BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2018-93

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	**PANAPA LAFOA'I** **Respondent**

TRIBUNAL DECISION

15 October 2019

HEARING: Held on 23 September 2019 (in Wellington)

TRIBUNAL: Theo Baker (Chair)
Kiri Turketo and Simon Williams (members)

REPRESENTATION: Mr McCaughan for the Complaints Assessment Committee
Ms King for the respondent

1. The Complaints Assessment Committee (**CAC**) referred the respondent to the Tribunal as a result of a conviction for driving with excess breath alcohol (**EBA**) and some surrounding events. There is a charge of serious misconduct alleging that the respondent:

   (a) Admitted to the school principal that he had continued to drive to and from school, knowing he was a disqualified driver. Mr Lafoa'i was subject to a period of disqualification after receiving a conviction for EBA (3rd or subsequent);
   (b) Failed to notify the school of his conviction; and
   (c) Left school to attend court appearances at the District Court, without advising the school of his whereabouts and/or took sick leave to attend court appearances.

2. Following the hearing of evidence, with no objection from either party, the first seven words of the first particular of the charge were deleted so that the charge read:

   (a) had continued to drive to and from school, knowing he was a disqualified driver. Mr Lafoa'i was subject to a period of disqualification after receiving a conviction for EBA (3rd or subsequent).

3. The CAC has also referred the EBA conviction to the Tribunal under s 401(3) of the Education Act 1989 (**the Act**) for exercise of our disciplinary powers. That section of the Act says that a CAC may refer any matter at any time to the Tribunal, whereas s 401(4) requires the CAC to refer any matter that it considers might possibly amount to serious misconduct. Section 404(5) requires a notice of charge of misconduct for anything referred under s 404(4).

4. The facts were agreed before the hearing, but the respondent wanted to be heard in person on the question of penalty. A hearing was convened in Wellington on 23 September 2019. Ms King confirmed that the respondent accepted that the conduct found in the first particular of the charge amounted to serious misconduct.

5. We deliberated and issued an oral decision on 23 September 2019. Any appeal rights run from the date of this final written decision.

Evidence

6. The CAC evidence was in the form of a summary of facts which was accepted by the respondent. We also heard from the respondent.

7. The agreed facts were that Panapa Lafoa'i is a fully certificated teacher who taught at

St Bernard's College for about 12 years until his resignation effective from 31 August 2018. The respondent's practising certificate expired on 22 June 2018, and he has a current application being considered by the registration team at the Teaching Council.

Previous drink-driving convictions

8. On 24 March 1998, Panapa Lafoa'i was convicted and sentenced in the Wanganui District Court for EBA with a level of 632 mcg/L (632 micrograms per litre of breath). He was disqualified from driving for 8 months and fined $650.00. On 11 July 2000 the respondent was convicted and sentenced in the Palmerston North District Court for EBA (level 550 mcg/L). He was disqualified for 9 months and fined $800.00. Both of these convictions were entered prior to Mr Lafoa'i's registration as a teacher. They were considered by the Council when Mr Lafoa'i applied for registration.

2018 conviction

9. On 4 May 2018, Mr Lafoa'i was convicted and sentenced in the Hutt Valley District Court for EBA (3'' or subsequent offence). The relevance of it being his third offence is that the maximum and mandatory penalties under the Land Transport Act 1998 are greater than for the first two offences.[1] On this occasion, his level was 113 milligrams of alcohol per 100 millilitres of blood and it related to his driving on 15 July 2017. Mr Lafoa'i was sentenced to six months' supervision. ' He was also disqualified from driving for one year and one day from 4 May 2018. This meant he was disqualified from driving through to 5 May 2019.

Serious misconduct

10. Mr Lafoa'i agreed that on the day of his sentencing, he left school to attend his court appearance at the District Court, without advising the school of his whereabouts.

