

**BEFORE THE NEW ZEALAND
TEACHERS DISCIPLINARY TRIBUNAL**

NZTDT 2021/55

**COMPLAINTS ASSESSMENT
COMMITTEE**

V

**JAIMEE MAREE COONEY
Respondent**

Hearing: 12 December 2022 (papers)
Appearances: S Bishop & J Garden for the CAC
M Radich for the respondent
Decision: 14 December 2022
Tribunal: T Mackenzie, K Turketo, W Flavell

**DECISION OF THE TRIBUNAL ON CHARGE, PENALTY, PUBLICATION AND
COSTS**

Introduction

[1] The Complaints Assessment Committee (CAC) has charged the respondent with serious misconduct, alleging a range of inappropriate sexual and behavioural matters with students.

[2] The respondent has already been convicted and sentenced on criminal offences for related conduct. Due to the criminal convictions, Ms Cooney's registration has already been cancelled.

[3] The agreed summary of facts is included below.

[4] This decision can be relatively brief given Ms Cooney does not oppose any of the orders sought.

Agreed summary of facts

1. The respondent, JAIMEE MARIE COONEY, was formerly a registered teacher.

Circumstances of the offending

2. The respondent was first fully registered as a teacher in 2005. She commenced employment as a teacher at Marlborough Boys' College (the College) in 2007. The College is a single-sex school with a roll of approximately 900 students from Years 9 to 13.
3. On 15 May 2019 the Teaching Council received a mandatory report from the College of allegations that the respondent had engaged in sexual relationships with and sent indecent communications to students. Following a Police investigation, the respondent was convicted of sexual connection with a young person under 16 and indecent communication with a young person under 16.¹
4. The respondent's registration was cancelled on 31 October 2019 on the basis she had been convicted of a specified offence. The CAC then conducted an investigation into the balance of the allegations.

¹ Crimes Act 1961, ss 134(1) and 124A.

Sexual contact with [REDACTED] and [REDACTED]

5. In May 2019, [REDACTED] was an 18-year-old student at the College.
6. Around the beginning of May 2019, the respondent began messaging [REDACTED] on Snapchat. Initially the respondent asked about [REDACTED] rugby games, but the respondent began sending sexual messages and a photo of her breasts. On a date in early May 2019, the respondent picked up [REDACTED] in a car and drove a short distance before parking up on the side of the road.
7. The respondent told [REDACTED] that she was struggling with depression. She then reached over and started rubbing [REDACTED] penis over the top of his clothing. [REDACTED] did not know what to do. The respondent then sucked [REDACTED] penis for approximately 10 minutes before taking him back home.
8. Several days later on a Thursday, the respondent messaged [REDACTED] on Snapchat while he was in class, saying she needed to talk. [REDACTED] left class and met her in a car near school. The respondent talked about depression. The respondent then rubbed [REDACTED] penis over the top of his clothes. After he told her to stop, she replied that he should stop being a "scaredy cat" before driving him back to school.
9. Several days later on the following Tuesday, the respondent messaged [REDACTED] and [REDACTED] [REDACTED], another student, asking to meet in the College carpark after school. The respondent and [REDACTED] and [REDACTED] travelled in separate vehicles to the nearby A&P Showgrounds carpark.
10. At the A&P Showgrounds carpark, the students and the respondent spoke to each other from their vehicles. The respondent talked about being depressed and said that every day after school she felt like driving off a bridge. She then jumped into the backseat of her car.
11. [REDACTED] and [REDACTED] got out of their car and into the front seat of the respondent's car and then sat in the back seat next to the respondent

12. When the students were in the back seat of the car, the respondent started to rub their penises on top of their clothing.
13. The respondent then began sucking [REDACTED] penis. About a minute later, she began sucking [REDACTED] penis.
14. [REDACTED] and [REDACTED] decided to leave, got out of the car and drove away.

Sexual contact with [REDACTED]

15. In 2019, [REDACTED] was in Year 12 at the College.
16. In Term 1 of the school year (approximately 1 January to 1 May 2019), [REDACTED] messaged the respondent on Facebook to ask for help with his English homework. The respondent began messaging [REDACTED] regularly, and their relationship eventually became sexual. On more than one occasion, the respondent sucked [REDACTED] penis, kissed him and hugged him.
17. On or about 8 May 2019, the respondent telephoned [REDACTED] around 6pm and told him she had been fired because a photo was circulating at the College. She told [REDACTED] she was driving and would drive off the road and kill herself.

