

TEACHING COUNCIL

NEW ZEALAND | Matatū Aotearoa

Complaints Assessment Committee (CAC) v Teacher E

NZTD 2018-84

Teacher E was referred to the Disciplinary Tribunal on a charge of striking a child on the bottom. The Tribunal found that the charge amounted to serious misconduct.

The result: the Tribunal noted that the facts of this case would not ordinarily warrant cancellation. However, in the absence of the teacher's willingness to engage in rehabilitative measures they cancelled registration. Teacher E was also ordered to contribute to the CAC and Tribunal's costs. There are non-publication orders in relation to the teacher's name and identifying details.

On 26 August 2019 the Tribunal released its decision following a hearing on the papers. The CAC had originally charged Teacher E with two incidents of striking a child on the bottom in August 2017. This was amended and only one charge was considered by the Tribunal.

On 10 August 2017 Teacher E brought a 4-year-old boy over to speak to another teacher about the boy's behaviour. When the other teacher began speaking with the boy, Teacher E suddenly hit the boy on the boy's bottom with an open hand, and then rubbed the boy's bottom. The other teacher estimated the level of force used as being "6 or 7 out of 10".

The other teacher noted that Teacher E was not angry when he hit the boy but did appear to be slightly frustrated. Teacher E was dismissed from his employment and was warned by the Police.

Teacher E accepted the facts as outlined above.

The CAC submitted that the teacher's actions amounted to serious misconduct as it brought the teaching profession into disrepute. The CAC also referenced a previous Tribunal decision where it was noted that *"the use of physical force – even at a lower level such as evident in this case – is unacceptable in New Zealand schools, and that any teacher who uses physical force contrary to section [139A] puts his or her status as a teacher in peril."*

Teacher E accepted that his actions amounted to serious misconduct.

The Tribunal accepted that Teacher E's conduct amounted to serious misconduct because it was likely to adversely affect the child and others around him, it reflected adversely on his fitness to be a teacher, it was likely to bring the teaching profession into disrepute and it amounted to physical abuse.

The CAC acknowledged that if the teacher had wished to stay in the teaching profession and was able to demonstrate insight into his conduct, cancellation would not have been the likely outcome.

The Tribunal decided that the conduct was unacceptable but emphasised that the facts of this case would not ordinarily warrant cancellation. However, in the absence of the respondent's willingness to engage in rehabilitative measures, the Tribunal cancelled his registration. Teacher E was also ordered to contribute to the CAC and Tribunal's costs.

Teacher E applied for non-publication orders in relation to his name and identifying details on a number of grounds. The Tribunal agreed to grant the requested orders based on a combination of the implications for the teacher's daughter's health along with the potential impact on his new career.



BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2018-84

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 **TEACHER E**

Respondent

TRIBUNAL DECISION

26 AUGUST 2019

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

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

REPRESENTATION: Mr Evan McCaughan for the CAC
Mr Sanjay Kumar for the respondent

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.

Charge

2. In a Notice of Charge dated 26 September 2018, the CAC alleged that on two occasions in August 2017 the respondent struck a child on the bottom. The parties filed a joint memorandum on 12 February 2019 in which the CAC applied to withdraw the first of these allegations. The charge is therefore amended and the Tribunal has considered only the charge that on 10 August 2017 the respondent struck Child C on his bottom.
3. The CAC contends that this conduct amounts to serious misconduct pursuant to s 378 of the Education Act 1989 (**the Act**) and rr 9(1)(a) and (o) of the Education Rules 2016¹ (**the Rules**); or conduct that otherwise entitles the Disciplinary Tribunal to exercise its powers under s 404 of the Act.

Evidence

4. Before the hearing the parties conferred and submitted and Agreed Summary of Facts (**ASF**), signed by the respondent and counsel for the CAC. The ASF is set out in full:

AGREED SUMMARY OF FACTS

Introduction

1. *[The respondent] is a registered teacher with a provisional practising certificate which expired on 31 August 2014. [the respondent] is required to undertake the Teacher Education Refresh programme in order for his practising certificate to be reissued.*
2. *Between 12 June 2017 and 3 September 2017, [the respondent] was employed as a casual reliever by [Centre A], an early childhood education centre.*
3. *On induction at [Centre A] [the respondent] agreed to their policies regarding Child Protection and Providing Positive Guidance.*

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.

