

EDUCATION COUNCIL
NEW ZEALAND | Mātauranga Aotearoa

Complaints Assessment Committee (CAC) v Teacher K

NZ Disciplinary Tribunal Decision 2018/7

In this case, a female teacher (Teacher K) crossed professional boundaries when she formed an inappropriate relationship with a year 13 female student (Student D) at her school.

Teacher K was Student D's Dean at the time. Student D had mental health issues and lived with her caregivers. During the 2017 school year Teacher K supported Student D in numerous ways, including allowing her to take refuge in her office and messaging her on the school's Facebook account. On a school retreat, Teacher K allowed Student D to sleep in the same room as her, as the student was struggling without her caregiver. The principal warned Teacher K that she had overstepped professional boundaries on that occasion.

Despite seeking guidance from other teachers at the school, Teacher K continued to overstep professional boundaries in supporting Student D. Teacher K had numerous out of school interactions with Student D, and actively obtained emotional support from Student D at times too, for her own mental health struggles. Later Teacher K's own mother, a doctor, became involved in supporting Student D.

The relationship was uncovered when the school principal received a letter from psychologists, which detailed concerns for the welfare of Teacher K and concern that the nature of the relationship between Student D and Teacher K extended beyond that expected of a typical teacher student relationship.

Teacher K was put on leave from the school, and subsequently resigned. The Education Council's Complaints Assessment Committee (CAC) referred the matter to the New Zealand Teachers Disciplinary Tribunal (Tribunal).

Teacher K stated that she suffered from severe stress, depression, anxiety and grief in 2017. She believed she was acting in the best interests of Student K but acknowledged and regretted her actions. Teacher K accepted the charge of serious misconduct was proved.

The Tribunal agreed with the CAC and Teacher K that the conduct amounted to serious misconduct. The CAC did not seek cancellation of Teacher K's registration, given the underlying issues that gave rise to the conduct and the respondent's good but misguided intentions.

The Tribunal noted that "Teachers who lack the ability to maintain appropriate professional boundaries ...will set poor role models and may result in even more serious misconduct. Mutual emotional dependency can arise and in the worst cases sexual relationships can develop. Teachers are guides, not friends in the usual sense."

The Tribunal censured Teacher K and imposed several conditions on her practising certificate; either from two years from the decision, or from one year from resuming teaching in New Zealand. The register is to be annotated for three years to the effect that conditions apply.

Since resigning from the school, Teacher K has voluntarily undertaken some professional development around working with challenging students and professional boundaries.

Teacher K was ordered to pay costs, reduced to 30% of the CAC's and Tribunal's costs, due to her cooperation with the process, and her modest financial means.

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2018/7

UNDER the Education Act 1989

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

BETWEEN **THE COMPLAINTS ASSESSMENT COMMITTEE**

AND 
Respondent

REASONS FOR DECISION OF NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

HEARING: 12 June 2018, on the papers

TRIBUNAL: John Hannan (Deputy Chair), Maria Johnson, Simon Heath

DECISION: 21 August 2018

COUNSEL: N Copeland for CAC
R M Tomkinson for Respondent

Introduction

1. By a Notice of Charge dated 29 March 2018, the Complainant, the Complaints Assessment Committee (**CAC**) charged the respondent with behaviour amounting to serious misconduct in that she formed an inappropriate relationship with a year 13 student at her school during the 2017 school year. The charge relied on Rule 9(1)(e) and/or Rule 9 (1)(o) of the Education Council Rules 2016.
2. The respondent admitted the charge. A statement of facts was agreed. The hearing took place on the papers.
3. The respondent applied for name suppression. There were also requests for non-publication orders of the names of the school and of the student involved. Interim orders for suppression were made.
4. Because of particular features of the matter, notably the respondent's ill-health, the Tribunal was asked to issue a decision as soon as possible. The Tribunal has issued an Interim decision dated 13 June 2018 making orders, granting name suppression, and fixing costs, but without reasons. This decision gives reasons for the Tribunal's interim decision.

