



**BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL**

**NZTDT 2023/50**

RARO TE MANA O TE  
UNDER THE

the Education and Training Act 2020  
**(the Act)**

MŌ TE TAKE  
IN THE MATTER OF

of a charge referred to the Tribunal

I WAENGA I A  
BETWEEN

**COMPLAINTS ASSESSMENT  
COMMITTEE (CAC)**

Kaiwhiu | Prosecutor

ME  
AND

**CHERYL SCHREURS**  
(Authorisation 254581)

Kaiurupare / Respondent

Hei Māngai | Appearance

R Georgette, for the CAC.  
Respondent – in person.

Tribunal

C Garvey (Deputy Chair), L Evans and D Shaver

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**DECISION ON LIABILITY, PENALTY and NON-PUBLICATION**

**6 January 2025**

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[1] Cheryl Schreurs, the respondent, faces a disciplinary charge arising from criminal convictions entered in December 2018. These convictions relate to dishonesty offences which came to the Teaching Council’s notice during a standard Police vetting process in December 2022. Ms Schreurs did not meet her mandatory obligation to self-report her convictions, hence at least some of the significant delay between the events the subject of the charge and these proceedings.

[2] The matter proceeded by way of a hearing on the papers on 29 November 2024.

The parties filed written submissions and prepared an Agreed Summary of Facts dated 27 August 2024 (the summary of facts). Ms Schreurs also applied for permanent non-publication orders.

### **The Notice of Referral**

[3] Once Ms Schreurs' convictions coming to the Teaching Council's notice, the matter was referred to a Complaints Assessment Committee (CAC) for investigation. The respondent did not take any part in that investigation or respond to the CAC's investigation report. The CAC lodged a Notice of Referral on 23 August 2023 pursuant to s497(4) of the Education and Training Act 2020 (the 2020 Act), which provides that the CAC may at any time refer a matter to the Tribunal for a hearing. This same provision was contained in the Education Act 1989 (the 1989 Act), in s401(3) and which was in force at the time of Ms Schreurs' offending.

[4] The convictions relied on in the notice of referral are:

- (a) Convictions on 4 December 2018 on 22 charges of theft by a person in a special relationship pursuant to sections 220 and 223(a) of the Crimes Act 1961; and
- (b) Convictions on 4 December 2018 on 15 charges of use of a document for pecuniary advantage pursuant to section 228(1)(b) of the Crimes Act 1961.

[5] The CAC outlined the following reasons for referral of the convictions to the Tribunal:

#### **Reasons for Referral**

3. The teacher has been convicted and sentenced in the District Court at Invercargill for the offences outlined above.

4. The teacher did not report the Convictions, referred to [above] to the Teaching Council of Aotearoa New Zealand as required by s 493 of the Act.

5. The CAC considers that the Convictions warrant action by the

### **The Agreed Summary of Facts**

- [6] The summary of facts incorporates the Police summary of facts, which Ms Schreurs accepted. A copy of the Sentencing Notes of Judge P Rollo was also provided to the Tribunal<sup>1</sup>. The following details are taken from those documents.
- [7] The respondent registered with the Teaching Council in February 2017. She was teaching when the offending that led to her criminal convictions occurred. Together with her former husband she was also farming and raising a young family. Ms Schreurs advised that she has not held a teaching role since November 2018, although she has renewed her practising certificate which is current until March 2026.
- [8] Ms Schreurs was at the relevant time the treasurer of a motorcross club (the Club), of which her ex-husband was the president. The club was a non-profit organisation and regularly donated money raised from entry fees paid by participants in motorcross events, to schools, sports clubs and other local clubs and charitable organisations. These entry fees were received as either cash or cheque payments, and Ms Schreurs was responsible for banking these funds in the Club's account. She was also responsible for reporting on the Club's finances at monthly committee meetings. For expediency, the Club secretary would pre-sign one or two cheques for Ms Schreurs to countersign when required.
- [9] The following cheques made out for the purposes of donating Club funds were dishonoured:
- (a) May 2017 - \$2100 to Glenham School.
  - (b) June 2017 - \$1975 to Balfour Swimming Pool. The same sum in a second cheque was also dishonoured in August 2017.
  - (c) June 2017 - \$1885 to Thornbury Primary School.
  - (d) December 2017 - \$3000 to Kaikoura Primary School.

