

TEACHING COUNCIL

NEW ZEALAND | Matatū Aotearoa

Complaints Assessment Committee (CAC) v Lilya Valesyan

2018-99

Teacher Lilya Valesyan was referred to the Disciplinary Tribunal on multiple charges of breaching conditions on her practising certificate, which amounted to serious misconduct.

The result: The Tribunal found that cumulatively the established conduct amounted to serious misconduct. The Tribunal ordered a penalty of censure and cancellation of her registration. There are no non-publication orders in this case.

The CAC alleged that Ms Valesyan breached the conditions on her practising certificate in six different ways. Ms Valesyan had had these conditions imposed on her practising certificate in 2015 following a finding by the CAC that Ms Valesyan had engaged in serious misconduct by failing to comply with legislative requirements of occupancy, and responding inappropriately to a parent's enquiry and misconduct for failing to establish and maintain respectful relationships with staff members.

The Disciplinary Tribunal accepted Ms Valesyan breached her conditions in four ways:

- Not completing required professional development;
- Not providing reflections every three months;
- Not arranging for a mentoring relationship despite acceptance of a leadership position;
- Not advising the Teaching Council that she had changed employer.

The Tribunal found that cumulatively the established conduct amounted to serious misconduct.

Ms Valesyan accepted that she had not completed the professional development or met imposed the conditions generally. She explained this as being due to difficult personal circumstances.

The Tribunal found that cumulatively the established conduct amounted to serious misconduct.

The Tribunal noted Ms Valesyan's request to be deregistered and found that she seemed to have given up on her professional career. The Tribunal felt that Ms Valesyan's initial disrespect for her obligations as a teacher, her lack of respect for the disciplinary powers of the CAC and her acquiescence in the penalty left them with no alternative. The Tribunal had no confidence Ms Valesyan would comply with any conditions on her practice and therefore ordered a censure and cancellation.

The Tribunal ordered Ms Valesyan to pay 40 percent of the CAC's actual and reasonable costs.



BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2018-99

IN THE MATTER of the Education Act 1989

AND

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

BETWEEN **COMPLAINTS ASSESSMENT COMMITTEE**

AND **LILYA VALESYAN**

Respondent

TRIBUNAL DECISION

DATED 2 JULY 2019

HEARING: Held at Wellington on 26 March 2019 (on the papers)

TRIBUNAL: Theo Baker (Chair)
Nikki Parsons and Dave Turnbull (members)

REPRESENTATION: Ms N Tuhana and Mr T Hullena for the CAC
The respondent was not represented

1. The Complaints Assessment Committee (**CAC**) has referred to the Tribunal a charge of serious misconduct and/or conduct otherwise entitling the Tribunal to exercise its powers.
2. It is alleged that the respondent breached the conditions on her registration by:
 - a) Not providing evidence of completion of the required professional development to the Teaching Council;
 - b) Not providing reflections following her own declaration that she will be mentored by a Teaching Council pre-approved mentor;
 - c) On two occasions failing to advise the Teaching Council that she has accepted leadership positions;
 - d) Not arranging for a mentoring relationship despite acceptance of a leadership position at [Learning Centre C];
 - e) Not advising the Teaching Council that she had changed employer from Ako Langimalie Preschool to [Learning Centre C]; and
 - f) Failing to fully disclose to her new employer that she was censured by the Teaching Council for not meeting the Centre's licensee requirements.
3. The CAC contends that this conduct either separately or cumulatively amounts to serious misconduct pursuant to s 378 of the Education Act 1989 (**the Act**) and r 9(1)(o) of the Education Rules 2016¹ (**the Rules**) or conduct otherwise entitling the Disciplinary Tribunal to exercise its powers under s 404 of the Act.

