

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Andrew Morton
Teacher ref no: 9856168
Teacher date of birth: 20 February 1975
TA Case ref no: 9400
Date of Determination: 18 March 2013
Former Employer: Uppingham Community College, Rutland

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 18 March 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Andrew Morton.

The Panel members were Mr William Brown OBE (Lay Panellist–in the Chair), Mrs Marion May (Teacher Panellist) and Mr Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mr Graham Miles of Morgan Cole LLP, solicitors.

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

Mr Andrew Morton was present and was represented by Mr Nigel Turner of NASUWT.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 4 January 2013.

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

Whilst employed at Uppingham Community College, Rutland, between late 2007 and July 2008 he engaged in an inappropriate relationship with Student A.

Mr Morton admitted the facts of the allegation and that the admitted facts amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

C. Preliminary Applications

There were no preliminary applications.

D. Summary of Evidence

Documents

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

Section 1: Anonymised pupil list and chronology on pages 2 to 4

Section 2: Notes of proceedings and response on pages 6 to 11

Section 3: Statement of agreed facts on pages 13 to 16

Section 4: Teaching Agency documents on pages 18 to 124

Section 5: Teacher's documents on pages 126 to 165.

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

Brief summary of evidence given

The Presenting Officer read out the following statement of agreed facts:

- “(1) Mr Andrew Morton (dob 20.02.75) was employed at Uppingham Community College from 2004 until 2012.
- (2) Mr Morton was the second in charge of the PE Department in the academic year 2007/08. Student A was a year 11 student who was 15 years of age. Mr Morton was aware of the school's Child Protection Policy and of the Safer Code of Conduct.
- (3) In late 2007, Mr Morton began exchanging text messages with Student A. These text messages became more frequent. Initially they were 'fun and humorous', however over time some of the text messages became more 'flirtatious'.
- (4) Around Christmas 2007, Mr Morton told Student A that he had begun to develop feelings for her. Around May 2008, Mr Morton told Student A that he loved/was in love with her.
- (5) Around Valentine's Day 2008, Student A asked Mr Morton to write a poem for her. Mr Morton wrote a poem entitled 'Foxy Lady' and subsequently left this in Student A's locker.

- (6) In February 2008, the school investigated concerns that Mr Morton was spending too much time with, Student A. No formal disciplinary action was brought at this stage, but Mr Morton was given an informal warning and was advised against being alone with or singling out any one student. During the course of this investigation, Mr Morton told Individual A, the Principal, and Individual B, the Deputy Principal, that he had not communicated with Student A either by text or email, however this was untrue.
- (7) Mr Morton continued to exchange text messages with Student A following this informal warning. Mr Morton saved Student A's number under the name 'Sweet Cheeks' and exchanged a number of text messages with her between March and July 2008. A number of the text messages which were exchanged contained content of a sexual nature, including on 15 April 2008, when Mr Morton texted Student A to say 'you'd be laid on your front, I'd lie next 2 u, running my fingertips up + down the back of ur legs ur back + shoulders, moving them in all different directions xx' and on 15 May 2008, when Mr Morton texted Student A to say 'Lmao! Fantastic! I'm smiling from ear 2 ear now! ps u have great breasts! Am in love with them already now I've felt them! Xxxx'.
- (8) At some point in 2008, Mr Morton prepared a report in respect of Student A, which he subsequently sent to her. This report included comments such as 'surprisingly, she is not a fan of her legs, though I beg to differ! I have often thought that I would like to touch them one day!' and 'Over the course of the year, [Student A's] approach to sexual aspects of life have flourished quite significantly'.
- (9) In June 2008, Student A told Mr Morton that she no longer wished to continue their relationship. They continued to exchange text messages into July 2008, including on 21 July 2008 when Mr Morton texted Student A to say 'What the fuck have I done 2 make u this way [Student A]? i just don't get why ur so bitter! Its out of order when I tried 2b is understanding'. Mr Morton also sent an email to Student A on or around 29 June 2008 when he asked Student A to read.
- (10) Mr Morton stored photos of Student A on his computer, which were taken on the last day of the school term and at the year 11 prom. He also kept 2 photographs of Student A on his mobile phone.
- (11) Mr Morton admits the facts of the allegation against him and that they amount to unacceptable professional conduct as set out in Rules 2.3 – 2.4 of the Disciplinary Rules for the Regulation of the Teaching Profession and which may be defined as misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher, in accordance with guidance set out in the Department of Education Advice document (The Prohibition of Teachers). Mr Morton also accepts that the facts of the allegation against him amount to conduct that may bring the profession into disrepute as set out in Rules 2.3 – 2.4 of the Disciplinary Rules for the Regulation of the Teaching Profession and which may be defined as behaviour which is directly related to the individual's suitability to be a teacher and which, if proven, may bring the