11. On 10 May 2018 the Teaching Council received a notification of Mr Lafoa'i's drink driving conviction from the Hutt Valley District Court and on 28 May 2018, Marie Fitchett, Senior Investigator, Teaching Council, emailed him about the conviction. He phoned her that day and told her that he did not know he was required to advise the Teaching Council about his conviction. He said he thought it would be covered when he applied for his teacher registration in June, He told her he had also not told his Principal. investigator Fitchett encouraged him to do so, which he then did.

[1] Section 58(4) Land Transport Act 1998

12. On 12 June 2018, Mr Lafoa'i met with Principal Stack and admitted the following:

    (a) He was aware of the requirement to notify the Teaching Council and his employer of his conviction but did not do so because he was embarrassed.

    (b) He had attended a court hearing on 4 May 2018 at 10am. He did this during his 'non-contact period'. However, school records showed that he had been scheduled to teach at 9.45am, and no absence was granted except for sick leave for P5.

    (c) He also had convictions from 1998 and 2000, He said that he had disclosed these in his application for his current teaching position. However, Principal Stack was unable to find any record of this.

    (d) He had continued to drive to school while disqualified.

13. Mr Lafoa'i lives in Newlands, Wellington. St Bernard's is about 14.4 km away in Lower Hutt.

14. On 19 June 2018, Principal Stack filed a mandatory report with the Teaching Council

Information obtained by CAC

15. On 10 July 2018, Mr Lafoa'i emailed Investigator Fitchett, advising that he had a memory of having attached a police record with his very first application. He requested a copy of his original application.

16. On 30 August 2018, Mr Lafoa'i emailed investigator Fitchett. His response included the following:

> *It has been a while since our last conversation on the phone. I had a tough time refocusing and to find myself after my resignation from St Bernard's College. It was an experience that I found overwhelming and put me and my family (wife and 2 children) in a difficult situation.*
>
> *My response to those allegations to St Bernard's Board was unforgivable and it puts me in a very tough position to think about getting my teacher registration as it was also suspected* [sic] *by our PPTA representative Derek Morris. However, I am still hoping to have another chance to get my teacher registration which is currently on hold for renewal.*
>
> *My latest conviction I had in July last year was a very irresponsible decision to drive home that night and on top of that, I made another silly mistake by failing to*

notify Education Council about the police charge. I was very nervous and embarrassed by what happened and my lawyer kept dragging the hearing because of some investigation he wanted to make about that night I was pulled over. I was finally convicted on May the 4th this year and it was even worse to know that I will be investigated by my employer and the council. I did not even tell my wife about my conviction which caused another irresponsible decision to drive to work after dropping off our kids at Primary school in the morning which was our usual family routine.

Leading up to that night when I was charged, I used to live by myself. I had some difficult time in my family between me and my wife so they moved to Auckland and stayed there towards the end of term one including the holiday and the whole of term 2 including term 2 holiday. My daughter was enrolled at a Primary school in [redacted] and my son at a [redacted] (Pre-school) in [redacted] as well. I failed to notify my employer about this as well during that time but I thought it was a personal issue

I am currently working very well with my Probation officer with counselling as well as a very good session with Care NZ in terms of assessing and to make sure I will not commit this crime again

I do hope that my response to these allegations will be appreciated by your department and the Investigation panel. I can only say that I am very very sorry for my unacceptable and unprofessional behaviour.

Oral evidence at the hearing

17. The respondent read from a prepared statement, in which he emphasised that he was extremely ashamed of his drink driving conviction and the poor choices he made leading to that mistake. He explained that his life was in turmoil, at work he was stressed with deadlines, managing a full teaching load and his marriage was in trouble at that time. Rather than tell people about his challenges, he carried on working, hoping he could deal with everything on his own. The respondent said that he has since learned that is not the right way. He has been attending workshops that have helped him to deal with stress and anxiety better.

18. The respondent said that he was sorry for drink driving, that there is no excuse for such carelessness and he is determined not to be reckless again. He apologised for

not reporting the incident to the School Board, saying that at that time he was not thinking straight and felt too overwhelmed to deal with the situation. He said that he would not drink and drive again.