Summary of decision

4. We found that some particulars of the charge were not supported by the facts. We amended particulars a) and b) to align with the facts. We found that particulars c) and f) were not proved. We found particulars d) and e) were proved.
5. In summary, we find that the respondent breached the conditions placed on her registration by:
 - Not completing required professional development
 - By not providing reflections every three months.
 - Not arranging for a mentoring relationship despite acceptance of a leadership position at [Learning Centre C.]

¹ The amendments made by the Education Council Amendment Rules 2018 do not apply to conduct before 18 May 2018. See Schedule 1 Part 2.

- Not advising the Teaching Council that she had changed employer from Preschool B to [Learning Centre C].
6. We found that cumulatively the established conduct amounted to serious misconduct.
 7. We imposed the following penalty:
 - a. Censure under s 404(1)(b)
 - b. Cancellation under s 404(1)(g)
 8. We ordered the respondent to pay 40% of the CAC costs.

Evidence

9. Before the hearing the parties conferred and filed an Agreed Summary of Facts (**ASF**), which is set out in full:

AGREED SUMMARY OF FACTS

1. *Between 31 July 2017 and 20 March 2018, the respondent **LILYA VALESYAN** was a registered teacher employed at [Learning Centre C] in Auckland.*

Previous referral

2. *In December 2014 following a mandatory report from Childcare Centre A, the Complaints Assessment Committee (the Committee) of the Teaching Council (formerly Education Council) found that the respondent had engaged in:

 - a. *serious misconduct by failing to comply with legislative requirements for occupancy, and responding inappropriately to a parent's enquiry; and*
 - b. *misconduct for failing to establish and maintain respectful relationships with staff members.**
3. *Because of various mitigating factors the Committee decided to resolve the matter by agreement and imposed a censure and conditions.*
4. *The signed agreement to conditions is annexed to the Summary of Facts as Appendix 1.*
5. *The CAC imposed the following conditions on the respondent's practising certificate:²
 - a. *to undertake professional development on management skills;**

² Agreement to conditions dated 26 February 2015, at clause 5.

- b. *to engage a mentor if she resumes a leadership position; and*
 - c. *to provide a reflective statement to the Committee at the end of every three months.*
6. *In addition the respondent was required to inform the Teaching Council of any full time or fixed term teaching position she accepts, or changes to her home address or her employer.*
 7. *The agreement provided for the conditions to cease after the respondent had completed 12 months in a leadership position and provided she had complied with the conditions.*

Investigation and referral

8. *On 4 April 2018 the Teaching Council received an own motion referral alleging the respondent had breached conditions on her registration by:*
 - a. *failing to provide evidence that she had completed the required professional development course;*
 - b. *failing to provide her reflections following her declaration that she will be mentored by a pre-approved mentor;*
 - c. *failing to advise the Teaching Council that she has accepted leadership positions on two occasions;*
 - d. *not arranging a mentor in her leadership position at Childcare Centre B; and*
 - e. *failing to advise the Teaching Council that she has changed employers from Preschool C to Childcare Centre B.*
9. *The CAC investigated the allegations and prepared an investigation report for response.*

Teacher's response

10. *The respondent accepted that she had not completed the professional development or met the conditions generally. In explanation the respondent said that she could not meet the conditions because of her personal circumstances including divorce, her mother's illness and subsequent passing and her own illness.*
11. *The respondent also informed the CAC that she wants to be deregistered and does not want to teach again.*

