

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

NZTDT 2024/62

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

TIMOTHY PESTALL PAURO
Kaiurupare | Respondent

DECISION OF THE TRIBUNAL ON CHARGE, PENALTY, PUBLICATION AND COSTS

Dated 13 June 2025

Hearing 1 May 2025, on the papers

Representation R Georgetti for the CAC
J Brown for the Respondent

Tribunal T J Mackenzie, L Arndt, S Walker

Introduction

[1] This is a referral of Mr Pauro to the Tribunal, due to his having been convicted in the District Court of a number of criminal offences.

[2] Those convictions occurred in the Whanganui District Court on 24 November 2024, for the following offences:

- Producing cannabis oil.
- Cultivating cannabis
- 3 x unlawful possession of a firearm.
- Unlawful possession of ammunition.

[3] Mr Pauro was sentenced in the District Court to six months community detention and 100 hours of community work.

[4] Mr Pauro subsequently reported his convictions to the Teaching Council.

[5] It is important to note at the outset that the exercise of this disciplinary jurisdiction is not akin to a further prosecution and punishment of Mr Pauro for the offending conduct itself. Rather, the response of this regime is to uphold the standards that teachers are held to, by recognising his convictions and issuing appropriate orders to observe Mr Pauro's departure from his professions standards.

Facts

[6] Attached to this decision are the agreed facts that the parties have reached. This encompasses in turn the agreed facts from the criminal court sentencing.

Legal approach to a referral

[7] As this is not a serious misconduct charge, we are not required to consider whether serious misconduct is or is not made out. Rather we simply determine whether the conduct justifies an adverse finding. However in doing so, it is helpful to consider the tests for misconduct and serious misconduct as a guide.

[8] We can either make an adverse finding, or not. Given the bluntness of this (as opposed to the ability to find misconduct, or serious misconduct) there is always going to be variations of seriousness in an adverse finding. The conduct is better able to be recognised and addressed through appropriate penalty. Some conduct may be so serious that cancellation should occur. Other conduct may require lighter admonishment.

[9] As we noted, we do take into account the test for serious misconduct (and misconduct). The test for serious misconduct is set out at s 10 of the Education and Training Act 2020. Section 10 defines "serious misconduct" as follows:

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 Teaching Council's criteria for reporting serious misconduct

[10] Regarding the first aspect of this test (adverse affect(s)). In *CAC v Marsom* this Tribunal said that the risk or possibility is one that must not be fanciful and cannot be discounted.¹ The consideration of adverse effects requires an assessment taking into account the entire context of the situation found proven.

[11] The second limb (fitness) has been described by the Tribunal as follows:²

We think that the distinction between paragraphs (b) and (c) is that whereas (c) focuses on reputation and community expectation, paragraph (b) concerns whether the teacher's conduct departs from the standards expected of a teacher. Those standards might include pedagogical, professional, ethical and legal. The departure from those standards might be viewed with disapproval by a teacher's peers or by the community. The views of the teachers on the panel inform the view taken by the Tribunal.

[12] The third limb of the test (disrepute) is informed by the High Court decision in *Collie v Nursing Council of New Zealand*.³ The Court considered that the question that must be addressed is an objective one: whether reasonable members of the public, informed of the facts and circumstances, could reasonably conclude that the reputation and good standing of the profession is lowered by the conduct of the practitioner. We take the same approach.

[13] Section 10(b) of the serious misconduct test refers to reporting criteria – a reference to the reporting criteria at rule 9 of the Teaching Council Rules 2016. The Court of Appeal (discussing the same wording from the former Education Act 1989) has affirmed that this reporting criteria limb creates a conjunctive test for serious misconduct.⁴ That is, one of the three limbs of (a), and one of the criteria from (b), must both be met for serious misconduct to be made out.

Should we make an adverse finding?

[14] Mr Pauro accepts that we should. We agree. This conduct was in combination ill-befitting of a registered teacher. Mr Pauro is fortunate that a more serious incident did not occur. That could for instance have been a burglary, with the guns and ammunition then falling into the wrong hands. Or, an accident where one of the guns was set off and someone accidentally shot. Both circumstances have occurred before in New Zealand homes, with

¹ *CAC v Marsom* NZTDT 2018/25, referring to *R v W* [1998] 1 NZLR 35.

² *CAC v Crump* NZTDT 2019-12, 9 April 2020 (referring to the test in the 1989 Act, which used different paragraph references).

³ *Collie v Nursing Council of New Zealand* [2001] NZAR 74, at [28].

