

BEFORE THE NEW ZEALAND TEACHERS DISCIPLINARY TRIBUNAL

DECISION NO: NZTDT 2021/35

UNDER THE Education and Training Act 2020

IN THE MATTER of a charge laid by a **COMPLAINTS ASSESSMENT COMMITTEE** against **FAITHFUL PILGRIM** registered teacher (Registration Number 171249), of Greymouth

Hearing held by audio-visual link (AVL) on 1 February 2022

Tribunal: Jo Hughson (Deputy Chairperson),
Kiri Turketo, Nichola Coe

Appearances: David Neild for the Complaints Assessment
Committee

Mr Chris Shannon for the teacher, Mr Pilgrim
Mr Pilgrim in attendance with Mr Shannon

Decision: 30 March 2022

Summary

- [1] Faithful Pilgrim is a registered teacher with a practising certificate which will expire on 6 January 2024. Mr Pilgrim is 66 years old and has been a teacher for over 45 years.¹ Until now, Mr Pilgrim has had an unblemished record as a teacher.
- [2] Mr Pilgrim was the Principal of Gloriavale Christian School (the School) from 1995 until his resignation as the Principal in December 2020. The School is part of the Gloriavale Christian Community (Gloriavale) which is located on the West Coast of the South Island. Mr Pilgrim is a member of Gloriavale. The School is owned by the Gloriavale Trust Board. Both the Gloriavale Trust Board and the Community Management Board have governance responsibilities for the School.
- [3] Mr Pilgrim told the Tribunal that there are approximately 190 children who attend the School, ranging in age from five to 16-years-old (with an average age of 11-years). He stated there are a maximum of 18 teachers all of whom, he said, are “self-employed”. Mr Pilgrim said the teachers do not receive a salary and that all their work is done “pro bono; our needs are met through membership of the Community”.² He told the Tribunal that because there is a currently shortage of teachers, three senior classes are “doing correspondence”. [REDACTED]
- [4] The Complaints Assessment Committee (the CAC) charged that on two occasions (one on 18 December 2012 and the other on 25 February 2016) Mr Pilgrim endorsed Mr Just Standfast as being of ‘good character and fit to be a teacher’ on Mr Standfast’s application form to renew his practising certificate, when he (Mr Pilgrim) knew that Mr Standfast had sexually abused a nine-year-old student (the Charge)³.
- [5] This conduct on each of those occasions was alleged to amount to serious misconduct. Alternatively, it was alleged the conduct amounted to conduct which otherwise entitles the Tribunal to exercise its powers pursuant to section 500 of the Education and Training Act 2020 (the Act).

¹ Affidavit of Faithful Pilgrim, affirmed on 22 January 2022; Counsel for Mr Pilgrim’s written submissions dated 24 January 2022 at [7].

² Oral statements made to the Tribunal at the hearing.

³ Amended) Notice of Charge dated 15 December 2011. Original Notice of Charge was dated 10.08.21.

- [6] The Charge was heard by audio-visual link (AVL). The evidence produced included an agreed summary of facts⁴ and relevant documents. Mr Pilgrim attended the hearing with his counsel, made an oral statement, and answered questions from members of the Tribunal.
- [7] Written and oral submissions were received from both Counsel, addressing the issues of liability, penalty, and non-publication orders.
- [8] Mr Pilgrim accepted the Charge.
- [9] The Tribunal found the Charge made out and that on each of the occasions when Mr Pilgrim endorsed Mr Standfast as being 'of good character and fit to be a teacher' his action amounted to serious misconduct.
- [10] The decision of the Tribunal is that there should be a suite of penalties ordered against Mr Pilgrim for his two acts of serious misconduct. Mr Pilgrim is censured, his practising certificate is to be suspended for a period of three months, and there are to be conditions on Mr Pilgrim's practising certificate in effect when he resumes practising as a teacher following his period of suspension. The register is to be annotated to record the censure and the conditions, for three years. Mr Pilgrim is also ordered to contribute towards the costs of the CAC and the Tribunal associated with these proceedings.
- [11] Mr Pilgrim sought permanent suppression of his name and identifying details and of the name of Gloriavale Christian School.⁵ Mr Pilgrim's application was supported by affidavit evidence from his son Abraham Pilgrim, who is the current Principal of the School⁶, and from [REDACTED]. The Tribunal was not satisfied that any of the private factors advanced by or for Mr Pilgrim sufficiently outweigh the public interest factors that favour his name and the School's name being published. On that basis the Tribunal did not consider it was proper for there to be permanent orders

⁴ Agreed Summary of Facts dated 2 December 2021 [ASF] signed by both Counsel on behalf of the CAC and Mr Pilgrim.

⁵ Interim orders were in effect in respect of Mr Pilgrim and Gloriavale Christian School until the date of this written decision, when the orders will lapse.

⁶ Affidavit of Abraham Pilgrim in support of application for non-publication order in respect of Mr Pilgrim's name and School name, affirmed on 18 September 2021. Abraham Pilgrim deposed at [1] that he has been the School's Principal since December 2020, that he is 36 years old and has been teaching for about nine years.

and it declined Mr Pilgrim's application. It follows that Mr Pilgrim and Gloriavale Christian School may be named in connection with these proceedings.

[12] The Tribunal made permanent orders under section 501(6)(c) of the Act prohibiting from publication the name and identifying details of Child X who is the child against whom Mr Standfast offended. Child X is now 18 years' old⁷. The Tribunal agreed with the CAC that Child X's privacy and wellbeing interests outweigh the public interest in her being identified. Mr Pilgrim did not oppose the making of a permanent order. For those reasons, the Tribunal concluded that it is proper for there to be a permanent order. [REDACTED]

[13] The reasons for the Tribunal's decisions follow.

Facts

[14] The Tribunal made the following findings of fact based on the evidence that was produced in the Agreed Summary of Facts⁹:

Endorsements of good character for Mr Just Standfast

[15] Mr Just Standfast was a registered teacher working at Gloriavale Christian School.

[16] In or around August/September 2012, Mr Standfast sexually assaulted a nine-year-old girl (Child X). Child X was one of Mr Standfast's students. Child X immediately told her mother about the sexual assault, who, in turn, told Mr Pilgrim.

[17] A group of senior leaders at Gloriavale, which included Mr Pilgrim, spoke with Mr Standfast about the sexual assault.

[18] Mr Standfast was removed from teaching duties and was not involved in the School until the New Year, 2013.

[19] In about January 2013, Mr Pilgrim assigned Mr Standfast to teach high-school-aged boys, believing that Mr Standfast was not a risk to such boys.

⁷ [REDACTED]

⁸ Affidavit of [REDACTED] affirmed on 12 September 2021.

⁹ ASF at [3]-[10].

