



EDUCATION COUNCIL
NEW ZEALAND | Matatū Aotearoa

Complaints Assessment Committee (CAC) v Usufono

NZ Disciplinary Tribunal Decision 2017/30

A teacher has been censured with conditions and annotated for grabbing a student by the collar for the purpose of correction.

Mr Meta Usufono was a registered teacher specialising in Samoan at Otahuhu College. He was taking a Samoan class with year 10 students when one of the students refused to stop talking to other students. Mr Usufono responded by grabbing the student by the collar with force, accidentally scratching him on the neck. The student attempted to punch Mr Usufono but missed and fell to the floor. Mr Usufono picked the student up by the collar again and removed him from the classroom.

Mr Usufono met with his principal and acknowledged his actions were unprofessional and unacceptable. He expressed remorse and shame for his actions.

The Complaints Assessment Committee of the Education Council (CAC) investigated and referred the matter to the Disciplinary Tribunal.

The Tribunal determined that the conduct amounted to serious misconduct. In considering the penalty, the Tribunal noted that the use of physical force, even at a lower level, is unacceptable in New Zealand Schools, and use of it by teachers would place their registration at risk.

Mr Usufono accepted he applied force for corrective purposes and this arose from a loss of self-control.

The Tribunal differentiated Mr Usufono's conduct from more intentional violent conduct (such as a hit or kick) and found that his intention was to use physical force to overpower the student. He did not intend to injure the student by scratching him. The Tribunal also noted that this was a one-off incident and further noted Mr Usufono's remorsefulness and reflection on the incident. The Tribunal considered that the principal continued to work with Mr Usufono, who remained employed, and he had engaged with training, mentoring and support offered to him, including programmes specifically targeted at dealing with challenging behaviour and aggressive students.

On this basis, the Tribunal was satisfied that a penalty short of cancellation was appropriate. The Tribunal acknowledged the steps taken by the school and Mr Usufono, and his contribution as a Samoan teacher. The Tribunal found that Mr Usufono was capable of change, and accordingly he was censured, with conditions to show any prospective employer the decision, engage in mentoring and provide reflective reports to the Education Council. The register was annotated and Mr Usufono was ordered to pay costs.

The Tribunal declined Mr Usufono's application for permanent name suppression, noting that the function of the Council is to ensure safe and high-quality teaching for learners and noted that the position of a teacher is respected because of the way the profession conducts itself, not because poor actions are kept secret.

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2017-30

IN THE MATTER of the Education Act 1989

AND

IN THE MATTER of a charge referred by the Complaints Assessment
Committee to the New Zealand Teachers
Disciplinary Tribunal

BETWEEN **COMPLAINTS ASSESSMENT COMMITTEE**

AND **META SEGI USUFONO**

Respondent

TRIBUNAL DECISION

26 April 2018

HEARING: Held at Auckland on 17 January 2018 (on the papers)

TRIBUNAL: Theo Baker (Chair)
Kiri Turteko and Simon Williams (members)

REPRESENTATION: Ms Dawson for the CAC
Ms King for the respondent

1. The Complaints Assessment Committee (CAC) has referred to the Tribunal a charge of serious misconduct and/or conduct otherwise entitling the Tribunal to exercise its powers arising from a mandatory report received from Otahuhu College about the conduct of Meta Usufono (**the respondent**). The charge is that on 5 July 2016 the respondent used unreasonable and unjustified force to remove a student from the classroom.
2. It is alleged that the conduct amounts to serious misconduct pursuant to s 378 of the Education Act 1989 (the Act) and rr 9(1)(a) and/or (n) and/or (o) of the Education Rules 2016, or conduct otherwise entitling the Disciplinary Tribunal to exercise its powers under s 404 of the Act.
3. The parties conferred and agreed on the facts, that the conduct amounts to serious misconduct, and agreed on an appropriate penalty. We must still consider the evidence and satisfy ourselves of those matters.

Summary of findings

4. We are satisfied that the respondent's conduct amounts to serious misconduct. The respondent is censured under s 404(1)(b) of the Act, and under s 404(1)(c) conditions are placed on his practice, as set out in paragraph 36 below. The register will be annotated accordingly. The respondent has also been ordered to pay costs, as set out in paragraph 38.
5. There is an order for non-publication under s 405(6) of the following matters:
 - a) The name of Student T
 - b) Any health details of members of the respondent's family, in particular those in paragraph 41.
6. There is no permanent order for non-publication of the respondent's name, but there is an interim order for one month from the date of this decision.