Applicable Code

12. *High standards of conduct are expected of teachers as set out in the Code of Ethics for Certified Teachers (the Code). Under the Code teachers must strive to (among other obligations):*
- a. advance the interests of the teaching profession through responsible ethical practice;³*
 - b. regard themselves as learners and engage in continuing professional development;⁴ and*
 - c. be truthful when making statements about their qualifications and competencies;⁵.*
10. Annexed to the Summary of Facts is a document entitled “Agreement to Conditions”. It is signed by the respondent, the Chair of the Complaints Assessment Committee and the manager of the Childcare Centre A. The date of the last signature is 26 February 2015.
11. In the document the respondent accepts that she failed to meet her license requirements in that on two separate occasions, attendance numbers exceeded the numbers stated on the Early Childhood License for Childcare Centre A, and that this action constituted serious misconduct.⁶ She accepted that she was censured by the CAC for not meeting legislative requirements. She agreed to the following conditions:
- a) To undertake professional development, approved in advance by the CAC or its delegate on developing management skills. The professional development was to commence as soon as practicable.
 - b) For the first twelve months of resuming any leadership position, she agreed to have a mentor appointed, approved by the CAC, and the mentor would be shown a copy of the “decision”, (which we take to mean the Agreement to Conditions).
 - c) The mentor will provide particular supervision on the matters that are set out in the decision of the CAC.
 - d) The respondent agreed to provide a reflective statement to the CAC or its delegate at the end of every three months in the form attached to the agreement.

³ Rule 4(a) of the Code of Ethics.

⁴ Rule 4(b) of the Code of Ethics.

⁵ Rule 4(c) of the Code of Ethics.

⁶ These events were before the 2016 amendment to the Education Act 1989. Section 401(4) now requires the CAC to refer to the Tribunal any matter that it thinks might possibly constitute serious misconduct.

12. The respondent also agreed that the register would be annotated to read “censured, subject to conditions” and that the annotation would remain on the register until the conditions were completed.
13. The respondent agreed to inform the Council of any fixed term or permanent teaching position she accepted for 20 hours or more per week for the duration of the period for which she was subject to conditions within one day of starting the position.
14. The respondent also agreed to promptly advise the Council of any change in her residential address or change of employer.
15. Under a heading “Compliance”, the respondent agreed that she would comply diligently with the conditions, that although a staff member of the Council would monitor the agreement, she was primarily responsible for ensuring compliance, and finally, that if she breached the agreement the breach may be considered by the CAC and may result in reconsideration of the conditions and consideration of a referral to the Disciplinary Tribunal. She also acknowledged that the matter could be referred to the Council pursuant to section 129 of the Education Act 1989.
16. Finally, under a heading “Variation” the respondent agreed that if at any time she was unable to comply with these conditions or wished the conditions to be changed, then she would immediately make application to the CAC to vary the terms of the agreement.
17. Although the Summary of Facts is not signed by the respondent, Ms Tahana, for the CAC, has provided a copy of an email from the respondent to Ms Tahana in which she says “I read and understood the summary of facts and I agree with the summary of facts in full.”
18. Annexed to the CAC submissions is an Appendix setting out the efforts the Council made in following up with the respondent regarding her commitments. This is a record of fact, and would ordinarily be included in an agreed statement of fact, rather than being produced through counsel in their submissions. That said, the respondent has not taken issue with any matter and so we have taken it into account.
19. According to this Appendix, in June 2015 the respondent advised that she intended to enrol in an external leadership course. In November the Council emailed the respondent regarding the endorsement required for renewal of a teacher’s application. The respondent advised that she had agreed to undertake a leadership role and she

organised a mentor who was approved and a mentor in contract was provided. It seems it was the following year when things went awry.

20. On 9 May 2016 the Council emailed the respondent seeking her reflections. On 15 May she requested an extension. She was given 10 days to respond, but she failed to comply.
21. In September 2017 the Council pursued the respondent for her certificate of completion for the leadership course. When no response was received, the Council followed up and imposed a deadline of 27 September. The respondent confirmed enrolment but did not complete the course.
22. In October 2017 the Council again asked the respondent for a certificate of completion for the leadership course, but no response was received.
23. In January 2018 Kids Cove contacted the Council enquiring about the annotation on the respondent's practising certificate. In February 2018 the respondent was advised to disclose the conditions to her employer.
24. In March 2018 the Manager of Kids Cove confirmed that the respondent had not disclosed her conditions, after having worked at Kids Cove for seven months. When the Council sent an email to Kids Cove confirming the conditions, the respondent disclosed the cause of her censure in part, omitting the conditions and MOE regulations. The respondent resigned from Kids Cove on 20 March 2018.
25. We must be satisfied that the CAC has proved the factual allegations contained in the Notice of Charge. The charge is that the respondent breached the conditions on her registration, as specified in each of the particulars of the charge. The respondent has accepted that "she had not completed the professional development or met the conditions generally". The particulars of the charge allege failures, some of which were not strictly-speaking conditions of her registration.
 - a) ***Not providing evidence of completion of the required professional development to the Teaching Council;***
26. The CAC has established that the respondent did not provide evidence of completion of the required professional development. However, the condition on her registration was to undertake the professional development, rather than to "provide evidence" of that completion. It is the failure to undertake professional development and to

