BEFORE THE NEW ZEALAND
TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2022/12

COMPLAINTS ASSESSMENT COMMITTEE
Prosecutor

V

Respondent
Respondent

Hearing:	7 November 2022 (on the papers)
Appearances:	C Best for CAC
	Respondent self-represented
Decision:	14 November 2022 (re-issued with addendum on 1 May 2023)
Tribunal:	T Mackenzie, S Williams, Lyn Evans

DECISION OF THE TRIBUNAL ON LIABILITY, PENALTY, PUBLICATION & COSTS

Introduction

[1] The CAC charges Respondent with Serious Misconduct under section 401 of the Education Act 1989. The particulars of the charge are:

1. The CAC charges that the responent, registered teacher, of Auckland, between approximately 15 April 2019 and 20 July 2020:
(a) created a false persona on online dating applications; and
(b) using that false persona, entered into misleading relationships with her colleagues (Ms Z and Ms Y) at the School.

2. The conduct alleged in paragraph 1 amounts to serious misconduct pursuant to section 378 of the Education Act 1989 and Rule 9(1)(j) and (k) of the Teaching Council Rules 2016 or alternatively amounts to conduct which otherwise entitles the Disciplinary Tribunal to exercise its powers pursuant to section 404 of the Education Act 1989.

Proceedings

[2] Respondent and the CAC entered into an agreed summary of facts from an early stage. The parties then indicated that a papers hearing was sought. The respondent's submissions appear to accept the charge of serious misconduct, however for the avoidance of doubt we will consider liability and if established proceed from there.

[3] On reviewing the file the Tribunal considered that it may benefit from hearing from Respondent, and particularly any further expert opinion evidence as to her condition. A conference occurred with Respondent to discuss. Respondent was open to appearing before the Tribunal (remotely) but was reluctant to involve her therapist and re-visit the past, considering that it would be harmful to her. The Tribunal initially set a hearing in person (remotely). Subsequently Respondent has indicated that she would prefer the hearing to be on the papers as she felt unable to appear in person if media were present. The CAC was neutral on this, and given no expert evidence was being produced, the Tribunal granted the application and returned to a papers hearing.

Facts

[4] A copy of the agreed summary of facts is appended to this decision. In summary, Respondent, shortly after beginning her first teaching role, created a fake online male character and using that character engaged in online relationships with two of her female teaching colleagues. One went for months, the other for more than a year. Each involved the exchange of intimate material. Respndent used male photos sourced from the internet to add credibility to the online character.

[5] On detection, it emerged that Respondent was suffered from Dissociative Identity Disorder (DID).

[6] Criminal prosecution occurred in the District Court, with guilty pleas entered

to two charges of accessing a computer system for dishonest purposes.[1] A discharge without conviction was refused. An appeal to the High Court was dismissed.[2]

Charge – liability

[7] Serious misconduct will be made out where the two limbs of s 378(1) Education Act 1989 are met. On the first limb, the CAC submits that the conduct both reflected adversely (s 378(1)(a)(ii), and may bring the teaching profession into disrepute (s 378(1)(a)(iii).

[8] Whilst other cases are discussed by the CAC, they appear to be simpler dishonesty/theft cases. The present case is unusual in terms of what cases commonly come before the Tribunal and needs to be considered in its own right.

[9] There are several features which in our view make the conduct quite serious in the context of professional responsibility:

- Employment as a teacher was used to meet the victims.
- The respondent knew that the victims were teachers, and so the conduct risked upsetting not just the victims but their ability to carry out their teaching role with students.
- The fake relationships went for months – one more than a year.
- The victims were duped into trusting the respondent.
- The victims were encouraged to, and did, engage in intimate discussions and imagery, making the reality of the situation extremely distressing and embarrassing for them.
- All the while, the respondent was working alongside the victims.

[10] It is clear from the material before us that the respondent was suffering from post-traumatic stress disorder and DID during the time of the conduct above. As did the criminal courts, we take that into account in assessing the seriousness.

[11] That certainly explains why the conduct occurred. Indeed it would be difficult to imagine it occurring without the presence of those or other significant mental health difficulties.

[12] Despite the explanation for the conduct, we still however consider that the features of the conduct are sufficiently serious together to make out serious misconduct. We consider that it reflected adversely on the respondent's fitness to be

[1] *NZ Police v* [redacted].
[2] [redacted] *v NZ Police* [redacted].

a teacher, and otherwise may bring the profession into disrepute.

