.
18. Ms Sharma did not check on the children in the sleep room between 1.50pm and 2.35pm.
19. Ms Sharma was reminded of the need to conduct checks by a staff member during this time but did not do so.
20. Ms Sharma initially admitted this to other staff members when they put to her that the sleep checks had not been performed.
21. Ms Sharma then falsified the sleep check register by writing in eight time records for checks she did not in fact perform between 1.55pm and 2.35pm.
22. She then signed the eight false time records as correct.
23. Failed to engage in professional, respectful and collaborative relationships.
24. Between March 2017 and May 2017, failed to engage in professional, respectful and collaborative relationships with her colleagues, in breach of 4(f) of the Code of Ethics, in her role as Head Teacher.

First incident

25. On 28 April 2017, the centre manager Ms Jo Waugh instructed Ms Sharma not to approach Mr Pannu about an issue concerning break times.
26. Ms Sharma approached Mr Pannu, resulting in an argument and raised voices.
27. This took place in front of children and staff.

Second incident

28. On 9 May 2017, Ms Sharma confronted the volunteering student, Amandeep, about concerns around break times.
29. This took place in front of staff and children.
30. Ms Sharma was aggressive towards Amandeep who was visibly upset about the matter.
31. Ms Waugh stepped in to break up the argument.

Third incident

32. On 9 May was aggressive and argumentative towards Ms Clothier about the situation around Amandeep's breaks.
33. This discussion took place in front of children.
34. Another teacher, Cissy Sione, had to break up the argument.
35. *Matters raised with Ms Sharma*
36. On 16 May 2017, Ms Sharma was invited to attend a disciplinary meeting to address the allegations against her.
37. Later that evening, Ms Sharma emailed her resignation to Ms Sanger.
38. On 8 January 2018, BestStart Educare Ltd submitted a mandatory report to the Education Council outlining aspects of the conduct above.

Mandatory Report Two — Mt Wellies Childcare

39. Towards the end of her employment with BestStart, Ms Sharma applied for and obtained a job as head teacher at Mt Wellies Childcare Ltd (Mt Wellies).
40. On or around April 2017, Ms Sharma provided a resume dated February 2, 2017 for her application to Mt Wellies for the position of Head Teacher.
41. On or around 15 May 2017, Ms Sharma interviewed for the position of Head Teacher with Ms Anna Jones, Director of Mt Wellies Childcare.
42. Following the interview, Mt Wellies staff carried out reference checks on the references that Ms Sharma had provided in her resume and at the interview.
43. As a result of the application process, Ms Sharma was offered a job at Mt Wellies as a head teacher.
44. Ms Sharma lied in her application to Mt Wellies Childcare, and facilitated others to lie for her, in breach of 4(a) and 4(c) of the Code of Ethics by failing to advance the interests of the teaching profession through responsible ethical practice, and being truthful when making statements about her qualifications and competencies.

Provided false information in her written application and resume

45. Ms Sharma provided false information in her resume that she had worked as an assistant manager at Blossoms Otahuhu Centre (Blossoms) for two years when she had in fact never been employed by Blossoms.

46. In addition Ms Sharma's written application did not include any information in her application about her employment at BestStart, including the fact that she had left BestStart following the commencement of disciplinary processes.

False references

47. In the course of her job interview Ms Sharma named referees and gave descriptions of them and their experience.
48. Key aspects of the information that Ms Sharma gave in respect of her referees was false.
49. Ms Sharma arranged with those referees for them to provide false information to Mt Wellies. When Mt Wellies staff contacted the referees, those referees gave information about Ms Sharma that was not correct.
50. The false information included the following:
- a Ms Sharma stated Natasha Kaur was a centre manager and that Ms Sharma had reported to her as a team leader for two years. In fact, this was incorrect and Natasha Kaur was an unqualified teacher.
 - b Ms Sharma stated Jasmine Kaur was a senior teacher at Blossoms and they had worked together under Ms Sharma's leadership. In fact, Ms Sharma and Jasmine Kaur had never worked together.
 - c Ms Sharma stated Pukha Singla was a centre manager at Blossoms and that Ms Sharma had reported to her in a team leader role for one year. In fact, Ms Singla and Ms Sharma were personal friends and had not worked with each other in any professional capacity.
 - d When contacted by Mt Wellies, all three persons listed above gave information to Mt Wellies consistent with what Ms Sharma had said. Ms Sharma had arranged with those people to have them give this information.

