

## THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

**Teacher:** Mr Brian John O'Connor

**Teacher date of birth:**

**TA Case ref no:** 3515

**Date of Determination:** 9 October 2012

**Former Employer:** Hamilton Community College, Leicester

### **A. Introduction**

A Professional Conduct Panel ("the Panel") of the Teaching Agency convened on 9 October 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Brian John O'Connor.

The Panel members were Professor Ian Hughes (Lay Panellist – in the Chair), Ms Lynn O'Malley (Lay Panellist) and Mr Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mr Nigel Parry, solicitor.

The Presenting Officer for the Teaching Agency was Ms Louisa Atkin of Browne Jacobson LLP Solicitors.

Mr O'Connor was present and was represented by Mr Brown of NASUWT.

The hearing took place in private (following an earlier case management decision) and was recorded.

### **B. Allegations**

The Panel considered the allegation set out in the Notice of Proceedings dated 31 July 2012.

It is alleged that Mr O'Connor was guilty of unacceptable professional conduct, in that:

1. Whilst employed at Hamilton Community College, Leicester, during 2007, he formed an unprofessional and inappropriate relationship with a pupil, Pupil A, by:
  - a. communicating with Pupil A out of school hours via MSN;
  - b. allowing Pupil A to be a passenger in his car when not on school business;

- c. having inappropriate contact with Pupil A, namely sharing cigarettes with her on school premises during school hours.

Mr O'Connor admitted 1(a) and that this amounted to unacceptable professional conduct.

## **C. Summary of Evidence**

### Documents

In advance of the hearing, the Panel received a bundle of documents which included:

- Section 1: Anonymised Pupil List, with page numbers 1 to 2,
- Section 2: Notice of Proceedings and response, with page numbers from 3 to 9.
- Section 3: Witness Statements, with page numbers from 1 to 19.
- Section 4: Teaching Agency Documents, with page numbers from 25 to 126.
- Section 5: Teacher Documents, with page numbers from 128 to 133.

The email dated 8 November 2011 was added to the Teacher Documents as page 134.

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

### Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

The Panel heard evidence from two witnesses called on behalf of the Teaching Agency namely Witness A, Principal of Hamilton Community College and Witness B, Leicestershire Police.

Witness A told the Panel that when the allegation about Mr O'Connor's inappropriate relationship first came to light he was not suspended as there had been no previous issues and Pupil A was not at college at the time. He was subsequently suspended when the college was informed that Mr O'Connor had admitted to the police that he had communicated with Pupil A on MSN.

The college policy on transporting pupils requires that it should be done in groups with the knowledge and consent of the principal and on the occasions concerned he did not give consent.

He was unable to recall the arrangements in place for work placements in 2007.

He described Pupil A as being not the most able student but he felt she was truthful.

He found Mr O'Connor to be a supportive colleague and was surprised by his behaviour. He was aware of the attacks on Mr O'Connor and he considered that he was very supportive of Mr O'Connor at the time.

Witness B told the Panel that she was an experienced Child Protection Officer. She told the Panel that she had investigated the allegation against Mr O'Connor. After considering the evidence the police decided not to bring a prosecution.

She had spoken to Pupil A and she considered her to be a normal teenager who she considered was telling the truth.

Mr O'Connor gave evidence on his own behalf. He told the Panel that he accepted that he had communicated with Pupil A on MSN and after a while he had realised it was wrong and had stopped.

He accepted that he had transported Pupil A in his car on two occasions and each occasion he considered to be on school business. On one occasion he had taken Pupil A and another student to an interview at a work placement as they had missed the bus. He considered his action was appropriate as if the students were late it would have reflected badly on the college. The other occasion was when Pupil A had been helping him at school in the holidays and he had given her a lift to her friend's house. Mr O'Connor accepted that in statements prepared for these proceedings he had given different explanations as to whether he had been given permission to give Pupil A lifts in his car.

Mr O'Connor denied that he had shared cigarettes with Pupil A. He stated that on one occasion he had asked her to stop smoking and when she refused he had taken a cigarette from her and put it out.

He told the Panel that at the time of these events he had been stressed because he had been subject to two attempts on his life. One perpetrator had been sentenced to prison in 2006 and the other was due to be considered for release from prison. These facts had caused him stress and he did not think the college had fully supported him in relation to this.

#### **D. Decision and Reasons**

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

This case concerns the alleged behaviour of Mr Brian John O'Connor whilst employed at Hamilton Community College, Leicester. He was employed as the Vice Principal and was one of five key members of staff who had specific responsibility for safeguarding students.

In May 2007 Pupil A reported to college staff that she had begun to feel worried and scared following conversations which she had had with Mr O'Connor on MSN messenger. This was reported to Witness A the Principal of the college, the child protection procedure was implemented, and on 23 May 2007 Mr O'Connor was suspended from work.

The police carried out an investigation which included carrying out a video interview with Pupil A and an interview with Mr O'Connor. The police decided to take no action against Mr O'Connor.