[13] We also consider that it infringes the two Rules cited above in the charge particulars (indeed that is axiomatic given the convictions).

[14] The charge of serious misconduct is established.

Penalty: applicable principles

[15] 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:
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> (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:
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> (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.

[16] In *CAC v McMillan* this Tribunal summarised the role of disciplinary proceedings in this profession as: [3]

> … 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.

[3] *CAC v McMillan* NZTDT 2016/52, 23 January 2017, (at [23]).

[17] The primary motivation is to ensure that three overlapping purposes are met. These are:

I. to protect the public through the provision of a safe learning environment for students;

II. to maintain professional standards; and

III. to maintain the public's confidence in the profession.[4]

[18] The Tribunal is required to arrive at an outcome that is fair, reasonable and proportionate in the circumstances in discharging our responsibilities to the public and profession.[5]

[19] The Act provides for a range of different penalty options, giving this Tribunal the ability to tailor an outcome to meet the requirements that a proven case presents. Penalties can range from taking no steps, to cancellation of a teacher's registration.

[20] In *CAC v Fuli-Makaua* this Tribunal has noted that cancellation may be required in two overlapping situations:[6]

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

Penalty: discussion

[21] Penalty is where the real issue is in this case.

[22] The Tribunal has found this a difficult issue to consider. It could be argued that this incident was a result of mental health issues, which are under treatment, and shouldn't stop the respondent pursuing her teaching career at some point in the future. We note for instance that the respondent has been engaged with a psychotherapist for some time now, and has completed a sentence of intensive supervision from the District Court.

[23] We have heard from Respondent in writing several times. She is insightful as to the reasons for her condition and conduct, although still on a journey of understanding both. She is, to us, remorseful and contrite.

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[4] The primary considerations regarding penalty were discussed in *CAC v McMillan* NZTDT 2016/52.
[5] See *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354, at [51].
[6] *CAC v Fuli-Makaua* NZTDT 2017/40, at [54], citing *CAC v Campbell* NZDT 2016/35 (at [27]).

[24] In theory, it could be possible for this conduct to not result in cancellation. That would require the Tribunal to be absolutely satisfied that this was a one off issue, and to be reassured that it was most unlikely to ever occur again. We would also need evidence of a substantial risk mitigation system in place, both through professional assistance and probably a supportive employment environment in the teaching field.

[25] The difficulty for us however is assessing and managing the future. As a Tribunal we are required to make a final decision on the evidence before us. There is only so much we can attempt to do. On the respondent's own material, she may have a long and uncertain road ahead. It appears that the DID she suffers or suffered from is not particularly easy to pin down and treat. Our descriptions of it, which could well be inapt, expose the very issue we face – we are a specialist teaching tribunal, not a panel of mental health experts. We have little evidence to assess the respondent's situation and future on in any substantial way. What we do have of course though is the plain facts of what occurred, which was a lengthy and disturbing ruse against fellow teachers.

[26] Ultimately we have concluded that a combination of the seriousness of the conduct and the ongoing and uncertain risk means that no outcome short of cancellation is appropriate here. We therefore make an order for cancellation.

[27] Despite making that decision, we observe that it is open for the respondent to reapply for registration with the Teaching Council in the future. The Teaching Council will be better placed to inquire into the respondent's situation at that time and discuss what steps may be needed to be put in place to obtain registration. That will all be a matter for the Teaching Council, if and when that time comes.

Non-publication

[28] The respondent seeks an order for permanent non publication of her name.

Non - publication principles

[29] The default position under s 405 of the Act is that Tribunal hearings are to be conducted in public. Consequently the names of teachers who are the subject of these proceedings are to be published. The Tribunal can only make one or more of the orders for non-publication specified in the section if we are 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.