- [20] Shortly before Mr Standfast was assigned to teach year 11 boys, on 18 December 2012 Mr Pilgrim endorsed Mr Standfast's application for renewal of his practising certificate. This included endorsing that Mr Standfast was 'of good character and fit to be a teacher'.
- [21] Mr Standfast continued to teach year 11 boys at the School.
- [22] On 25 February 2016 Mr Pilgrim again endorsed Mr Standfast's application for renewal of his teacher's practising certificate. This included endorsing that Mr Standfast was of 'good character and fit to be a teacher'.
- [23] In 2018, Child X's father reported the sexual assault to Police. In November 2018, Mr Standfast pleaded guilty to one charge of "Sexual Conduct with a Child under 12" relating to the incident with Child X in 2012. Mr Standfast was sentenced on 13 March 2019¹⁰. On sentencing the District Court Judge remarked that Mr Standfast's offending was "towards the lower end of the scale"¹¹. Mr Standfast's teaching registration was cancelled by the Teaching Council because of his conviction.

Mr Pilgrim's response

- [24] The following facts were agreed¹²:
- (a) Mr Pilgrim admitted that he knew of the allegation made about Mr Standfast in 2012 and also that he had heard a rumour about inappropriate

¹⁰ The Notes of Judge R E Neave on Sentencing of Mr Standfast in the District Court at Greymouth (*R v Just Standfast* [2019] NZDC 4648 – Three Strikes Warning) (the Sentencing Notes) were produced to the Tribunal. The Notes record at [4]-[8]: during 2012 Mr Standfast was Child X's classroom teacher. If Mr Standfast required tasks done in the class, he would sometimes ask Child X to help him. On one occasion, when Child X had finished the delegated task Mr Standfast asked her for a kiss and she gave him one. Then, on one occasion between 31 August and 30 September 2012, during a playtime break, Mr Standfast advised that he was going to have a sleep. He told Child X to come and wake him up before the class re-started. When Child X went into the room to wake up Mr Standfast (the room was adjacent to the classroom) he was lying on the bed. Child X approached him to wake him up and Mr Standfast indicated he wanted a cuddle and helped her onto his bed so that Child X was on top of him. Mr Standfast hugged Child X, placed his hand on her bottom and kissed her on the face and the mouth. Some of those kisses were hard. Child X was scared and wanted to get away from Mr Standfast and finally managed to prise herself off, at which point she noticed that his penis was exposed. Mr Standfast said that he needed to get back to class and Child X quickly left the room and very quickly told her mother what had happened. The following day, Mr Standfast apologised for his actions and advised a senior member of the community about what had happened.

¹¹ Sentencing Notes at [31].

¹² ASF at [11] and [12].

conduct by Mr Standfast to a different young person about 25 years earlier.

- (b) Mr Pilgrim admitted to signing Mr Standfast's practising certificate renewals as an endorser and said that doing so was foolish.
- (c) Mr Pilgrim admitted that Mr Standfast continued to teach at the school from 2013 until 2018 when he was charged by Police.
- (d) At the time Mr Pilgrim thought that he had put in place strategies to manage Mr Standfast's risks to children. However, he said that he now recognises the situation should have involved outside agencies like the Police. Mr Pilgrim said his handling of the situation, including not calling the Police, was an error of judgement.

[25] Mr Pilgrim deposed in an affidavit that he accepts that circumstances such as this should not be dealt with by the Gloriavale Community internally, but by outside agencies such as Police and Oranga Tamariki and he said that this would happen in the future.

[26] The Tribunal was informed by the parties that the Teaching Council and Mr Pilgrim are unaware of Mr Standfast being the subject of any further allegations or charges arising from his time at the School between 2013 and his final removal in 2018.¹³

Liability

Legal principles

[27] The burden of proving the charge (on the balance of probabilities), lay with the CAC.

[28] In respect of the alleged offending on 18 December 2012, being Mr Pilgrim's first endorsement of Mr Standfast, "serious misconduct" was defined in section 139AB of the Education Act 1989 as follows:

Serious misconduct means conduct by a teacher –

- (a) that-
 - (i) adversely affects, or is likely to adversely affect, the wellbeing or learning of 1 or more students; or

¹³ ASF at [11]. Written submissions for Mr Pilgrim at [16].

(ii) Reflects adversely on the teacher's fitness to be a teacher; and

(b) is of a character or severity that meets the Teachers Council's criteria for reporting serious misconduct.

[29] In respect of Mr Pilgrim's second endorsement of Mr Standfast, the definition of serious misconduct in section 10 of the Education and Training Act 2020 (which is identical to the definition in section 378 of the Education Act 1989, now repealed) applies. It provides:

Serious misconduct means conduct by a teacher –

(a) that-

(iii) adversely affects, or is likely to adversely affect, the wellbeing or learning of 1 or more students; or

(iv) reflects adversely on the teacher's fitness to be a teacher; or

(v) 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.

[30] Both tests are conjunctive¹⁴. That is, as well as being behaviour by a teacher that has one (or more) of the adverse professional effects or consequences described in subsection (a) of the definitions, the conduct must also be of a character or severity that meets the Teaching Council's criteria for reporting serious misconduct.

[31] For each endorsement, Rule 9(1)(o) of the Teaching Council Rules 2016 (the Rules), in the form it was before amendment in May 2018, was relied on by the CAC:

9 Criteria for reporting serious misconduct

(1) For the purposes of section 394 of the [Education] Act, an employer of a teacher must immediately report to the Education Council if it has reason to believe that the teacher has engaged in any of the following kinds of serious misconduct:

...

¹⁴ *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018, at [64] with reference to the definition in section 378 of the Education Act 1989.

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

[32] Rule 9(1)(o) of the Rules is a “catch all” provision¹⁵. In *Teacher Y v Education Council of Aotearoa New Zealand*, the Court of Appeal held:¹⁶

...In our view, the words “any act or omission” must mean what they say and that it would be wrong in terms of the purpose and policy of the provision to read them down. Sub-rule (o) was clearly designed to be a catch-all provision in recognition of the fact that it was impossible to categorise or capture in specific wording all forms of serious misconduct. The sub-rule is necessarily and deliberately broader than what goes before and of course expressly includes the word “omission”.

[33] The Tribunal accepted the submission for the CAC that conduct that may bring the teaching profession into disrepute (for the purposes of (a)(iii) in the definition in section 10 of the Act) equates to conduct likely to bring discredit to the profession under Rule 9(1)(o).¹⁷ The question to be asked by the Tribunal is whether reasonable members of the public, informed of all the facts and circumstances, could reasonably conclude that the reputation and good standing of the teaching profession would be lowered by the teacher’s behaviour.¹⁸

[34] That approach reflects the fact that whether there has been serious misconduct or misconduct simpliciter¹⁹, or not, and the severity of any such misconduct is to be assessed by objective standards.

[35] Previous Tribunal decisions demonstrate that “fitness to be a teacher” in the definition of serious misconduct extends beyond competence issues and includes conduct that, when considered objectively, will have a negative impact on the trust

¹⁵ *Teacher Y v Education Council of New Zealand* [2019] NZCA 637 at [69].

¹⁶ Above fn. 15.