⁴ *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZCA 637.

tragic results. Likewise the cannabis could have been found and consumed by a young person, again with potentially dangerous results in the wrong hands.

[15] We therefore consider that these convictions most certainly reflect adversely on Mr Pauro. This conduct would be viewed with significant disapproval by reasonable peers. The conduct is a significant departure from the standards of responsibility and adherence to the law that are expected of a registered teacher. It sets a terrible example to students.

What orders are appropriate?

[16] The parties are mostly in agreement on the appropriate orders.

[17] The CAC suggest a censure, a reporting condition, and annotation of the register.

[18] We take into account the seriousness of this combination of circumstances. As against that we note the significant positive steps taken by Mr Pauro. He has been able to remove his medical need for cannabis and in turn the need to grow and possess it. He has accepted responsibility both in the criminal court and in this Tribunal. He has provided evidence to us demonstrating his background, insight and remorse. We also have a range of information demonstrating that Mr Pauro is a very well accomplished and respected teacher, including support from his employer.

[19] With all of that in mind we are confident that Mr Pauro will likely not have further transgressions. We consider that the penalty proposed is appropriate. The orders will be:

- Mr Pauro is censured.
- The register is annotated for two years.
- For two years Mr Pauro must provide a copy of this decision to any education related employer (current and prospective).

[20] There are no costs issues, as this is a referral.

[21] There are no non-publication issues raised by the parties.



T J Mackenzie
Deputy Chair
New Zealand Teacher's Disciplinary Tribunal

IN THE MATTER OF the Education and Training Act 2020
AND
IN THE MATTER OF an inquiry by the New Zealand Teachers Disciplinary Tribunal of the Teaching Council of Aotearoa New Zealand into the conduct of **Timothy Pestall Pauro**, of **Whanganui**, Teacher (Registration Number **373880**).

NOTICE OF REFERRAL

TAKE NOTICE that a Complaints Assessment Committee (CAC) has determined, in accordance with section 497(5) of the Education and Training Act 2020 (the **Act**), to refer **Timothy Pauro** convictions to the Teachers Disciplinary Tribunal of the Teaching Council of Aotearoa New Zealand (the **Disciplinary Tribunal**):

- a) Produce Cannabis Oil – Misuse of Drugs Act 1975 s 6
- b) Cultivate Cannabis – Misuse of Drugs Act 1975 s 9
- c) Unlawful Possess Firearm (x3 counts) – Arms Act 1983 s 45
- d) Unlawful Possess Ammunition – Arms Act 1983 s 45

Reasons for Referral

1. The teacher has been convicted and sentenced on 24 November 2024 in the Whanganui District Court for the offences outlined above.
2. The teacher did report the Convictions referred to in paragraphs (a) – (b) above to the Teaching Council as required by section 493 of the Act.
3. The CAC considers that the Convictions warrant action by the Disciplinary Tribunal of the Teaching Council of Aotearoa New Zealand.

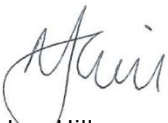
Penalties

Your attention is drawn to section 500 of the Act 2020 and which sets out the powers of the Tribunal, a copy of which is **attached**.

Practice Note

Your attention is also drawn to the Practice Note that came into force on 1 July 2014 regarding the public hearings of the Tribunal, and is **attached**.

Dated the 19th day of November 2024


Robyn Hill
Chair, Complaints Assessment Committee

IN THE MATTER OF the Education and Training Act 2020

AND

IN THE MATTER OF an inquiry by the New Zealand Teachers Disciplinary Tribunal of the Teaching Council of Aotearoa New Zealand into the conduct of **Timothy Pestall Pauro** of **Whanganui**, Registered Teacher (Registration Number **373880**)

AGREED SUMMARY OF FACTS

1. The respondent, Timothy Pestall Pauro (Mr **Pauro**), is a registered teacher. Mr Pauro was first registered on 22 February 2019. Mr Pauro holds a current full practicing certificate with an expiry date of 9 March 2025.

