

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2019/2

WĀHANGA the Education Act 1989
Under

MŌ TE TAKE of a charge referred by the Complaints Assessment
In the matter of Committee to the New Zealand Teachers Disciplinary
Tribunal

I WAENGA I A **COMPLAINTS ASSESSMENT COMMITTEE**
Between **Kaiwhiu**
 Prosecutor

ME **ERENA ANN STEVENSON**
And **Kaiurupare**
 Respondent

TE WHAKATAUNGA Ā TE TARAIPUNARA

Decision of the Tribunal

8 October 2020

NOHOANGA: Held on 6 May 2019

TE TARAIPUNARA: Rachel Mullins (Deputy Chair)
Kiri Turketo raua ko Stuart King (Ngā mema o te Taraipunara)

NGĀ ROIA ME NGĀ

KAIAWHINA: Kayes Fletcher Walker for the Complaints Assessment Committee
Alan Taylor, Taylormade Resolutions Limited for the respondent

Hei timatanga kōrero – Introduction

1. The Complaints Assessment Committee ("CAC") has charged the respondent with engaging in serious misconduct and/or conduct otherwise entitling the Disciplinary Tribunal to exercise its powers.
2. The respondent is a registered teacher and was working at Papakura Normal School in 2017 where it is alleged that:
 - (a) On or about 23 May 2017 the respondent took her colleague's wallet from a classroom, removed USD \$200 (NZ \$300) and attempted to use her colleague's credit card.
3. The CAC alleges that the respondent's conduct amounts to serious misconduct pursuant to section 378 of the Education Act 1989 ("the Act") and Rule 9(1)(h) and/or (n) and/or (o) of the Teaching Council Rules 2016 (as drafted prior to the 18 May 2018 amendments) ("the Rules"), or alternatively amounts to conduct otherwise entitling the Disciplinary Tribunal to exercise its powers pursuant to section 404 of the Act.
4. The matter proceeded by way of a hearing on the papers.

Ko te hātepe ture o tono nei – Procedural History

5. A Pre-Hearing Conference ("PHC") was held on 15 March 2019 at which timetabling Orders were made. The Notice of Charge was also amended due to the CAC withdrawing one of the charges against the respondent.

Kōrero Taunaki - Evidence

Agreed Summary of Facts

6. The Agreed Summary of Facts ("ASoF") is set out in full below.

Introduction

1. *Ms Stevenson is a fully certified primary school teacher. Ms Stevenson gained provisional certification in February 1993 and full certification in November 1994. Ms Stevenson's teaching history includes permanent and*

long-term relieving positions at Karaka School, Pukekohe Hill School, Paerata School and Park State School.

2. *Ms Stevenson began working at Papakura Normal School in April 2014 and resigned on 21 June 2017.*

Allegation: On or about 23 May 2017 Ms Stevenson took her colleague's wallet from a classroom, removed USD \$200 and attempted to use the colleague's credit card.

3. *On 13 June 2017 Ms Stevenson advised the Deputy Principal of Papakura Normal School that she had stolen a colleague's wallet, and that Police were involved. Ms Stevenson advised that she had stolen the wallet because she had no money to buy food.*
4. *Ms Stevenson subsequently appeared in Court on 15 June 2017. The Summary of Facts prepared by the Police stated:*

INTRODUCTION

The defendant STEVENSON is employed as a teacher at Papakura Normal School in Papakura and is a colleague of the victim in this matter [] who is also a teacher at Papakura Normal School.

CIRCUMSTANCES

At about 3.10pm on 23 May 2017 the victim left her handbag on a seat at the rear of her classroom, Room 20, while a staff meeting was held in her classroom.

Inside her handbag was the victim's black leather wallet, valued at \$75, containing \$200 US dollars, a Westpac Mastercard and various other cards. At the end of the meeting the defendant approached the rear of the victim's class and asked to look at her classroom resources. While there the defendant took the victim's wallet from her handbag.

At 5.06pm on 23 May 2017 the defendant was recorded on in-store CCTV entering the Countdown Roselands Supermarket. She filled a shopping trolley with grocery items and approached checkout 6 where the items were scanned through in the usual manner.