Evidence

7. Before the hearing the parties conferred and filed an Agreed Statement of Facts, and Ms Dawson for the CAC advised that the respondent agreed that the conduct amounts to serious misconduct. The ASF was signed by Ms Dawson on behalf of the CAC and Ms King on behalf of the respondent and is set out in full:

Background

1. The respondent, **META USUFONO** is a registered teacher. Mr Usufono is a specialist Samoan teacher, currently employed at Otahuhu College, Auckland.
2. Mr Usufono has worked at Otahuhu College since January 2014 and was employed at Otahuhu College at the time of the incident. Mr Usufono was a teacher for ten (10) years in Samoa prior to 2014.
3. Tautua Ielua (Student T) was a year 10 student in the respondent's class.

Incident on 5 July 2016

4. On 5 July 2016 Mr Usufono was taking a Samoan class, with year 10 students.
5. Student T was talking with two other students during the class.
6. Mr Usufono asked Student T to stop talking, and he stopped. Student T then started talking again.
7. Mr Usufono grabbed Student T by the collar "with force and anger". In doing so, Mr Usufono accidentally scratched Student T on the neck. Student T received three (3) scratches, two (2) mm in length.
8. Student T swung his arm to punch Mr Usufono and he missed and fell down.
9. Mr Usufono picked Student T up by the collar again to remove him from the classroom.
10. Mr Usufono used unreasonable and unjustified force to remove Student T from the classroom.

Teacher's Response

11. Following the incident on 5 July 2016, Mr Usufono met with the principal to discuss the incident. While explaining the difficulty of the situation at that time, Mr Usufono acknowledged that his actions were unprofessional and unacceptable. Mr Usufono expressed his remorse and shame for what he had done. He received a written warning from the school.
12. In submissions to the Education Council, Mr Usufono extended his "deepest regrets and sincerest apologies for his misconduct" in the class on 5 July 2016.
13. Mr Usufono stated that he "regretfully stepped over a professional boundary" when he grabbed a "recalcitrant student" by the collar to remove him from class.

14. Mr Usufono advised that he is working with his Head of Department and senior colleagues to ensure that such an “unprofessional act will not happen again.”

15. Mr Usufono has received coaching and attended a leadership course.

8. Based on this ASF, we are satisfied that the factual allegation contained in the charge is therefore proved. In particular, paragraphs 7 to 10 of the ASF set out the foundation for the charge.

Serious misconduct

9. Having found the factual allegations proven, we must now decide whether any of these findings amounts to serious misconduct (or conduct otherwise entitling the Tribunal to exercise its powers).

10. Section 378 of the Act provides:

serious misconduct means conduct by a teacher—

(a) *that—*

(i) adversely affects, or is likely to adversely affect, the well-being 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 Education Council’s criteria for reporting serious misconduct.*

11. The criteria for reporting serious misconduct are found in r 9 of the in the Education Council Rules 2016 (**the Rules**). The CAC relies on the rr (a), (n) and (o):

Criteria for reporting serious misconduct

(1) *The criterion for reporting serious misconduct is that an employer suspects on reasonable grounds that a teacher has engaged in any of the following:*

(a) the physical abuse of a child or young person (which includes physical abuse carried out under the direction, or with the connivance, of the teacher):

...

(n): any other act or omission that could be the subject of a prosecution for an offence punishable by imprisonment for a term of 3 months or more

...

(o) any act or omission that brings, or is likely to bring, discredit to the profession.