commence it as soon as practicable which is the concern.

27. In *CAC v Teacher 2018-27*,⁷ we encountered a lack of alignment between the allegation in the charge and the agreed facts. Because the respondent was not contesting the facts or that they amounted to serious misconduct, we did not dismiss the particulars, but amended some particulars to reflect the facts that are admitted. We did that on the basis that the amendments did not significantly affect the essence of the charge and that respondent was not prejudiced by these amendments.

28. The respondent has acknowledged that she did not complete the professional development, and that is what the condition was aimed at, not whether or not she produced evidence of completion. We therefore think it is appropriate that particular a) is amended to read:

Not undertaking required professional development

29. Failure to undertake professional development is a breach of the conditions of her registration, as alleged in paragraph 1 of the Notice of Charge, and accordingly that particular is established.

b) Not providing reflections following her own declaration that she will be mentored by a Teaching Council pre-approved mentor;

13. According to the Agreement which was annexed to the ASF, the respondent agreed to provide a reflective statement to the CAC or its delegate at the end of every three months. It is not clear from this document that the reflections related to her mentorship.

14. The ASF show that no reflections were provided at any stage. This particular may be amended to read:

By not providing reflective statements to the CAC every three months.

c) On two occasions failing to advise the Teaching Council that she has accepted leadership positions;

15. It is difficult to piece together the information contained in the ASF and in the annexure to the CAC submissions to establish what, if any, leadership positions the respondent accepted. In any event, there is no condition in the Agreement that required the respondent to advise the Council that she had accepted leadership positions. Rather, it was implied that they would be notified when she told them about her mentor, who

⁷ *CAC v Teacher 2018-27*, 28 March 2018, paragraph 4.

had to be approved by the Council. We think that the wrongdoing is better captured in paragraph d). It also appears from the Appendix that the Council was aware at least of an intention to take up a leadership role. Particular 1c) is not established.

d) *Not arranging for a mentoring relationship despite acceptance of a leadership position at [Learning Centre C];*

16. Although not outlined in the ASF, it is implicit in the appendix to the CAC's submissions that the respondent took up a leadership role. In November 2015 when the Council emailed the respondent, she advised that she had agreed to undertake a leadership role, but it is not clear that it was at Learning Centre C. The respondent has accepted that "she had not completed the professional development or met the conditions generally." She has not raised any issue with this. We find the particular proved.

e) *Not advising the Teaching Council that she had changed employer from [Preschool B] to [Learning Centre C];*

17. As outlined in paragraph 6 of the ASF, it was a condition of the respondent's agreement with the CAC that she inform the Council of any full time or fixed-term teaching position she accepts, or changes to her home address or her employer. Particular 1e) is therefore established.

f) *Failing to fully disclose to her new employer that she was censured by the Teaching Council for not meeting the Centre's licensee requirements.*

18. It is not evident from the information before us that it was a condition of the respondent's registration that she had to disclose to her new employer that she was censured by the Council. In the Appendix, there is reference to the respondent being advised to disclose the conditions to her employer, but it is not evident that this was part of the conditions initially agreed to with the CAC. We therefore do not find that she breached a condition and this particular is not proved.