¹⁷ *CAC v Usufono* NZTDT 2017/30, 26 April 2018 at [19]. The decision refers to section 378(1)(a)(iii) of the Education Act 1989.

¹⁸ *CAC v Teacher C* NZTDT 2016/40 28 June 2018 at [203] citing *Collie v Nursing Council of New Zealand* [2001] NZAR 74 (HC) at [28]. This test was applied in *Teacher Y v Education Council of Aotearoa New Zealand*, above fn. 15 at [48].

¹⁹ The District Court on appeal, has ruled that if any one of the matters under limb (a) of the definition of serious misconduct are made out, the teacher’s conduct will amount to misconduct, whereas if the conduct also meets limb (b), the conduct will meet the conjunctive test for serious misconduct; *Teacher Y v Education Council of Aotearoa New Zealand* [2018] NZDC 3141, 27 February 2018, at [64]. *Evans v Teachers Disciplinary Tribunal* [2020] NZDC 20062, 8 October 2020, at [42].

and confidence which the public is entitled to have in the teacher and the teaching profession as a whole, including conduct which falls below the standards legitimately expected of a member of the profession, whether of a teaching character or not.²⁰

[36] When the Tribunal objectively assesses whether there has been serious misconduct, subjective matters that are persona to the respondent teacher are not to be considered in any significant way. Personal factors may fully be considered at the penalty stage if a charge is found to have been established.²¹ The Tribunal considered matters that Mr Pilgrim raised by way of explanation for his conduct, in that way; particularly his explanation that at the time of the endorsements, he had adopted an inappropriate and wrong mindset reflecting that Mr Standfast was very remorseful and that he believed he had put in place strategies to manage Mr Standfast's risks to children.

Relevant standards

Codes

[37] Prior to 30 June 2017, the professional and ethical obligations of teachers were set out in the Education Council's Code of Ethics for Registered Teachers (the Code of Ethics). The Code of Ethics required that teachers demonstrate their commitment to learners, family and whānau, society and the profession in general.

[38] The Code of Ethics required teachers to "promote the physical, emotional, social, intellectual and spiritual wellbeing of learners"²². It required that teachers "advance the interests of the teaching profession through responsible ethical practice"²³ and to "speak out if the behaviour of a colleague is seriously in breach of this code"²⁴. One of the fundamental principles referred to in the Code of Ethics was "Truth – to be honest with others and self".

²⁰ This is the approach taken to "fitness to practise" for the purposes of the Health Practitioners Competence Assurance Act 2003, and the approach which has been taken to the test for "fitness to be a teacher", by this Tribunal in previous decisions.

²¹ See *Martin v Director of Proceedings* [2010] NZAR 333 and *Cole v Professional Conduct Committee of the Nursing Council of New Zealand* [2017] NZHC 1178, at [126]-[130] applied in previous decisions of this Tribunal.

²² Code of Ethics 1(f).

²³ Code of Ethics 4(a).

²⁴ Code of Ethics 4(i).

[39] As Counsel for the CAC identified, in June 2017 the Education Council of Aotearoa New Zealand’s Code of Professional Responsibility came into force. The Code emphasises that teachers need to maintain the trust and confidence of the teaching profession by “demonstrating a high standard of professional behaviour and integrity”²⁵ and “contributing to a professional culture that supports and upholds the Code.”²⁶ Teachers also must work in the best interests of learners by “promoting the wellbeing of learners and protecting them from harm”.²⁷

Previous cases

[40] Counsel for the CAC reported that he had been unable to find any cases that are directly analogous with this case. However, it was submitted that the Tribunal may be assisted by cases involving teachers who have forged or misrepresented aspects of their own professional documentation.

[41] In that regard Counsel for the CAC referred to the following cases:

- (a) Ms *Clark*²⁸ had her registration cancelled after she forged the signature for the professional leader endorsement section of her practising certificate renewal form. She was convicted of charges of making a false document and forgery. The charge was framed in respect of paragraphs 9(1)(h) and 9(1)(o) of the New Zealand Teachers Council (Making Reports and Complaints) Rules 2004. The Tribunal observed that the case involved Ms Clark “attempting to subvert the means by which the Council assures the ongoing suitability of its registered teachers to teach” and accepted the CAC’s submission that the endorsement “on the application to renew a practising certificate is intended to promote high quality teaching and leadership” and that the “Council must be able to trust the documentation filed by teachers in the registration process”.²⁹ The Tribunal concluded that Ms Clark’s conduct brought discredit to the profession and reflected adversely on her fitness to be a teacher and may

²⁵ Code of Professional Responsibility, 1.3.

²⁶ Code of Professional Responsibility, 1.5.

²⁷ Code of Professional Responsibility, 2.1.

²⁸ *CAC v Clark* NZTDT 2017-4, 18 September 2017.

²⁹ At [30].

bring the teaching profession into disrepute (and therefore, was serious misconduct).³⁰

- (b) Ms *Leach*³¹ had her registration cancelled after she provided a false appraisal of her performance as principal to her Board of Trustees. She completed her own 2013/2014 appraisal and then signed the appraisal with her husband's electronic signature. The Tribunal was satisfied the conduct amounted to serious misconduct and that the appropriate outcome was censure and cancellation.
- (c) In *Cormack*³² when it was due for him to reapply for his practising certificate, Mr Cormack provided his principal with an appraisal document purported to have been signed by the heads of department in December 2016 and related to a December 2016 appraisal. Subsequently it was ascertained that the head of department had not signed or dated the document. Once the original document was obtained, it was clear the date had been changed using cellotape and Twink. The Tribunal found that Mr Cormack's conduct was serious misconduct. The Tribunal made the following relevant points³³:

According to the Code of Ethics for Registered Teachers which was in place at the time of this conduct, the professional actions of teachers are governed by four principles, one of which is "Truth – to be honest with others and self". As the CAC submitted, as part of their commitment to society, teachers are to "teach and model those positive values that are widely accepted in society" and teacher commitment to the profession includes "be[ing] truthful when making statements about their qualifications and competencies.

When a teacher alters a document for the purposes of renewing their practising certificate, it brings into question his fitness to practise. We also find that reasonable members of the public informed of the facts and circumstances could reasonably conclude that the respondent's behaviour brings or is likely

³⁰ At [33]-[34].

³¹ *CAC v Leach* NZTDT 2016/66.

³² *CAC v Cormack* NZTDT 2018/79.