12. For the CAC, Ms Dawson also submits that the conduct is a breach of s 139A(1) of the Act, which provides that no teacher is entitled to use force by way of correction or punishment towards any student or child enrolled at or attending the school institution or service.
13. We accept the CAC's submissions that:
- the conduct adversely affected the student, resulting in three scratches to the neck. Ms Dawson also notes that he was ejected from the classroom, in front of his peers. We assume that she is referring to some degree of embarrassment;
 - the respondent's loss of self-control reflects adversely on his fitness to teach; teachers are expected to model appropriate behaviour to students;
 - reasonable members of the public could reasonably conclude that the reputation and good standing of the teaching profession is lowered by the respondent's behaviour.¹
14. Therefore any and all of the grounds under s 378(1)(a) are met.
15. Turning to the second limb of the definition of serious misconduct, Ms Dawson submitted that the respondent intentionally applied force to Student T for a corrective purpose, which is absolutely prohibited by s 139A of the Act. She submitted that there can be no doubt that this was an assault, and that there was an element of violence triggered by the respondent's loss of control when faced with Student T's challenging behaviour.
16. We accept that this was technically an assault. Assault is defined in s 2 of the Crimes Act 1961 as:
- act of intentionally applying or attempting to apply force to the person of another, directly or indirectly, or threatening by any act or gesture to apply such force to the person of another, if the person making the threat has, or causes the other to believe on reasonable grounds that he or she has, present ability to effect his or her purpose; and to assault has a corresponding meaning*
17. Section 196 of the Crimes Act 1961 provides for a penalty of 12 months for common assault. We therefore accept the submission that this is an act that could be the subject

¹ The test in *Collie v Nursing Council of New Zealand* [2001] NZAR 74, for discredit to the profession under the former Nurses Act 1977, and adopted by this tribunal.

of a prosecution for an offence punishable by imprisonment for a term of 3 months or more, as provided in r 9(1)(n).

18. We also find that the respondent's behaviour amounts to physical abuse under r 9(1)(a).
19. Finally, for the same reasons that we find it met the requirements of s 378(1)(a)(iii), conduct that may bring the teaching profession into disrepute, we find that it is conduct likely to bring discredit to the profession under r 9(1)(o).
20. In summary, this is a clear case of serious misconduct, and we acknowledge the respondent's recognition of this.

Penalty

21. The powers of the Tribunal are set out in s 404 of the Act:

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.*

22. In *CAC v McMillan*² we summarised the role of disciplinary proceedings as:

... 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.

23. When discharging the responsibilities owed to the public and profession, the Tribunal is required to arrive at an outcome that is fair, reasonable and proportionate in the circumstances.³

24. We have previously said that the use of physical force, even at a lower level, is unacceptable in New Zealand schools,⁴ and that any teacher who uses physical force contrary to the prohibition in the Act⁵ puts his or her status as a teacher in peril.

25. Ms Dawson helpfully summarised some cases for us. They covered a range of penalties, including no disciplinary penalty in *CAC v Haycock*,⁶ which involved a smack on the bottom and others involving censure, annotation of the register, and conditions.⁷

26. When a teacher has intentionally hit or kicked a student, it is implicit that there is an intention to inflict some degree of pain or harm, whether as punishment, in retaliation or in order to modify the student's behaviour in some way. In the present case, the teacher's actions were to use physical force to overpower the student. The scratches to the student's neck, while a foreseeable consequence of his action, were not the intended action.

² NZTDT 2016/52, 23 January 2017, paragraph 23.

³ *Roberts v Professional Conduct Committee of the Nursing Council of New Zealand* [2012] NZHC 3354, at [51].

⁴ NZTDT 2014-49, 20 May 2016

⁵ The decision refers to s 149, but we take it to mean s139A

⁶ NZTDT 2016/2

⁷ *CAC v Haycock* NZTDT 2016-2; *CAC v Rowlingson* NZTDT 2015-24; *CAC v Mackey* NZTDT 2016-90; *CAC v Davies* 2016-28; *CAC v Teacher* NZTDT 2016-26; *CAC v Papuni* 2016-30