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<sup>1</sup> Sentencing Notes of Judge P Rollo 4 December 2018, CRI 2018-025-001518, [2018] NZDC 27235.

(e) February 2018 - \$4000 to Winton Community Pool.

[10] When the cheques were dishonoured the respondent made excuses to the Club committee, blaming the bank and going so far as to forge a letter on the bank's letterhead stating that "*the returned cheques were a result of a bank virus.*" The Club secretary became suspicious and contacted the bank, which in turn notified the Police. When interviewed by the Police, Ms Schreurs stated that she did bank the cheques received at motorcross events, but that "*on occasion she failed to deposit any or some of the cash from the events*" and retained that cash for personal use.

[11] Further, the Police summary of facts records:

As per the attached schedule, the defendant admitted that she began to write out pre-signed Club cheques and cash them and keep the proceeds or complete the cheques and pay them into her own personal or joint family or business accounts.

...

On occasion the defendant would make lump sum payments back into the Club's cheque account in an attempt to offset some of the monies that she was taking in the hope that it would not be noticed that she was taking money from the account.

[12] The schedule referred to as attached to the Police summary of facts was not included in the bundle of documents provided to the Tribunal, however the Sentencing Notes record that over the course of her offending Ms Schreurs misappropriated \$55,271.50.<sup>2</sup>

[13] Ms Schreurs' explanation for taking the monies (in reliance on the Sentencing Notes) was for day to day living expenses for her family, and "*to maintain the lifestyle that her husband expected*". Reference is made in the Sentencing Notes to significant difficulties in the respondent's marriage, and we infer that evidence was produced to the Court of specific stressors as a motivating factor in her dishonesty.

[14] Over the course of her offending, Ms Schreurs directly deposited \$27,629.60 into the Club's account in repayment of some of the misappropriated funds. At the time of the court proceedings, she repaid a further \$12,641.90, and she and her husband also donated a trailer to the Club. This reparation, taken with other factors, resulted in Ms Schreurs receiving a community sentence of 12 months' supervision, 200

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<sup>2</sup> Above n1 at [4].

hours community work and reparation (as described), with the Judge noting that the scale of the offending warranted imprisonment of two years as a starting point.

### **Liability - Submissions**

[15] As this case is a notice of referral, we are not required to make a finding of serious misconduct as that is defined in section 378(1) of the 1989 Act (s10 of the 2020 Act). The relevant test for an adverse finding on referral of a conviction is whether the conviction(s) reflect adversely on the respondent's fitness to be a teacher.<sup>3</sup>

[16] It is well established that the conduct in question need not arise in the course of a respondent's work as a teacher for an adverse finding to follow. Referrals are common following convictions entered for a variety of offences committed in a teacher's private time. Not all convictions will warrant referral to the Tribunal, although all convictions for offences that carry a sentence of three months imprisonment or more must be notified to the Teaching Council<sup>4</sup>.

[17] The Code of Professional Responsibility [*Ngā Tikanga Matatika*] makes clear that teachers are expected to meet and maintain certain standards in their personal lives, where that conduct might impact on their professionalism. In particular:

(a) cl 1.3 expects that teachers will maintain a commitment to the profession by demonstrating a high standard of professional behaviour and integrity. This clause is regularly relied upon when a criminal conviction referred to the Tribunal.

(b) cl 1.5 expects teachers to contribute to a professional culture that supports and upholds the Code. This includes ensuring compliance with professional obligations such as mandatory self-reporting of convictions.

[18] The Examples in Practice<sup>5</sup> published as a resource to support the profession in applying the Code include specific reference to:

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<sup>3</sup> *Complaints Assessment Committee v S*, Auckland DC CIV 2008 004001547, 4 December 2008 at [47].

<sup>4</sup> Section 493 Education and Training Act 2020.