³³ At [41]-[42].

to bring the Teaching Council into disrepute [and likely to bring discredit to the profession].³⁴

[42] It was also submitted for the CAC that the Tribunal may find the *Teacher Y*³⁵ case to be of assistance. That case concerned a school principal's response to a member of the school's support staff forming an inappropriate relationship with a 16-year-old student. The CAC's charge alleged that Teacher Y committed serious misconduct by failing to undertake a disciplinary investigation after a complaint was made about the alleged relationship, using a restorative justice process to respond to the complaint, and failing to promote the physical, emotional, social, intellectual, and spiritual wellbeing of the student involved. Teacher Y was found guilty of serious misconduct, censured, and was required to undergo a period of 18 months mentoring as well as having to provide the decision to her existing employer.³⁶ Teacher Y's appeals to the High Court and the Court of Appeal were unsuccessful. The Court of Appeal discussed Teacher Y's decision to engage in a "restorative justice" process rather than elevating the complaint to the Board of Trustees as follows:

[58] The content of the texts, and the nature of the present Mr M gave Student A showed that Mr M's explanation for them at the joint meeting was demonstrably false and that the parents had very good reasons to regard his conduct as grooming. However, despite the incontrovertible evidence before her, teacher Y adopted a mindset that it was a schoolgirl's fantasy, and that the victim was the staff member. As a result, she on her own initiative embarked on a wholly inappropriate process designed to protect Mr M. The mindset was evident in her subsequent briefings to the mediator and to the board. It was a blind and unreasonable mindset that continued and tainted her subsequent conduct. It was plainly wrong.

[43] The Tribunal assessed the conduct against those standards and was assisted to an extent by the previous cases which have involved teachers who have misconducted themselves in relation to completing their own professional documentation, and the *Teacher Y* case. More is said about the previous cases, below.

³⁴ At [45].

³⁵ *CAC v Teacher Y* NZDT 2016/25 and *Teacher Y v Education Council of Aotearoa New Zealand* [2019] NZCA 637.

³⁶ [2019] NZCA 637 at [49].

Discussion and findings on the Charge

[44] The Tribunal was satisfied the evidence established the matters alleged in the Charge. On 18 December 2012 and again on 25 February 2016, Mr Pilgrim endorsed Mr Standfast as being of 'good character and fit to be a teacher' when he knew that on one occasion in or around September 2012 Mr Standfast had inappropriately (sexually) touched one of the nine-year-old students who Mr Standfast taught.

[45] In respect of the submissions that were made for the CAC the Tribunal accepted that:

- (a) The two endorsements of Mr Standfast as being of 'good character and fit to be a teacher' were plainly and unambiguously wrong. Mr Pilgrim knew that Mr Standfast had sexually offended (by inappropriately touching) against a child who was one of Mr Standfast's students. Nevertheless, Mr Pilgrim acted in a way that allowed Mr Standfast to continue working as a teacher.
- (b) Mr Pilgrim's actions, by misrepresenting Mr Standfast's character to the Teaching Council, was the antithesis of the response that he should have taken. Rather than reporting Mr Standfast's conduct to the Teaching Council, the Police or any other appropriate agency, his actions contributed to Mr Standfast's actions remaining undetected.
- (c) Mr Pilgrim's actions to assert that Mr Standfast was of good character is indicative of a failure of good judgement that reflects adversely on Mr Pilgrim's fitness to be a teacher. This feature is especially acute given Mr Pilgrim's role as the School Principal at the time.
- (d) There can be little doubt that Mr Pilgrim's actions can be seen to bring disrepute to the teaching profession and are likely to bring discredit to the profession. Rather than acting in the interests of learners and the teaching profession, Mr Pilgrim could be said to have acted to further the interests of Mr Standfast and of the Gloriavale Community.

[46] The Tribunal was of the view that considered objectively, Mr Pilgrim's conduct, on both occasions, reflects adversely on his fitness to be a teacher. In respect of the later endorsement, his conduct also brings the teaching profession into disrepute. Mr Pilgrim's conduct is of a character and severity that meets the rule 9(1)(o) criteria for reporting serious misconduct.

- [47] For those reasons, the Tribunal's opinion was that both of Mr Pilgrim's endorsements of Mr Standfast amount to serious misconduct in terms of the applicable definitions. Accordingly, the Charge is established.
- [48] With reference to the previous cases which have involved teachers misconducting themselves in relation to completion of their own professional documentation, the Tribunal did not consider Mr Pilgrim's conduct was directly comparable as it did not involve forgery or making a false document. That is not to diminish the seriousness of Mr Pilgrim's conduct in any way. However, the Tribunal considered Mr Pilgrim's conduct was more comparable with *Teacher Y's* behaviour in that it involved Mr Pilgrim misrepresenting the situation as regards Mr Standfast's character and fitness to teach, ultimately because of an unreasonable and plainly wrong mindset that Mr Pilgrim had adopted because of his belief that he had taken appropriate steps to ensure the risk that Mr Standfast posed to students had been managed.
- [49] The Tribunal wishes to remind the teaching profession that it is only by accurate and comprehensive disclosure by or in respect of the teacher in an application for renewal of a practising certificate, that the Teaching Council can make an informed decision about whether a practising certificate can be issued for the next practising period, or not. If there are matters that are not disclosed, and which are not then taken account of by the Council, the risk is that a practising certificate will be issued to a teacher who should not have one. The public is then put at risk and the standards of the teaching profession are not maintained.

Penalty

- [50] Having made adverse findings of serious misconduct, the Tribunal was entitled to exercise its powers under section 500 of the Act. The Tribunal could do one or more of the things set out in section 500(1). It goes without saying that the penalty that is imposed must be appropriate for the Charge before the Tribunal.
- [51] It is well established that the primary purposes of the imposition of disciplinary penalties against teachers who have been found guilty of a disciplinary offence are to maintain professional standards (through general and/or specific deterrence), to maintain the public's confidence in the teaching profession, and to protect the public through the provision of a safe learning environment for students³⁷.

³⁷ As discussed in *CAC v McMillan* NZTDT 2016/52 at [23].

[52] In previous decisions the Tribunal has accepted as the appropriate sentencing principles those identified by Collins J in *Roberts v Professional Conduct Committee of the Nursing Council*³⁸. His Honour identified eight factors as relevant whenever an appropriate penalty is being determined in proceedings of this nature. Those factors are:

- (a) What penalty most appropriately protects the public.
- (b) The Tribunal must be mindful of the fact that it plays an important role in setting professional standards.
- (c) Penalties imposed may have a punitive function.
- (d) Where it is appropriate, the Tribunal must consider rehabilitating the professional.³⁹
- (e) The Tribunal should strive to ensure that any penalty imposed is comparable to penalties imposed in similar circumstances.
- (f) It is important for the Tribunal to assess the practitioner's behaviour against the spectrum of sentencing options that are available. In doing so, the Tribunal must try to ensure that the maximum penalties are reserved for the worst offenders.
- (g) The Tribunal should endeavour to impose a penalty that is the least restrictive that can reasonably be imposed in the circumstances.
- (h) It is important for the Tribunal to assess whether the penalty it is to impose is fair, reasonable, and proportionate in the circumstances presented to the Tribunal, or not.

[53] All the individual components of a penalty must be considered together so that the overall penalty is assessed against those eight factors.⁴⁰

³⁸ [2012] NZHC 3354 at [44]-[51].

³⁹ *CAC v Teacher* NZTDT 2016/55 at [30].

⁴⁰ *M v A Professional Conduct Committee* [2015] NZHC 3063 at [17].