19. The respondent was keen to return to teaching. He also asked for name suppression to protect his two young children.

20. The respondent also told us that he had had a lot of counselling with his Probation Officer and NZ Care.[2]

21. Under cross-examination it was established that the counselling the respondent referred to was in fact his weekly meetings with his Probation Officer and one (alcohol and drug) assessment with Care NZ. He had also attended one evening workshop on managing stress and anxiety. A letter confirmed that he had attended a "brief alcohol and drug counselling session on 11 July 2018. The respondent had also had three sessions with EAP (employee assistance programme) through the school.

22. The respondent had also provided a letter from Jeane Lomax, a colleague from the school. She reminded us that that the respondent is culturally Samoan, and we understood she was emphasising the group culture of Samoa, as opposed to the individualist nature of western cultures. Ms Lomax said that when the respondent had first told her (of the conviction) he shrank down and shuffled into her office in a manner that reminded her of Ifoga. She said that he was so ashamed to tell her what had happened but that this was a lower level of shame than if he had told his Samoan friends on staff.

23. The respondent agreed with tribunal member, Ms Turketo, that the Samoan concept of Ifoga involves asking for forgiveness, starting with the family and that it usually done immediately, and that the family includes your school family. The respondent said that when he had the meeting with the three members of the board, he wrote a letter to the panel asking for forgiveness. He then met with the whole board, and that is his style of Ifoga. He acknowledges that Ifoga is a very big thing.

24. When asked what he had learned from his counselling, the respondent said that he had learned to keep in good health and look after himself; that getting behind the wheel after drinking alcohol was not a good idea. He now doesn't drive to friends'

[2] In fact, he meant Care NZ, which is a different organization from NZ Care

homes when he knows alcohol will be involved. He said that in order to deal with stresses and deadlines in the future he will talk with his Head of Department.

25. On further questioning by the Tribunal, the respondent acknowledged that he drove while disqualified every day for two or three weeks. He did not lie when the school asked him about it. His explanation for not applying for a limited licence allowing him to drive to work was that it would cost $2,500 and he had already been billed $8,000 in legal fees.

26. We asked the respondent what he liked about teaching. He talked about enjoying his students' success, doing activities, sharing what he knows, his students enjoying what they are doing and meeting the intended outcomes. He also spoke of the fun of working with his colleagues and getting their ideas.

27. Our discussion of the respondent's evidence is found below under our penalty decision.

Adverse finding and serious misconduct

28. There was no dispute between the parties that conduct contained in the first particular amounted to serious misconduct and that the respondent's conviction warranted a disciplinary response. We must still be satisfied that a finding of serious misconduct and an adverse finding on the conviction referred to us is required.[3]

29. Dealing first with his conviction, the respondent was convicted on 4 May 2018 for driving with excess blood alcohol on 15 July 2017, his level being 113 milligrams of alcohol per litre of blood. On its own, this would unlikely have warranted a referral to the Tribunal. Even in isolation, an offence such as this may attract an adverse finding. However, this being the third such offence we have no hesitation in recording our disapproval. It clearly warrants the exercise of our disciplinary powers. Society's intolerance of repeated disregard for drink driving laws is reflected in the greater maximum and mandatory penalties provided for in the Land Transport Act 1998 for a third or subsequent offence.

30. The CAC charges that the following actions amount to serious misconduct:

    a) Continuing to drive to and from school, knowing he was a disqualified driver;

[3] *Complaints Assessment Committee v S*, Auckland DC, CIV 2008 004001547, 4 December 2008, Judge Sharp, at [47].

b) Failure to notify the school of his conviction;

c) Leaving the school to attend court appearances at the District Court, without advising the school of his whereabouts and/or taking sick leave to attend court appearances

31. The definition of is found in s 378:

> ***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 Teaching Council's criteria for reporting serious misconduct*.