Facts

5. The following is the agreed summary of facts.

SUMMARY OF FACTS

1. The respondent was a registered teacher at [REDACTED]
[REDACTED]
2. At the beginning of 2017, after practising as a registered teacher for 3 years, the respondent was appointed Dean of the Year 13 student cohort at [REDACTED].
3. The respondent was sent on a course "Being an Effective Dean" run by the "Education Group". In a Pastoral Care document that was provided to the respondent, it provided, amongst other things:

You are responsible for your year level. No one else in the school will understand them or advocate for them like you will. You have a unique position.

...

You are not their friends. The students don't want you to be. Keep a professional distance but support them. They need to know that you are there for them.

You have to manage students, classroom teachers, parents. You are in the middle and have to manage/relate to all.

You work closely as a Pastoral Care team. Your fellow deans, guidance counsellors, career advisor, international co-ordinator, learning support are all an important part of the package when dealing with students and their needs.

You need to work closely with your SLT. Don't withhold information.

You will be attending the junior or senior pastoral care meetings in the mornings. You share information here be discrete with what you share, don't give all the details e.g. there are some mental health issues with this student. Remember that the student will be sharing some information with you that they won't want repeated to other teachers or deans. Respect their privacy. There is a line, share but have discretion.

...

Some issues need to be passed on to SLT. Theft, swearing at a teacher, serious cyber safety issues or concerns about a student's safety. If in doubt check. You are better to pass it on rather than not.

...

Be safety conscious. Protect yourself. Don't say anything that could be misconstrued or put yourself in an uncomfortable situation.

...

Ask if you are unsure about how to manage a situation.

4. The respondent was given information on the high needs girls in her year group by the Deputy of Pastoral Care at the College, [REDACTED]. The respondent states she was also told by the previous Dean who were the students of concern in the Year 13 cohort. This included Student D (DOB: 25 March 1999). Another teacher said the respondent would have to look after Student D, that the school did not support her and that Student D will need someone to depend on.
5. At the College, Deans also receive Pastoral care through meetings twice a term. Regular meetings were also set up by the Principal, [REDACTED], [REDACTED], with the respondent to discuss pastoral care

matters concerning year 13 students, but the respondent sometimes did not attend when she was sick.

6. The Respondent states she did not receive any training or information on how to deal with mental health issues.
7. At the beginning of Term 1 2017, Student D approached the respondent to discuss some of her own personal challenges and the therapy she was receiving, in order to get time off school to attend treatment appointments and to have breaks from class when she was upset.
8. The respondent herself suffered from depression and anxiety, for which she sought professional help and took medication. This has been confirmed by medical documentation outlining the respondent's condition, provided by her GP and by her Psychologist. Because of the respondent's own depression, she felt like she could understand partially some of Student D's personal issues and she encouraged Student D to be more open so others could help.
9. During Term 1, the relationship between the respondent and Student D developed. The respondent allowed Student D to take "refuge" in her office, in class time, when she was distressed so that the respondent could monitor her, and sometimes Student D would stay after school to talk to the respondent. Student D messaged the respondent through her school Facebook account about subject choices and getting a leave pass. Over time, Student D's messages became more frequent, with Student D discussing more about how she was feeling and the respondent and Student D began communicating through the respondent's personal Facebook account. It was during this time that the respondent learned that Student D felt like everyone abandons her because she is unlovable.
10. The respondent and Student D went on a Year 13 retreat which involved an overnight stay. During the retreat, Student D had a therapy appointment scheduled. The respondent organised for staff to drop Student D off and pick her up from this session. In the car was [REDACTED]. Student D became very upset about this because [REDACTED] is related to her mother, and started asking Student D questions about her family. When Student D messaged the respondent in a distressed state, the respondent rang her through the school's Facebook account and told