[30] The purposes underlying the principle of open justice are well settled. As the Tribunal said in *CAC v McMillan*, the presumption of open reporting "exists regardless

of any need to protect the public".[7] Nonetheless, that is an important purpose behind open publication in disciplinary proceedings in respect to practitioners whose profession brings them into close contact with the public. In *NZTDT v Teacher* the Tribunal described the fact that the transparent administration of the law also serves the important purpose of maintaining the public's confidence in the profession.[8]

[31] In *CAC v Finch* the Tribunal noted that the "exceptional" threshold that must be met in the criminal jurisdiction for suppression of a defendant's name is set at a higher level to that applying in the disciplinary context. As such, the Tribunal confirmed that while a teacher faces a high threshold to displace the presumption of open publication in order to obtain permanent name suppression, it is wrong to place a gloss on the term "proper" that imports the standard that must be met in the criminal context.[9]

[32] In *Finch,* the Tribunal described a two-step approach to name suppression that mirrors that used in other disciplinary contexts. The first step, which is a threshold question, requires deliberative judgment on the part of the Tribunal whether it is satisfied that the consequence(s) relied upon would be "likely" to follow if no order was made. In the context of s 405(6), this simply means that there must be an "appreciable" or "real" risk.[10] In deciding whether there is a real risk, the Tribunal must come to a judicial decision on the evidence before it. This does not impose a persuasive burden on the party seeking suppression. If so satisfied, the Tribunal must determine whether it is proper for the presumption to be displaced. This requires the Tribunal to consider, "the more general need to strike a balance between open justice considerations and the interests of the party who seeks suppression".[11]

[33] In NZTDT 2016/27, we acknowledged what the Court of Appeal said in *Y v Attorney-General*.[12] 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]

[34] The Court of Appeal in *Y* referred to its decision *X v Standards Committee (No*

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[7] *CAC v McMillan* NZTDT 2016/52.
[8] *NZTDT v Teacher* 2016/27,26.
[9] *CAC v Finch* NZTDT 2016/11, at [14] to [18].
[10] Consistent with the approach we took in *CAC v Teacher* NZTDT 2016/68, at [46], we have adopted the meaning of "likely" described by the Court of Appeal in *R v W* [1998] 1 NZLR 35 (CA). It said that "real", "appreciable", "substantial" and "serious" are qualifying adjectives for "likely" and bring out that the risk or possibility is one that must not be fanciful and cannot be discounted.
[11] *Hart v Standards Committee (No 1) of the New Zealand Law Society* [2012] NZSC 4, at [3].
[12] *Y v Attorney-General* [2016] NZCA 474, [2016] NZFLR 911, [2016] NZAR 1512, (2016) 23 PRNZ 452.
[13] At [32].

1) of the New Zealand Law Society, where the Court had stated:[14]

> The public interest and open justice principles generally favour the publication of the names of practitioners facing disciplinary charges so that existing and prospective clients of the practitioner may make informed choices about who is to represent them. That principle is well established in the disciplinary context and has been recently confirmed in *Rowley*.

[35] Gwynn J in the High Court recently considered the applicable principles for suppression in professional disciplinary litigation, in a Chartered Accountant's disciplinary decision.[15] Although the specific statutory wording in that legislation used the term "appropriate" (instead of "proper"), we consider little turns on such semantics and the observations of the Court are of application here. Gwynn J stated:

> [85] Publication decisions in disciplinary cases are inevitably fact-specific, requiring the weighing of the public interest with the particular interests of any person in the context of the facts of the case under review. There is not a single universally applicable threshold. The degree of impact on the interests of any person required to make non-publication appropriate will lessen as does the degree of public interest militating in favour of publication (for instance, where a practitioner is unlikely to repeat an isolated error). Nonetheless, because of the public interest factors underpinning publication of professional disciplinary decisions, that standard will generally be high.
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> [86] I do not consider the use of the word "appropriate" in r 13.62 adds content to the test usually applied in the civil jurisdiction or sets a threshold lower than that applying in the civil jurisdiction. The rule is broad and sets out neither a specific threshold nor mandatory specific considerations. The question will simply be, having regard to the public interest and the interests of the affected parties, what is appropriate in the particular circumstances.
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> (Citations omitted).

Publication – submissions and discussion

[36] The application is made essentially on the grounds that publication would cause harm to the respondent by damaging her therapeutic progress and recovery. The respondent notes that she has been through a lengthy journey since the conduct occurred, including resigning from her teaching role, going through the criminal proceedings, losing many friends, gaining new employment, and engaging in a sustained course of psychotherapy (of some 150 sessions over two years now).

[37] An opinion is also provided from the respondent's psychotherapist, who has been treating the respondent since August 2020. The opinion notes that the respondent has strived hard in therapy for two years to regain her "equilibrium". The opinion concludes that publication of the respondent's name would be detrimental to her progress in strengthening her mental health.

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[14] *X v Standards Committee (No 1) of the New Zealand Law Society* [2011] NZCA 676 at [18].
[15] *J v New Zealand Institute of Chartered Accountants Appeals Council* [2020] NZHC 1566.