<sup>5</sup> Our Code: Examples In Practice, Education Council June 2017

Taking care that my actions outside of work do not interfere with my performance as a teacher, affect the trust and confidence others have in me or reflect badly on the integrity or standing of the teaching profession.<sup>6</sup>

- [19] Further, an example of conduct that does not demonstrate a high standard of professional behaviour and integrity is:

Failing to engage appropriately with the [Teaching] Council, including failing to meet my legal obligations to report a conviction for an offence punishable by a term of imprisonment of three months or more.<sup>7</sup>

- [20] Section 397 of the 1989 Act required every holder of a practising certificate who was convicted of an offence punishable by a term of imprisonment for three months or more to report the conviction to the Teaching Council within seven days. A failure to report a conviction was in itself misconduct that may give rise to disciplinary proceedings: s397(2). These provisions are replicated in s493 of the 2020 Act. Ms Schreurs' failure to self-report is one of the reasons for the CAC's referral to the Tribunal.

- [21] Notwithstanding that it is unnecessary to find serious misconduct, the statutory test is a helpful yardstick for assessing whether or not a teacher's conviction reflects adversely on their fitness. Section 378(1)(a)(ii) of the 1989 Act refers to conduct which reflects adversely on a teacher's fitness to be a teacher. This requires an assessment of:

...whether the teacher's conduct departs from the standards expected of a teacher. Those standards might be pedagogical, professional, ethical and legal. The departure from those standards might be viewed with disapproval by a teacher's peers or by the community.<sup>8</sup>

- [22] Section 378(1)(a)(iii) refers to conduct that may bring the profession into disrepute. This is an objective test whether a member of the public armed with the facts of the case might consider that the reputation and standing of the profession was lowered by the teacher's conduct.

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<sup>6</sup> Above n 5, commentary to clause 1.3, p7.

<sup>7</sup> Above n 5, commentary to clause 1.3, p7.

<sup>8</sup> *Complaints Assessment Committee v Crump* [2019] NZTDT 12 at [42].

[23] For misconduct to meet the “serious” threshold, as well as engaging one of the limbs of s378(1)(a) it must also meet the criteria for reporting to the Teaching Council under r 9 of the Teaching Council Rules 2016. Pertinent to the present case are rr 9(1)(g) and (j):

(a) r9(1)(g) – acting dishonestly in relation to the teacher’s professional role, or committing theft or fraud.

(b) r9(1)(j) – an act or omission that may be the subject of a prosecution for an offence punishable by imprisonment for a term of 3 months or more.

[24] The offences for which Ms Schreurs was convicted each carry a punishment of a term of imprisonment of a maximum of seven years, which means that they are convictions that Ms Schreurs was required to self-report. By their nature, they fall within the scope of rr 9(1)(g and (j)).

### **Liability - Findings**

[25] In the Tribunal’s view, the conduct contained in the Notice of Referral and summary of facts is plainly serious. It involved a significant and repeated breach of trust over a prolonged period of time. It is irrelevant that the conduct giving rise to the convictions occurred outside of Ms Schreurs’ position as a teacher, in that it is still in breach of the Code and rr 9(1)(g) and (j). The need for honesty and integrity is not confined to the classroom. As the Tribunal has frequently stated, teachers are expected to role model lawful and ethical behaviour to students.

[26] The purpose of mandatory reporting is to assist the Council to fulfil its responsibility to ensure that those who are issued with a practising certificate are fit to teach.<sup>9</sup> This relies on the honesty of teachers and as this case shows, not all convictions will be reported by the court Registrar despite the statutory requirement to do so. The Police vetting process which is undertaken as part of the Council’s inquiries when renewing practising certificates occurs on a three-yearly cycle<sup>10</sup>. Prompt self-reporting also serves the practical purpose of enabling the Council to take timely action.

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<sup>9</sup> See for example *Complaints Assessment Committee v Prebble* [2023] NZTDT 10 at [33].

<sup>10</sup> Schedule 3, clause 4 Education and Training Act 2020.

[27] In short, we agree with the submission on behalf of the CAC that the extent of dishonesty evident in Ms Schreurs' conduct is "*fundamentally incompatible with the expectations of honesty, professionalism and integrity*" that registration, and adherence to the Code, imposes on teachers. While not necessary to establish, we are satisfied that the conduct reaches the threshold for serious misconduct, in breach of sections 378(1)(a)(ii) and (iii) and by meeting the threshold for referral under rules 9(1)(g) and (j).