Background

2. Mr Pauro is currently employed as a teacher at Whanganui High School (the **School**) and was employed at the School during the relevant time period.
3. On 6 March 2023 the Teaching Council (the **Council**) received notification from the New Zealand Police that Mr Pauro was the subject of several criminal charges.
4. On 24 November 2023 Mr Pauro was convicted and sentenced of the following:
 - a. Produce Cannabis Oil – section 6 Misuse of Drugs Act 1975
 - b. Cultivate Cannabis – section 9 Misuse of Drugs Act 1975
 - c. Unlawful Possess Firearm x3 – section 45 Arms Act 1983
 - d. Unlawful Possess Ammunition – section 45 Arms Act 1983

Together “the **convictions**”

13/02/2025
Tim Pauro

5. On 27 November 2023 Mr Pauro self-reported the Convictions to the Council via his representative.

Criminal Convictions

6. The comprehensive background to Mr Pauro's offending is outlined in the Police Summary of Facts, **annexed and marked Tab 1**. The Police Summary of Facts was agreed to by Mr Pauro during the criminal proceedings.
7. In summary, on 9 February 2023 the Police conducted a search of Mr Pauro's home. Located during the search were 13 cannabis plants, two bowls containing cannabis oil residue, 84 grams of dried cannabis leaves, three rifles, and various ammunition.
8. Mr Pauro did not hold a firearms licence nor were the firearms kept in secure storage.
9. Mr Pauro entered guilty pleas to the charges, and on 24 November 2023 he was convicted and sentenced in the District Court at Whanganui. He was sentenced to 6 months community detention, and 100 hours community work.
10. A copy of His Honour Judge Northwood's Sentencing Notes is **annexed and marked Tab 2**.

Teacher's response

11. A CAC meeting was held on 10 October 2024. Mr Pauro attended the meeting.
12. Mr Pauro accepts the offending. In explanation for the offending Mr Pauro confirmed that he is experienced with guns and that he believed his storage of the guns to be sufficiently safe. Mr Pauro further confirmed that the cultivation of cannabis and cannabis oil was for medicinal purposes only.

.....
R L Georgetti
Counsel for the CAC
Date: 17 February 2024

.....
T P Pauro
Respondent
Date: 13/02/2025



NZ Police

POL 262 11/22

SUMMARY OF FACTS

POLICE v **TIMOTHY PESTALL PAURO**
DOB 29/09/1978 (44)
PRN 80404872

CHARGE

Cultivate Cannabis
Misuse of Drugs Act 1975 Section 9(1)
7 Years imprisonment

Unlawful Possession of Firearms x 3
Arms Act 1983 Section 45(1)
4 Year imprisonment, \$5000.00 fine

Unlawfully Possess Ammunition
Arms Act 1983 Section 45(1)
4 Year imprisonment, \$5000.00 fine

Produce/Manufacture/Distribute Cannabis Oil
Misuse of Drugs Act 1975 Section 6(1)(b) and 6(2)
14 Years imprisonment

CIRCUMSTANCES

Search Warrant – 09/02/2023

At around 10.15 am on Wednesday 9 February 2023 Police executed a search warrant at the address of 4511 Whanganui River Road.

SUMMARY OF FACTS *continued*

Present at the address were two of the defendant's children aged 16 years and 19 years.

CRN 0424 0425 0430 -Possess Firearms without a licence

Located in the defendant's wardrobe was a black air rifle with a scope, a Parker Hale 303 Rifle, a BSA 303 rifle, a Smith and Wesson 222 rifle and 2 bolts for the 303 rifles.

CRN 0427 -Possess ammunition without a licence

Also located in the wardrobe was an army ammo tin containing numerous and varying rounds of ammunition including 243, 5.56, 223, 303, 30.06, 7.62, shotgun shells and 40 AK47 Rounds.

Located on table in the same bedroom were 2 magazines each loaded with 6 x 303 rounds.

The defendant in this matter does not hold any firearms licence and has no secure storage for firearms at his address.

Weapons were located in an open wardrobe at the address.

CRN 0433 - Produce Cannabis oil

On a shelf below the table Police located 2 stainless steel bowls stained with cannabis oil residue.

Within the defendant's bedroom were located 3 plastic containers holding a total of 84 Grams of dried cannabis leaf material.

CRN 0431 -Cultivate Cannabis

SUMMARY OF FACTS *continued*

Outside the home Police located 13 cannabis plants varying in height between 400mm & 1300mm, plants were potted in large plastic pots or sheltered gardens and were well tended.



He admitted to the cultivation of Cannabis and producing Cannabis oil for his own use.

He detailed the process he used in the production of Cannabis Oil stating he last produced Cannabis Oil about a month earlier.

He told Police that he had been producing Cannabis Oil for several years.

He stated that he used one of the rifles for hunting as the other two had damaged bolts.

He told Police that he didn't obtain a firearms licence because he couldn't afford to buy a gun safe for the firearms.

Court Orders

Section 69 Arms Act 1983 applies.

A Court order is sought for the destruction of the firearms, ammunition.

A Court order is also sought for the destruction of the Cannabis related charges.

Detective MULLANY

SUMMARY OF FACTS *continued*

NMZ309

WHANGANUI