20. On 20 October 2017 the school received a letter from the [REDACTED], which detailed concerns for the welfare of the respondent and concern that the nature of the relationship between Student D and the respondent extended beyond that expected of a typical teacher student relationship. That same day, the respondent was put on leave from the school. She subsequently resigned, effective from 1 January 2018.
21. The respondent suffered from severe stress, depression, anxiety and grief in 2017. The respondent states (and her psychologist agrees) that she was more vulnerable during this time and her judgement was affected.
22. While the respondent believed at the time that she was acting in the best interests of Student D, in hindsight she acknowledges and regrets her actions. The respondent's conduct included:
- Communicating with Student D using her personal phone number, and by writing (cards and notes), and communicating through social media using the school's Facebook Messenger account, and later her personal account, text message and phone calls.
 - Transporting Student D on a number of occasions out of school hours, taking and or returning Student D to various places such as to Student D's home or to the gym; and at Student D's request one time, also dropping Student D's friend home. The respondent states that she sometimes drove Student D places because she was concerned about Student D's wellbeing and was delivering Student D to her caregivers (at their home or the gym).
 - Describing their relationship outside of school as an older sister and younger sister. She told Student D that she loved her, and at the end of the year when Student D was no longer a student that they could properly do "sister stuff".
 - Writing Student D a supportive note and giving her almonds when she went on a boxing camp. The respondent often gives her students treats when they did well, or were going through a hard time, but gave Student D almonds on this occasion because she was on a diet.
 - When she refused to pick Student D up from town one night in the Term One holidays, and Student D alleged that the respondent didn't care about her, telling Student D that she 100% still cared for her, but that she had to protect herself.

- Introducing the student to her family and allowing Student D to stay at her mother's house. Student D called the respondent's mother "grandma", and gave her a birthday present and card.
- Sharing her own personal issues with depression with Student D and how she was seeking help from a psychologist. The respondent states this was in the belief that this would help encourage Student D to get help too.
- Allowing Student D to be part of her family support for her own mental health issues. From Term 2, allowing the student to sleep over at her home a number of times. On most occasions, this was at Student D's request and the respondent ensured that she had Student D's caregivers' permission. Student D wrote that the respondent gave her "a home".
- Letting Student D tag along with her and do her errands. The respondent states that this was at Student D's request, and because she was concerned about Student D's wellbeing if left alone.
- Buying Student D food, pyjamas, socks, underwear and toiletries.
- Doing domestic chores for Student D such as washing Student D's clothes and doing her dishes.
- Becoming a main confidante and support person for Student D, and looking after her when she was distressed. The respondent states that she frequently attempted to involve Student D's caregivers and the [REDACTED] and encouraged Student D to do the same.
- Not disclosing the respondent's concerns with Student D, or the extent of their relationship, to the Principal. She did however advise [REDACTED] (DP of Pastoral Care) of her concerns about Student D and that Student D was confiding in her, but accepts she did not disclose the full extent of the nature of her relationship with Student D with [REDACTED]
- Allowing Student D to spend time away from her peers and class and to stay in the Deans' area including the respondent's office when Student D was upset or unwell.
- Helping Student D to re-dress her wounds from self-harming behaviour after making Student D inform her caregivers, but without telling the Principal or DP Pastoral Care. Student D had a history of self-harm, such as cutting the words "worthless" and "fat" into her leg. Student D sent pictures of her wounds to the respondent stating concerns that they might be becoming infected or were still bleeding.

The respondent showed these to her mother who was a GP and who commented that Student D was depending on the respondent a lot. The respondent states she also asked another Dean, hypothetically, that if a student had cut herself outside of school hours, and was adamant she did not want the school involved, and if the respondent contacted the student's outside support system (family and counsellor), did the respondent need to involve the school. The Dean replied if the student did not want the school involved and that contacting her external support was the best way to help her then yes that was a good idea.

- After discovering that Student D had also been storing up pills, the respondent told Student D's caregivers, but not the Principal or DP Pastoral Care. The respondent states she told the DP Pastoral Care, Student D's caregivers and the [REDACTED] that Student D had issues with her eating, exercise, weight and diet.

23. The respondent understands her relationship with Student D was professionally inappropriate. During 2017, the respondent expressed to her psychologist about feeling as though she had crossed a professional boundary with Student D, but that she felt scared for Student D's safety and felt unable to get help from the school. She told the psychologist she felt stuck and that if she extricated herself from the relationship, this would risk student D's safety and damage her trust in the respondent. The respondent sought guidance from her psychologist on how to respond more appropriately to Student D. The respondent's psychologist was clear that this was a boundary violation and advised the respondent that she was concerned it may jeopardise the respondent's job.

24. Since resigning from the school, the respondent states that she has voluntarily undertaken some professional development at AUT around working with challenging students and professional boundaries. The respondent is currently living overseas and focusing on recovering her health.

