

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Michael John Schofield
Teacher ref no: 91/56119
Teacher date of birth: 14/12/1968
TA Case ref no: 9020
Date of Determination: 8 March 2013
Former Employer: Haxby Road Primary School, York

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 7 & 8 March 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Michael John Schofield.

The Panel members were Mrs Susan Netherton (Lay Panellist – in the Chair), Mr Martin Greenslade (Lay Panellist) and Mrs Carolyn Robson (Teacher Panellist).

The Legal Adviser to the Panel was Mr Paul Owston of Berrymans Lace Mawer LLP Solicitors.

The Presenting Officer for the Teaching Agency was Mr Ben Bentley of Browne Jacobson LLP Solicitors.

Mr Schofield was present and was represented by Mr Andrew Faux of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 22 November 2012, as amended.

It was alleged that Mr Schofield was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed as Head Teacher of Haxby Road Primary School, York, and in relation to the management and administration of the 2011 KS2 SATs:

1. He administered the Maths Test alone contrary to the QCDA guidelines;
2. [This allegation was not pursued by the Teaching Agency];
3. Under his management other KS2 tests were administered by a single adult contrary to the QCDA guidelines;

4. He did not make test papers secure immediately after completion and prior to collection and on at least one occasion left completed test papers unattended in his office;
5. After the Reading Test he reviewed the completed papers and gave three papers to the Year 6 teacher with the instructions that she was to ask the children to look at their papers again;
6. After one test a pupil, Pupil A, was called to his office to make changes to his paper;
7. He involved one member of staff and attempted, unsuccessfully, to involve another, in calling back Pupil B to discuss her paper after its completion;
8. He discussed Pupil B's paper with her after the completion of the test contrary to the QCDA requirements;
9. He removed KS2 test papers from the school premises after pupils had completed their tests;
10. Changes were made to the Mental Maths papers after the test had taken place whilst they were under his responsibility;
11. He was responsible for changes and/or additions being made to the Maths Test papers for Pupil B after the completion of her test.

Mr Faux confirmed that Mr Schofield admitted the facts in allegations 1, 3, 4, 6, 7, 8, 9 & 10 and that those amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary Applications

Application to Amend Allegations

Prior to the hearing Mr Faux had confirmed that Mr Schofield would admit to allegations 1 & 3 if "QCDA requirements" was amended to "QCDA guidelines". Mr Bentley confirmed that he had no objection to such an amendment and that the Teaching Agency were no longer pursuing allegation 2. Further, initials had been used in allegations 6, 7, 8 & 11 and those should be changed to Pupil A and Pupil B.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

Further to Rule 4.55 of The Disciplinary Procedures for the regulation of the teaching profession the Panel may, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage prior to making its findings of fact.

Before making an amendment the Panel should consider the representations from Mr Bentley and Mr Faux.

The proposed amendments are agreed and raise no concerns about the fairness of the hearing.

The Panel should give reasons for its decision.

The Panel announced its decision and reasons for that decision as follows:

We have noted this issue previously and in accordance with the advice given by the Legal Advisor we will accept the amendments.

Submission of Late/Additional Documents

Mr Faux submitted Annex 1 to a compromise agreement between Mr Schofield and City of York Council, as additional evidence. Mr Schofield wished to rely upon that in mitigation. Mr Bentley confirmed that he had no objection to it being relied upon.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

Further to Rule 4.24 & 4.25 of The Disciplinary Procedures for the regulation of the teaching profession it is possible for documents which have not been served in accordance with the usual timetable to be admitted as evidence at the discretion of the Panel. It must be in the interests of a fair hearing to do so.

The parties have agreed to the documents being admitted and it should be in the interests of a fair hearing to admit such documents.

The Panel should give reasons for its decision.

The Panel announced its decision and reasons for that decision as follows:

We are happy to accept the document in evidence for the reasons stated.

D. Summary of Evidence

Documents

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

- Section 1 - Anonymised Pupil List – at pages 1 - 4
- Section 2 - Notice of Proceedings & Response – at pages 5 - 9
- Section 3 - Witness statements – at pages 10 - 23
- Section 4 - Teaching Agency documents – at pages 24 - 370
- Section 5 - Teacher's documents – at pages 371 – 487

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

In addition, the Panel agreed to accept the following:

Annex 1 to the compromise agreement, as above – at pages 488 – 490.

