

**BEFORE THE NEW ZEALAND  
TEACHERS DISCIPLINARY TRIBUNAL**

**NZTDT 2021/66**

**COMPLAINTS ASSESSMENT  
COMMITTEE  
Prosecutor**

V

  
**Respondent**

Hearing: 14 June 2022

Appearances: E McCaughan for the CAC  
Respondent in person

Decision: 27 July 2022

Tribunal: T Mackenzie, N Parsons, N Coe

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**DECISION OF THE TRIBUNAL ON LIABILITY, PENALTY, AND  
PUBLICATION**

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## Introduction

[1] The Complaints Assessment Committee (CAC) has referred the respondent's convictions for various dishonesty offences to the Tribunal.

[2] The Tribunal held a (virtual) hearing on 15 June 2022 with the respondent and counsel for the CAC. The Tribunal took that opportunity to discuss the respondent's history with her, the offending, and her current situation.

## Facts

[3] The agreed summary of facts provides as follows:

1. [REDACTED] was first provisionally registered as a teacher on 12 January 2010. She became fully registered in 27 January 2012.
2. [REDACTED] worked as a teacher at various schools, including [REDACTED]  
[REDACTED]  
[REDACTED].
3. Her practising certificate expired on 12 July 2020 and is 'subject to confirmation'.
4. On 12 August 2019, the CAC received notification from the Ministry of Justice that [REDACTED] was convicted of 10 charges of theft<sup>1</sup>. The CAC subsequently became aware that [REDACTED] had also been convicted of unlawfully converts a motor vehicle.<sup>2</sup>
5. This matter is referred to the Tribunal pursuant to s 401(3) of the Education Act 1989.

### The offending

6. The theft offending was investigated by Police as three sets of offending.

#### First set of offending

7. The first set of offending resulted in five charges of theft. The Police Summary of Facts for this offending stated:

### CIRCUMSTANCES

On five occasions between 05/03/2019 and 04/05/2019, the defendant entered retail premises in and around the Palmerston North Central Business District, taking a range of goods without any attempt to make payment.

On three of the occasions, she stole items together with her boyfriend [REDACTED] at Farmers and Pak n Save.

She and [REDACTED] visited Pak n Save twice, filling a trolley with grocery items and leaving without making any attempt to pay.

On the second visit to Pak n Save, staff confronted the pair after having recognised them from a theft several days earlier.

The defendant tried to offer discarded grocery receipts she had found in an effort to legitimise the groceries she had left the supermarket with.

When this was unsuccessful she and [REDACTED] walked back to their vehicle and left without the stolen items.

Security staff at Farmers also confronted the defendant and [REDACTED] after observing them conceal assorted items within their clothing. The pair left empty handed.

On each of the five occasions, the defendant had no authority to take the goods without payment.

Details of the defendant's offending are outlined in the following schedule:

CRN	Date	Address	Business	Property	Value
1877	05/03/2019	318 Ferguson St, Palmerston North	Super Liquor Palmerston North	1 x bottle of Jagermeister Liquor	\$42.99
1876	13/03/2019	159 Main St, Palmerston North	Marigolds	3 x clutch bags valued at \$95 each	\$285.00
1875	30/04/2019	392 Church St, Palmerston North	Farmers	Assorted goods	* \$250.00
1874	02/05/2019	335 Ferguson St, Palmerston North	Pak n Save	Assorted grocery items	\$1,269.61
1872	04/05/2019	335 Ferguson St, Palmerston North	Pak n Save	Assorted grocery items	* \$644.64
					<b>\$2,492.24</b>

The stolen goods were recovered by the respective retailers on 30/04/2019 and 04/05/2019.

#### **DEFENDANT COMMENTS**

The defendant made a voluntary appearance at the Police Station when she became aware that theft complaints had been made.

When shown CCTV still images depicting her actions at Super Liquor, she admitted the offence.

When shown evidence for the other offences, the defendant became emotional and declined to talk further.

