

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

UNDER the Education Act 1989

IN THE MATTER of disciplinary proceedings commenced by a
Complaints Assessment Committee of the
Education Council of Aotearoa New Zealand

BETWEEN **COMPLAINTS ASSESSMENT COMMITTEE**
Complainant

A N D **DAVID JOHN LATIMER**
Respondent

DECISION OF TRIBUNAL

Tribunal: Kenneth Johnston (Chair), Peter Ferris,
and Susan Ngarimu

Hearing: On the papers

Decision: 2 July 2015

Counsel: Adam Lewis for Complainant
Respondent in person

- [1] In this case the New Zealand Teachers Council's Complaints Assessment Committee refers to the Tribunal the Respondent's convictions in the District Court at Auckland on 20 May 2015 on 25 charges of possessing objectionable material contrary to s131A of the Films, Videos, and Publications Classification Act 1993.
- [2] The Notice of Referral is dated 27 May 2015, and particularises the reasons for referral in these terms:

"Notice of referral

1. *On 20 May 2015, the teacher was convicted in the District Court at Auckland, following a guilty plea, of 25 charges of possessing objectionable material, an offence against section 131A of the Films, Videos, and Publications Classification Act 1993. The charges relate to over 70,000 images of child pornography found on his school computer.*
 2. *The teacher was sentenced to 16 months imprisonment on 21 May 2015.*
 3. *The Complaints Assessment Committee considers that the convictions warrant action by the Disciplinary Tribunal of the New Zealand Teachers Council."*
- [3] At an early stage, prior to the matter being set down for hearing, the parties filed a consent memorandum, dated 15 June 2015 and signed by Mr Lewis on behalf of the Complainant and by the Respondent. The consent memorandum was in these terms:

"May it Please the Tribunal:

1. *Counsel for the CAC and the respondent have conferred and agree that a consent memorandum be filed to dispose of the notice of referral in relation to the respondent's convictions.*
2. *On 20 May 2015, the respondent was convicted in the District Court at Auckland, following a guilty plea, on 25 charges of possessing objectionable material, an offence against section 131A of the Films, Videos, and Publications Classification Act 1993.*

3. *The respondent was sentenced to 16 months imprisonment on 21 May 2015.*
4. *The respondent agrees that the conviction is serious and warrants an adverse finding by the Tribunal for which the appropriate penalty is the cancellation of his registration. Counsel for both the CAC and the respondent seek orders to that effect.*
5. *It is agreed that publication of the respondent's name is appropriate.*
6. *As this is a referral of convictions, no order for costs is sought."*

[4] Having had an opportunity to review the papers, the Tribunal is in no doubt that the position adopted by the parties that the Respondent's convictions justify it in exercising its powers pursuant to s139AW of the Education Act 1989. Nor has the Tribunal had any difficulty in reaching the same conclusion of the parties that the only realistic outcome in this case includes a censure and the cancellation of the Respondent's registration.

[5] This being a case involving the referral of convictions, no question of costs arises.

[6] Accordingly, the Tribunal's formal orders are as follows:

- Pursuant to s 139AW(1)(b) of the Education Act 1989, the Tribunal censures the Respondent;
- Pursuant to s 139AW(1)(g), the Tribunal orders the cancellation of the Respondent's registration.



Kenneth Johnston
Chairman

NOTICE

1. A person who is dissatisfied with all or any part of a decision of the Disciplinary Tribunal under sections 139AU (2) or 139AW of the Education Act 1989 may appeal to a District Court.
2. An appeal must be made within 28 days of receipt of written notice of the decision, or within such further time as the District Court allows.
3. Subsections (3) – (7) of section 126 apply to every appeal as if it were an appeal under subsection (1) of section 126.