The total value of the grocery items was \$798.19.

At 5.39pm on 23 May 2017 the defendant used the victim's Mastercard and attempted to pay for items by swiping the card and entering a pin number.

She made five unsuccessful attempts to enter a pin number to complete the purchase.

The defendant left the supermarket without any items.

On 28 May 2017 the victim was advised by Countdown Roselands that her wallet had been located in the back of a shelf, her credit card and \$200 USD were not in the wallet.

DEFENDANT COMMENTS

The defendant declined to make a statement after speaking to a lawyer, however, she said to Police the \$200 was gone.

The defendant has not previously appeared before the Court.

REPARATION

An order is sought for the defendant to pay reparation of \$277.66 NZD or \$200 USD.

5. *On 21 June 2017 Ms Stevenson repaid USD \$200 to the victim. On the same date she resigned from Papakura Normal school.*
6. *On 27 June 2017 the Principal of Papakura Normal School submitted a mandatory report to the Council.*
7. *The Police subsequently advised the Council that on 18 July 2017 the charges against Ms Stevenson were dismissed after she completed diversion. The Police were unable to provide any further detail regarding the diversion arrangements.*

Response by Practitioner

8. *On 22 November 2017 Ms Stevenson provided a formal response to the allegation, by her representative. The response included the following points:*

- (a) *Ms Stevenson agreed that the Police Summary of Facts was accurate.*
- (b) *Ms Stevenson raised the following mitigating factors:*
 - (i) *The situation occurred at a time where she was undergoing a period of extraordinary stress in relation to her financial circumstances and family situation. She appreciated that her actions in taking a colleague's purse and attempting to use to the colleague's credit card were completely unlawful and inappropriate, and that she had made the foolish decision due to the stress she was under at the time.*
 - (ii) *When contacted by the Police, Ms Stevenson immediately acknowledged her inappropriate conduct and cooperated with the Police and Court system.*
 - (iii) *Ms Stevenson subsequently resigned from her position at Papakura Normal School and made full reparation to the teacher whose purse she had taken.*
 - (iv) *As a result of her full cooperation in relation to these issues, together with an acknowledgement of the particular stress that she was under at the time, the decision was eventually made for Ms Stevenson to be granted Police diversion in relation to this incident.*
 - (v) *Ms Stevenson has worked closely with her medical practitioner, Dr Vanshdeep Tangri, Franklin Family Support, Salvation Army and family and friends in an effort to resolve her issues.*
 - (vi) *Ms Stevenson was a single parent – with two teenage children (one of whom had recently left home to live with her father) – who has been living in rented accommodation.*

Medical Information Received

- 9. *On 30 November 2017 Ms Stevenson provided a letter from Dr Tangri, advising that Ms Stevenson had suffered from depression with anxiety for several years, and these were currently well controlled with medications,*

regular reviews by her GP and if needed, assistance from a psychiatrist/psychologist.

10. *On 8 December 2017 Ms Stevenson provided a further personal statement. The statement recorded:*

"I have been meeting with my GP regularly. My own management of my anxiety in the last three months has included:

- Continuing to find work and teach at both primary and preschools.*

...

- On the day the Police came to the house and we went down to the station. Straight after this I went down to the Corrections Department off my own bat and asked who they thought I could get support from. Thankfully they recommended Huakina Developmental Trust where I met Sandra – the social worker who helped me with the appointment for whenever I needed a support person.*

...

- The social worker told me about the Salvation Army "Free Budget Help" scheme and I met Marlene Connelly, the budget mentor there.*

...

- During this time I volunteered at Franklin Family Support. I felt I needed to do this to pay it forward and contribute to the community to rebuild my reputation and strength of character.*

...

- Self-care systems I have in place for myself if the need arises are: Reading, Writing, Painting, mosaics, Yoga and Pilates – which benefit anxiety immensely.*

...

- My son and I have moved out of an extremely dangerous neighbourhood and into a lovely little place in the country. Living*

in the other house was dreadful and took its toll on me. Cheaper and more affordable rent but Police in the street every day.