The defendant is a 29-year-old unemployed woman. She has not previously appeared before the Court.

#### Second set of offending

8. The second set of offending resulted in three charges of theft. The Police Summary of Facts for this offending stated:

**CIRCUMSTANCES****CRN: 1905400067**

At about 2.50pm on Wednesday 12 December 2018 the defendant was at Jaycar Electronics, Featherston Street, Palmerston North.

Whilst at Jaycar Electronics the defendant concealed an electronic item by placing it into her handbag.

The defendant exited the premises without paying for the item. The defendant did not have permission from the occupier to leave without paying

The item, with a value of \$124.90, was not recovered.

**CRN: 19054000677**

At about 6:41 pm on Thursday 20 December 2018 the defendant was at Unichem Chemist Shop, Linton Street Palmerston North

Whilst at Unichem Chemist Shop the defendant hid cosmetic items on her person.

The defendant exited the premises without paying for the goods.

The defendant did not have permission from the occupier to leave without paying.

The goods, with a value of \$168.00, were not recovered.

The value of the outstanding goods is \$168.00.

The value of the outstanding item is \$124.90.

**CRN: 19054000678**

At about 9.45pm on Thursday 31 January 2019 the defendant was at The Warehouse, Church Street, Palmerston North.

Whilst at The Warehouse the defendant concealed two boxes of perfume on her person.

The defendant attempted to leave the premises with the items still concealed on her person, but was prevented from leaving the premises by staff.

Staff phoned police who arrested the defendant.

The defendant did not have permission from the occupier to leave without paying.

The value of the goods is unknown, but were both recovered by staff in resalable condition.

**DEFENDANT'S COMMENTS**

The defendant admitted her offending at both the Unichem Chemist Shop and The Warehouse.

She acknowledges being at Jaycar Electronics but does not remember particular details of her offending.

Third set of offending

9. The third set of offending resulted in two charges of theft. The Police Summary of Facts for this offending stated:

**CIRCUMSTANCES**

**CRN 2112**

At about 9:15pm on Tuesday 21 May 2019, the defendants [REDACTED] and [REDACTED] were at K Mart in the Plaza.

The defendants hid goods on their person, with the intention of exiting the premises without paying for them.

The defendant did not have permission from the occupier to leave without paying.

The goods had a value of \$1200 and were not recovered.

**CRN 2113**

At about 3:23pm on Tuesday 28 May 2019, the defendants were at the Warehouse Stationery on Rangitikei Street, Palmerston North.

Whilst at the Warehouse Stationery the defendants concealed goods on their person, with the intention of exiting the premises without paying for them.

The defendant did not have permission from the occupier to leave without paying.

The goods had a value of \$87.97 and were recovered.

**DEFENDANT'S COMMENTS**

In explanation the defendant [REDACTED] stated she took the items top swap for Drugs, Money and Petrol in order to help her drug habit.

In explanation the defendant [REDACTED] stated he just took the items because he just did.

10. On 31 July 2019 [REDACTED] was sentenced on all the above charges by Judge Mabey QC to 12 months' supervision and ordered to pay reparation of about \$2,000.

Unlawfully taking a motor vehicle offending

11. CAC enquiries into [REDACTED] offending (as described above) revealed that [REDACTED] was also convicted of unlawfully converting a motor vehicle. The Police Summary of Facts for the offending is not available.
12. The sentencing notes record that the offending occurred to 5 August 2019, when [REDACTED] took a car worth \$25,000 ostensibly for a test drive. The Judge found that she took the car for a joy ride and caused damage to the car.

13. On 23 August 2019, she was sentenced by Judge Mabey QC to 80 hours community work and ordered to pay \$1,000 reparation.