4. *As a registered teacher, [the respondent] is subject to an obligation under the Code of Professional Responsibility to “promot[e] the wellbeing of learners and protect them from harm”.*
5. *On 19 December 2017, the Education Council received a mandatory report from the HR Manager at [Centre A].*

Incident

6. *On 10 August 2017 [the respondent] brought a 4-year-old boy (Child C) over to speak to another teacher about the boy’s behaviour. When the teacher began speaking with the boy, [the respondent] suddenly hit the boy on the boy’s bottom with an open hand, and then rubbed the boy’s bottom. The teacher estimated the level of force used as being “6 or 7 out of 10”.*
 7. *The teacher noted that [the respondent] was not angry when he hit the boy, but did appear to be slightly frustrated.*
 8. *The teacher asked the boy if he was OK. The boy did not respond and kept quiet.*
 9. *Another staff member also observed the incident, and described [the respondent] spanking the child’s bottom.*
 10. *[The respondent]’s last day of work at [Centre A] was on 10 August 2017. He was dismissed from his employment on 3 September 2017.*
 11. *After investigating the matter, Police issued [the respondent] with a warning for assaulting a child.*
5. We must be satisfied on the balance of probabilities that the CAC has proved the charge. It is clear from paragraph 6 of the ASF that the respondent accepts that he struck Child C on the bottom. The charge is proved.

Serious misconduct

6. The respondent has accepted that his conduct amounts to serious misconduct. We must still be satisfied that the established conduct amounts to serious misconduct (or conduct otherwise entitling the Tribunal to exercise its powers).
7. 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.

8. The criteria for reporting serious misconduct are found in r 9 of the Rules. The CAC relies on rr 9(1)(a) and (o) that were in place at the time of this conduct.²

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:

- (a) the physical abuse of a child or young person (which includes physical abuse carried out under the direction, or with the connivance, of the teacher):

...

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

CAC submissions

9. The CAC acknowledged that it does not appear that the child was particularly upset, and submitted that the conduct reflects adversely on the respondent's fitness to be a teacher, and may bring the teaching profession into disrepute (the second and third limbs of the definition in s 378). Although he did not refer to the first limb of the definition in s 378, Mr McCaughan submitted that the respondent's conduct breached the commitments made under the former Code of Ethics for Certified Teachers and its replacement, the Code of Professional Responsibility,³ in particular the commitment to "work in the best interests of learners by promoting the wellbeing of learners and protecting them from harm".

10. Referring to our decision in *CAC v Risuleo* NZTDT 2018-8,⁴ the CAC also conceded that the conduct might not be termed "physical abuse" (r 9(1)(a)), but clearly amounts

² Clause 3 of Schedule 1 of the Teaching Council Rules 2016 provides that possible serious misconduct by a teacher that occurred before 19 May 2018 must be reported and dealt with in accordance with the principal rules that were in force immediately before that date.

³ The current Code of Professional Responsibility took effect from 30 June 2017

⁴ *CAC v Risuleo* NZTDT 2018-8, 17 September 2018

to an act or omission that brings or is likely to bring discredit to the teaching profession under r 9(1)(o).

11. Mr McCaughan submitted that this sort of behaviour is totally unacceptable in an education environment, let alone in a pre-school environment. He submitted that there was no justification and it represented a serious error in judgment by the respondent, and amounted to a breach of s 139A of the Act, which prohibits the use of force, whether by correction or punishment, towards any student. He referred to *CAC v Teacher NZTDT 2014-49*⁵ where we said:

We repeat as we have said in a number of cases in the past that the use of physical force – even at a lower level such as evident in this case – is unacceptable in New Zealand schools, and that any teacher who uses physical force contrary to section [139A] puts his or her status as a teacher in peril.