27. We find the decisions of *CAC v Karklins*⁸ and *CAC v Mackey*⁹ have similarities with the present case.
28. *CAC v Karklins* involved inadvertent physical harm as a result of using force. A teacher lost his temper with a misbehaving student. He picked up the primary school student and forcibly removed him from the classroom, depositing him on the floor of the cloak room. The boy was thrashing about and banged his head against the wall. The Tribunal imposed a condition that the teacher was to complete a course in classroom management, annotated the record and censured him.
29. In *CAC v Mackey* a teacher became angry with a 14-year-old student and pinned her to the wall with her arm and swore at her. The teacher attended a restorative hui with the student and the parents and apologised. The school issued a final written warning and imposed conditions on her, including attending professional development and counselling. We found this case very finely balanced and by a narrow margin, imposed a penalty short of cancellation. The teacher was censured, the register annotated, and conditions imposed on her practising certificate, including supervision/mentoring for 18 months and completion of professional development within 12 months.
30. In the present case, the CAC seeks the following penalty:
- Censure
 - Annotation
 - Conditions, including further training, mentoring and monitoring for 12 months (including professional development around appropriate behaviour management)
 - A further condition that should the respondent leave his current employment, he advises any new employer of this decision
31. In mitigation, Ms Dawson notes that this is a one-off incident, the respondent has undertaken self-reflection and shown remorse.
32. For the respondent, Ms King submits that it is significant that the principal continues to support the respondent. She says that he has taken responsibility for his actions, has expressed remorse and understands that his actions were inappropriate and a breach of professional boundaries. The respondent has been provided with training, mentoring and

⁸ *CAC v Karklins* 2016-38

⁹ NZTDT 2016-60

support.

33. The respondent accepts that he applied force for corrective purposes and did so as a result of a loss of self-control. There have been no further incidents and the respondent is deeply ashamed of his actions.
34. By way of background, Ms King advises that the respondent had previously taught for ten years in Samoa. She says he has responded well to training in culturally appropriate ways of dealing with classroom management and is confident that he has the skills and knowledge to enable him to deal with classroom management in a considered and correct manner befitting his status as a teacher. He has co-operated fully with the Council and the school.
35. It is an agreed fact that the respondent received coaching and attended a leadership course. The principal of Otahuhu College has confirmed by letter that the respondent has received training in dealing with aggressive students and how to use culturally appropriate approaches as a moderating influence. Mentoring is in place. This includes one on one support on how to work with young people and deal with challenging behaviours. This was weekly but is now monthly. Monitoring of the respondent's practice has been put in place with the Head of Department and senior management and the student voice has been collected. There have been no concerns since and he is making a valuable contribution. Many of the Samoan students see him as a key support person for them and their families.
36. We accept that a penalty short of cancellation is appropriate. We acknowledge the steps the school has taken to ensure that the students are safe, while benefiting from Mr Usofono's contribution as a Samoan teacher. We wish to confirm that conduct such as this is viewed seriously and does place a teacher's registration in jeopardy, but we are satisfied that the respondent has worked with the school and demonstrated that he is capable of change. We therefore make the following orders:
 - 36.1 The respondent is censured under s 404(1)(b) of the Act
 - 36.2 Under s 404(1)(c), it is a condition of his practising certificate under that he:
 - a. shows his present and any future employer a copy of this decision, and provides evidence to the Education Council that the employer has seen it.
 - b. continues for a further period of 12 months to meet with a mentor at least

once during each school term, to discuss behaviour management, including identification of his own stressors and anger management

- c. by 1 November 2018 provides the Manager, Teacher Practice with a report which should include:
- a reflection on what he has learned and how he is implementing those lessons
 - a statement from the mentor confirming the contact, either in person or by phone, the matters covered, and an opinion on the respondent's progress.

36.3 The register will be annotated accordingly under s 404(1)(e).

Costs

37. The CAC does not seek costs.
38. The Tribunal orders the respondent to pay 40% of the Tribunal's costs under s 404(1)(i). The Tribunal estimate of costs has been proved and they total \$1145, 40% of which is \$458. We therefore order the respondent to pay \$458 under s 404(1)(i).

Non-publication

39. The respondent has applied for permanent name suppression. He has set out in an affidavit that it is on the grounds that:
- his relatives in Samoa who are teachers would suffer shame and loss of mana should his name be published;
 - his mother and a cousin have medical issues that may be adversely affected by publication of his name;
 - publication could adversely affect his wife's reputation and her ability to carry out her duties as a social worker;
 - his three primary school aged children may suffer.
40. In submissions, Ms King says that the respondent seeks non-publication of:
- His name
 - The names of the students
 - The name of the school
 - Any particulars that may lead to identification of the above