[38] The CAC opposes permanent non publication on the grounds that there were no orders in the criminal court, and that there is insufficient evidence of a detrimental effect.

[39] As to the first ground, it does not appear from either criminal decision that name suppression was ever sought in those courts. We do not know why that was the case, although we cannot assume an outcome one way or another if it had been sought. Even if an application had been made and declined, that would not bind us. We now have an application and evidence before us and a different test to apply than the criminal courts.

[40] The CAC refers to *Glazier* NZTDT 2018/59 where the Tribunal noted that, in the absence of suppression in the related criminal case, any order would be of limited efficacy.

[41] The primary reason for declining that application was due to a lack of grounds. Mr Glazier put forward what might, with respect, be described as generic grounds for non-publication, being generalised concern of harm to family and potential reputational harm to the school. The Tribunal was not called on to determine whether the lack of criminal court suppression was determinative or not of the application and the comment made by the Tribunal was more of an observation than any statement of fundamental principle. The focus of the application must be the effect of publication on the facts of the case before the Tribunal.

[42] In the present case it does remain relevant to take into account that, even with a non-publication order in this proceeding, publication of the criminal court decisions can still occur. But it is not inevitable that the criminal case is going to be reported regardless of our non-publication decision. The criminal convictions occurred over a year ago. It would be unusual to report on them now, in isolation, so long after the event. The effect of any publication of the respondent's name in our decision could well increase the risk that the respondent is going to lose the current benefit she has had of no publication at all. We cannot ignore that effect. Unlike in *Glazier*, we do not see the application as futile.

[43] Turning to the submissions. The CAC submits that the same argument as made now by the respondent, including the opinion from the psychotherapist, could have been made in the criminal courts, but wasn't, and there is no evidence that her ongoing recovery has been impacted by the lack of suppression in those Courts.

[44] The first point to note is that a lack of a name suppression order is something different than actual publication having occurred. If there had been publication already, then the horse would have bolted and the application would likely face considerable difficulties.

[45] Moreover, the respondent has noted that she was not aware that the criminal decisions were able to be reported on. This lack of awareness doesn't surprise us given the difficulties that the respondent has been going through. It also goes some way to answering the CAC argument about the respondent's lack of concern over existing publication risk. Given that lack of knowledge, which we accept, and the lack of any publication to date, we are not surprised that there has been no reported impact to date.

[46] The CAC submits that the respondent focuses on the impact of the criminal proceedings rather than the impact of publication. Whilst we accept that the respondent addresses both, we do not think that reference to one detracts from the other. If anything the material from the respondent when read together indicates a high level of concern about publication of any sort – whether it be of the criminal cases on their own, or of this proceeding, or worse still, both together.

[47] The CAC challenges the psychotherapist's opinion on the basis that it does not specify "the details of the Respondent's recovery", or the basis for her view as to why publication would undermine the respondent's progress. The CAC also challenges an alleged lack of any detail about what is described by the CAC as: "protective factors or supports which might mitigate the impact of any publication".

[48] We consider that it is difficult to accept the CAC challenge to the psychotherapist's opinion when the CAC has not indicated a wish to question the author before the Tribunal, nor sought to introduce any competing opinion evidence.

[49] In any event, we do not see value in forensically picking the opinion apart line by line in a vacuum. The opinion must be considered in the wider context of the case. Doing so supports the opinion. It is clear that the respondent has suffered from a difficult and significant mental health condition. The facts of the case speak for themselves – a female teacher spending over a year (in one instance) pretending to be a fictional male character, engaging in intimate online/virtual relationships with female teaching colleagues. The psychotherapist and the respondent have an established therapeutic relationship for some two years now. Against all of that, we accept the opinion that progress and recovery are occurring, without needing to mine into or challenge specific details. We accept that publication would be detrimental to the progress made. Indeed that much seems obvious in the overall context of the case. The alternative inference, which the CAC argument impliedly suggests, is that the Tribunal cannot be confident whether progress has been made (in the absence of more detail), and in turn cannot then be confident that there have been any gains that publication could affect. We do not think there is a sound basis on the evidence before us to reach such a view.

[50] Finally, the CAC submits that the psychotherapist's concern about the diagnosis being published is the wrong focus, where the real issue is the effect of

publication of the conduct.

[51] The authors concern about the diagnosis is an add-on that doesn't detract from the point made across all of the evidence. It adds little and in its absence the same points are still made.