Respondent submissions

12. The respondent accepted that his conduct amounted to serious misconduct.

Discussion

13. We must be satisfied that the respondent's conduct meets one of the definitions of serious misconduct in s 378 of the Act, and that it is of a character or severity that meets the criteria for reporting serious misconduct contained in r 9.
14. We are not told in the ASF or in submissions what the respondent's motivation was for smacking the 4-year-old boy in this way. Given that he was taking the child to another teacher to talk about the boy's behaviour, we infer that the smack was intended as a punishment or corrective action which is prohibited by s 139A of the Act. It is accepted that the child did not react, and when asked he was ok did not respond and kept quiet. It is difficult to know how upset the child was. However we are satisfied that the respondent's conduct was likely to adversely affect the wellbeing or learning of the child and other children who might have witnessed it.
15. We also find that this conduct reflects adversely on the respondent's fitness to be a teacher. We cannot imagine how any teacher in 2017 would think it was acceptable to smack a child on the bottom in any circumstance. It is unclear why the respondent chose that particular moment to hit the child; it cannot have been as a knee-jerk

⁵ *CAC v Teacher NZTDT 2014-49*, 20 May 2014

reaction or a misguided attempt to make the boy desist from some undesirable behaviour.

16. We also think that the respondent's behaviour may bring the teacher into disrepute.
17. Turning to our findings under r 9, we note that in light of the *Risuleo* decision,⁶ the CAC was not pressing the argument that the conduct amounts to physical abuse under r 9(1)(a). In that case, while a class was completing a colouring-in activity, two children tipped a jar of pencils on the floor. On the teacher's instruction, the students picked up the pens. Child H then threw a felt pen to the ground, landing about two or three metres away. The teacher walked over to Child H and grabbed his arm and pulled Child H towards him in the direction of where the felt pen had landed and instructed him to pick the felt pen up. This caused Child H to fall to the floor and hit his head. Child H cried and was upset. The teacher did not realise that the child had hit his head, but acknowledged it may have happened.
18. In *CAC v Haycock*⁷ this Tribunal did not hesitate in finding that smacking a child's bottom in an act of playful pretend anger was physical abuse. This was on the basis that it was covered by s 139A. The Tribunal rejected the respondent's argument that physical abuse must involve some degree of aggression or violence, saying:

Without foreclosing this argument for the future, in the context of this case, we think it is difficult to see how an act of force for the purposes of coercion or punishment which is unlawful behaviour on a teacher's part can otherwise than be regarded as abusive."

19. However, in NZTDT 2016-50,⁸ we said:

[26] Haycock appears to suggest that any use of force contrary to s 139A of the Education Act will automatically comprise serious misconduct, with the assessment to be made by the tribunal solely focusing on where on the seriousness spectrum the matter concerned sits. That impression, to our minds, is wrong. This is because, to be serious misconduct, the behaviour concerned must satisfy the character and severity threshold established in the Rules. This is an assessment that must be undertaken on a case by case basis to determine

⁶ CAC v Risuleo above, note 5

⁷ CAC v Haycock NZTDT 2016-2, 22 July 2016

⁸ NZTDT 2016-50, 6 October 2016

if the charge is provide – thus it is not merely a question of dealing with gradations at the penalty stage.

20. In *Risuleo* we endorsed the position in NZTDT 2016-50. We noted that in some cases the degree of force used easily sits within a common understanding of physical abuse. Sometimes the effect of the use of force is humiliation and might therefore amount to psychological abuse. Underlying both of these is the unique position of power and trust that a teacher holds. As we said in *CAC v Tregurtha*:⁹

Section 139A makes it clear that a teacher has no unique right to use force. We assume most teachers would not hit another adult if unhappy with their behaviour. A teacher’s position does not legitimise actions that amount to crimes if committed in the community. Therefore teachers must be careful not to abuse the position of authority that they have in a classroom.

21. In *Tregurtha* a teacher had received a police warning for assault as a result of her treatment of children in her care. In considering whether a finding of assault equates to a finding of physical abuse for the purposes of r 9(1)(a), we noted that because of the broad definition of assault,¹⁰ not every assault will amount to “physical abuse”.
22. We did not find physical abuse in *CAC v Emile* NZTDT 2016-51,¹¹ where a teacher was observed to push a 4-year-old child, who then fell to the floor. The child “was not affected at all”.
23. We see the present case as more serious than *Risuleo* or *Emile*. The respondent hit a child on the bottom. It was an assault that has no place in the classroom. We find that it amounts to physical abuse.
24. The CAC also relies on r 9(1)(o). We have no hesitation in finding that the respondent’s behaviour brings or is likely to bring the teaching profession into disrepute and is likely to bring discredit to the profession.¹²
25. In summary, this conduct amounts to serious misconduct because it:

⁹ *CAC v Tregurtha* 2017-39, 21 June 2018

¹⁰ “Assault” is defined in the Crimes Act 1961 as, “the act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he or she has, present ability to effect his or her purpose”.