profession into disrepute, in accordance with guidance set out in the Department of Education advice document “The Prohibition of Teachers”.’

The Presenting Officer made the following submissions as to unacceptable professional conduct/ conduct that may bring the profession into disrepute. Reliance was placed upon the print out of the text messages as evidence of the inappropriate relationship. Ms Atkin submitted that it was self-evident that Mr Morton’s conduct fell far below the standard expected of a teacher. Mr Morton had been warned about the amount of time that he was spending with Student A. He continued to pursue a relationship with Student A after that time. The text messages were extremely concerning as they point towards Mr Morton anticipating physical contact with Student A in the future. Ms Atkin referred to the penultimate and pre-penultimate paragraphs on page 67 of the bundle which recorded the following text messages sent by Mr Morton to Student A on 16 May 2008, namely:

- ‘I’m imagining snuggling up 2u in my hoodie, ur gorgeous hair against the white of my top, ur amazing tanned legs beneath ! Then we kiss, I gently stroke up the back + and inside of ur legs b4 taking it off + we make love the whole night thru xxxx’.

Mr Morton had acknowledged that he was aware that what he was doing was wrong. In the document addressed to Student A at page 22 he used the phrase “Yes all the rules say we shouldn’t” and ‘exceptions have to be made if the people involved believe it to be their destiny!’

Mr Turner confirmed that, as Mr Morton admitted unacceptable professional conduct and conduct that may bring the profession into disrepute, he would not be making submissions or calling evidence at this stage.

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.

Mr Andrew Morton was employed at Uppingham Community College from 2004 until 2012. Mr Morton was the second in charge of the PE Department in the academic year 2007/08. Student A was a year 11 student who was 15 years of age.

In late 2007, Mr Morton began exchanging text messages with Student A. These text messages became more frequent and continued until July 2008, despite an informal warning in February 2008. A number of text messages which were exchanged contained content of a sexual nature.

In June 2008, Student A told Mr Morton that she no longer wished to continue their relationship. They continued to exchange text messages until July 2008.

Mr Morton stored photos of Student A on his computer, which were taken on the last day of the school term and at the year 11 prom. He also kept 2 photographs of Student A on his mobile phone.

Findings of fact

Whilst employed at Uppingham Community College, Rutland, between late 2007 and July 2008 he engaged in an inappropriate relationship with Student A.

We are satisfied that the facts of the allegation have been established based on Mr Morton's admission and the content of the agreed statement of facts.

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

We are satisfied that, in relation to the admitted facts, Mr Morton's conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In making this determination, we have found that Mr Morton breached elements of Part Two of the Teachers' Standards (May 2012), namely:

There is an expectation that teachers will demonstrate consistently high standards of personal and professional conduct. This includes upholding public trust and confidence in the profession and maintaining high standards of ethics and behaviour, within and outside school, by:

- treating pupils with dignity, building relationships rooted in mutual respect, and at all time observing proper boundaries appropriate to a teacher's professional position;
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.

In addition, teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

Furthermore, teachers must have an understanding of, and always act within, statutory frameworks which set out their professional duties and responsibilities.

Mr Morton breached these standards in engaging in an inappropriate relationship with a 15 year old student attending the school where Mr Morton was teaching. The relationship continued, despite an informal warning being given by the Principal of the school in February 2008. Mr Morton admits that he was aware of the school's Child Protection Policy and the Safer Code of Conduct, but he failed to comply with them.