[52] Ultimately, taking into account all of the evidence, we find that there is an appreciable and likely risk of the respondent's progress being significantly harmed if publication of this decision was to occur.

[53] Against that, we take into account the public interest principles and presumption of open justice. More particularly, regulated professionals can face a high yardstick to displace the presumption. For instance as the Court of Appeal in *Hart* stated:[16]

> The public interest and open justice principles generally favour the publication of the names of practitioners facing disciplinary charges so that existing and prospective clients of the practitioner may make informed choices about who is to represent them. That principle is well established in the disciplinary context and has been recently confirmed in Rowley.

[54] Here however we have a teacher who will no longer be a teacher, who was a teacher for a very short time, and who has not committed conduct purely in her role as a teacher. We consider that the presumption carries less weight and is overcome by the harm that is likely to occur on publication of the respondent's name.

[55] *We make a final order for permanent non publication of the respondent's name and any identifying particulars in relation to reporting of this case. We likewise make an order for non-publication of the victim's names and any identifying particulars. For all non-publication orders, this will include the name of the school where the serious misconduct occurred at.* For the avoidance of doubt, any reporting of the respondent's name in relation to the criminal cases is not affected by this decision.

[16] *Hart v Standards Committee (No 1) of the NZLS* [2011] NZCA 676 (at [18]).

Costs

[56] The respondent accepts that costs should follow the event. The CAC seeks 40% of their costs.

[57] CAC costs have been certified at $4715.94. We accept that this is a reasonable sum.

[58] The respondent asks to pay 30% instead of 40%, on the basis of financial incapacity.

[59] We do not have enough information to determine financial capacity issues. We are not minded however to seek further information as the increased Tribunal and CAC costs in dealing with that would make any potential reduction (given the small amount of costs) a false economic exercise.

[60] We therefore order $1,886.38 as sought.

[61] Tribunal costs are $1455. We order 40%, being $582.

T J Mackenzie

Deputy Chair

Addendum – 1 May 2023

1. After this decision became publically available, a member of the media responsibly notified the Tribunal that the inclusion of the school's name in the decision could potentially undermine the non-publication orders in this Tribunal in relation to the respondent's name (if some online research was carried out). Similarly the naming of the school could undermine the suppression orders in the High Court (which were in relation to any identifying particulars of the victims).

2. The Tribunal failed to consider that possibility in this matter when determining publication (noting that the CAC directed it's submissions towards opposing the respondent obtaining a non-publication order at all, and the self-represented respondent did not raise this issue). Combined with that is the nuanced issue of the respondent not having the benefit of name suppression in the criminal courts, although as noted above other orders were made in relation to victims.

3. The Tribunal considers that in these exceptional circumstances it is in the interests of justice to recall the publication aspect of this decision and re-issue it, with consideration having now been given to a non-publication order of the name of the school that the respondent was employed at when the misconduct occurred.

4. That order has now been made. The basis for it is set out above – inclusion of the school's name may undermine this Tribunal's orders and the orders in the High Court.

5. The italicised paragraph [55] above indicates the new decision on that particular aspect. The balance of the decision and orders remain unchanged.

IN THE MATTER OF the Education Act 1989

AND

IN THE MATTER OF an inquiry by the New Zealand Teachers Disciplinary Tribunal of the Teaching Council of Aotearoa New Zealand into the conduct of [redacted] of [redacted] Teacher (Registration No. [redacted]

SUMMARY OF FACTS

Introduction

1. [redacted] was first registered and provisionally certificated on 4 January 2019. Her provisional registration expired on 4 January 2022.

2. In February 2019, [redacted] was employed as a teacher at [redacted]

3. [redacted] resigned from [redacted] on [redacted] She signed an undertaking not to teach on 30 July 2020.

4. On 30 July 2020, the Principal of [redacted] filed a mandatory report with the Teaching Council regarding [redacted].

Allegation: that between approximately 15 April 2019 and 20 July 2020, [redacted]:

a) created a false persona on online dating applications; and

b) using that false persona, entered into misleading relationships with her colleagues ([Ms Z] and [Ms Y]) at the School.

5. On 7 January 2021, [redacted] was charged with two counts of accessing a computer system for a dishonest purpose under s 249(1)(a) of the Crimes Act 1961, which is punishable by a maximum penalty of 7 years' imprisonment.