41. Ms King advises that the respondent's mother suffers from [REDACTED], his cousin has [REDACTED] and another cousin has [REDACTED]. He cannot obtain medical evidence as he has not told them of these proceedings and cannot gain access to their medical records without their consent.
42. Ms King submits that the public interest would be served by the public having access to the details of the matter and the publication of the respondent's name would not add anything. She adds that publication would have a disproportionate effect upon the respondent's family because of the profession in which his wife works and the standing of teachers in the Samoan community.
43. Ms King says that the Samoan social structure places great emphasis on the family. The good name of the family is extremely important and the maintenance of respect and dignity is highly significant. Publication of the respondent's name and the effects of that in a different cultural context are legitimate factors to consider. Ms King provided a copy of a chapter from a publication "An Introduction to Samoan Custom".
44. For the CAC, Ms Dawson seeks name suppression for Student T.
45. The CAC opposes name suppression for the respondent. Ms Dawson accepts that publication has an impact on the family of teachers who appear in the Tribunal, but that the impact referred to in the respondent's affidavit does not go beyond that which is normally suffered when a teacher is found to have committed serious misconduct.
46. The CAC accepts that the good name of the family is important and the maintenance of respect and dignity is highly significant in the Samoan community, but the same may be said of many communities. Ms Dawson observed that the material provided appears to suggest that issues of conduct are dealt with in an open forum, being discussed by the *fono* (village council) and debated until a decision is reached. She notes that there is no suggestion that the impact on mana and dignity would warrant a discussion and decision behind closed doors in that context.
47. Both parties provided legal submissions on the principles to apply in considering orders for non-publication.
48. Neither party has put forward any reasons for the suppression of the name of the school. We have therefore assumed that the naming of the school is seen as a matter that might identify either the respondent or students, rather than the school having any particular need for suppression in its own right.

Legal principles

49. Section 405(3) provides that hearings of this Tribunal are in public. This is consistent with the principle of open justice. The provision is subject to subsections (4) and (5) which allow for whole or part of the hearing to be in private and for deliberations to be in private. Subsection (6) provides:

(6) *If the Disciplinary Tribunal is 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, it may make any 1 or more of the following orders:*

...

(c) *an order prohibiting the publication of the name, or any particulars of the affairs, of the person charged or any other person.*

50. Therefore, in deciding if it is proper to make an order prohibiting publication of the student's name and the respondent's name the Tribunal must consider the interests of the student, the respondent and his family, as well as the public interest. If we think it is proper, we may make such an order.
51. The presumption in favour of open justice was articulated by the Court of Appeal in *R v Liddell* [1995] 1 NZLR 538 at 546:

... the starting point must always be the importance in a democracy of freedom of speech, open judicial proceedings, and the right of the media to report the latter fairly and accurately as "surrogates of the public"... The basic value of freedom to receive and impart information has been re-emphasised by s 14 of the New Zealand Bill of Rights Act 1990.

52. The principle of open justice therefore exists regardless of any need to protect the public. The tenor of s 405 is consistent with s 95(2)(d) of the Health Practitioners Disciplinary Act 2003, which was considered in *Dr A v Director of Proceedings*¹⁰ by Panckhurst J, who said:

The scheme of the section means, in my view, that the publication of names of persons involved in the hearing is the norm, unless the Tribunal decides it is

¹⁰ (High Court, Christchurch, CIV 2005-409-002244, 21 February 2006, Panckhurst J).

*desirable*¹¹ to do order otherwise. Put another way, the starting point is one of openness and transparency, which might equally be termed a presumption in favour of publication.

53. In *Director of Proceedings v I*,¹² Frater J found that any differences between the Courts and medical disciplinary processes (under the Medical Practitioners Act 1995) were ones of emphasis and degree. The most significant difference was the threshold to be reached before the balance was tipped in favour of name suppression. Unlike the courts, where “exceptional” circumstances are commonly required, the criterion for cases before the Medical Practitioners Disciplinary Tribunal (and its successor, the Health Practitioners Disciplinary Tribunal), is whether suppression is desirable.
54. In this jurisdiction, the threshold of whether it is “proper”, is the same as under the Lawyers and Conveyancers Act 2006. That Tribunal has suggested that “proper” is arguably between “exceptional” and “desirable”, but in any event the threshold is somewhat lower than that imposed in the courts.¹³

The student

55. The student’s name has been mentioned in the statement of facts at paragraph 3. Rule 34 of the Education Council Rules 2016 provides special protections for certain witnesses. The effect of r 34(4) is that if evidence before the Tribunal includes details relating to a child or young person, the Tribunal must consider whether it is proper to make an order in accordance with section 405(6) of the Act, prohibiting publication of the name or particulars of the affairs of the person. We are satisfied that it is proper to do so. Student T was a Year 10 student at the time of these events and is the victim of this conduct.