6. In addition to the summary of facts the Tribunal was provided with a signed statement from the respondent confirming key aspects of what was in the summary of facts and explaining further her diagnosis of depression and anxiety. The statement was primarily focused on the application for non-publication orders and gave evidence of the respondent's anxiety leading up to the hearing, fear of the humiliation of a public

decision, and fear that a public decision would push her back into the severe depression which she stated she was working very hard to extricate herself from. She also gave evidence of her concern about the impact of any public decision on student D. Finally, she gave evidence that if the school is named, this will likely lead to her identity and that of student D being revealed.

7. She said that she had opted to take at least a year's break from teaching to allow her time to work on her health. She said that she feared the publication of the proceedings would have a seriously detrimental impact on her recovery.
8. Annexed to the statement was a letter from a clinical psychologist who was treating her for depression, including during the time that the respondent was involved with supporting student D. The clinical psychologist says that the entire situation, and the investigation which has followed, have been tremendously stressful for the respondent and without doubt have had a negative impact on her mental health. The psychologist says that the respondent exhibits guilt and remorse for acting outside her professional boundaries, while maintaining that she believed that she was acting in the best interests of the student and felt the student had very real risk issues. The psychologist says that the respondent has reflected on how her own personal issues made her more vulnerable to becoming overinvolved with the student. The psychologist assesses that the respondent does not present an ongoing risk to the public.
9. The respondent's general practitioner provided a letter expressing support for the application for non-publication. But no specific information or diagnosis was provided in this letter.
10. A series of letters and copies of cards from students from the respondent's last year of teaching was presented. These were all very supportive; for example "...you have been an amazing teacher and dean this year". There were a significant number of these student testimonials; all were extremely positive.

Submissions

11. The respondent admitted that the charge of serious misconduct was proved. Submissions from the CAC focused on what orders the Tribunal should make, and on the application for non-publication.

12. Counsel for the CAC helpfully provided references to a number of cases where teachers were charged with serious misconduct by engaging in an inappropriate relationship with a relatively senior student. The CAC referred to *CAC v Teacher*¹ where the Tribunal noted a teacher's responsibility to maintain professional boundaries. It observed that a teacher, being in a position of power and responsibility, should model appropriate behaviour. If a student seeks mentorship, counsel or comfort from a teacher, the teacher must respond in a way that has the student's well-being and safety as paramount considerations.
13. In that case the Tribunal referred to the requirement in the Education Council's Code of Ethics that teachers "...develop and maintain professional relationships with learners based upon the best interests of those learners". The case also noted that a boundary violation will occur if a teacher-student relationship shifts to serving the needs of the teacher instead of those of the student.
14. The CAC also referred to another decision² where the point was made that breaches of professional boundaries call into question whether a person should continue to be registered as a teacher even if the relationship was not a sexual relationship. This is because maintaining appropriate professional boundaries is fundamental to safe and high-quality teaching and learning.
15. The CAC therefore submitted that the respondent's conduct represented a complete failure to maintain appropriate professional boundaries. It was a serious and sustained lapse of judgement on her part, satisfying all three subparagraphs of paragraph (a) of the definition of serious misconduct in section 378(1) of the Education Act.
16. The CAC requested that the Tribunal censure the respondent, and impose conditions that for a period of two years the respondent be required to advise employers of its decision and provide a copy to employers. The CAC also requested that for two years from the recommencement of employment as a teacher in New Zealand the respondent be required to continue to attend medical appointments and/or counselling, consent to reports on this support being provided to her employer and to the Education Council, and other orders associated with a requirement for mentoring and reporting by her mentor. The CAC also submitted that the register should be annotated. The CAC however noted that an outcome short of cancellation could be

¹ NZTDT 2016/64

² CAC v teacher NZTDT 2016/55

appropriate, given the underlying issues that gave rise to the conduct and the respondent's good but misguided intentions.