6. The offending was described in the Police summary of facts (which [redacted]ing accepted as part of her guilty pleas) as follows:

Introduction

The first complainant, 32 year old [Ms Z], resides in [redacted] She is currently a teacher at [redacted]

The second complainant, 29 year old [Ms Y], resides in [redacted] and also teaches at [redacted]

The defend[redacted]nt, 25 year old [redacted], moved to [redacted] in 2019 and started teaching at [redacted]

Circumstances

CRN 1976

[Ms Z]

On the 15th of April 2019, [Ms Z] received a notification on her dating application "Tinder", that there was a male who fit the criteria of her search for a companion.

The application showed a male, James Segal, living 4 kilometres away from her address in [redacted]

[Ms Z] and SEGAL began messaging each other through the Tinder application which is a social media platform to meet people on with the intention of forming a relationship.

SEGAL said that he knew a teacher at [redacted].

A few days later, the Defendant messaged [Ms Z] through the social media platform Facebook, saying that she had heard she matched with James SEGAL on Tinder and that he was a very close family friend.

The defendant and [Ms Z] became good friends and quite close.

[Ms Z] became involved in an online relationship with SEGAL from April 2019 to July 2020. During this time excuses were made by SEGAL not to meet.

During the course of the online relationship [Ms Z] believed she was engaging with a male. He provided her with his date of birth of the 20th April 1980, he gave details of a sister, Melanie Segal-Meraki, her children, Rosie and Nixon and her husband Rob.

[Ms Z] would receive messages daily, and in June or July 2019 [Ms Z] said they became closer and started to share more about themselves.

[Ms Z] describes the messaging was very much on a romantic level, with a lot of flirtation and some sexualised conversation.

During this time, [Ms Z] has sent "James" approximately 10-12 photos of herself.

Of these photographs, two of these were fully nude photographs of [Ms Z] and approximately 8-10 of the pictures where [sic] of her partially clothed.

"James" would respond with messages of his chest exposed and he sent photos of his penis. None of the photos he sent had his face.

[Ms Z] also sent "James" multiple photos of her niece.

[Ms Z] sent "James" semi-nude videos showing her wearing lingerie.

[Ms Z] advised it was often James that would request images of her. He would provide compliments and it would turn into sexualised conversation.

[Ms Z] advises the photographs and videos she sent were sent directly to James for his viewing only. It was discussed with him before the photos were sent that they were for him only, especially as this was not something she had done before.

The photographs and videos were shared by [Ms Z] through the Facebook Messenger application or through the WhatsApp application which is a chat forum.

In July 2020, [Ms Z's] family became suspicious and started to look into the content of James SEGAL'S Facebook page.

The Defendant continued to reinforce that SEGAL was a real person, describing his character, his illnesses, and that he was a close friend of her older brother, [redacted].

The family found the images that had been sent to [Ms Z] were from an Australian Federal League player, Shaun HIGGINS, and the Instagram accounts of Jesse WILLIAMSON and Matt Monyark SAUNDERSON.

The images that [Ms Z] would receive were cropped images of HIGGINS, removing his wedding ring.

[Ms Z] approached the principal of her school, and NETSAFE.

The accounts and profiles of James SEGAL were deleted.

NETSAFE contacted the Defendant, who with the permission of [redacted] passed a message back to [Ms Z] stating '[redacted] acknowledges she did this and caused you harm".

CRN 1975

[Ms Y]

In January 2019, [Ms Y] met the Defendant at [redacted] [Ms Y] developed a strong friendship with the Defendant. .

About the 27th of April 2019, [Ms Y] was "matched" with a male, James SEGAL on the dating application Bumble.

[Ms Y] told the Defendant she had "matched" with James SEGAL. The Defendant said that James was a friend of hers.

Things got flirtatious online between [Ms Y] and SEGAL.

SEGAL sent a semi-naked picture of his abdominals in his underwear, not showing his face.

Over the next week, SEGAL sent messages pressuring [Ms Y] into sending a picture of her in just her bra and underwear showing her face in the picture.

When [Ms Y] sent a photograph of herself in her bra and underwear, SEGAL did not respond to [Ms Y] for about 8 hours leaving [Ms Y] very distraught.

In July 2019, [Ms Y] ended communication with both SEGAL and the Defendant.

[Ms Y] became aware that SEGAL was fictitious in July 2020, after the school principal advised her of the Defendant getting stood down from teaching because of the actions taken towards [Ms Z].