*Unprofessional text or social media messaging with [REDACTED]
[REDACTED] and [REDACTED]*

18. In May 2019 the respondent sent social media messages to [REDACTED] and [REDACTED] concerning her problems with depression and suicidal ideation.
19. In Term 1 of the 2019 school year (approximately 1 January to 1 May 2019), the respondent texted [REDACTED] talked about her depression.
20. On multiple occasions in the months leading up to June 2019, the respondent would send text messages and Snapchat messages to [REDACTED], a 16-year-old student' at the

College. The messages initially concerned rugby, but the respondent began to message [REDACTED] about personal problems and suicide.

21. On multiple occasions before May 2019, the respondent sent text or social media messages to [REDACTED], a 17-year-old³ student at the College. The messages sometimes concerned very personal matters including love.
22. On multiple occasions before May 2019, the respondent sent text or social media messages to [REDACTED], a 16-year-old⁴ student at the College. The respondent would send angry messages to [REDACTED] if he did not reply to her and imply, he was in the wrong for not doing so. The text messages stopped when [REDACTED].
23. On multiple occasions between August 2018 and May 2019, the respondent sent social media messages to [REDACTED], a student at the College. The messages concerned rugby games, the respondent's depression and the respondent's personal issues.

Self-harm in the presence of [REDACTED]

24. On an unknown date, the respondent had a set of scissors in her hand in a school classroom and held them to her wrist in the presence of [REDACTED], a 17-year-old⁵ student. She then cut her wrists. [REDACTED] took the scissors from her.

Discussion about drugs and personal issues with students

25. On unknown date(s), the respondent discussed drugs and personal issues with students.

Calling students "beautiful"

- 2.6. On unknown date(s), the respondent called a student "beautiful".

³ As at May 2019.

As at May 2019.

⁴ As at May 2019.

Cuddling students

27. On unknown date(s), the respondent was cuddly with [REDACTED] students.

Teacher's response

28. On 22 September 2020 the respondent provided a written response to the Council via her counsel in which she accepted that she had sexual relationships with boys older than 16.

29. On 28 May 2021 the respondent provided a written response to the investigator's report via her counsel. In that response, Ms Cooney:

- (a) Accepted she had sexual contact with [REDACTED] and [REDACTED];
- (b) Accepted she had sexual contact with [REDACTED];
- (c) Explained she had no recollection of telephoning [REDACTED] and telling him she intended to kill herself, but accepted that this may have happened in circumstances she was suffering extreme mental distress;
- (d) Accepted she messaged [REDACTED], [REDACTED], [REDACTED], and [REDACTED];
- (e) Accepted she messaged [REDACTED];
- (f) Accepted she cut her wrists in front of [REDACTED], in circumstances where she was experiencing extreme mental distress;
- (g) Accepted that on occasion, she referred to a student as being a "beautiful person" in the context of that person experiencing self-doubt, anxiety and depression; and
- (h) Accepted that she may have invited students to her house, discussing drugs and personal issues with students and being cuddly with students.

30. On 9 September 2021 the respondent appeared at the CAC hearing and her counsel addressed the CAC. The respondent reiterated the response she gave on 28 May 2021

and noted that she had engaged with legal processes honestly and had accepted responsibility where that was required

Liability

[5] Liability for serious misconduct has been accepted by Ms Cooney from the outset, although there were some initial disagreements about some of the particulars.

[6] There can be no doubt that sexual behaviour with students is at the higher end of serious misconduct. It meets all of the tests at s 378 Education Act 1989. It adversely affects students, reflects adversely on the teacher, and brings the profession into disrepute. The conduct here was also clearly of a character and severity to trigger several of the criteria for reporting serious misconduct.

[7] We find that the charge of serious misconduct is made out.

Penalty

[8] If cancellation had not already occurred, the Tribunal would have ordered such.

[9] We order a censure under s 404(1)(b) of the Act.

Publication

[10] We consider it appropriate to make orders of permanent non publication of the names of any of the complainants/victims/students/ex-students mentioned in the facts.

Costs

[11] The CAC seeks costs as follows:

Complaints Assessment Committee Costs	Amount
Costs of Complaints Assessment Committee (GST exclusive)	\$1,618.94
Legal costs and disbursements for Tribunal proceedings (GST exclusive)	\$13,574.80
TOTAL COSTS	\$15,193.74
TOTAL COSTS SOUGHT (40%)	\$6,077.49

[12] The respondent has confirmed via counsel that she takes no issue with the costs claim.

[13] We consider the costs reasonable in a matter such as this and make the 40% order as above.

[14] Tribunal costs are \$1455, 40% = \$582. We so order.

A handwritten signature in blue ink, appearing to read "Mackenzie", enclosed in a thin black rectangular border.

T J Mackenzie

Deputy Chair