### **Penalty**

[28] Having made an adverse finding the Tribunal is required to consider how to exercise its powers to impose a penalty. The purpose of penalty in disciplinary proceedings is to protect the public from teachers who are unfit to teach, to maintain standards, and to maintain public confidence in the profession. The Tribunal should impose the least restrictive penalty that is appropriate in the circumstances, and one that is comparable with similar cases.

[29] The CAC seeks cancellation of Ms Schreurs' registration, which she does not oppose. Ms Schreurs advised the Tribunal in correspondence dated 13 October 2024 that she has not taught since November 2018. (However the fact that Ms Schreurs holds a current practising certificate that is valid until 2026 indicates at least some intention to keep the option of a return to teaching open).

[30] Cancellation is reserved for those cases where no other penalty is reasonably available, which the Tribunal has consistently interpreted to mean two overlapping situations<sup>11</sup>:

- (a) the offending is sufficiently serious that no outcome short of deregistration sufficiently reflects the adverse effect on the teacher's fitness to teach or its tendency to lower the reputation of the profession; and
- (b) the teacher has not taken adequate rehabilitative steps to address the issues underlying their conduct as this may indicate a level of apparent ongoing risk that leaves no option but to deregister.

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<sup>11</sup> See *Complaints Assessment Committee v Fuli-Makaua* [2017] NZTDT 40, 5 June 2018 at [54].

- [31] By way of comparison, the CAC referred the Tribunal to *CAC v Little*<sup>12</sup> where the teacher (a Principal at a small bilingual primary), together with another person, was convicted for defrauding a school of over \$100,000 over a two year period and personally received over \$45,000. The Tribunal noted that such conduct “*would be difficult to respond to with anything but cancellation*”<sup>13</sup> given that the theft was sustained and involved a serious breach of the teacher’s trusted and respected position. The Tribunal found the teacher’s response attempted to minimise her culpability, and that she lacked insight and responsibility for her actions, and such that cancellation was the only appropriate outcome.
- [32] In *CAC v Wilson*<sup>14</sup>, the teacher was convicted for using documents for a financial advantage after using her position as treasurer of a branch of the NZEI to make unlawful withdrawals from a bank totalling \$3,280 for personal use. The respondent was very remorseful and provided evidence of her personal circumstances including that the funds were used for others in need. The Tribunal found that the respondent’s actions involved a serious abuse of trust but stepped back from cancellation given her “*desperate circumstances*”, remorse and the availability of a “*clear rehabilitative path*.”
- [33] In *CAC v Coldstream*<sup>15</sup>, an early childhood teacher kept cash paid as fees over a six month period, totalling around \$5000. While finding that the conduct amounted to serious misconduct, the Tribunal was impressed by the respondent’s insight and passion for teaching, and was reassured by the support of her new employer. These factors enabled the Tribunal to impose censure, conditions and annotation of the register.

### **Penalty - Findings**

- [34] Ms Schreurs was convicted of serious dishonesty offences, misappropriating a substantial amount of money that was collected for charitable purposes and intended to benefit a range of recipients including schools. The conduct involved a significant breach of trust, abusing the privilege of access to the Club’s funds, and was aggravated by attempts to cover up the offending. While Ms Schreurs made reparation and repaid some money before the offending was discovered this does

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<sup>12</sup> *Complaints Assessment Committee v Little* NZTDT 2022/33.

<sup>13</sup> Above n12 at [9].

<sup>14</sup> *Complaints Assessment Committee v Wilson* [2019] NZTDT 14.

<sup>15</sup> *Complaints Assessment Committee v Coldstream* [2019] NZTDT 18.

not diminish the seriousness of the conduct from a disciplinary perspective. In this context our key concerns are the need for honesty with colleagues, trustworthiness with access to an organisation's resources, and the importance of role modelling lawful and ethical behaviour.