#### Responses from [REDACTED]

14. The CAC wrote to [REDACTED] regarding the notification of criminal convictions received from the Ministry of Justice and invited her to respond.
15. On 29 November 2019 [REDACTED] responded stating that there were two issues that caused her criminal offending: she had been recently diagnosed with [REDACTED]; and she was addicted to methamphetamine as a symptom of her mental health diagnosis. [REDACTED] stated that prior to 2015, she was targeted by a drug dealer through date rape and non-consensual methamphetamine injection and had spent the last four years attempting to gain control over the addiction. A letter from [REDACTED] mother and father was also attached stating the same.
16. [REDACTED] stated that she wished to return to a full time teaching position in the future and detailed some of the work she was doing to address her mental health and drug addiction issues.
17. [REDACTED] agreed to participate in the voluntary impairment process with the Teaching Council.
18. An impairment report was subsequently prepared, and dated 25 September 2020.
19. The impairment report noted [REDACTED] mental health issues and the circumstances that led to [REDACTED] drug addiction (as outlined by [REDACTED] and her parents above).
20. The impairment report noted advice from her psychiatrist and support agency in March 2020 that there had been a "vast improvement" in [REDACTED] functioning, and that she was fully engaged in rehabilitation.
21. The impairment report considered that [REDACTED] psychiatric conditions were currently well managed by with medication. The report noted that she was attending an addiction support group and had a risk management plan in place.
22. The impairment report noted that [REDACTED] had commenced a 12 month treatment programme of Dialectical Behaviour Therapy, "a modality that is highly recommended for treatment of BPD".
23. The impairment report recommended that:
  - a. [REDACTED] trial a graduated return to teaching with a mentor assigned, who could check in with her regularly and monitor her ability to cope with work load and work stressors (e.g. weekly or fortnightly);
  - b. [REDACTED] and her school to discuss a specific plan with a workload that seems manageable and can be increased over time; and
  - c. [REDACTED] psychologist to provide quarterly updates "on her rehabilitation and progress as she slowly re-engag[es] in her teacher role".

#### CAC meeting

24. The CAC met on 29 October 2021 to consider the matter. ██████ attended by videolink, and was supported by her mother.
25. ██████ told the CAC that she started teaching at 20 years old. She has just over four years' experience in teaching intermediate age students full time.
26. ██████ said that at the time of the shoplifting, she was in the depths of addiction, homeless and living in her car. She was around other people who were involved with methamphetamine and would do anything to feed her addiction. ██████ told the CAC that she has completed her community work and been making weekly payments towards her reparation.
27. ██████ said that she had acted dishonestly and manipulatively, and that this was the opposite of her values. She stressed that she would never take anything that did not belong to her again.
28. By the time ██████ met with the CAC, she had completed the DBT programme, which involved weekly sessions. She told the CAC that she had learned skills to understand and modify her behaviour.
29. ██████ told the CAC that she was regularly engaged with her GP, a psychologist and psychiatrist. She had a plan in place and was aware of her early warning signs. Her family was also aware of her early warning signs and her plan and was supportive of her.
30. ██████ mother addressed the CAC. She stated that ██████ was doing very well and taking every possible opportunity available to her to address her underlying issues. She said that ██████ was working and has a solid routine.

### **Liability - adverse finding**

[4] There is no challenge from the respondent regarding an adverse finding being made. Rather the issues raised by the respondent go to penalty.

[5] The number of convictions would equate to a serious misconduct finding. Sustained criminal dishonesty reflects adversely on a teacher's fitness and may bring the profession into disrepute. Likewise the character of the offending meets the criteria for reporting serious misconduct.

[6] Given the extent of convictions we are satisfied that an adverse finding should be made.

### **Penalty**

[7] The appropriate penalty in this case is where the real issue is.

[8] The CAC suggests that the appropriate penalty would be censure, annotation of the register, reporting to future employers, mentoring, and updates from health professionals regarding treatment.

[9] The respondent opposes censure and annotation, and reporting to future

employers. The respondent considers that these conditions would be detrimental to her recovery and to her prospects of future employment.