11. *On 20 February 2018 Ms Stevenson provided a reference letter dated 5 February 2018 from Olive Matheson-Croudis, Coordinator, Financial Capability Mentor's Team, and Franklin Family Support Services, confirming that Ms Stevenson had been attending financial mentoring appointments since August 2017, and that Ms Stevenson was currently on track to achieve her goals, and managing within her income.*
12. *On 24 August 2018 Ms Stevenson provided a letter from her consultant psychiatrist, Dr Moldazsky, which advised that:*
 - (a) *Ms Stevenson was receiving ongoing treatment with the Mental Health Team at Counties Manukau Health.*
 - (b) *Ms Stevenson had a current diagnosis of depression.*
 - (c) *This was being managed with a combination of medications.*
 - (d) *Ms Stevenson in consultation with Dr Moldazsky, was exploring non-medical, behavioural approaches to managing her condition that would enable a reduction in medication.*
13. *Ms Stevenson also advised that:*
 - (a) *She was continuing her exercise regime, including yoga, meditation and mindfulness.*
 - (b) *"I feel the strongest in my teaching that I have in many years as I have been relieving from preschool, primary school and right thru to high school age children from all types on schools and many different locations around Auckland. This has added a real strength to my teaching experience and knowledge. I am efficient, organised and can quickly set up programmes that suit many children and schools' different needs. I hope my honesty helps to show you the person that I am. A mother and teacher. Both the most important things to me."*

Ngā Kōrero a te Kōmiti – CAC Submissions

7. The CAC refers to the case of *CAC v Lyndon*¹. In this case the teacher was convicted of three charges of dishonestly using a document under section 228 Crimes Act 1961 and two charges of obtaining by deception under section 240 of the Crimes Act 1961.
8. Over a period of approximately six months Ms Lyndon provided false information, i.e. false letters, and false payslips to WINZ relating to her accommodation, and the accommodation of her associates. As a result of her dishonesty, Ms Lyndon received \$3,091.55 of overpaid benefits and an associate received a \$1,200 benefit. Ms Lyndon pleaded guilty at an early stage and was convicted and ordered to come up for sentence if called upon. Ms Lyndon was a Principal at the time.
9. Ms Lyndon did not dispute that her behaviour amounted to serious misconduct and the Tribunal considered that her conduct reflected adversely on her fitness to teach:²

"Practitioners have an obligation to both teach and model positive values for their students. Defrauding the state, and thus the community, is the antithesis of the standard of honesty expected of teachers."

10. The Tribunal also found that Ms Lyndon's conduct was of a nature that brings the teaching profession into disrepute and considered an appropriate outcome was for censure and annotation of the register for two years.
11. Regarding whether the respondents conduct meets the test for serious misconduct, the CAC submits that the following are aggravating factors:
 - (a) The conduct involved stealing a colleague's wallet, which was a significant breach of trust.
 - (b) The respondent subsequently attempted to use the credit card to buy groceries.
 - (c) She also stole USD \$200 which was contained in the wallet.

¹ *CAC v Lyndon*, NZTDT 2016/61.

² Refer n1 at [21].

- (d) The Police laid charges against the respondent, but these were subsequently dismissed after she completed diversion.
12. The CAC submits that the conduct breached the Code of Professional Responsibility, and in particular clauses 1.2 and 1.3.
13. Based on the reasons outlined in *Lyndon*, the CAC submits that the respondent's conduct:
- (a) Reflected adversely on her fitness to be a teacher as per section 378(1)(a)(ii) of the Act;
 - (b) May bring the teaching profession into disrepute as per section 378(1)(a)(iii);
 - (c) Breached Rule 9(1)(h) of the Rules as the conduct meets the definition of theft;
 - (d) Breached Rule 9(1)(n) of the Rules as the conduct was the subject of a Police prosecution, which was only dismissed after the respondent completed a diversion programme; and
 - (e) Brought discredit to the profession in terms of Rule 9(1)(o).