A Disciplinary Hearing, which Mr O'Connor did not attend, was held by the college on 21 November 2007 and he was dismissed for gross misconduct. An appeal against that decision was rejected.

It is alleged that Mr O'Connor was guilty of unacceptable professional conduct, in that:

1. Whilst employed at Hamilton Community College, Leicester, during 2007, he formed an unprofessional and inappropriate relationship with a pupil, Pupil A, by:
  - a. communicating with Pupil A out of school hours via MSN;
  - b. allowing Pupil A to be a passenger in his car when not on school business;
  - c. having inappropriate contact with Pupil A, namely sharing cigarettes with her on school premises during school hours.

#### Findings of fact

The Panel has made the following findings of fact:

**a. communicating with Pupil A out of school hours via MSN**

The Panel finds Paragraph 1(a) proved

Mr O'Connor has admitted that he did this. The evidence to support this fact comes from Pupil A's statements to college staff, her video interview with the police, Mr O'Connor's police interview, from a transcript of one MSN conversation and from Mr O'Connor's evidence to the Panel.

On the basis of this evidence the Panel has concluded that this communication happened over a period of about six weeks and that there were between four and six conversations. At least one of the conversations took place in the early hours of the morning.

**b. allowing Pupil A to be a passenger in his car when not on school business**

The Panel finds Paragraph 1(b) proved

The Teaching Agency alleges that there were two incidents of this nature. One when Mr O'Connor took Pupil A and a friend to a work placement and one when he took Pupil A to a friend's house after she helped him in school during the holidays.

Although both students were in the car, it is not entirely clear from the evidence whether Mr O'Connor was taking both students to the work placement or just one student, the Panel has concluded that taking student(s) to work placement did constitute school business.

However, the Panel does not consider that transporting a pupil to a friend's house after being at school constitutes school business and finds the paragraph proved on that basis.

The Panel is satisfied that on neither occasion did Mr O'Connor have permission to act as he did.

**c. having inappropriate contact with Pupil A, namely sharing cigarettes with her on school premises during school hours.**

The Panel finds Paragraph 1(c) not proved.

There is conflicting evidence in relation to this and accordingly the panel finds that the Teaching Agency has not proved this to the required standard.

Mr O'Connor has accepted that the communication by MSN constituted an unprofessional and inappropriate relationship with Pupil A and the Panel agrees. It also considers that allowing Pupil A to be a passenger in his car when not on school business constitutes an unprofessional and inappropriate relationship.

Findings as to Unacceptable Professional Conduct

Mr O'Connor's conduct fell significantly short of the standard of behaviour expected of a teacher. His behaviour fell short of the high standards expected of a teacher and had the potential to bring the teaching profession into disrepute.

Accordingly, his conduct amounted to Unacceptable Professional Conduct.

**Panel's Recommendation to the Secretary of State**

The Panel carefully considered the Teaching Agency guidance on the issuing of prohibition orders. It recommends to the Secretary of State that no sanction is appropriate in this case.

The Panel is mindful that it must be proportionate in its recommendation and weigh up both the public interest and the interests of Mr O'Connor.

In reaching its decision the Panel has taken into account the fact that Mr O'Connor admitted one of the factual allegations and admitted that this amounted to unacceptable professional conduct. Additionally it has noted that the conduct took place over a relatively short period and involved no overt sexual comments.

The Panel considers that Mr O'Connor has considerable insight into his wrongdoing and in this regard notes that in his statement he states "... I acknowledge that my conduct fell short not only of the standards expected of a teacher but also of the high standards I set myself as a teacher and I do recognise I overstepped a line..."

The panel recognises that there has been a departure from the standards expected of a teacher and that the behaviour has affected the well-being of Pupil A. Nevertheless, the Panel has also taken into account the unique circumstances that Mr O'Connor found himself in. Around the time of the events the panel is concerned with, it cannot be doubted that Mr O'Connor was subject to a degree of stress because of events which took place in his personal life. Mr Morris, the college principal, stated that he was surprised by Mr O'Connor's behaviour and that he was a valued colleague.

The Panel has therefore concluded that the chance of repetition of similar behaviour is remote. The Panel has also concluded that the finding that Mr O'Connor was guilty of unacceptable professional conduct is sufficient to maintain public confidence in the profession.

For these reasons the Panel has concluded that in the exceptional circumstances of this case no sanction is required.

#### **Secretary of State's Decision and Reasons**

**I have given careful consideration to this case, to the findings of the panel and to their recommendation.**

**Mr O'Connor's behaviour fell short of that expected of a teacher and the panel has found unacceptable professional conduct.**

**Nonetheless the panel has also had the opportunity to consider not only the very particular circumstances that Mr O'Connor faced at the time but also the insight that he has shown into his misconduct.**

**The purpose of prohibition is not to punish but to protect the public and to act in the public interest. Prohibition should also be a proportionate response.**

**In this case I accept the recommendation of the panel that in this case no sanction is required.**

**NAME OF DECISION MAKER: Alan Meyrick  
Date: 10 October 2012**