Opening statements

Mr Bentley and Mr Faux made brief opening statements about the allegations that were admitted and denied and the evidence in relation to the latter. Mr Faux submitted that those matters that were denied did not add a great deal to the matter.

Brief summary of evidence given

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

Witness A, Assistant Business Partner, Human Resources, City of York Council, gave evidence about her investigation into the allegations. She confirmed the process she followed and verified the documents in the bundle relating to that. She related what she had been told by the Year 6 teacher in relation to allegation 5. The teacher had been extremely concerned about her own conduct after being told by Mr Schofield to ask pupils to look further at their papers. The teacher had been very badly affected by the experience. Witness A also related what she had been told by Mr Schofield, in particular his enquiry of Pupil B as to why she had got a particular question wrong.

Witness B, Teaching Assistant, Haxby Road Primary School gave evidence about a couple of personal matters that had caused problems in his employment at the school and that had caused him to doubt Mr Schofield's attitude towards him and that it had been his turn to be picked upon or bullied. He also confirmed his contact with the Year 6 teacher after the events that formed allegation 5. He did not witness what passed between her and Mr Schofield but after that she had been very distraught about being put on the spot and having no time to think. He related the circumstances in which he heard Mr Schofield refer to Year 6's handwriting. He had been signing in at the entrance desk and overheard the comment which was said in a humorous fashion.

Mr Pearson also gave evidence at length about his contact with Pupil B who he had assisted with her mathematics in a booster group and sat with her as a Reader in her mathematics SATS tests. He did not consider that she was capable of the results that she achieved in the tests and had not completed all of the questions answered. He confirmed in relation to two questions that they appeared to be in the handwriting expected of a pupil of Pupil B's ability and in relation to another question that he had not seen Pupil B use a protractor as was required to answer the question. In general Pupil B had asked him for little reading assistance in the tests.

Mr Schofield confirmed his admissions in respect of allegations 1, 3, 4, 6, 7, 8, 9 & 10 and that he denied allegations 5 and 11. He related how, in relation to allegation 5, he had been disheartened by pupils having missed questions they should have been able to attempt and expressed that and maybe his tone had come across as angry. He did not know why the Year 6 teacher had thought he had instructed her to give the pupils extra time. He also related why he had asked Pupil B to discuss one of the questions in one of the mathematics SATS tests. He wanted to pinpoint where their teaching was going wrong and this particular answer was curious because Pupil B had put weights in the right order but the wrong way round. He discovered that

was because she had misread the question. He denied having any conversation about pupils' handwriting.

Closing statements

Mr Bentley and Mr Faux made closing statements which mostly related to the evidence in relation to allegations that were denied and they invited the Panel to find those proved/not proved respectively.

Mitigation

After the Panel announced its' decision on the facts and unacceptable professional conduct and/or conduct that may bring the profession into disrepute Mr Schofield gave further evidence and called evidence from Witness C, Head Teacher of Shafton Primary Academy, Bradford.

Mr Schofield related how he had been under intense pressure at the time of the allegations for a number of reasons and that he had acted out character. He now had a new job as a classroom teacher and was happy and effective in that role.

Witness C confirmed her high opinion of Mr Schofield in his current role, the difficulty the school had to find good teachers and the disruption to the school and pupils if Mr Schofield had to cease teaching. Mr Schofield's situation had recently been leaked to the local paper and there had been no negative reaction from parents.

In light of this evidence Mr Faux submitted, in particular, that it was in the public interest to allow Mr Schofield to continue teaching.

E. 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.

It is alleged that whilst you were the Head Teacher of Haxby Road Primary School in York you were involved in the maladministration and alteration of Key Stage 2 SATS tests.

The allegations have been amended from those originally presented to us and allegation 2 has been withdrawn. We will refer to the allegations as amended but, for ease of reference, with their original numbers.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you, as amended, proven, for these reasons:

Whilst employed as Head Teacher of Haxby Road Primary School, York, and in relation to the management and administration of the 2011 KS2 SATs:

1. You administered the Maths Test alone contrary to the QCDA guidelines;
3. Under your management other KS2 tests were administered by a single adult contrary to the QCDA guidelines;
4. You did not make test papers secure immediately after completion and prior to collection and on at least one occasion left completed test papers unattended in your office;
6. After one test a pupil, Pupil A, was called to your office to make changes to his paper;
7. You involved one member of staff and attempted, unsuccessfully, to involve another, in calling back Pupil B to discuss her paper after its completion;
8. You discussed Pupil B's paper with her after the completion of the test contrary to the QCDA requirements;
9. You removed KS2 test papers from the school premises after pupils had completed their tests;
10. Changes were made to the Mental Maths papers after the test had taken place whilst they were under your responsibility.