[35] We have referred only to a small number of cases involving dishonest conduct; these and others make clear that where there is misconduct of this nature and gravity involving dishonesty, the Tribunal will require compelling evidence of insight and a rehabilitative prospect if it is to impose a lesser penalty than cancellation. Ms Schreurs has provided no such evidence, and as she does not oppose cancellation of her registration, in the circumstances we consider this is the appropriate outcome.

[36] We also consider that a censure is appropriate.

### **Costs**

[37] The following discussion about costs is detailed because the Tribunal does not have a consistent approach to the bar on costs orders under s500(2), and its predecessor, s404(2) of the 1989 Act, in cases involving a referral because of a conviction.

[38] Section 500(1) sets out the orders that may be made by the Tribunal. These include the ability to order a fine under s500(1)(f), or costs in favour of a party or the Teaching Council under subsections (h) and (i) respectively. Section 500(2) provides:

Despite subsection (1), following a hearing that arises out of a report under section 493 of the conviction of a teacher, the Disciplinary Tribunal may not do anything specified in subsections (1)(f), (h) or (i).

[39] In reliance on s500(2), the CAC acknowledges that costs are not payable where a criminal conviction is referred to the Tribunal following a report of that conviction. However, the CAC seeks an order for a 40% contribution towards its costs on the basis that Ms Schreurs did not self-report her convictions. The CAC's submissions do not address the fact that the court Registrar also did not report the convictions, as required. The CAC referred to *CAC v Teacher A*<sup>16</sup> in which the Tribunal ordered costs in favour of the CAC where the teacher's conviction was discovered during a Police vetting process. The Tribunal stated<sup>17</sup>:

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<sup>16</sup> *Complaints Assessment Committee v Teacher A* [2020] NZTDT 50, 29 June 2021.

<sup>17</sup> Above n16 at [46] (internal footnotes excluded).

The Tribunal as constituted in this case considered that as these proceedings originate from a s394 report [a mandatory report] rather than from a report under s397 costs may be ordered against Mr A. The Tribunal did not consider it fair or reasonable that the teaching profession (as a whole) should be expected to meet all the associated costs of these proceedings.

- [40] The same position was taken in other cases including *CAC v Little* and *CAC v Ngata*<sup>18</sup> and *CAC v Young*<sup>19</sup>. In *Little* the Tribunal stated<sup>20</sup>:

This was a matter that the CAC referred to the Tribunal, which was not a self-report under section 397 of the Act. Accordingly a costs liability arises under section 404(1)(h). The costs claimed by the CAC are reasonable and are now ordered...

- [41] In *Ngata* the teacher had convictions entered under the Land Transport Act 1998 which he did not self-report to the Teaching Council, but which the Police vetting process disclosed. The CAC did not seek costs and for that reason no order was made, however the Tribunal observed that the bar under s404(2) did not arise as the case did not relate to a report of a conviction under s397(1), but rather a notice of referral under what was then s401(3), and said<sup>21</sup>:

...The Tribunal as it was constituted in this case considered that arguably, in those circumstances, costs may be ordered. The Tribunal does not consider it fair or reasonable that the teaching profession as a whole should be expected to meet all the costs of a referral, in those circumstances.

- [42] In *Young*, the circumstances are distinguishable as the charge involved a mandatory report of alcohol-related misconduct, during the investigation of which an unrelated conviction for a driving offence came to the CAC's notice. The hearing considered both incidents, and costs were ordered to reflect this. Likewise in *CAC v Harrison*<sup>22</sup> the Tribunal ordered a fine to reflect the seriousness of repeated failures to self-report convictions to the Teaching Council, and also imposed a nominal order of costs (nominal because of the teacher's financial circumstances). The hearing included matters other than the referral of convictions, and the Tribunal indicated that

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<sup>18</sup> *Complaints Assessment Committee v Ngata* [2020] NZTDT 50

<sup>19</sup> *Complaints Assessment Committee v Young* NZTDT 2023/25.

<sup>20</sup> Above n12 at [14].

<sup>21</sup> Above n 18 at [53].

<sup>22</sup> *Complaints Assessment Committee v Harrison* [2020] NZTDT 48.

it reduced the quantum of the costs order made to reflect the one conviction for which there was evidence that Mr Harrison had incurred court costs.