[54] In cases where cancellation of registration is on the table, as was the case here, the proper approach is that articulated by Randerson J in *Patel v Dentists Disciplinary Tribunal*⁴¹:

...the task of the Tribunal is to balance the nature and gravity of the offences and their bearing on the [practitioner's] fitness to practice against the need for removal and its consequences to the individual *Dad v General Dental Council* at 1543⁴². As the Privy Council further observed [in *Dad*]:

Such consequences can properly be regarded as inevitable where the nature or gravity of the offence indicates that a dentist is unfit to practise, that rehabilitation is unlikely and that he must be suspended or have his name erased from the register. In cases of that kind greater weight must be given to the public interest and to the need to maintain public confidence in the profession than to the consequences of the imposition of the penalty to the individual.

[55] As was said by Ellis J in *Singh v Director of Proceedings*⁴³:

[63] Where the clear and principal choice of penalty is between suspension and deregistration I also note Keane J's adoption in *A v Professional Conduct Committee* of the relevant principles from the Privy Council decision in *Taylor v General Medical Council*. He said:

First, the primary purpose of cancelling or suspending registration is to protect the public, but that 'inevitably imports some punitive element'. Secondly, to cancel is more punitive than to suspend and the choice between the two turns on what is proportionate. Thirdly, to suspend implies the conclusion that cancellation would have been disproportionate. Fourthly, suspension is most apt where there is 'some condition affecting the practitioner's fitness to practise which may or may not be amenable to cure'. Fifthly, and perhaps implicitly, suspension ought not to be imposed simply to punish.

[84] But Keane J also confirmed the relevance of rehabilitation:

"...the Tribunal cannot ignore the rehabilitation of the practitioner. *B v B*. Moreover, as was said in *Giele v The General Medical Council* though "...the maintenance of public confidence...must outweigh the interests of the individual doctor", that is

⁴¹ *Singh v Director of Proceedings* [2014] NZHC 2848 at [62]-[64]; *CAC v Cook* NZTDT 2018-50.

⁴² *Dad v General Dental Council* [Privy Council] at [1543] referred to in *Patel v Dentists Disciplinary Tribunal* (High Court, Auckland, AP77/02, 8 October 2002, Randerson J) at [31].

⁴³ Above fn. 40.

not absolute – “the existence of the public interest in not ending the career of a competent doctor will play a part.”

[56] In *CAC v Cook* this Tribunal (although differently constituted) considered the *Roberts* factors and observed in respect of rehabilitation⁴⁴ that “there is no merit in depleting the profession from experienced teachers where we consider rehabilitation possible”. The Tribunal here endorsed that approach.

Submissions for the CAC

[57] It was submitted for the CAC that the appropriate disciplinary response to Mr Pilgrim’s established conduct was censure and cancellation of Mr Pilgrim’s registration as a teacher.

[58] Reference was made to the cases of *Clark*, *Leach* and *Cormack* which highlight the paramount importance the Tribunal places on honesty and integrity when it comes to professional endorsements for practising certificates and performance appraisals.

[59] It was submitted that Mr Pilgrim’s role, in endorsing Mr Standfast as of ‘good character and fit to be a teacher’, was an important one. Mr Pilgrim was the School Principal and he should have had particular insight and understanding as to why Mr Standfast was not of good character. Further, his duty to alert the Teaching Council to the truth of the situation and, at a minimum, not obfuscate the situation to the Council, was clear. Instead of doing so, Mr Pilgrim misrepresented the position to the Council on two separate occasions. It was submitted that it was fundamental that Mr Standfast’s defect of character (his sexual offending against a child) was about as serious a flaw that could be identified as being pertinent for the Teaching Council to know about.

[60] In anticipation of Mr Pilgrim suggesting that, unlike in the cases cited for the CAC, this was not a situation where he was deliberately dishonest for his own personal benefit, the CAC submitted that this case is as serious as any of those cases. It was submitted that while Mr Pilgrim may not have been safeguarding his own interests directly, he was safeguarding the interests of Mr Standfast and of Gloriavale (by avoiding Gloriavale suffering adverse publicity in relation to sexual abuse allegations and by not losing a staff member for the School), rather than properly prioritising the interests of the School’s students. It was submitted there was also a degree of

⁴⁴ *CAC v Cook* NZTDT 2018-50.

personal benefit in the sense that Mr Pilgrim did not have to go to the effort of finding a new teacher to replace Mr Standfast.

[61] It was acknowledged that cancellation was not imposed in *Teacher Y* however it was submitted that Mr Standfast's misconduct (sexual offending against a nine-year-old female student) was more serious than the conduct at issue in the *Teacher Y* case. It was submitted that Mr Pilgrim's conduct involved him "dishonestly misrepresent[ing] the character of another teacher to the Council" and in that way Mr Pilgrim's misconduct had a direct impact on the integrity of the teaching profession.

Evidence and submissions for Mr Pilgrim

[62] Mr Pilgrim made an affidavit which contained evidence relevant to penalty⁴⁵. His evidence may be summarised as follows:

- (a) To give context to the agreed evidence in the Summary of Facts Mr Pilgrim stated that:
 - a. He is a religious person, living in a religious community; "in our dealings with people within the community we sought to bring people to repentance, forgiveness and restoration where possible. Just Standfast was remorseful. We now involve Police/Oranga Tamariki in such matters."
 - b. It was difficult to find teachers for the School. At the time (late 2012) he felt that the measures he took were adequate to prevent further offences by Mr Standfast, and to prevent the teacher shortage problem that the students would have if Mr Standfast were "taken out of the way". "However, I missed the bigger picture, and in doing so, failed dismally as a principal."
 - c. His intention was not to protect Mr Standfast who had offended against [Child X]. [REDACTED].
 - d. When Child X's father went to Police about Mr Standfast's offending, there were some in the community who questioned Child X's account,

⁴⁵ Affidavit of Faithful Pilgrim in relation to Liability and Penalty Hearing affirmed on 22 January 2022.

but he supported Child X and her mother “against doubters” and transported them to Police interviews.