32. Paragraph (b) requires that the conduct is of a character and severity that meets the criteria for reporting serious misconduct which are found in r 9 of the Teaching Council Rules 2016. Therefore the CAC must establish at least one ground under s 378 and one under r 9 for the test for serious misconduct to be met. Because this conduct occurred before 18 May 2018, the rules that were in place at the time apply. The CAC relies on rr 9(1)(n) and/or (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:*
>
> *(n) 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:*
>
> *(o) any act or omission that brings, or is likely to bring, discredit to the profession.*

33. The Land Transport Act 1998 provides that a person who is convicted of driving while disqualified may be imprisoned for up to three months.[4] Therefore it is an offence that

[4] Land Transport Act 1998, s 32

meets r 9(1)(n).

34. We also find that the respondent's flagrant disregard for the law reflects adversely on his fitness to be a teacher, and therefore meets the test in paragraph (ii) of the definition of serious misconduct in s 378.

35. The respondent's failure to inform his employer of his conviction and his leaving school to attend court might on the surface seem like employment matters, but it's his dishonesty that concerns us. While not telling his employer demonstrates a lack of transparency and might be termed a "sin of omission", his leaving school to attend court was an example of active deceit. Together we find that these two matters amount to serious misconduct on the basis that they reflect adversely on his fitness to be a teacher and may bring the teaching profession into disrepute. We therefore also find that they are likely to bring discredit to the profession. We consider that reasonable members of the public, informed of the facts and circumstances, could reasonably conclude that the reputation and standing of the profession was lowered by the respondent's behaviour.[5]

36. We also make an adverse finding in respect of the respondent's EBA conviction on 4 May 2018, this being his third such conviction.

Penalty

37. Our powers to impose a penalty are found in s 404 of the Act, which 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:*
> *(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:*

[5] The test adopted from the High Court in *Collie v Nursing Council of New Zealand* [2001] NZAR 74

(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.

(2) Despite subsection (1), following a hearing that arises out of a report under section 397 of the conviction of a teacher, the Disciplinary Tribunal may not do any of the things specified in subsection (1)(f), (h), or (i).

(3) A fine imposed on a teacher under subsection (1)(f), and a sum ordered to be paid to the Teaching Council under subsection (1)(i), are recoverable as debts due to the Teaching Council.

38. The CAC sought the following penalty:

a) Censure;
b) Annotation for a period of two years;
c) A condition for two years that the respondent is to provide his current employer or any future employer during that period, with a copy of the Tribunal's decision.

39. Mr McCaughan helpfully summarised the penalty principles from our decision of *CAC v Fuli-Makaua*[6] and identified four ones relevant to the present case:

a) Previous convictions;

40. The respondent has two previous EBA convictions, from 1998 and 2000. Ms King notes that these two matters are historic.

41. These matters are not irrelevant to our penalty decision, but need to be considered within this context: we have already taken into account these convictions when making an adverse finding; the respondent has not been before the Tribunal before; these convictions pre-date his commencement as a teacher; as Ms King says, they are

[6] *CAC v Fuli-Makaua* NZTDT 2017-40, 5 June 2018

historic.

42. The previous convictions take on more significance when we explore the respondent's insight.

b) Failure to report the conviction to the Teaching Council.

43. Mr McCaughan said that the respondent initially claimed on 28 May 2018[7] that he did not know he was required to report it, but later admitted on 12 June 2018 that he was aware of the requirement, and had not done so because he was embarrassed. Although not dismissive of his obligations, he deliberately failed to notify the Council.

44. Ms King submitted that the failure to report was done because the respondent understood it was something shameful and something he should not have done. He therefore felt embarrassed and did not tell his family either.

45. We appreciate why the respondent did not want to report his conviction, but under s 397 of the Act, he was required to do so, and the Act provides that failure to do so may give rise to disciplinary proceedings:

> ***397 Mandatory reporting of convictions***
>
> *(1) Every holder of a practising certificate and every authorised person who is convicted of an offence punishable by imprisonment for 3 months or more must, within 7 days of conviction, report the conviction to the Teaching Council.*
>
> *(2) Failure to report a conviction to the Teaching Council in accordance with subsection (1) is misconduct that may give rise to disciplinary proceedings.*

46. Therefore, his failure to notify the Council is an aggravating factor in this case.

c) Demonstration of accountability and remorse.