19. In summary, we find that the respondent breached the conditions placed on her registration by:

- Not undertaking required professional development (1 (a))
- By not providing reflective statements to the CAC every three months (1(b))
- Not arranging for a mentoring relationship despite acceptance of a leadership

position at [Learning Centre C] (1(d))

- Not advising the Teaching Council that she had changed employer from [Preschool B] to [Learning Centre C]. (1(e)).

Serious misconduct

20. We must now decide whether the established conduct amounts to serious misconduct (or conduct otherwise entitling the Tribunal to exercise its powers).

21. Section 378 of the Act provides:

serious misconduct means conduct by a teacher—

(a) that—

(i) adversely affects, or is likely to adversely affect, the well-being 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 Education Council's criteria for reporting serious misconduct.

22. The criteria for reporting serious misconduct are found in r 9 of the Rules. The CAC relies r 9(1) (o):

Criteria for reporting serious misconduct

(1) *The criterion for reporting serious misconduct is that an employer suspects on reasonable grounds that a teacher has engaged in any of the following:*

...

(o) *any act or omission that brings, or is likely to bring, discredit to the profession.*

CAC submissions

23. For the CAC, Ms Tahana referred to three cases to demonstrate that the Tribunal has treated condition breaches as serious:

- a. *CAC v Leyden* NZTDT 2014-72;
- b. *CAC v Ranapia* NZTDT 2016-53; and
- c. *CAC v Respondent* NZTDT 2014-20.

24. The CAC submitted that the purpose of imposing conditions is to enable a teacher to continue to teach and therefore they must abide by the conditions imposed. Here, the conditions were aimed at addressing misconduct resulting from her bullying staff,

responding inappropriately to a parent enquiry and overbooking the centre.

25. Ms Tahana submitted that the respondent's blatant disregard demonstrates a lack of respect for the CAC's decision and undermines the integrity of the teaching profession.
26. Additionally, Ms Tahana submitted, it is expected that registered teachers show respect for both the disciplinary functions of the CAC and their recommendations. Failing to comply with conditions could be read as suggesting she does not take the obligations associated with being a professional registered teacher seriously, which is concerning to the CAC as it is expected that teachers will recognise and comply with their obligations and take responsibility for them.
27. The CAC submitted that the respondent's non-compliance with the conditions reflects adversely on her fitness to teach and is of a nature that brings the teaching profession into disrepute when considered against the "yard stick".
28. Finally, Ms Tahana submitted that the most applicable criterion under r 9 was r 9(1)(o), which provides for "any act or omission which brings or is likely to bring discredit to the teaching profession".

Discussion

29. The Notice of Charge is framed so that we are invited to make a separate finding of serious misconduct or conduct otherwise entitling us to exercise our powers for each allegation.
30. In *Ranapia* the individual breaches of conditions were not particularised in the charge. In that case, the teacher faced three allegations, one of which being that she failed to comply with conditions. The several conditions breached were then described in the evidence, and so a finding of serious misconduct for each allegation was not required.
31. In *NZTDT 2014-20*, the teacher breached conditions that had been imposed by the Tribunal following a hearing. Although in that case the charge alleged that the breaches individually and cumulatively, the Tribunal did not make rulings on each particular. We said:

We are quite satisfied that the Complainant has made out its allegation of serious misconduct, not simply because the Respondent appears to accept that that is the case, but because, in our view, for a teacher to fail to comply with conditions imposed on her practising certificate is undoubtedly a breach of her obligations. When those conditions are directed at ensuring that she has a proper appreciation of boundaries, then the failure to comply with them may bring into

question whether or not her actions have the potential adversely to affect students. But even if that is going too far, they clearly raise a question of her fitness to continue to hold registration.