Submissions on Penalty

14. The CAC is aware that the respondent's conduct and concerns around her mental health have previously been brought to the attention of the Teaching Council. With that history, the CAC is concerned that the current conduct is also being triggered by similar mental health difficulties.
15. Having said that, the CAC accepts that:
- (a) The respondent showed remorse for her conduct at an early stage;
 - (b) The respondent took steps to ameliorate the consequences of her offending, by repaying the USD \$200, and resigning her position;
 - (c) The conduct appears to have been triggered by a combination of stress and mental health issues;

- (d) The respondent has sought out treatment for her mental health issues, as well as assistance for her financial issues.
16. On the basis that the respondent can provide information showing that her mental health challenges are being well managed, the CAC submits that an appropriate penalty would be:
- (a) Censure;
 - (b) Annotation of the Register for two years;
 - (c) The following conditions are to be placed on the respondent's practising certificate:
 - (i) That she is to advise her current and any prospective employer of the Tribunal's decision and to provide the employer with a copy of the Tribunal's decision for a period of two years;
 - (ii) That she is to provide quarterly updates from her mental health providers to the Teaching Council for a period of two years.

Ngā kōrero a te Kaiurupare – Respondent's submissions

17. The respondent submits that the conduct occurred because of *"a sudden and extraordinary series of events in early 2017"*. The representative for the respondent, Mr Taylor, describes the respondent's behaviour as a *"serious error of judgement and actions that constituted serious misconduct"*. It was submitted for the respondent that she has accepted the facts and taken full responsibility for her actions and continually recognises that what she did was professionally inappropriate and placed her ongoing registration as a teacher at significant risk. The respondent has taken steps to ensure that should she be faced with similar events in the future, then she will know how to respond and deal with them in a more appropriate manner. Mr Taylor submitted that the respondent has suffered, and will continue to suffer, the consequences of her actions, is suitably remorseful, and is of the view that there is no risk that she will repeat her behaviour.
18. Mr Taylor set out the challenging personal circumstances that the respondent was experiencing in early 2017 which laid the platform for her behaviour. The Tribunal is

invited to consider carefully the mitigating factors in this case, that being that the respondent has taken responsibility for her actions, co-operated with both the Police and the Council, has resigned from her position and has taken numerous rehabilitative steps to get her into a healthier mental space. The respondent works closely with her GP, Family Support Services, and the Salvation Army. She has also received budgeting support and worked with her bank to repay all debt that she had carried.

19. In relation to this particular incident, she paid the money back in full very quickly and has not sought any name suppression accepting that any publicity is a direct consequence of her actions of which she takes responsibility for. The respondent asks that the Tribunal take into account the fact that she received diversion and invites the Tribunal to consider the following in relation to the Police diversion process:
- (a) Although all cases are considered for diversion, not all offenders pass the necessary requirements for their case to be dealt with through this process;
 - (b) Sentences involving dishonesty where there has been a serious breach of trust are not normally considered appropriate to be dealt with through the diversion process;
 - (c) The victim's views are carefully considered when determining whether a specific case should be dealt with through the diversion process;
 - (d) Once diversion has been granted, there are several specific conditions that need to be complied with by the offender.
20. The respondent submits that despite the above, the Police still thought it appropriate to grant her diversion in the circumstances.

Submissions on Penalty

21. The respondent further submits that the overall context in which her conduct occurred should be taken into account by the Tribunal. Mr Taylor refers to case law which he submits would assist the Tribunal in terms of penalty. One was a Tribunal matter³ and

³ NZTCDT 2005/1 4 November 2005

another was a Canadian case.⁴ Both cases dealt with sexual relationships with students and consideration of whether cancellation of a teacher's practising certificate was automatic in those circumstances. The point we think Mr Taylor was making was that each set of circumstances should be dealt with on a case by case basis and there should be no blanket outcome for similar facts – in those cases, sexual relationships with students. With respect, we do not see either of those cases as particularly helpful in this context where we are dealing with a very different factual scenario.