17. On name suppression, the CAC sought suppression for the student. It also acknowledged that the respondent has put forward evidence providing a basis for a non-publication order with respect her identity. The CAC did not oppose the application. Similarly the CAC did not oppose the school's request for permanent non-publication orders of its identity.
18. For the respondent, Counsel submitted a summary of the factual background and noted that the respondent accepts that serious misconduct occurred. The submissions focused on what orders should be made. It was submitted that the serious misconduct here was at the lower end of the spectrum of seriousness and that there were various extenuating circumstances, including:
 - (a) the respondent was a young, committed and passionate teacher, well-liked by her students;
 - (b) the respondent was a new and inexperienced Dean who did not receive any training or information on how to care for high needs students with mental health issues;
 - (c) the respondent herself was experiencing mental health issues for which she was receiving treatment and was in a vulnerable state with her judgement affected;
 - (d) at all times the respondent believed she was acting in the best interests of the student;
 - (e) the respondent became so committed to looking after the student's well-being that she compromised her own health and position as a teacher;
 - (f) the respondent did regularly involve and communicate with others in the school about the student and did seek guidance from other Deans and teachers, but was reluctant to involve senior management of the school due to concern about the student becoming very upset if she found out about such communications.
19. Counsel for the respondent submitted that imposing conditions as to treatment and mentoring for a period of two years from the date of her recommencement of employment as a teacher would be too extended a period.

20. Submissions in support of the respondent's application for non-publication orders outlined the relevant law and noted what was said to be the very real mental ill-health of the respondent. It was said that the respondent is working hard on her recovery and publication might significantly inhibit her recovery. It was submitted that the respondent is fearful that if she wishes to teach again in the future, no one will ever hire her if her name is published. Some submissions were made as to the impact on the respondent's family of publication.
21. Finally it was noted that there is no public risk caused by non-publication orders; the respondent has admitted her misconduct and is working on improving her personal psychological state, there was no sexual element to the respondent's relationship with student D, and this was a one-off isolated incident exacerbated by the complex psychological issues of both respondent and student.

Decision

22. Serious misconduct is not in issue; the respondent admits her conduct was serious misconduct, and rightly so.
23. Maintaining appropriate professional boundaries is a fundamental skill, obligation and professional discipline for all teachers. Teachers who lack the ability to maintain appropriate professional boundaries are likely to step onto a "slippery slope" of tangled relationships with students which ultimately are highly likely to be damaging to students, will be confusing, will set poor role models and may result in even more serious misconduct. Mutual emotional dependency can arise and in the worst cases sexual relationships can develop. Teachers are guides, not friends in the usual sense.
24. The respondent's behaviour here clearly reflects adversely on her fitness to teach. It is certainly capable of bringing the teaching profession into disrepute, and is conduct of a character or severity that meets the Education Council's criteria for reporting serious misconduct.
25. That said, this is an unfortunate situation involving a very new teacher who assumed the responsibility of acting as the year 13 Dean after having practised only for three years. She had her own difficulties with depression and anxiety and was receiving professional help for these issues. She was expected to look after students who had "high needs". Student D was herself receiving therapy. While the school did provide some guidance, mentoring and support for the significant responsibilities which were allocated to the respondent, that support was ultimately inadequate. The respondent

ended up in a position of being isolated with the problems of student D, with inadequate professional support to assist her to draw lines and at the same time keep student D safe. The Tribunal's impression is that the respondent has in the end been professional in the way that she has responded to the situation, recognising that she needs time off, and needs to get appropriate support and treatment for her own personal situation.

26. The letters from the respondent's students suggest that she is capable of making a significant contribution to the profession once she has recovered.
27. The Tribunal considers that the points made by counsel for the respondent as to the duration of some of the conditions suggested by the CAC has merit, so the orders to be made, while providing a requirement for mentoring for 1 year after the respondent re-enters active teaching in New Zealand (whenever that may occur), will require treatment, and reporting on such treatment, only if she resumes employment as a teacher within two years from the date of this decision.

Orders

28. The following orders were set out in the Tribunal's interim decision, but are set out here again for convenience of reference.
29. The Tribunal's intention is that should the respondent resume teaching within a relatively short period of the date of this decision, the Education Council will have the ability to ensure that she is receiving appropriate treatment, that it receives appropriate reports about the treatment, and that her employer knows of the situation. There are also other controlling conditions, intended to ensure that there is oversight of the respondent's behaviour with respect to professional boundaries.
30. If the respondent resumes teaching more than two years after the date of this decision, mentoring must be provided by her future employer, and the Education Council must be notified of the name of the mentor. The respondent must consent to reports being provided to the Council. Necessarily she will need to advise her future employer of this requirement
31. The Tribunal orders as follows.
32. The respondent is censured.