47. The CAC submitted that there is no evidence to suggest that the respondent was remorseful until after he was sentenced. It took 10 months from the date of charging (with EBA) for him to plead guilty. He blames his lawyer for this delay, but the absence of a guilty plea combined with his failure to notify the Teaching Council or his school of the matter suggests an absence of remorse, at least until sentencing.

48. Further, the respondent incorrectly claimed that his attendance at a court hearing was during a non-contact period, when in fact he had been granted sick leave. This

[7] See paragraph 14 above

behaviour is inconsistent with genuine remorse.

49. Ms King submitted that the length of time between before a guilty plea is not indicative of a lack of remorse, saying that this CAC submission is a non sequitur. Further, acting on legal advice is not indicative of a lack of remorse.

50. We appreciate the point Ms King is making. We should not penalise the respondent too much for pleading not guilty on the basis of legal advice, but people do plead guilty early and accept responsibility for their choices, despite the possibility of a technical defence. Such an action would imply genuine remorse. We do not find that the respondent did not feel remorseful at all, but there were no positive actions indicating remorse before his guilty plea.

51. The respondent accepted that the concept of Ifoga does not involve secrecy but starts with asking for forgiveness, from one's family, including the school family. We agree with Ms King's submission that shame and remorse are closely linked emotions. However, shame (in the Palagi sense) is often associated with the exposure of being caught. True remorse might conquer the secrecy that is often a symptom of shame.

d) Demonstration of insight
e) Rehabilitation

52. The CAC submitted that for the reasons set out above, there is insufficient evidence that the respondent shows insight into his offending.

53. Ms King also submitted that at the time of the offending the respondent was going through a difficult period personally and while that does not excuse his behaviour, the emotional turmoil affected his decision-making. She said he had undergone counselling.

54. During his evidence, the respondent's insight and rehabilitative steps were explored. Ms King submitted that he should not be penalised for not being able to articulate the benefit he had gained from the courses or counselling he had attended.

55. As noted above, it seems that the respondent's counselling has been limited to his three EAP session through the school. We do not think that the respondent's reference to his weekly meetings with the Probation Officer as counselling was necessarily done with an intent to mislead. More likely, he found meeting with someone on a regular basis was helpful.

56. We acknowledge that the respondent initiated his attendance at the evening workshop on stress and anxiety. We take Ms King's point that not everyone can express the insights taken from counselling and we also appreciate that English is not the respondent's first language and the Tribunal forum might not be comfortable culturally for him, but we would have been reassured to hear one meaningful observation. The only change he referred to in his life is that his family are reunited.

57. We formed the impression that the respondent is used to keeping things to himself. He said in evidence that in the future he would speak with his Head of Department if he was having difficulty dealing with deadlines and stresses. We mean no criticism of him, but we query whether his private nature has served him well. In delivering our oral decision we suggested to him that secrecy is very stressful and urged him to be more open. We trust he can find other supportive relationships amongst his colleagues or wider community.

Conclusion

58. Our observations about the respondent's failure to demonstrate remorse and insight must be considered in the context of the matters that require a disciplinary response. Overall, we do not think that the referral of this conviction nor the findings of serious misconduct are sufficiently serious to warrant cancellation of the respondent's registration. The respondent's offending and his understanding of the factors behind it has not yet reached the level of *Fuli-Makaua*[8] where that teacher who had accumulated three EBA convictions and one for driving while disqualified within three years did not feel that alcohol was a problem in her life. However, if the respondent appears in front of the Tribunal again, his registration will be in jeopardy.