You have admitted these allegations through your representative Mr Faux.

We have also accepted the evidence in the Teaching Agency documents and in particular the evidence obtained as a result of the investigation by the QCDA and Witness A, Human Resources Assistant. In particular, in relation to allegation 10, which was not originally admitted by you, we have accepted the evidence in the report of Individual A, Forensic Examiner, that he found clear evidence that changes had been made to the Mental Maths papers.

We have found the following particulars of allegations 5 and 11 against you not proven, for these reasons:

5. After the Reading Test you reviewed the completed papers and gave three papers to the Year 6 teacher with the instructions that she was to ask the children to look at their papers again;

Individual B, Classroom Teacher, has given clear evidence on a number of occasions about what occurred in relation to this allegation. We have not been able to hear her oral evidence or see that tested under cross-examination. We have heard oral evidence from Witness B, the Teaching Assistant who assisted Year 6, about this matter. He met Individual B shortly after the alleged incident and said that Individual B was very upset but he was not able to directly state what she had been told by you.

You have given differing accounts of what occurred as time has passed. You have attended at the hearing and given oral evidence and been questioned about what happened. You quite clearly stated that whilst a conversation took place you did not instruct Individual B as alleged. You did not deny that you may have caused Individual B to become upset. You ascribe that to your manner in that you were disheartened or frustrated, that the pupils had not performed better, and that may have come across as being angry.

There are other statements containing hearsay evidence from various other members of staff. They deal with a number of unrelated matters which are not relevant to our deliberations and about some matters of which they have no direct knowledge. This causes us concern that the motives of the staff may be called into question and we have not had the opportunity of exploring this particular allegation with them. Therefore we cannot ascribe much weight to their evidence.

In view of the above, on the balance of probabilities we do not find this allegation found.

11. You were responsible for changes and/or additions being made to the Maths Test papers for Pupil B after the completion of her test.

Witness B gave evidence that he worked with Pupil B in a maths booster group and also sat with Pupil B as Reader whilst she undertook Maths Tests A and B. He said that the exam scripts submitted did not correspond to his observed performance of Pupil B in the tests. Witness B also stated that he had heard you briefly refer to how difficult it is to copy Year 6 children's handwriting.

You have clearly denied that you made any changes or alterations to the Maths Test papers or caused those to be made. You also denied ever talking about copying children's handwriting.

The scripts do contain a number of alterations but we cannot determine when those changes were made. Although Individual A found evidence of alterations to the Mental Maths papers he did not find any conclusive evidence that changes or alterations had been made to the other Maths Test papers after completion of the tests.

We have particularly considered question 24 in Test A, where there is no handwriting, and question 15 in that paper and question 15 in the Test B, which contain written responses. Mr Pearson confirmed that the handwriting was in the style of Pupil B and that in his opinion Pupil B would not have been able to use a protractor as required for question 24.

We question Witness B's evidence in the light of his judgement that Pupil B's ability and potential was at level 1 or 2 at best. That does not match any of the teacher assessments which placed Pupil B securely within level 3. In light of that we do not consider that his evidence about what questions she may or may not have completed in the tests can be wholly reliable.

It has been alleged that the scripts do not correspond with other evidence about Pupil B's previous performance in that the results of these tests exceed all previous teacher assessments and one later assessment by at least three sub levels in one academic year. Whilst this is statistically unusual, in relation to Pupil B's tracked progress, relative to her peers, there are a number of factors that may explain this given that assessment of pupil performance is not an exact science. We have taken account of Witness B's view on this issue but that was not consistent with teacher assessments and there is a considerable amount of other information that was not available to us.

Having regard to the lack of any direct evidence that any changes and/or additions were made to Pupil B's Maths Test papers after completion of the tests on the balance of probabilities we do not find this allegation proven.

Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute

Having found the facts of the allegations 1, 3, 4, 6, 7, 8, 9 and 10 proved we further find that those amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

This is because:

Your actions constituted misconduct of a serious nature, falling significantly short of behaviour expected of a teacher.

We have noted your admissions that your actions amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Your actions breached the GTC Code of Conduct and Practice for registered teachers, effective from 1 October 2009. Specifically you:

Failed to demonstrate honesty and integrity and uphold public trust and confidence in the teaching profession in that you:

Failed to exercise your responsibilities in relation to the examination and assessment of achievement and attainment in a fair, transparent and honest way; and

Failed to maintain reasonable standards in your behaviour to enable you to maintain an effective learning environment and also to uphold public trust and confidence in the profession.