32. In the present case, we need to consider each established breach as though:
- a. It was the only condition imposed and breached; or
 - b. All other conditions had been met and this was the only one breached.
33. In considering each established allegation, we find the respondent's failure to arrange a mentoring relationship once she was in a leadership role the most serious. The reasons for this are:
- a. The mentoring condition was the means by which someone would know of the previous conduct and be able to assist and support her to behave professionally and safely in a leadership role, where she would have more influence on the day to day wellbeing of the children and staff. Had she not taken up a leadership role, then the impact of her failure to comply with other conditions might be considered less.
 - b. This (and her failure to notify the Council of her change of employment) also represent an active disregard for the conditions. Failing to undertake professional development or provide can be for various reasons including lack of energy, funds or interest in her career. Those failures are still not acceptable, but taking up a leadership role and changing jobs were active steps in her career and yet she did not comply with the conditions that attached to them. This increases concerns about the respondent's integrity.
34. We think that particulars 1 d) and 1 e) together amount to serious misconduct and that 1 a) and 1 b) amount to serious misconduct when considered with 1 d) and 1 e). As evidenced by the information contained in the Appendix to the CAC submissions,, the Council was in contact with the respondent, and she was not in any doubt about her obligations. This was not a case of forgetfulness or negligence. We find that the totality of the breaches reflects adversely on the respondent's fitness to practise under the second limb of the definition of serious misconduct in s 378. Conditions were put in place because of her failure to comply with legal requirements of staff ratios, as well as unprofessional behaviour towards her colleagues. She has failed to comply with conditions that she agreed to. This brings into question her integrity. In addition she

has disregarded her obligations to her registration body, and through that her obligations to the profession and to the public.

35. When applying the test for discredit to the profession as found in *Collie v Nursing Council of New Zealand* [2001] NZAR 74,⁸ we are satisfied that reasonable members of the public, informed of all the facts and circumstances would find the factual circumstances, could reasonably conclude that the reputation and good-standing of the teaching profession was lowered by the behaviour of the respondent. We therefore find that her conduct may bring the teaching profession into disrepute under the third limb of the definition of serious misconduct in s 378, and r 9(1)(o).

Penalty

36. In *CAC v McMillan*⁹ we summarised the role of disciplinary proceedings against teachers as:

... to maintain standards so that the public is protected from poor practice and from people unfit to teach. This is done by holding teachers to account, imposing rehabilitative penalties where appropriate, and removing them from the teaching environment when required. This process informs the public and the profession of the standards which teachers are expected to meet, and the consequences of failure to do so when the departure from expected standards is such that a finding of misconduct or serious misconduct is made. Not only do the public and profession know what is expected of teachers, but the status of the profession is preserved.

37. Section 404 of the Act provides:

404 Powers of Disciplinary Tribunal

- (1) *Following a hearing of a charge of serious misconduct, or a hearing into any matter referred to it by the Complaints Assessment Committee, the Disciplinary Tribunal may do 1 or more of the following:*
- (a) *any of the things that the Complaints Assessment Committee could have done under section 401(2):*
- (b) *censure the teacher:*

⁸ *Collie v Nursing Council of New Zealand* [2001] NZAR 74 at [28]

⁹ NZTDT 2016/52, 23 January 2017, paragraph 23.

- (c) *impose conditions on the teacher's practising certificate or authority for a specified period:*
- (d) *suspend the teacher's practising certificate or authority for a specified period, or until specified conditions are met:*
- (e) *annotate the register or the list of authorised persons in a specified manner:*
- (f) *impose a fine on the teacher not exceeding \$3,000:*
- (g) *order that the teacher's registration or authority or practising certificate be cancelled:*
- (h) *require any party to the hearing to pay costs to any other party:*
- (i) *require any party to pay a sum to the Education Council in respect of the costs of conducting the hearing:*
- (j) *direct the Education Council to impose conditions on any subsequent practising certificate issued to the teacher.*