¹¹ *CAC v Emile* NZTDT 2016-51, 14 December 2016

¹² Applying the test in *Collie v Nursing Council of New Zealand* [2001] NZAR 74 at [28]

- was likely to adversely affect the child and others around him;
- reflects adversely on his fitness to be a teacher;
- is likely to bring the teaching profession into disrepute;
- amounts to physical abuse
- is likely to bring discredit to the teaching profession

Penalty

26. In *CAC v McMillan*¹³ 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.

27. 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:*
 - (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:*

¹³ NZTDT 2016/52, 23 January 2017, paragraph 23.

- (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.*

28. The respondent has agreed that his registration may be cancelled. The CAC acknowledged that if the respondent had wished to stay in the teaching profession and was able to demonstrate insight into his conduct, cancellation would not have been the likely outcome.
29. Mr Kumar made submissions in mitigation, concluding that cancellation is a sufficient penalty. We view this as the most serious penalty under s 404, but note that the respondent may have been concerned about a financial penalty. In particular, Mr Kumar submitted the following matters. The respondent:
- a) Has not previously been charged with any offence and has never appeared before any disciplinary tribunal or court in New Zealand or elsewhere;
 - b) Has a long, distinguished and unblemished career as an educator over 25 years;
 - c) Has fully accepted responsibility for his actions at the earliest opportunity, and saved time and costs by not defending the matter;
 - d) Fully co-operated with every level of investigation in this matter;
30. It was submitted that the conduct can rightly be categorised as offending at the lower end of the scale of seriousness, and it is noted that no identifiable injury was suffered.
31. Future risk is mitigated by the respondent's willingness to undertake that he will never apply for registration or reinstatement as a teacher or have any involvement as an educator, even if registration is not required.
32. We agree that although unacceptable, the conduct is not egregious. We would not go so far as to say that it is at the lower end of seriousness, given it is an assault on a

child, but we emphasise that the facts of this case would not ordinarily warrant cancellation. However, in the absence of the respondent's willingness to engage in rehabilitative measures, we will make an order under s 404(1)(g). Should the respondent seek to return to teaching in the future, we would expect him to have shown evidence of further learning in behaviour management.

33. We impose no other penalty.

Costs

34. The CAC sought a contribution of 40% of its costs under s 404(1)(h).

35. The Tribunal orders the respondent to pay 40% of the CAC's actual and reasonable costs under s 404(1)(h) and the Tribunal's costs under s 404(1)(i), 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 she wishes to make in relation to the costs of the Tribunal or CAC.

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

Non-publication

37. The respondent seeks non-publication of his name on the following grounds:

a. Family's reputation and standing in the community.

b. Adverse implication on the respondent's employability, income and finance

c. Adverse health implications for the respondent

d. Adverse health implication for the respondent's wife

e. Adverse health implications on the respondent's daughter

f. The absence of injury and/or identifiable harm sustained by the alleged victims;

g. The proposed removal of the respondent's name from the register, and his undertaking not to teach or be involved in education;

- h. the respondent's otherwise clear record;
- i. the respondent has already been punished

38. The CAC adopts a neutral position on name suppression.

General Principles on non-publication

39. Section 405(3) provides that hearings of this Tribunal are in public. This is consistent with the principle of open justice. The provision 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:

(a) an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:

(b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:

(c) an order prohibiting the publication of the name, or any particulars of the affairs, of the person charged or any other person.

40. Therefore, in deciding if it is proper to make an order prohibiting publication, the Tribunal must consider relevant individual interests as well as the public interest. If we think it is proper, we may make such an order. There is no onus on the applicant and that the question is simply whether the circumstances justify an exception to the fundamental principle.¹⁴

41. The correct approach is to strike a balance between the open justice considerations and the interests of the party who seeks suppression.¹⁵

42. Turning to the respondent's grounds for non-publication of name, we say at the outset that the matters set out in paragraphs f), h) and i) are not usually grounds that are relevant to the question of non-publication. They are relevant to the question of penalty. Although publication of name may seem punitive, the principles of open justice apply even where no adverse finding is made. The fact that a respondent is no

¹⁴ *ASB Bank Ltd v AB* [2010] 3 NZLR 427(HC) at [14]

¹⁵ *Hart v Standards Committee* (No 1) of the New Zealand Law Society [2012] NZSC4 at [3]

longer teaching (paragraph g)) can be relevant in our consideration of the public interest, but is not a sole ground for name suppression.

a. Family's reputation and standing in the community.