Lying and misrepresenting position

51. As part of the hiring process for Mt Wellies, Ms Sharma told Mt Wellies staff that she was the acting centre manager at Blossoms and for that reason she could not start work for six weeks. In fact, Ms Sharma's previous employment had been at BestStart.
52. In fact, during that time, Ms Sharma's employment at BestStart was coming to an end.
53. Ms Sharma did not tell Mt Wellies that she had resigned from her previous employment at BestStart.
54. Ms Sharma did not tell Mt Wellies that she had been subject to the commencement of a disciplinary process at BestStart.

Further enquiries

55. Subsequent enquiries by the Committee have revealed that Ms Sharma provided the same resume in her application to BestStart.

Ms Sharma's response

BestStart

56. In her submissions to the Education Council, Ms Sharma admitted to having difficulty with the staff at BestStart, and that as a result, she did not enjoy her leadership role and lost interest in the position.
57. She states that she did not have a "great relationship with her team and a lot of bickering and arguments occurred at the Centre".
58. Ms Sharma admitted that she could not cope with the responsibility of leadership which led to her conflict with other members of the team.
59. In respect of the sleep checks, Ms Sharma stated that she was aware of the policy of recording the sleep times every five minutes for children, but that since there were only two children in the sleep room she would do it once they woke up.
60. Ms Sharma did not offer any explanation of why she falsified the sleep check register.

Mt Wellies

61. Ms Sharma accepted that her conduct in relation to her application at Mt Wellies was unacceptable and that she is ashamed of her conduct.
62. Ms Sharma states that after resigning from her job at BestStart, she was hesitant to use BestStart as a reference because she did not know what they would say about her to the potential employer.

Our findings

[5] Section 378 of the Education Act defines "serious misconduct" as behaviour by a teacher that has one or more of three adverse professional effects or consequences.¹ As was recently affirmed by the District Court, the test under s 378 is conjunctive.² As such, as well as having one or more of the effects described in s 378(1)(a)(i) to (iii), the conduct concerned must also be of a character and severity that meets the Teaching Council's criteria for reporting serious misconduct.

[6] The Education Council Rules 2016 (the Rules) describe the types of behaviour that are of a prima facie character and severity to constitute

¹ Conduct that adversely affects, or is likely to adversely affect, the well-being or learning of one or more children; or reflects adversely on the teacher's fitness to be a teacher; or which may bring the teaching profession into disrepute.

² *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018, at [64].

serious misconduct.³ That which most directly applies in the respondent's case is r 9(1)(h), which describes a teacher's "theft or fraud".⁴

[7] While the parties were agreed that the respondent's behaviour constitutes serious misconduct, the Tribunal is required to reach its own view. That being said, we accept, without hesitation, that the gravity of the conduct is such that the threshold in s 378 of the Education Act is met.⁵

[8] In terms of the first stage of the test, we are satisfied that the respondent's fraudulent strategy to obtain employment with Mt Wellies Childcare reflects adversely on her fitness to teach and is of a nature that brings the teaching profession into disrepute when considered against the objective yardstick that applies.⁶ In contrast, and at first blush, Ms Sharma's behaviour while at Beststart may not appear to constitute serious misconduct in its own right. However, it is behaviour that highlights the respondent's preparedness to act dishonestly to serve her own ends. Second, it is significant that Ms Sharma lied about her compliance with policies designed to keep children safe – and calculatedly so given her falsification of the sleep-check register. Again, this both reflects adversely on Ms Sharma's fitness to teach and brings the teaching profession into disrepute.

[9] In our assessment of whether the second stage of the test for serious misconduct is met, we have focused on the respondent's dishonest conduct towards her prospective employer, as this is the most serious behaviour with which we are concerned. We are amply satisfied that the respondent's

³ Now called the Teaching Council Rules 2016. Rule 9 was amended on 18 May 2018, but this decision refers to the preceding iteration.

⁴ The CAC also submitted that rr 9(1)(f) and 9(1)(n) apply. The former describes "neglect or ill-treatment of a child or young person in the teacher's care" and the latter "any other act or omission that could be the subject of a prosecution for an offence punishable by imprisonment for a term of 3 months or more". We agree that the former is arguably engaged in respect to the respondent's failure to comply with the requirements regarding teacher ratios and sleep-checks. The latter is arguably engaged by the respondent's fraudulent behaviour.