22. Mr Taylor also referred to the *Lyndon*⁵ case which was cited by the CAC. Mr Taylor sought to distinguish the *Lyndon* case from the current case in that *Lyndon* involved "*defrauding the state and therefore the community*", which he implies is more serious than the respondent's conduct here.
23. It is further submitted for the respondent that she has taken responsibility for her actions, is still in a position to contribute to the profession, and any penalty should not negatively impact the significant rehabilitative steps the respondent has taken.
24. In terms of penalty, the respondent proposes:
 - (a) Censure;
 - (b) Annotation of the register for one year;
 - (c) Condition to advise her current employer and any prospective employer of the Tribunal's decision and to provide the employer with a copy of the Tribunal's decision for a period of one year; and
 - (d) Condition to provide an update from her mental health provider(s) to the Teaching Council by 30 June 2019.

Te Ture - The Law

25. The respondent has accepted that her conduct amounts to serious misconduct. Serious misconduct is defined in section 378 of the Act:

serious misconduct means conduct by a teacher –

⁴ *Young v The British Columbia College of Teachers* (2001) BCCA 164

⁵ Refer n 1

- (a) *that –*
 - (i) *adversely affects, or is likely to adversely affect, the wellbeing 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 Teaching Council’s criteria for reporting serious misconduct.*

26. The test under section 378 is conjunctive⁶ meaning that as well as meeting one or more of the three adverse consequences set out in section 378 of the Act, a teacher's conduct must also be of the character or severity that meets the Teaching Council's criteria for reporting serious misconduct.
27. Rule 9 sets out the criteria for reporting serious misconduct and lists behaviour that would cause an employer to report if it had reason to believe that a teacher had engaged in any of this sort of behaviour.
28. The CAC allege that in this case the respondent has breached the following set out in the Rules (as drafted prior to 18 May 2018):
- (a) Rule 9(1)(h) – theft or fraud;
 - (b) Rule 9(1)(n) – any other act or omission that could be the subject of a prosecution for an offence punishable by imprisonment for a term of three months or more;
 - (c) Rule 9(1)(o) – any act or omission that brings or is likely to bring discredit to the teaching profession.
29. In *CAC v Leach*⁷ it was accepted by the Tribunal that it could be assisted in cases involving alleged dishonesty by comparing a respondent's conduct against the elements of the offence of obtaining by deception under section 240 of the Crimes Act 1961. This section provides:

240 Obtaining by deception or causing loss by deception

⁶ *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018 at [64].

⁷ *CAC v Leach* NZTDT 2016/66, 26 April 2017.

- (1) *Everyone is guilty of obtaining by deception or causing loss by deception who, by any deception and without claim of right,—*
- (a) *obtains ownership or possession of, or control over, any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, directly or indirectly; or*
 - (b) *in incurring any debt or liability, obtains credit; or*
 - (c) *induces or causes any other person to deliver over, execute, make, accept, endorse, destroy, or alter any document or thing capable of being used to derive a pecuniary advantage; or*
 - (d) *causes loss to any other person.*
- (1A) *Every person is liable to imprisonment for a term not exceeding 3 years who, without reasonable excuse, sells, transfers, or otherwise makes available any document or thing capable of being used to derive a pecuniary advantage knowing that, by deception and without claim of right, the document or thing was, or was caused to be, delivered, executed, made, accepted, endorsed, or altered.*
- (2) *In this section, **deception** means—*
- (a) *a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person and—*
 - (i) *knows that it is false in a material particular; or*
 - (ii) *is reckless as to whether it is false in a material particular; or*
 - (b) *an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or*
 - (c) *a fraudulent device, trick, or stratagem used with intent to deceive any person.*

Kōrerorero – Discussion

30. This was a very personal breach of trust by one colleague towards another. It was not only the taking of the credit card and the money, but the fact that the respondent went through a colleague's personal belongings. It is such an acute invasion of personal privacy.