- (b) He realises he got things wrong and made serious errors in his handling of the Just Standfast situation. He should not have signed the endorsements of Mr Standfast, Mr Standfast should not have returned to the classroom, and he should have been reported to Police, Oranga Tamariki and the Teaching Council.
- (c) He recognises that circumstances such as this should not be dealt with only by the Gloriavale Community internally, but by outside agencies. He said that is what is now happening and will happen in the future. The obligation to protect children is paramount and the Police and/or Oranga Tamariki need to be called immediately when child welfare may be at risk, just as at any other school. Gloriavale now has meetings with Police and Oranga Tamariki and there is a child welfare committee which has as its chairperson an employee of Oranga Tamariki. All incidents of suspected child abuse, bullying, or harassment must now be reported to the child welfare committee for assessment.
- (d) Since resigning as Principal in December 2020 he has attended child protection training including a three-hour session on 2 June 2021 by Safeguarding Children. This session dealt with recognising and responding to child abuse and neglect (a Certificate of Attendance annexed to Mr Pilgrim's affidavit verified his attendance at this session). He has also attended about seven education sessions held by Organisations Start and Stop which were presented to parents and other interested adults at Gloriavale in 2020 and 2021.
- (e) He has approached Judith Price of interLEAD Interpreting Leadership (“interLead”) in Wellington about her being a mentor and would agree to mentoring conditions being imposed if the Tribunal considered that would be appropriate. In this regard a letter from Ms Price/interLEAD to the Tribunal dated 19 January 2022 indicates her availability to mentor Mr Pilgrim, with the mentoring to focus on ensuring he understands and demonstrates that he understands the importance of the Children’s Act 2014 and other applicable rules and codes that address the duties owed to children by teachers. The letter indicates that Ms Price and interLEAD have been involved in work with the Gloriavale Community (including the

current School Principal) to ensure members have increased knowledge and understanding of policy and procedures in relation to compliance with legal requirements, systems in place to ensure the Community holds people to account (for example, child protection) and an acceptance of and commitment by the Community to change the organisational culture of Gloriavale. Ms Price outlined a possible mentoring programme for Mr Pilgrim which is intended to incorporate reporting to the Teaching Council about the mentoring, or immediately if there are any concerns along the way.⁴⁶

[63] At the hearing, Mr Pilgrim answered questions from Tribunal members including about Gloriavale School. He also made a statement orally. In essence Mr Pilgrim restated and expanded on matters he had covered in his affidavit.

[64] Counsel for Mr Pilgrim submitted that the following factors were relevant:

- (a) Mr Pilgrim signed two endorsements of Mr Standfast, although they each related to one underlying serious error, namely the view that Mr Standfast was of 'good character and fit to be a teacher', when he was not.
- (b) Mr Pilgrim was Principal when he signed the endorsements.
- (c) Mr Pilgrim's behaviour was not motivated by self-interest. He lived in a community that believed in bringing people to repentance, forgiveness, and restoration where possible. He took an inappropriate mindset reflecting that Mr Standfast was very remorseful, and that he would only be teaching older boys. Mr Pilgrim's mindset at the time was plainly wrong.
- (d) The extent of any loss, damage, or harm resulting from the charge. While in some cases, sex offenders being in schools can have disastrous consequences, here neither the Teaching Council nor Mr Pilgrim are aware of Mr Standfast being the subject of any further allegations or charges arising from his time at the School between 2013 and "his final removal" in 2018. Mr Standfast was investigated by Police and the sentencing Judge noted that the risk of reoffending was essentially "not

⁴⁶ Hearing Bundle at pages 38-44

regarded as significant at all”⁴⁷. Mr Standfast is no longer a teacher, and he has not been in the School since 2018.

[65] It was submitted that the following are mitigating factors:

- (a) Mr Pilgrim has accepted an amended charge, that his conduct was serious misconduct, and he has agreed on a summary of facts. He readily accepted at an early stage that he had been foolish to have signed the declarations relating to Mr Standfast.
- (b) Mr Pilgrim recognised the need to resign from the role of Principal and he did so in December 2020.
- (c) Mr Pilgrim has been a teacher for over 45 years and has no previous disciplinary history. He is of good character as witnesses who were interviewed by the CAC attested to by their references to him (for example, to him being “real careful with his own moral conduct as far as young people went”, “a gentleman”, a “polite person...respectful”, and a “person of high integrity”⁴⁸
- (d) Mr Pilgrim has recently attended child protection training (as Mr Pilgrim outlined in his affidavit).

[66] With reference to the relevant penalty principles, and the above factors, it was submitted for Mr Pilgrim that a penalty less than cancellation (censure, conditions, a short period of suspension if considered necessary, and costs) was open to the Tribunal reflecting that:

- (a) Mr Pilgrim has a previously unblemished record (no previously disciplinary history) and a lengthy teaching career.
- (b) The offences relate to 2012 and 2016, over nine and six years ago. Mr Pilgrim is no longer a principal and does not intend endorsing anyone in the future.

⁴⁷ Sentencing Notes at [31].

⁴⁸ Reference was made to the CAC’s Investigation Report which, appropriately, was not produced to the Tribunal. Taken from quoted statements made by Hope Harrison, Virginia Courage, and [REDACTED].

- (c) Mr Pilgrim admitted at an early stage that his endorsements were incorrect, agreed a summary of facts, and has not disputed liability.
- (d) Mr Pilgrim has been participating in child welfare training and is prepared to involve a mentor and to agree to conditions being imposed.
- (e) Given that he has no previous disciplinary history, no rehabilitative options or conditions have ever been imposed. Conditions could be tailored to the concerns; Mr Pilgrim is not irredeemable; and there is an alternative to cancellation which does not deprive his Community of an experienced teacher.

Findings on Penalty

- [67] The Tribunal considered the relevant penalty principles including the previous cases, as well as the submissions that were made for the CAC, the evidence of Mr Pilgrim and his counsel's submissions.
- [68] Taking all relevant matters into account, the Tribunal was satisfied that it was appropriate and necessary to impose a formal penalty. Mr Pilgrim's acts in making the endorsements he made are of such severity as to warrant the imposition of disciplinary penalties to maintain professional standards and protect the public. The penalties to be imposed will likely have a punitive effect but that is not the primary reason they are being imposed.
- [69] There can be no doubt that Mr Pilgrim's misconduct has had a direct impact on the integrity of the teaching profession. He misrepresented the character of another teacher to the Teaching Council and thereby subverted how the Council assures the ongoing suitability of teachers to teach.
- [70] The Tribunal agreed with the CAC that as a school principal Mr Pilgrim ought to have had sufficient insight as to why Mr Standfast was not of good character and he should have understood why his professional body ought to have been made aware of Mr Standfast's offending. Given Mr Pilgrim's knowledge of Mr Standfast's defect of character, for him to have misrepresented the position to the Teaching Council on two separate occasions was a serious falling short of acceptable professional standards for a teacher in Mr Pilgrim's shoes (a Principal) at the time the relevant endorsements were given. Mr Pilgrim had a duty to alert the Teaching Council as to the situation with Mr Standfast to ensure the public was protected from him. Instead, Mr Pilgrim obfuscated the situation and denied the Council the opportunity to make

its own inquiries as to Mr Standfast's fitness to be a teacher. The Council should have been able to trust the endorsements Mr Pilgrim provided on Mr Standfast's applications to renew his practising certificate.

[71] The Tribunal accepted that Mr Pilgrim was not motivated by or safeguarding his own interests directly. More likely than not Mr Pilgrim was operating on an inappropriate and wrong mindset at the time he endorsed Mr Standfast, arising in part from his and the Community's belief in bringing people to repentance, forgiveness, and restoration where possible (and the steps he believed he had taken to safeguard the interests of students). The Tribunal considered that Mr Pilgrim's actions were consistent with Mr Pilgrim wanting to safeguard the interests of Gloriavale from adverse publicity in relation to sexual abuse allegations, and the School from the possibility of losing a teacher in circumstances where there were constraints on teacher supply.