⁵ We have kept in mind that, notwithstanding the parties' agreed position, the burden rests on the CAC to prove the charge, on the balance of probabilities.

⁶ *Collie v Nursing Council of New Zealand* [2001] NZAR 74, at [28].

deception is of a character and severity that engages r 9(1)(h) of the Rules.⁷

We addressed similar conduct in *CAC v X*,⁸ where we observed that:

It is fundamental that schools are entitled to expect teachers applying for positions are truthful in the information they provide in that context.

And:⁹

Consciously providing false information in such a situation unquestionably reflects on this Respondent's fitness to be a teacher and is caught by the [predecessor to r 9(1)(h) of the Rules] because it amounts to a form of fraud and ... also involves a breach of the Code of Ethics.

[10] In *CAC v Leach*,¹⁰ we accepted there is utility in comparing the conduct of the practitioner concerned against the elements of the Crimes Act 1961 offence of obtaining by deception.¹¹ In *Leach*, the practitioner provided a false appraisal of her performance as Principal to her Board of Trustees. More recently, in *CAC v Clark*,¹² we considered the meaning of the term "fraud" in circumstances where the practitioner sought to subvert the Education Council's processes for assessing suitability for registration. We referred to the various meanings of the word contained in the Concise Oxford Dictionary and considered that most applicable to be, "a false representation to gain an unjust advantage".¹³ This aptly describes Ms Sharma's behaviour, where she instigated a relatively sophisticated deception to obtain new employment.

[11] The respondent's attempt to mislead Mt Wellies Childcare to secure employment is behaviour that strikes at the heart of the expectation for honesty and integrity that the profession and the public have of practitioners. As we have said previously, practitioners have an obligation to both teach

⁷ The form of r 9(1)(g), which came into effect on 18 May 2018, expressly provides that "acting dishonestly in relation to the teacher's professional role, or committing theft or fraud" is reportable.

⁸ *CAC v X* NZTDT 2012/22, p 11.

⁹ At p 11.

¹⁰ *CAC v Leach* NZTDT 2016/66.

¹¹ Section 240, which provides that everyone is guilty of obtaining by deception, who, by any deception and without claim of right, obtains...any privilege, or any benefit...directly or indirectly.

¹² *CAC v Clark* NZTDT 2017/4.

¹³ Above, at [29].

and model positive values for their students.¹⁴ Fraudulent behaviour of this type is the antithesis of the standard of honesty expected of teachers.

[12] We are satisfied that the respondent seriously misconducted herself, and by a very wide margin indeed.

Penalty

[13] The primary motivation regarding the establishment of penalty in professional disciplinary proceedings is to ensure that three overlapping purposes are met. These are to protect the public through the provision of a safe learning environment for students, and to maintain both professional standards and the public's confidence in the profession.¹⁵ We are required to arrive at an outcome that is fair, reasonable and proportionate in the circumstances in discharging our responsibilities to the public and profession.

[14] In *CAC v Fuli-Makaua*¹⁶ we endorsed the point that cancellation is required in two overlapping situations, which are:

- a) Where the conduct is sufficiently serious that no outcome short of deregistration will sufficiently reflect its adverse effect on the teacher's fitness to teach and/or its tendency to lower the reputation of the profession;¹⁷ and
- b) Where the teacher has insufficient insight into the cause of the behaviour and lacks meaningful rehabilitative prospects. Therefore, there is an apparent ongoing risk that leaves no option but to deregister.¹⁸

[15] We acknowledge that we must seek to ensure that any penalty we institute is comparable to those imposed upon teachers in similar

¹⁴ This obligation is contained in clause 3(c) of the Code of Ethics for Registered Teachers, which applied at the time the respondent misconducted herself.

¹⁵ The primary considerations regarding penalty were helpfully discussed in *CAC v McMillan* NZTDT 2016/52.

¹⁶ *CAC v Fuli-Makaua* NZTDT 2017/40, at [54], citing *CAC v Campbell* NZDT 2016/35 at [27].

¹⁷ Referring to the sixth of eight penalty factors described by the High Court in *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354, at [50].