Your actions also breached the latest standards published by the DfE in that you failed to act with honesty and integrity and in doing so failed to make the education

of pupils your first concern and be accountable for achieving the highest possible standards in work and conduct. Specifically, you:

Failed to make accurate and productive use of assessment; and

Failed to have an understanding of, and always act within, the statutory frameworks which set out your professional duties and responsibilities.

We do not consider that any reasonable person would consider that such a cavalier behaviour in relation to the examination process was acceptable, not least for an experienced Head Teacher. The public trusts teachers to maintain the integrity of the examination system. Your failure to do this brings the profession into disrepute.

Panel's Recommendation to the Secretary of State

When considering what sanction, if any, to recommend we have had regard to "The Prohibition of Teachers – DfE advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession". In particular we have had regard to the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. We have sought to approach the issue bearing in mind the principle of proportionality.

We have concluded that in this instance it is appropriate to recommend that a Prohibition Order be made.

We have carefully considered the documents that we have been provided with, the oral evidence that we have heard and the submissions made by Mr Faux and Mr Bentley.

Mr Schofield's failings constituted a very serious departure from the personal and professional conduct elements of the GTC Code of Conduct and the latest standards published by the DfE. They also constituted misconduct that did seriously affect the education of pupils, given that the SATS results of an entire year group were annulled.

We have considered very carefully the mitigation put forward, in particular the evidence given by Witness C. We are impressed that she attended at the hearing and gave evidence in person and accept the evidence that she gave about Mr Schofield's contribution to the school, the children and their parents. Further, the school has a real need for good teachers and Mr Schofield's qualities as a classroom teacher have not been brought into question in any of the allegations.

We have also considered the evidence of Mr Schofield and can understand that he was under a great deal of stress at the time in question. He has since sought to redeem himself and is now making a valuable contribution to the school at which he now teaches.

Despite the persuasive mitigation put forward we are conscious that Mr Schofield's actions were deliberate and constituted a course of action which involved nine breaches of the proper procedures in relation to examinations. It is fundamental that

the public have confidence in the integrity of the examination process and the public interest determines that bringing this integrity into doubt is incompatible with being a teacher. Mr Schofield has only recently fully accepted those allegations that have been proved. Whilst he has accepted that he was guilty of an error of judgement he should, in his position, have realised that at the outset and openly accepted his culpability.

We recommend that Mr Schofield should be allowed to apply to set aside the Prohibition Order but not before two years have elapsed. His conduct was such that a Prohibition Order is appropriate but we consider that the public interest may be served by allowing Mr Schofield to make a contribution to education in the future. To achieve this he will need to make an application to the Teaching Agency and satisfy them that at that point it is in the public interest that he be allowed to teach, having had a suitable period of time to further reflect on his failings.

Secretary of State's Decision and Reasons

I have given very careful consideration to this case and in particular to the recommendations of the panel in respect of both sanction and review period.

Mr Schofield has been found guilty of unacceptable professional conduct. His deliberate actions involved a number of clear breaches of examination procedure. The public has a proper expectation that teachers will ensure that confidence can be maintained in the public examination system. By his behaviour Mr Schofield has brought that confidence into serious doubt. It also has the potential to bring the profession into disrepute.

Mr Schofield has admitted that his conduct amounts to unacceptable professional conduct. I have given careful consideration to the guidance about this and to the need to be proportionate and act in the public interest.

I support the recommendation that Mr Schofield is prohibited from teaching.

I have also given careful consideration to the recommendation relating to a review period.

Mr Schofield is now teaching but his behaviour was deliberate and had serious impact on pupils. I have once again balanced the public interest and ensured that my decision is proportionate. I support the recommendation that there be a two-year review period which will enable Mr Schofield, if he wishes, to evidence that he is a suitable person to teach again.

This means that Mr Michael Schofield is prohibited from teaching indefinitely and cannot teach in any school, Sixth Form College, relevant youth accommodation or children's home in England. He may apply for the Prohibition Order to be set aside, but not until 18 March 2015, two years from the date of this Order at the earliest. If he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Michael Schofield remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Mr Michael Schofield has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this Order.

NAME OF DECISION MAKER: Alan Meyrick

DATE: 11 March 2013