43. The respondent is currently employed as a commission-based real estate agent. Mr Kumar outlined the respondent's distinguished career in teaching in another country. A reference in relation to one of his roles was provided.
44. The respondent is described as a person of standing in his community, particularly within the particular migrant ethnic community in Auckland. Should his name be published there is a real risk that the respondent and his family will suffer irreparable reputational damage.
45. In *CAC v Teacher 2016-27* we considered family interests and said:¹⁶
- It is almost inevitable that a degree of hardship will be caused to the innocent family members of a teacher found guilty of serious misconduct. Such "ordinary hardships are not sufficient to justify suppression. However more acute forms of professional and familial embarrassment can make suppression the proper outcome."*¹⁷
46. There is nothing in the arguments advanced on this point that persuades us that it is proper to suppress the respondent's name.

b. Adverse implication on the respondent's employability, income and finance

47. Mr Kumar submits that because the real estate industry is highly competitive and his income depends on two factors:
- Property owners who are willing to place their trust and voluntarily decide to select the respondent as their agent;
 - Prospective buyers need to engage and connect with the respondent to enable the sale,
48. Essentially the reputation of an agent is a relevant and pivotal consideration, and if his name is published, his success as an agent would be adversely affected. Mr Kumar submits that it is difficult to quantify the financial loss, but there is no doubt that there will be detrimental implications. The respondent's wife is currently paying the home loan

¹⁶ *CAC v Teacher 2016-27*, 25 October 2016, at para [65].

¹⁷ See *ABC v Complaints Assessment Committee [2012] NZHC 1901* at [49] to [58]

and credit cards. Copies of bank statements were provided.

- 49. We appreciate that the nature of real estate industry is competitive and reputation can be a significant factor in the success of a commission-based salesperson, and we understand the need for a fresh start, given the respondent's undertaking not to return to teaching. We are not sure that on its own this would be sufficient ground for name suppression, but we are prepared to entertain it. This differs from the case where a former teacher is concerned about employment prospects generally.

c. Adverse health implications on the respondent

- 50. The respondent is suffering from hypertension and is currently being prescribed hypertension medication. A letter from the respondent's doctor was provided confirmed this. Although we appreciate that the stress from a public disciplinary finding can affect one's blood pressure, there is no evidence to show that publication would have a significant effect on his health. This ground therefore fails.

d. Adverse health implication of the respondent's wife

- 51. [REDACTED]

- 52. [REDACTED]

53.

[REDACTED]

54. Her GP has provided a letter confirming that she has been under a profound amount of stress as a result of the ongoing case against her husband. The doctor says, “Our fear is that this would worsen her current mental status.” The doctor does not set out details of a diagnosis and treatment history or plan. Similar to our comments on the letter from a medical practitioner in *CAC v Teacher S NZTDT 2016-69*, this is more a letter of advocacy than an expert medical opinion.

55. We do not wish to minimise the impact of the events that happened to the respondent’s wife two years ago. We certainly appreciate that she has been through a significant ordeal but we are not satisfied of a link between publication of the respondent’s name and a deterioration of her physical or mental health.

e. Adverse health implications on the respondent’s daughter

56. The respondent’s daughter has ulcerative colitis, an inflammatory bowel condition. We were provided with a letter from her GP who confirms that the daughter’s symptoms have been problematic over recent months and historically stress has exacerbated her symptoms. She adds, “We are concerned that increased stress related to the allegations against her father/releasing his name may negatively impact her emotional and physical health”.

57. Of course there is no certainty that the publication of the respondent’s name would exacerbate his daughter’s symptom but we recognise that this is a risk and appreciate that the impact on her life can be significant if that happens.

Decision

58. On balance we have decided that it is proper to make an order under s 405(6) for non-publication of the respondent’s name. This is based on a combination of the implications for the respondent’s daughter’s health along with the potential impact on his new career, which we acknowledge is commission-based and relies to a certain

extent on connections and reputation. The respondent's name and identifying details are therefore suppressed.

A handwritten signature in blue ink, appearing to read 'Theo Baker', written in a cursive style.

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).