[72] In any event, the Tribunal was in no doubt that by his actions, Mr Pilgrim failed to properly prioritise the health and safety of the School's students and that was completely unacceptable. His actions enabled Mr Standfast to continue teaching at the school in circumstances where Mr Pilgrim ought to have understood the risk Mr Standfast posed to all students given his (Mr Standfast's) admission in 2012 that he had inappropriately touched a young female student; and that Mr Pilgrim knew he had not reported that offending to the Police or Oranga Tamariki.

[73] The Tribunal accepted the mitigating factors identified by Counsel for Mr Pilgrim in particular the rehabilitative steps Mr Pilgrim has already taken voluntarily. The Tribunal placed minimal weight on the fact that there appear to have been no further allegations or charges arising from Mr Standfast's time at the School. That is because at the times Mr Pilgrim endorsed Mr Standfast as being of good character and fit to teach, he could not be assured that there had been no further sexual offending by Mr Standfast. The effect of his actions (Mr Pilgrim's) was such that he prevented external agencies, including the Teaching Council and the Police, from investigating.

[74] The Tribunal considered that the least restrictive penalty which meets the seriousness of the case and discharges the Tribunal's obligation to the public and the teaching profession is a censure to express the Tribunal's serious disquiet about and disapproval of Mr Pilgrim's conduct, the suspension of Mr Pilgrim's practising certificate for a three-month period, and the imposition of conditions on Mr Pilgrim's

practising certificate to be in effect when he resumes practising as a teacher after his suspension.

[75] The Tribunal seriously considered ordering the cancellation of Mr Pilgrim's registration. Had the Tribunal not been satisfied that Mr Pilgrim is capable of being rehabilitated through appropriate mentoring and coaching by an external educational agency, and the public protected through the imposition of other conditions on Mr Pilgrim's ability to practise as a teacher, such an order would have been made.

[76] The Tribunal was firmly of the view that Mr Pilgrim's conduct does warrant the imposition of the more severe penalty outcome of suspension of his practising certificate for deterrence reasons and to uphold professional standards. The Tribunal concluded that a short period of suspension (three months) will ensure Mr Pilgrim has a further period in which to reflect on the significance of his misconduct and the impact his offending has had, or has likely had on others, before he returns to practising as a teacher and focuses on further rehabilitation. There is a need also to send a message to members of the teaching profession that misconduct of the nature the Tribunal has found here is very serious and will likely justify the imposition of a penalty at the more severe end of the range of penalties available to the Tribunal.

[77] The Tribunal considered that Mr Pilgrim would benefit from working for a period under the guidance and with the support of an external mentor/coach once he returns to work as a teacher. The Tribunal considered that mentoring and coaching focused on compliance with legislation and relevant codes and professional requirements designed to protect children and which address a teacher's duty to learners, is appropriate and necessary. It is critical that Mr Pilgrim understands, and the Teaching Council can be assured that Mr Pilgrim understands, that the expectations that apply to teachers and leadership in modern New Zealand learning environments apply to him and to Gloriavale Christian School.

[78] The Tribunal decided to impose the following conditions on Mr Pilgrim's practising certificate to be in effect when he resumes practising as a teacher following the period of suspension (pursuant section 500(1)(c)):

- a. Mr Pilgrim is to work under the guidance and support of a mentor/coach from an independent external educational agency specialising in professional teacher practice as approved by and to the satisfaction of the Teaching Council, for a period of 18 months. The focus of the mentoring and coaching is to be on compliance with relevant legislation

including the Children's Act 2014 and other applicable rules and codes that address duties that teachers owe to children.

- b. For three years, Mr Pilgrim will be prohibited from working as a Principal or Acting Principal and from endorsing or having any involvement in endorsing, any teacher applications for issue or renewal of a practising certificate.
- c. Mr Pilgrim must provide a copy of this decision to the leaders and/or management of Gloriavale Christian School including the Gloriavale Trust Board and the Community Management Board, and for three years, to any prospective and/or future employers in the teaching sector.

[79] The register is to be annotated to note the censure and the conditions, for a period of three years, pursuant to section 500(1)(e).

[80] It is noted that the Tribunal considered each of the individual components of the penalty it is imposing, together, to ensure that the overall penalty was assessed against the *Roberts* factors and was a fair and reasonable penalty in all the circumstances.

Costs

[81] It is usual for an award of costs to be made against a teacher once a charge is established. A teacher who comes before the Tribunal should expect to make a proper contribution towards the reasonable costs that have been incurred.

[82] The CAC sought a contribution towards its costs of \$4,028.78, representing 40% of costs (excluding GST)⁴⁹. Total CAC costs (Committee investigation costs and external legal costs) were indicated as being \$10,071.94. It was submitted that a 40% contribution was appropriate and in line with recent decisions of the Tribunal.

[83] Counsel for Mr Pilgrim confirmed that his instructions were that Mr Pilgrim could pay the costs sought by the CAC and 40% of the Tribunal's estimated costs⁵⁰.

⁴⁹ Costs Schedule, 1 March 2022.

⁵⁰ Memorandum of Counsel for the Respondent in relation to Costs, dated 22 March 2022. Counsel indicated that Mr Pilgrim can pay costs within a month of receipt of the costs order or an invoice.

[84] The Tribunal agreed that a 40% contribution to the CAC's costs as claimed, would be reasonable and appropriate in this case.

[85] Accordingly, the Tribunal made an order pursuant to section 500(1)(h) that Mr Pilgrim is to pay the sum of \$4,028.78 to the CAC.

[86] As to the costs of conducting the hearing, the Tribunal made an order that Mr Pilgrim make a 40% contribution towards those costs, being payment of the sum of \$458.00 to the Teaching Council. That order is made under section 500(1)(i).

Non-publication orders

[87] The Tribunal's jurisdiction to make non-publication orders is found in section 501(6) of the Act. An order can only be made under section 501 (6) (a)-(c) if the Tribunal is of the opinion that it is proper to do so, having regard to the interests of any person (including, without limitation, the privacy of the complainant, if any) and the public interest.

[88] The default position is the principle of open justice. The Tribunal needs to consider whether consequences relied on by the applicant would be "likely" to follow if no order was made. In the context of section 501(6) this means there must be an appreciable or real risk, to be assessed on the evidence before the Tribunal. When considering whether it is proper for the open justice principle to yield, the Tribunal needs to strike a balance between the public interest factors and the private interests advanced by the applicant.

Mr Pilgrim and Gloriavale Christian School

[89] An interim non-publication order was in effect until the date of this decision, in respect of Mr Pilgrim's name and identifying particulars, and the name of Gloriavale Christian School.