¹⁸ See *CAC v Teacher* NZTDT2013/46, 19 September 2013 at [36].

circumstances. In *Leach*, we were referred to the outcomes in four decisions that involved employment-related fraud by teachers.¹⁹ In addition, we have considered *CAC v Clark*,²⁰ NZTDT 2013/4, *CAC v Gittins*²¹ and *CAC v Thornton*.²² We acknowledge the inevitable factual distinctions. Nonetheless, the comparison tends to affirm that cancellation is the usual outcome in most cases involving deception.²³ That affirms the jeopardy Ms Sharma finds herself in.

[16] The respondent's counsel urged the Tribunal to provide Ms Sharma "with a second chance" and not cancel her registration to teach. It was submitted on Ms Sharma's behalf that her behaviour is "outside her character" and she "has learnt from the mistakes she made". As we said in *Fuli-Makaua*, whether we must cancel a teacher's registration in order to discharge our disciplinary obligations often turns on the practitioner's degree of insight into the causes of the behaviour. While we have taken into account Ms Sharma's acceptance of responsibility in this disciplinary proceeding, we are unable to accept her counsel's submission that the dishonesty underpinning the behaviour concerned was out of character, given that it was not a one-off. Nor can we accept Ms Sharma's bare assertion that there will be no repetition.

[17] Having considered our earlier cases, we are left with no doubt that this is a paradigm "clear-cut example" of the worst kind of misconduct by a practitioner for which the maximum penalty of cancellation is reserved; thus falling into the first category described in *Fuli-Makaua*. The reasons for this conclusion will be self-evident given the calculated nature of Ms Sharma's dishonest behaviour, and the different contexts in which she was willing to lie – including when it had a potential bearing on the safety of the children under her care.

[18] We accept that the respondent has positive professional attributes. However, teachers are expected to maintain public trust and confidence by

¹⁹ NZTDT 2013/12, NZTDT 2014/33, *CAC v Bickford* NZTDT 2016/21 and NZTDT 2016/27.

²⁰ *CAC v Clark* NZTDT 2017/4.

²¹ *CAC v Gittins* NZTDT 2016/59.

²² *CAC v Thornton* NZTDT 2015/63.

²³ Which is what we said in *Clark*, at [37].

demonstrating a high standard of professional behaviour and integrity. The respondent has flagrantly undermined these values and expectations with her fraudulent behaviour, which nullifies the mitigating effect of her previous track record.

[19] We therefore conclude that nothing short of cancellation of the respondent's registration will meet the obligations owed to the public and the profession.

Costs

[20] The CAC seeks a contribution from the respondent towards its actual and reasonable costs incurred undertaking its investigative and prosecutorial functions – the first two categories of costs described in our 2010 Costs Practice Note. We must also consider whether to make an order that the respondent contributes to the Tribunal's own costs, which is the third category described in our Practice Note.

[21] We have not been provided with a schedule of the CAC's costs. The Tribunal's costs are \$1,145.

[22] In recent times, we have ordered a smaller contribution – 40 instead of the usual 50 per cent – where a practitioner has accepted responsibility for his or her misconduct and agreed to the matter being dealt with on the papers. That is the approach we intend to take here.

[23] We order the respondent to make a 40 per cent contribution towards the actual and reasonable costs incurred by the CAC. The CAC is to file and serve a schedule of its costs on the respondent within 10 working days. The respondent will then have 10 working days to file a memorandum should she dispute the reasonableness of the CAC's costs.

[24] We order the respondent to pay 40 per cent of the Tribunal's costs.

Orders

[25] The Tribunal's formal orders under the Education Act are as follows:

- (a) The respondent is censured for her serious misconduct pursuant to s 404(1)(b).

- (b) Pursuant to s 404(1)(g), the respondent's registration is cancelled.
- (c) The matters referred to in (a) and (b) will be annotated on the register, under s 404(1)(e).
- (d) The respondent is to pay 40 per cent of the CAC's actual and reasonable investigative costs pursuant to s 404(1)(h).
- (e) The respondent is to pay \$458 to the Tribunal pursuant to s 404(1)(i).



Nicholas Chisnall
Deputy Chair

NOTICE

- 1 A person who is dissatisfied with all or any part of a decision of the Disciplinary Tribunal under sections 402(2) or 404 of the Education Act 1989 may appeal to a District Court.
- 2 An appeal must be made within 28 days of receipt of written notice of the decision, or within such further time as the District Court allows.
- 3 Section 356(3) to (6) apply to every appeal as if it were an appeal under section 356(1).