59. The respondent's description of what he enjoys about teaching reassured us that he has a meaningful contribution to make to the profession[9] and we hope that he returns to a school soon so that children and young people can benefit from his skills and knowledge as a teacher. Therefore, we agree that the CAC's proposed penalty is appropriate and we imposed the following:

a) The respondent is censured under s 404(1)(b);

b) Under s 404(1)(c), it is a condition on the respondent's practising certificate for a

[8] Above, note 5

[9] This was another factor that we considered in Fuli-Makaua at paragraph 72

period of two years from 23 September 2019 that:

(i) he provide a copy of this decision to his current employer or any future employer during that period (employer being one in the education sector); and

(ii) before commencing any teaching employment, provide the Teaching Council with the name of a mentor who must be approved by the Senior Manager Professional Responsibility; and

(iii) from the time of commencing a teaching position, he has that mentor in place for a period of one year.

c) The register is annotated for a period of two years from the date of 23 September 2019.

Costs

60. The effect of s 404(2) is that we have no power to order costs where the referral is on the basis of a report of a conviction. In the present case the CAC also brought a charge of serious misconduct arising out of the respondent's conduct before and after the conviction. Therefore we decided to make an order that the respondent pays 20% of the costs of conducting the hearing, under section 404(1)(h) and (i), that is 20% of the Tribunal's costs and 20% of the CAC's actual and reasonable costs. This is half of the percentage usually ordered for charges of serious misconduct.

61. 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:

i. The Secretary is to provide the Chairperson and the parties a schedule of the Tribunal's costs

ii. 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 he wishes to make in relation to the costs of the Tribunal or CAC. That may include information about his own income and outgoings.

62. The Chairperson will then determine the total costs to be paid.

Non-publication

63. The respondent applied for non-publication of his name in order to protect his children who do not know about this matter.

64. Section 405(3) of the Act provides that hearings of this Tribunal are in public. This is consistent with the principle of open justice, which as we noted in *CAC v Jenkinson*, [10] is a "fundamental tenet of our legal system." While protection of the public is an important function of open justice, the presumption exists regardless of any need to protect the public. [11] The primary purpose behind the open justice principle in a disciplinary context is the maintenance of public confidence in the profession concerned through the transparent administration of the law.[12]

65. Section 405(3) is subject to subsections (4) and (5) which allow for whole or part of the hearing to be in private and for deliberations to be in private. Subsection (6) provides:

> *(6) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may make any 1 or more of the following orders:*
>
> *…*
>
> *(c) an order prohibiting the publication of the name, or any particulars of the affairs, of the person charged or any other person.*

66. Therefore, in deciding if it is proper to make an order prohibiting publication, the Tribunal must consider the interests of the applicants, as well as the public interest. If we think it is proper, we exercise our discretion to make such an order.

67. In *NZTDT 2016/27,* we acknowledged what the Court of Appeal said in *Y v Attorney-General:*

> *While a balance must be struck between open justice considerations and the interests of a party who seeks suppression, "[A] professional person facing a disciplinary charge is likely to find it difficult to advance anything that displaces the presumption in favour of disclosure".[13]*

[10] *CAC v Jenkinson* NZTDT 2018-14 at paragraph 33
[11] *CAC v McMillan* NZTDT 2016-52 at paragraph 45
[12] *CAC v Teacher* NZTDT 2016/27 at paragraph 66
[13] *Y v Attorney -General* (2011] NZCA 676

68. We declined Mr Lafoa'i's application for name suppression on the basis that the respondent has advanced no proper ground.

69. We are not critical of the respondent's decision not to tell his children. We agree with Ms King that this is a parenting decision that is open to him. However, the fact that a teacher's children do not know about a disciplinary referral and finding is not sufficient reason to grant suppression. If it were, any teacher who has children could avoid telling them and then use it as a ground for non-publication of the teacher's name. That was clearly not Parliament's intention in enacting s 405.

70. Following release of this decision, the respondent may still decide not to tell his children. That is not a matter for this Tribunal to concern itself with. What is more important is that he complies with the condition above at paragraph 58(b) that he is open and honest with his employer and the Council as his regulating body.

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).