[43] The Tribunal has also declined to order costs in cases involving a failure to self-report a conviction where the referral relates wholly to the conviction. The fact of the conviction, however it was notified to the Council, was considered to trigger the bar to an order for costs. In *CAC v Jesse Williams*<sup>23</sup> the Tribunal said:

[28] This matter was not referred as a result of a report under s397 of the Act. It arose as a result of a Police vetting process. Therefore, the CAC submits that the Tribunal may make an order for costs. That said, the CAC does not seek costs but seeks confirmation from the Tribunal that we have jurisdiction to do so.

[29] Our interpretation of s404(2) is that ordering costs is prohibited only where the referral to the Tribunal is under s397. That said, we think it is unlikely that we would order costs where a teacher has been the subject of a conviction and therefore already has been ordered to pay costs in a different jurisdiction. There may be an exception, and we can imagine that the conduct of the teacher in the course of the Teaching Council process might give rise to an award of costs, but clearly the full merits of the case would need to be considered.

[44] Although without any similar analysis, the fact of a conviction was determinative of a decision not to order costs, in (for example) *CAC v Teacher P*<sup>24</sup>, *CAC v Heta*<sup>25</sup>, *CAC v Snellaert*<sup>26</sup>, and *CAC v McLaughlin*<sup>27</sup>. In *Teacher P*, the teacher had three convictions for driving and excess alcohol offences which were not self-reported. The decision does not describe how the convictions came to the Council's notice other than to observe the failure to comply with the obligation to self-report. When considering the question of costs, the Tribunal said<sup>28</sup>:

Section 404(2) of the Education Act prohibits the Tribunal from ordering a teacher to contribute to the CAC's costs and those of the Tribunal following a hearing "that arises out of a report under section 397 of the conviction of a teacher." As such we do not order costs.

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<sup>23</sup> *Complaints Assessment Committee v Jesse James Williams* [2018] NZTDT 70.

<sup>24</sup> *Complaints Assessment Committee v Teacher P* NZTDT 2018/63.

<sup>25</sup> *Complaints Assessment Committee v Heta* [2019] NZTDT 32

<sup>26</sup> *Complaints Assessment Committee v Snellaert* NZTDT 2019/70

<sup>27</sup> *Complaints Assessment Committee v McLaughlin* NZTDT 2018/14

<sup>28</sup> Above n 24 at [30].

- [45] In *Heta*, the teacher had three convictions under the Land Transport Act 1998 which were notified when she was Police vetted; the convictions were not reported under s397 of the 1989 Act. The Tribunal simply noted that the matter involved the referral of a conviction and therefore no costs were ordered in reliance on s404(2). The same stance was taken in *Snellaert*. In *McLaughlin*, the Tribunal considered a notice of referral for two driving-related convictions two years apart which the teacher failed to report. Again, as to costs the Tribunal simply stated that as “*this is a referral of convictions no question of costs arises, since under section 404(2) of the Education Act 1989 the Tribunal may not award costs in relation to conviction referrals.*”<sup>29</sup>
- [46] Similar provisions constrain other occupational disciplinary tribunals from ordering a fine, but not costs, where the matter the subject of a disciplinary charge relates to a conviction: see for example s83(3) of the Social Workers Registration Act 2003 and s101(2) of the Health Practitioners Competence Assurance Act 2003. This is so even though there is no statutory obligation to self-report a conviction under either of those statutes, but reporting is to be made by the court Registrar.
- [47] Determining whether costs may be ordered based on how a conviction comes to the Council’s notice seems somewhat arbitrary, in our view. The dual statutory responsibility of the Registrar of the court to report and the teacher’s own obligation is consistent with the primary concern being that the Teaching Council is on notice of a matter that may impact on the teacher’s fitness to teach. For costs to hinge on a self-report suggests that for teachers at least (given the absence of mandatory self-reporting for health professionals and social workers), the importance might lie in meeting the mandatory obligation and not the fact of the conviction. Yet, no costs may be ordered where the report is made by the Registrar.
- [48] There are several possible ways in which ordering costs against teachers who fail to self-report may create unfairness:
- (a) the Registrar could notify the Teaching Council promptly before the teacher has an opportunity to do so (see e.g. *CAC v Teacher NZTDT 2024-12* in which the Registrar notified the Council the same day as the convictions were entered). This nullifies the need for a self-report by the teacher for practical reasons at least, and that teacher would not be subject to a costs order.