[10] Determining the appropriate outcome in this matter is a highly nuanced and contextual exercise. The number and seriousness of the convictions is highly relevant. So too however is the reason for them, and what the respondent has done about it. Responsibility, rehabilitation and contrition are important factors. In some cases a teacher can show that they have turned things around, and that the situation as a whole does not require cancellation. In other cases the situation may be too serious, and the Tribunal may have to cancel the teacher's registration. There is no onus on a teacher but they will naturally be the first port of call for an inquiry as to what happened and why, and what they have done about it.

[11] After considering all of the material and having lengthy discussions with the respondent at the hearing, we were able to reach the view that the respondent has now shorn herself of her previous methamphetamine curse. That has not been an easy task and the respondent has done very well. She has engaged in a number of steps for both the methamphetamine and related mental health conditions over several years now:

- I. Attending rehabilitation.
- II. Attending the Bridge programme through the Salvation Army.
- III. Engaging with the Teaching Council Impairment Report.
- IV. Attending with her doctor and psychiatrist for mental health treatment.
- V. Engaging with a clinical psychologist.
- VI. Attending an addiction support group.
- VII. Completed a 12 week Waiariki Whanau Mentoring course.
- VIII. Completed a 12 month dialectal behavioural therapy course.
- IX. Constructing and following a relapse prevention plan.

[12] We also discussed the respondent's teaching career with her and her ambitions for the future. The respondent impressed us as someone that has enjoyed and excelled at teaching, and is on track to doing so again.

[13] We are confident that the respondent has put everything in place that is reasonably possible to reduce the risk of a methamphetamine relapse. We consider that the offending can properly now be seen in the context of a methamphetamine addiction. It is properly characterised and seen by us now as a symptom of her illness,



not as an indication of a dishonest and unfit person (which might be the impression gained if one was to just look at the convictions in isolation).

[14] Having considered all of the material provided and seen and heard the respondent, we consider that the appropriate outcome is as follows. Although we note there was some disagreement from the respondent on the outcomes, we did not detect that this detracted from the taking of responsibility. Rather the respondent was concerned for her future viability in the profession.

[15] The orders are:

- I. The respondent is censured.<sup>1</sup>
- II. Any practicing certificate issued within three years of this decision is to have a condition that for the balance of the three year period, and for at least one year even if going beyond the three years, the respondent will work with a mentor approved by the Teaching Council. The respondent will check in monthly with the mentor and discuss how she is coping with returning to work. The Mentor is to provide quarterly updates to the Teaching Council. The mentor must be provided with a copy of this decision.<sup>2</sup>
- III. For the same timeframes as above, there is a further condition that the respondent must submit six monthly reports to the Teaching Council from her GP or another health professional that she is seeing, to update the Teaching Council on ongoing treatment/rehabilitation.

[16] Having had the opportunity to see and hear the respondent and consider carefully her history, the challenges she has overcome, and her intentions for the future, we do not consider that a reporting condition (to employers) is required. The combination of “methamphetamine”, a number of dishonesty offences, could well lead to premature decisions being made before having an opportunity to properly hear from the respondent, such would be the stigma. We are comfortable that such a condition is not required and would be counter-productive to the respondent being able to productively move on and contribute to the profession.

[17] If any of the above conditions require further discussion or consideration, leave is reserved for either party to come back to the Tribunal.

### **Non publication orders**

[18] The respondent seeks orders for non-publication of her name and any

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<sup>1</sup> Section 404(1)(b) Education Act 1989.

<sup>2</sup> Section 404(1)(j)

identifying details. The main ground advanced by the respondent is the risk of a relapse of mental health and addiction issues.

[19] We have been provided with a letter from the respondent outlining this in detail, and a letter from her doctor giving a similar opinion. We note that the doctor has been involved with the respondent since October 2019, which would mean that the doctor has been through a lot of the respondent's recovery journey with her. Accordingly that opinion can be given significant weight.

[20] We also take into account that this offending had no connection to teaching and the respondent was not working as a teacher at the time of it.

[21] For those reasons we consider that it is appropriate and proper to make an order for non-publication of the respondent's name and any identifying information under s 405 Education Act 1989.



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**T J Mackenzie**

**Deputy Chair**