Defendant comments

In explanation, the Defendant admitted to posing as the male, James SEGAL and others, but this was not done maliciously or consciously.

She advises she has been diagnosed with Dissociative Identity Disorder and had no recollection of receiving the images or engaging in the conversations.

The Defendant has not previously appeared before the Court.

7. On 9 March 2021, [redacted] pleaded guilty to the two charges of accessing a computer system for a dishonest purpose.

8. On 6 May 2021, [redacted] appeared before Judge Maude in the North Shore District Court and applied for a discharge without conviction. The application for a discharge without conviction was declined and [redacted] was sentenced to 18 months' intensive supervision. She was also ordered to pay $500 emotional harm reparation to each of the two victims.

9. On 5 July 2021, [redacted] appeared in the Auckland High Court for an appeal against the decision declining her application for a discharge without conviction. In a decision dated 6 July 2021, Justice Venning dismissed the appeal.

Teacher's response

10. On 6 December 2021, the CAC's investigator contacted [redacted] regarding the draft investigation report.

11. On 20 December 2021, [redacted] provided a written response to the CAC's Investigator in relation to the draft investigation report. [redacted] stated:

- she took full responsibility for the misconduct and manipulative behaviour that was displayed to both victims;
- since July 2020, she had attended weekly sessions for intensive psychotherapy;
- she had reported regularly to a probation officer;
- she had paid $1,000 in reparation to the two victims;
- she voluntarily agreed not to teach; and
- she took part in the impairment process.

12. [redacted] also provided medical documentation showing that:

a. On 3 November 2020 a psychiatrist diagnosed symptoms of post-traumatic stress disorder and particularly of dissociation, and that [redacted] may have symptoms of Dissociative Identity Disorder (**DID**).

b. On 12 August 2020 and 6 April 2021 a psychotherapist diagnosed [redacted] with DID.

c. [redacted] engaged in six psychotherapy sessions in 2017. From August 2020 she had been seeing another psychotherapist, twice weekly until January 2021, weekly until approximately September 2021, and fortnightly from that point.

13. According to the author (Sally Thomas, Clinical Psychologist) of an impairment report prepared for [redacted]:

a. People with DID may experience amnesia resulting in significant gaps in memory and a sense of having lost time.

b. They may forget saying or doing things that others have witnessed.

c. Such behaviour can have an impact on the capacity to maintain consistency and integrity in relationships.

d. These symptoms can lead to chronic shame, low self-esteem, self-hatred, hypervigilance for danger, depression, and self-harming ideation.

14. In that same report, Ms Thomas stated:

a. These symptoms could wholly or significantly have contributed to [redacted] conduct.

b. They will be enduring until such time that an enduring psychotherapy has been undertaken.

c. For most cases of DID, therapy occurs at a minimum of weekly and typically lasts for at least five years, sometimes longer.

CAC meeting

15. On 21 April 2022, the CAC met to consider the mandatory report. [redacted] did not attend the meeting however she provided a written response prior to the meeting. In that, she stated:

- she took full responsibility for her actions;
- she had been meeting regularly (fortnightly and then monthly) with a supervisor;
- she had been committed to seeing a psychotherapist, on a fortnightly basis; and through this psychotherapy, she had been able to address her behaviour and her condition, heal from the loss of teaching and start to heal from her own childhood trauma and PTSD, as well as ensuring the behaviour will not re-occur;
- she was committed to continuing with her psychotherapy treatment for the foreseeable future;
- she considered she was a competent, professional and extremely passionate educator inside the classroom, and she loved teaching;
- she acknowledged that her actions impacted the professional relationships with staff who trusted her;
- she had paid $1,000 in reparation to the two victims;
- she felt deep remorse, regret and sadness that she had negatively impacted her teaching career so early into her journey;
- she cared deeply for the education and future of her students; and
- she would be willing to take any actions or courses in order to be granted the opportunity to return to the classroom again.

16. The CAC considered that [redacted] conduct may possibly constitute serious

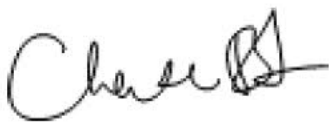
misconduct (as defined in s 378 of the Education Act 1989). On that basis, the CAC had no option but to refer [redacted] conduct to the Tribunal under s 401(4) of the Education Act 1989.

On behalf of the respondent:

[redacted]

Date: 24th July 2022

On behalf of the CAC:



Charlotte Best

Date: 22 July 2022