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<sup>29</sup> Above n 27 at [63].

- (b) it appears to make protection from costs a reward for compliance with a mandatory statutory obligation. In principle, self-report seems to better sit as a mitigating factor in the penalty assessment undertaken by the Tribunal, just as a failure to self-report has been treated by the Tribunal as an aggravating factor<sup>30</sup>. It is well-established that costs are not part of the penalty.<sup>31</sup> A teacher who self-reports a conviction is still before the Tribunal because the CAC considered that the conviction warrants a disciplinary response. In that respect they are no different from a teacher whose conviction comes to light due to a Police vet, a mandatory report or some other notification.
- (c) the purpose of the prohibition on imposing costs and a fine where the disciplinary charge deals with a conviction must be to reflect the impact of the criminal proceedings, with the assumption that there have been court costs, potentially legal costs, and the cost associated with any sentence imposed such as a fine or reparation or rehabilitation (for example). The same factual matters are then before the Tribunal, albeit to be assessed through a disciplinary lens.
- (d) in cases where there is a self-report or report by the court, the costs of the proceedings are borne by the profession. We agree with the comments of the Tribunal in *Jesse Williams* at [43] above that while costs may only be prohibited where there has been a referral under s397 (s493 of the 2020 Act) there are good reasons that they should not be ordered in cases arising out of a conviction, and each case requires assessment on its merits.
- (e) it is possible that confining s500(2) to reported convictions reflects an oversight in considering the other possible modes of notification to the Teaching Council, but we do not take that any further.

[49] For these reasons the Tribunal as constituted declines to order costs in favour of the CAC for this matter which arises solely out of Ms Schreurs' criminal convictions.

### **Non-Publication**

[50] By letter to the Tribunal dated 13 October 2024, Ms Schreurs applied for an order for permanent non-publication of her name in relation to these proceedings. The CAC

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<sup>30</sup> *CAC v Fuli-Makaua* NZTDT 2017/40, cited in *Teacher P* above n 24 at [14].

<sup>31</sup> As confirmed in *A Professional Conduct Committee of the Medical Council of New Zealand v Brown* [2024] NZHC 990 at [92].

opposes this on the basis that “*insufficient evidence has been provided in support of her application.*”

[51] Ms Schreurs’ application was advanced on the following grounds:

- (a) the offending occurred 6 years ago, and that she has “*paid my dues in regards to these offences and had considerable counselling and years of anti-depressants*”.
- (b) that for this matter to “*again become a publicised event*” will set her back in terms of her mental health and employment and impact her children.
- (c) that Ms Schreurs would be “*forced*” to seek legal advice if this matter is publicised (“*becomes a media fest*”) “*as I consider all this to be a form of bullying when I do not understand what penalties can be imposed by this whole process and feel it is not an effective use of Teachers Councils (sic)/Ministry of Education funds.*”
- (d) Ms Schreurs writes that she did apologise for not reporting her convictions but had significant upheaval in her domestic situation with the need to prioritise her children.

[52] No supporting material was filed by Mrs Schreurs such as from her counsellor or general practitioner as to her current mental health and the likely impact of publication of these proceedings on her; or from her current employer as to any perceived harm that may be likely to result from publication.

[53] The Tribunal’s power to make orders for non-publication of the names or details of a case arises under s501 of the 2020 Act. The starting point is that disciplinary proceedings are to be conducted in public, in the interests of open justice and transparency. The Tribunal may make an order for non-publication if in its opinion it is proper to do so, having regard to the public interest and the private interests of any person.