33. The following conditions are to be imposed on the respondent's practising certificate for a period of two years from the date of this decision:
- (a) The respondent is required to advise prospective employers of the Tribunal's decision and to provide a copy of it to any such prospective employer. The disclosure to the employer is to be on a "strictly confidential" basis.
 - (b) If she resumes employment as a teacher during this period the respondent is to continue to attend medical appointments and/or counselling, as recommended by her medical advisers.
 - (c) If she resumes employment as a teacher during this period the respondent consents to the provision, on a strictly confidential basis, by her general practitioner/counsellor of any information concerning her mental health to her employer and the Education Council as may be required by her employer or the Education Council.
 - (d) If she resumes employment as a teacher during this period the respondent is only to have contact with students in person at the school or electronically through the school email account which is able to be monitored by the respondent's mentor (see below).
 - (e) If she resumes employment as a teacher during this period the respondent's future employer is to have access to her school email account and her school Facebook page.
34. The following conditions are to be imposed on the respondent's practising certificate for a period of one year from the date upon which she resumes employment as a teacher in New Zealand:
- (a) The respondent's future employer is to appoint a mentor to meet with her at least once per month, or more if required, during term time, with the mentoring relationship to focus on ensuring that the respondent is and remains well enough to be at work and teach in a safe manner.
 - (b) The respondent is to notify the Education Council of the name of her mentor and to consent to her mentor providing the Education Council with

information about any concerns she or he has relating to the respondent's health and/or safe teaching practices.

35. The register is to be annotated for a period of three years from the date of this decision to the effect that conditions apply.

Non-Publication Orders

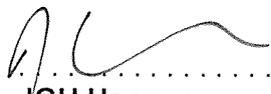
36. The CAC has agreed to the non-publication orders requested by the respondent, and the school.
37. The Tribunal, nevertheless, must conclude that it is "proper" in accordance with the legislative test in section 405(6) of the Education Act that such orders be made, and that it should exercise its discretion to make orders. The principle of open justice applies to the Tribunal's hearings and to its decisions and the Tribunal should not lightly grant non-publication orders. If the basis for an application for non-publication orders is the particular and significant vulnerability of a respondent to more than the usual stress and anxiety which any teacher whose name is published in association with disciplinary proceedings will suffer, there must be appropriate evidence to support such an application. In this particular case the evidence from a clinical psychologist treating the respondent is clear that the respondent has been for an extended period, and remains (at least at the time the reports were supplied), in a very vulnerable state, and that publication could have a significant impact on her mental health and the prospects for her recovery. The respondent is clearly taking a responsible approach to obtaining treatment and support to achieve such a recovery.
38. Accordingly the Tribunal considers it is proper to make non-publication orders with regard to the respondent, and exercises its discretion to do so. Similarly, given the evidence as to the vulnerability of the student, there should be orders with regard to non-publication of the student's name. We are also satisfied that publication of the school's name might result in the identification of the respondent and/or the student and that it is proper that the school's name may not be published.
39. The Tribunal orders that there is to be no publication of the respondent's name or any details capable of identifying the respondent.
40. The Tribunal orders that there is to be no publication of the name of the school or any details capable of identifying the school.

- 41. The Tribunal orders that there is to be no publication of the name of the student involved or any details capable of identifying the student.
- 42. This decision is to be redacted accordingly before publication.

Costs

- 43. Costs were fixed in the Tribunal's interim decision. The costs order is here repeated for convenience of reference and to set out some reasons.
- 44. The respondent has cooperated with the CAC and the process. A summary of facts has been agreed. The respondent has also provided some evidence of being in modest financial circumstances at this early stage in her career and is currently not working.
- 45. The respondent is to pay 30% of the CAC's and Tribunal's costs.
- 46. The CAC has submitted a memorandum showing costs of \$11,962. The Tribunal's costs are \$1145. 30% of that total is \$3932.10 and the respondent is ordered to pay that sum.

Date: 21 August 2018


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JGH Hannan
Deputy Chairperson

NOTICE - Right of Appeal under section 409 of the Education Act 1989

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. Subsections (3) – (6) of section 356 apply to every appeal as if it were an appeal under subsection (1) of section 356.