CAC submissions

38. The CAC referred to several cases to guide us on penalty:
- a. *CAC v Ranapia 2016/53;*
 - b. *CAC v Leyden 2014/72;*
 - c. *CAC v Respondent 2014/03;*
 - d. *CAC v Faiva 2015/21; and*
 - e. *CAC v Respondent 2014/20.*
39. Ms Tahana submitted that the following matters were aggravating factors:
- a) The respondent was provided with several opportunities to comply;
 - b) The respondent failed to meet deadlines after agreeing to these;
 - c) The duration of the non-compliance continued over a long period and throughout her employment at three separate early childhood centres; and
 - d) The respondent repeatedly failed to comply with conditions which were agreed.
40. The respondent accepts that she breached her conditions and has confirmed that she wants to be deregistered. Ms Tahana submitted that the accepted breaches and her lack of interest in maintaining her registration are relevant considerations when considering appropriate penalty.
41. Finally, Ms Tahana submitted that the aggravating factors identified were similar to

those in *Faiva* where the Tribunal imposed a penalty of censure and cancellation.

42. The CAC acknowledged in mitigation that the respondent had explained she was experiencing difficult personal circumstances, but it is notable that no evidence has been provided to support her explanations.
43. Ms Tahana noted that with the exception of *Ranapia*, the Tribunal had imposed cancellation in the cases referred to. In *Leyden* we considered that we would fail in our responsibilities to the public and the teaching profession if we allowed a teacher to retain registration where the behaviour that led to conditions being imposed was repeated.
44. The respondent did not file any submissions.
45. The CAC submitted that the appropriate penalty for the respondent is censure and cancellation.

Discussion

46. We must impose a penalty that is consistent with the Teaching Council's purpose of ensuring "safe and high quality leadership, teaching, and learning for children and young people in early childhood, primary, secondary, and senior secondary schooling" through raising the status of the profession as found in s 377 of the Act. That cannot be raised if teachers who are unsuited to the role remain in the profession.
47. As noted by the CAC, cancellation has often been imposed where conditions have been breached, but we do not think that is the starting point. Rather it seems that we have cancelled where the teacher has not engaged or has asked for cancellation, in which case penalties aimed at rehabilitation are not appropriate; or where the penalty has been imposed for other matters at the same time. In 2014-20 where the teacher's non-compliance with conditions arose from one day relief teaching, we did not cancel her registration. And we did not cancel registration in *Ranapia* where we were provided with information about that teacher's circumstances as well as medical information about circumstances affecting the teacher at the relevant time.
48. However, in the present case, the respondent has asked to be deregistered. We agree with the penalties sought by the CAC. The respondent seems to have given up on her professional career. We do not know what circumstances may have led to this decision, but unfortunately, her initial disregard for her legal obligations as a teacher, her lack of respect for the disciplinary powers of the CAC, her acquiescence in the

penalty leave us no alternative. She has given us no confidence that she would comply with any conditions on her practice, and we therefore make following orders:

- a. Censure under s 404(1)(b)
- b. Cancellation under s 404(1)(g).

Costs

49. No submissions have been filed as to costs.
50. A schedule of estimated costs has been filed for the Tribunal costs. Because of the delay in issuing this decision, we have decided not to order Tribunal costs under s 404(1)(h).
51. The Tribunal orders the respondent to pay 40% of the CAC's actual and reasonable costs under s 404(1)(h). The Tribunal delegates to the Chairperson authority to determine the quantum of those costs and issues the following directions:
 - a) Within 10 working days of the date of this decision the CAC to file and serve on the respondent a schedule of its costs
 - b) Within a further 10 working days the respondent is to file with the Tribunal and serve on the CAC any submissions she wishes to make in relation to the costs of the CAC.
52. The Chairperson will then determine the total costs to be paid.



Theo Baker
Chair

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

1. This decision may be appealed by teacher who is the subject of a decision by the Disciplinary Tribunal or by the Complaints Assessment Committee.
2. An appeal must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows.
3. Section 356(3) to (6) applies to every appeal under this section as if it were an appeal under section 356(1).