31. The respondent then went on to attempt to use the credit card to purchase groceries and spend the cash. We acknowledge that she has shown remorse for her conduct and repaid the money that she stole as well as resigning from her teaching position.
32. We also acknowledge that the respondent was suffering with mental health and financial challenges at the time and has subsequently taken steps (and continues to do so) to work through these issues.
33. However, much has been made in the respondent's submissions about how she has taken responsibility for her actions and has cooperated with the Police and the Council. The respondent acknowledged her actions, only **after** she had been caught by Police, three weeks **after** the incident. She did not voluntarily come forward; she was caught on instore CCTV. In that three weeks she presumably attended school every day alongside the colleague she had stolen from and went about her days as normal. There is no way of knowing whether had she not been caught, the respondent would have admitted what she had done.
34. We are satisfied that for the reasons outlined above the respondent's conduct reflects adversely on her fitness to be a teacher as per section 378(1)(a)(ii) of the Act and is such that may bring the teaching profession into disrepute as per section 378(1)(3) of the Act.
35. We also have no doubt that the respondent's conduct meets the definition of "theft" in rule 9(1)(h) of the Rules. We are not required to turn our minds to Rules 9(1)(n) and (o) as we have already found there to be a breach of Rule 9(1)(h).
36. The CAC's case for serious misconduct has been made out.

Kupu Whakatau – Decision

37. Having determined that this case is one in which we consider exercising our powers, we must now turn to consider what is an appropriate penalty in the circumstances.

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:*
 - (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.*
- (2) *Despite subsection (1), following a hearing that arises out of a report under [section 397](#) of the conviction of a teacher, the Disciplinary Tribunal may not do any of the things specified in subsection (1)(f), (h), or (i).*
- (3) *A fine imposed on a teacher under subsection (1)(f), and a sum ordered to be paid to the Teaching Council under subsection (1)(i), are recoverable as debts due to the Teaching Council.*

38. The case of *CAC v MacMillan* identified the key considerations for the Tribunal when determining an appropriate penalty.⁸

The role of disciplinary proceedings is therefore 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

⁸ *CAC v MacMillan* NZTDT 2016/52 at [23]

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.

39. The Tribunal must turn its mind to whether the proposed penalty is fair, reasonable, and proportionate in the relevant factual circumstances and is consistent with similar cases.⁹

Our decision on penalty

40. We wish to make it clear to the respondent that her conduct constitutes an extreme breach of trust. The public place a significant degree of trust in the teaching profession due to their role in the care and modelling of behaviour for our tamariki/mokopuna. It is a position of privilege and must be treated as such.
41. We do however acknowledge how proactive the respondent has been in her recovery. She continues to work on herself and seek help to develop strategies to assist should she find herself in challenging situations in the future.
42. In light of the above, the Tribunal orders as follows:
- (a) Censure under s 404(1)(b) of the Act;
 - (b) The following conditions are to be placed on the respondent's practising certificate under section 404(1)(c) of the Act:
 - (i) The respondent must provide quarterly updates from a registered clinical psychiatrist confirming her fitness to teach to the Manager, Professional Responsibility of the Teaching Council for a period of two years following the date of the full decision;
 - (ii) The respondent is to arrange financial mentoring from a Teaching Council approved budget advisor for two years following the date of the full decision, with proof of completion to be sent to the Council;
 - (iii) The respondent must advise her current employer and any prospective future employer of the Tribunal's decision for a period of two years, and to

⁹ *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354

provide the employer with a copy of the Tribunal's full decision, with evidence to the Tribunal of this disclosure.

- (c) Annotation of the register of all the above for two years under s 404(1)(e) of the Act.

Utu Whakaea – Costs

43. The CAC seeks 40% costs and has provided a costs schedule showing \$3,993.94 total costs, and \$1,597.57 as a 40% contribution. We agree that 40% is appropriate. Under s 404(1)(h), the respondent is ordered to pay 40% of the costs shown in the CAC schedule unless the respondent files and serves submissions as to costs within 10 days. If submissions are received, the Tribunal delegates to the Deputy Chair the task of fixing the amount of the CAC's costs.
44. The respondent is also ordered to pay 40% of the Tribunal's costs. This matter was dealt with on the papers. The schedule submitted by the Tribunal totals \$1145, of which \$458.00 is 40%. Subject to any objection by either party or the Tribunal Secretary, we fix the costs under s 404(1)(i) at \$458.00. Any objection should be filed and served within 10 days and referred to the Deputy Chair.



Rachel Mullins
Deputy 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).