[54] The Tribunal has a discretion when it comes to non-publication orders. The test that it is ‘proper’ to make an order does not require exceptional circumstances as is required in the courts. As the Tribunal said in *CAC v Teacher X*:

Exceptionality is not required and nor even something out of the ordinary. However, there must be sound reasons for finding that the presumption favouring publication is displaced. What must be struck is a balance between considerations of open justice and the interests of the person in respect of whom non-publication is sought.<sup>32</sup>

- [55] In order to achieve consistency and uphold the presumption in favour of open justice, the Tribunal does tend to require evidence to support an assertion of a likely adverse outcome. This does not mean we are unsympathetic to the potential negative consequences of publication, but must work from the basis that some discomfort, embarrassment or stress is an ordinary consequence of an adverse disciplinary finding. This may extend to those close to the respondent.
- [56] The present application focuses on the interests of Ms Schreurs, with brief reference to her children whose age or other relevant circumstances are not described. The Tribunal may order non-publication where the interests of some person other than the teacher than the subject of the charge means it is proper to do so. An obvious example is where a student or students are involved in the matter before the Tribunal, such as the victim of misconduct or involvement in an inappropriate relationship. It may also be that the teacher's family or employment situation is such that an order is proper. However, we could only make such a finding on the basis of evidence that establishes this.
- [57] It is not clear what, if any, previous publicity there has been in relation to Mrs Schreurs' criminal offending to warrant the reference to this matter "*again*" being publicised. The Sentencing Notes make no reference to an application for name suppression in the criminal proceedings.
- [58] Ms Schreurs did not engage with the Tribunal during the disciplinary proceedings, and therefore denied herself the opportunity that doing so would have availed in terms of understanding the process, the possible outcomes, and presenting relevant information. We cannot stress enough the importance from an ethical, professional and penalty perspective of teachers engaging with disciplinary matters. Without doubt, facing a disciplinary charge can be stressful and the process unfamiliar to most teachers, but the Tribunal has sufficient flexibility to make the process accessible and to deal constructively with unrepresented teachers. We do not consider it appropriate to rely on the consequences of Ms Schreurs' non-engagement as a ground for non-publication.

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<sup>32</sup> *CAC v Teacher X* NZTDT 2020/43 at [94].

[59] Further, while an unfortunately long period of time has elapsed since the relevant events, this is largely a consequence of Ms Schreurs' own failure to meet her mandatory obligation of self-reporting her 2018 convictions. The passage of time does not detract from the seriousness of the conduct and Ms Schreurs has maintained her registration and practising certificate over that time. Had a self-report been made, this would have triggered referral to a CAC at a much earlier stage. Once a matter is referred to the Tribunal, we must consider it.

[60] In conclusion, the Tribunal has determined not to make the order sought, for the reasons above and summarised as follows:

- (a) the dishonest conduct underlying the convictions is serious and was prolonged. There is a public interest in how the Tribunal responds to such a matter.
- (b) the misconduct was not private, in that it involved the Club committee and several organisations who were intended recipients of the dishonoured cheques. There was no suppression order made in the District Court. Ms Schreurs presumably disclosed her conviction on taking up employment.
- (c) insufficient evidence about the impact of publication. The Tribunal cannot simply fill in the gaps such as the age and stage of the respondent's children and any particular matters relevant to the impact of publication on them. We have no evidence as to the nature of her employment and any impact on her job, her employer or her colleagues.
- (d) Matters of mental health are of concern and are frequently relied upon when the Tribunal receives an application for non-publication. We consider it reasonable to expect direct evidence from medical professionals as to the nature and currency of any mental health issues and treatment, and the potential impact of publication where this is relied upon. This is not a hard and fast rule as every case turns on its facts, but a bare assertion is difficult for the Tribunal to assess. Sensitive evidence can be treated with discretion and be the subject of non-publication orders.

[61] Accordingly, on the basis of the evidence provided, the Tribunal is not satisfied that it is proper to make an order in this case.

## Orders

[62] For the reasons set out above the Tribunal makes the following orders:

(a) Censure pursuant to s500(1)(b)

(b) Cancellation of Ms Schreurs registration pursuant to s500(1)(g).

[63] There is no order as to costs.

[64] There are no non-publication orders. However, the Tribunal directs that Ms Schreurs name is not to be published in relation to this matter until the expiration of the statutory appeal period under s504(3) of the Act.



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**Catherine Garvey**  
Deputy Chair of the New Zealand Teacher's  
Disciplinary Tribunal