The respondent

56. The respondent says that he should be granted name suppression because his relatives in Samoa who are teachers would suffer shame and loss of mana. In support of this ground, Ms King has provided an excerpt from a book. Based on annotations on page one, it appears to be a chapter from a book called “An Introduction to Samoan Custom”

¹¹ The term, “desirable”, as opposed to “proper” is used in the Health Practitioners Competence Assurance Act 2003

¹² [2004] NZAR 635,

¹³ *Canterbury Westland Standards Committee No.2 v Eichelbaum* [2014] NZLCDT 23

by F.J.H. Grattan. The chapter is entitled “The Organisation of Samoan Society”. No other details about the author or date of publication have been provided. Included in the chapter are some statistics from a 1945 census, and reference to the fact that the *Fautua* (“the heads of distinguished royal families of Samoa, who are appointed by the New Zealand Government to advise the Administrator”) enjoy recognition in all parts of the “Territory” and in other countries of the Pacific. We are told that the *Fautua* visited New Zealand in 1945 and 1947. These matters lead us to believe that this book was published many years ago, before Samoa gained independence and is probably over 70 years old. We appreciate that many of the concepts may still have relevance, but we would have thought a more recent publication could have been found.

57. There is nothing in the publication which helps us to understand why suppression of name is more important for the respondent as a Samoan teacher than for another teacher in his position. As the title suggests, the chapter is a description of the organisation and customs of Samoan society and in particular the organisation of the *aiga* (family). The role and status of the *matai* (chief) receive a lot of attention. Reference to family shame is in association with the *matai*. According to this chapter, the *matai* is:

... the trustee of the good name of the family. He is responsible for the proper maintenance of the dignity of his family and the adequate performance of their social obligations... if the conduct of the matai in any way falls short of the standard expected, the displeasure of the community and the shame associated therewith will be shared by the family.

58. We have not been told if the respondent is a *matai*. However, assuming that his actions will bring shame on his family, including his teacher relatives, it seems to the Tribunal that this is a natural consequence of his actions. There is nothing in this excerpt which indicates that suppression is required for cultural reasons. As Ms Dawson points out, it appears that the custom is for issues to be discussed and debated. We are not persuaded that these matters mean it is proper to suppress the respondent’s name.
59. Ms King has described some health issues that some of his family have. There is insufficient evidence of the potential impact on their health should the respondent’s name be published. That ground therefore fails. The details of the health issues however are suppressed.

60. We appreciate that publication of the respondent's name may cause his wife and children some embarrassment. It is not clear to us how this will mean that his wife cannot perform her duties as a social worker. There is likely to be some impact on the family of a teacher who has a disciplinary finding against him, but there is nothing in the present case that persuades us that the public interest in publication is outweighed by the personal interests of any of the respondent's family members.
61. We are concerned that the respondent seems to want to preserve his reputation by keeping his actions secret. The purpose of the Education Council is set out in s 377 of the Act:
- The purpose of the Education Council is to ensure safe and high quality leadership, teaching, and learning for children and young people in early childhood, primary, secondary, and senior secondary schooling in English medium and Māori medium settings through raising the status of the profession*
62. We need to impress upon the profession that the position of teacher is respected because of the way the profession conducts itself, not because details are suppressed.
63. In order to allow the respondent time to let his family know of this decision, there will be an interim order for non-publication of his name and that of the school for one month from the date of this decision. After that, the interim order will lapse.
64. We reiterate that the school has appropriately referred this matter to the Education Council and has supported the respondent to change his behaviour. We commend both the school and the respondent for the efforts made and encourage him to continue to recognise the benefits of collegial support and guidance.



Theo Baker
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).