[90] Mr Pilgrim sought permanent orders. His application was supported by affidavits made by his son, Abraham Pilgrim (who is now the Principal of the School) and [REDACTED]

[91] Mr Pilgrim's grounds for suppression rested on the cumulative effects of the risk of publicity affecting [REDACTED], and the School, the risk of publicity affecting Child X and "the suggestion that Mr Pilgrim's

⁵¹ Affidavits dated 18 September 2021.

actions in this case are condoned by the School and the community, which they are not” (referencing the new Child Protection Policy which has recently been adopted by the School and the Community which specifically mandates reporting such incidents to Oranga Tamariki).

[92] The following submissions were made for the CAC in respect of the application in respect of Mr Pilgrim’s name:

- (a) The “potential identity confusion” [REDACTED], is tenuous. As acknowledged by Mr Pilgrim, there is an easy distinction between Mr Pilgrim who is 67 and his [REDACTED] who is 11. The identified adverse consequences (possible future mis-readings of internet articles by the 11-year-old [REDACTED]), are “speculative in the extreme”;
- (b) The potential for [REDACTED] to be bullied in the present day, is also speculative. In any event, publication of disciplinary proceedings will often have an impact or potential impact on the teacher and their family. This alone is not sufficient to displace the public interest in publication of the teacher’s name. Further, it would be rare for the teacher not to have people connected with them who maybe affected by publication but that should not ordinarily displace the presumption in favour of publication.
- (c) There is no evidence of any especial vulnerability or concern attaching to how [REDACTED] may be impacted by publication of Mr Pilgrim’s name other than Mr Pilgrim’s own observation that [REDACTED] can be a [REDACTED]

[93] The Tribunal accepted those submissions.

[94] Now that he has been found guilty of serious misconduct there is a public interest in Mr Pilgrim’s name, and the name of the School being published. The principle of open justice is paramount to maintain public confidence in the teaching profession through the transparent administration of justice⁵². None of the private interests of Mr Pilgrim that he has advanced outweigh the public interest in open disciplinary proceedings and his name being published. Accordingly, the Tribunal concluded that

⁵² *CAC v Teacher* NZTDT 2016/27, at [66].

it would not be proper to make a permanent order. Mr Pilgrim's name may be published.

Gloriavale Christian School

- [95] Mr Pilgrim sought a permanent order in respect of the name of the School. His application was based on his son's evidence that as the current Principal of the School he has a duty to look after the wellbeing of the children and young people in his care and for that reason he does not want the School's students experiencing further stress if the School is named. Mr Pilgrim also maintained that identifying the School would identify him.
- [96] The Tribunal accepted the submission for the CAC that non-publication of the School's name on that basis is not justified for the same reason that non-publication of Mr Pilgrim's name would not be proper.
- [97] Counsel for the CAC pointed out that there has already been extensive publication of both Mr Standfast's offending and that the Teaching Council was investigating how staff responded to complaints about Mr Standfast, all with reference to the conduct having occurred at Gloriavale.⁵³
- [98] Publication of this decision necessarily discloses and discusses that Mr Pilgrim's conduct occurred within the Gloriavale Community and makes the link to Mr Standfast's criminal offending. The Tribunal accepted the submission made for the CAC that whatever the potential indirect stress to students such limited publication might cause, given the details that are already in the public domain, a departure from the starting point of open justice is not justified. There is a significant public interest in detailing the circumstances of how Mr Standfast's offending, which is already the subject of reporting, was able to remain undetected by the Teaching Council.
- [99] For those reasons the Tribunal concluded that it would not be proper to make a permanent order in respect of the name of the School. The public interest factors which favour publication of the School's name significantly outweigh the private factors advanced by Mr Pilgrim.

⁵³ Counsel referred to a *Stuff* article by Steven Walton and Jonny Edwards headlined 'NZ Teaching Council investigating Gloriavale principal over concerns he failed to ensure safety of children' (21 December 2021).

Child X

[100] The Tribunal granted the application made by the CAC for an order permanently suppressing from publication the name and identifying details of Child X. That application was not opposed by Mr Pilgrim. The Tribunal agreed with the CAC that there is a risk that publicity will cause Child X to mentally revisit Mr Standfast's offending.

[101] [REDACTED]
[REDACTED]
[REDACTED]

[102] [REDACTED] deposed that neither Child X, nor her family read the news. On that basis it was submitted that any harm to Child X will only come to her indirectly [REDACTED]
[REDACTED] The Tribunal agreed. [REDACTED]
[REDACTED].

[103] Accordingly, as announced at the beginning of the hearing, to protect Child X's wellbeing and privacy interests it is proper for there to be a permanent non-publication order under section 501(6)(c) in respect of the name and identifying particulars of Child X. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Conclusion

[104] The Charge is established. Mr Pilgrim is guilty of serious misconduct.

[105] The Tribunal's formal orders under the Education and Training Act 2020 are:

- (a) Mr Pilgrim is censured, pursuant to section 500(1)(b).
- (b) Mr Pilgrim's practising certificate is suspended for a period of three months, pursuant to section 500(1)(d).

⁵⁴ At [4].

- (c) The following conditions are to be imposed on Mr Pilgrim's practising certificate, and will be in effect when he resumes practising as a teacher after his period of suspension, pursuant to section 500 (1)(c):
- a. Mr Pilgrim is to work under the guidance and support of a mentor/coach from an independent external educational agency specialising in professional teacher practice as approved by and to the satisfaction of the Teaching Council, for a period of 18 months. The focus of the mentoring and coaching is to be on compliance with relevant legislation including the Children's Act 2014 and other applicable rules and codes that address duties that teachers owe to children.
 - b. For three years, Mr Pilgrim is prohibited from working as a Principal or Acting Principal and from endorsing, and having any involvement in endorsing, any teacher applications for issue or renewal of a practising certificate.
 - c. Mr Pilgrim must provide a copy of this decision to the leaders and/or management of Gloriavale Christian School including the Gloriavale Trust Board and the Community Management Board, and for three years, to any prospective and/or future employers in the teaching sector.
- (d) The register is to be annotated to note the censure and the conditions, for a period of three years, pursuant to section 500(1)(e).
- (e) Mr Pilgrim is to pay \$4,028.78 to the CAC as a contribution to its costs pursuant to section 500(1)(h),
- (f) Mr Pilgrim is to pay \$458.00 to Teaching Council in respect of the costs of conducting the hearing, under section 500(1)(i).
- (g) There is an order under section 501(6)(c) permanently suppressing from publication the name and identifying particulars of Child X. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dated at Wellington this 30th day of

March 2022



Jo
Deputy Chairperson

Hughson

NOTICE

- 1 A teacher who is the subject of a decision by the Disciplinary Tribunal made under section 500 of the Education and Training Act 2020 may appeal against that decision to the District Court (section 504(1)).
- 2 The CAC may, with the leave of the Teaching Council, appeal to the District Court against a decision of the Disciplinary Tribunal made under section 500 (section 504(2)).
- 3 An appeal must be made within 28 days of receipt of written notice of the decision, or any longer period that the District Court allows.
- 4 Clause 5(2) to (6) of Schedule 3 to the Education and Training Act 2020 applies to every appeal under section 504 as if it were an appeal under clause 5(1) of Schedule 3.