In addition, we are satisfied that Mr Morton breached the General Teaching Council's Code of Conduct and Practice for Registered Teachers which came into effect on 1 November 2004, in the following respects:

- he failed to comply with relevant statutory provisions which support the well-being and development of pupils;
- his actions brought the reputation and standing of the teaching profession into serious disrepute.

F. Summary of Evidence/ submissions re sanction

Mr Turner called Mr Morton to give evidence.

Mr Andrew Morton

In response to questions from Mr Turner, Mr Morton stated:

- He decided to attend today's hearing in person as he was unable to attend the school's disciplinary hearing due to ill health. Also he wanted to give his version of events in order to put across what he was going through at the time and to show that he was not a bad person.
- He felt that at the relevant time he was vulnerable as he had just come out of a relationship with a woman who had mentally and psychologically ground him down. When the relationship broke down he felt lost, vulnerable and depressed and did not know where to turn. The relationship with Student A developed when he was not strong enough to resist. He gave in by responding to text messages.
- In his statement at page 104 he referred to seeing counsellors about his breakdown and to discuss his problems. The first counsellor he saw he did not feel comfortable with. The second one was arranged by the School Principal and he felt that as he discussed certain elements of his closeness to Student A, the counsellor was starting to form her own opinions and judgments. This was why he had seen a number of counsellors.
- He had heart surgery in January 2012 and one of the by-products of his heart condition was depression. He was not able to attend the school's disciplinary hearing because of ill health.
- He had submitted a statement to be read out at the disciplinary hearing. In this he acknowledged that it was a mistake to store photographs of Student A on his mobile phone and home computer. The photographs shown at pages 30 to 38 of the bundle were all taken at the year 11 leavers' prom. He had kept them because he liked to keep a memento of each year group. The photographs at pages 40 to 41 were photographs that he uploaded from his phone to his computer. Student A had personally sent these photographs to him.

- In terms of his health, he felt that the treatment that he has received had helped him to deal with the issues he was facing 3 or 4 years ago.
- He had 6 full sessions of Cognitive Behaviour Therapy (CBT). This had forced him to try to think positively and he is now able to go out and talk to people with some confidence.
- He loves helping pupils to achieve their best. He was extremely sorry for what he did.

In response to questions from the Presenting Officer, Mr Morton stated:

- At the time of his actions he did know that what he was doing was wrong. He accepted it was his choice, but he felt that he was not the same person now. At the time fear had got hold of him.
- He could have stopped the relationship but he was not strong enough. He was now a much stronger person through counselling.
- He acknowledged that it was his duty to act in the best interests of pupils and that he did not do so in relation to Student A. He could never develop such feelings for a student again.

In response to questions from the Panel, Mr Morton stated:

- He was planning to have further counselling and his first session would be taking place in April. The full programme has not been finalised yet but it will involve at least 6 sessions.

In her closing submissions, the Presenting Officer drew attention to the 3 strands of the public interest. This was not a single isolated incident but a course of behaviour over a period of months. Mr Morton had acknowledged that he had not acted in the best interest of Student A. He was not open about what had happened and at the time he knew that what he was doing was wrong.

In his closing submissions, Mr Turner said that Mr Morton had not attended the original disciplinary hearing due to medical evidence that this could be detrimental to his health. However, he had now attended in person and wanted to apologise. He had sought professional help and he wanted to emphasise that Mr Morton's actions in relation to Student A were entirely out of character. This is evidenced by the fact that he was able to return to work for a further 3 years following the involvement with Student A.

G. Panel's Recommendation to the Secretary of State

We have carefully considered all of the evidence and submissions put forward in mitigation. Mr Morton is a person of previous good character who held a position of responsibility within his department. We also took into consideration the positive

character references. We noted that Mr Morton had a number of medical conditions and personal circumstances that he claimed made him vulnerable. Mr Morton continued teaching after the relationship ended in July 2008 until his suspension on 26 May 2011.

Nevertheless, the misconduct was a serious departure from the personal and professional conduct elements of a teacher's responsibilities. Mr Morton was in a position of trust in relation to Student A, which he abused. Furthermore, Mr Morton, during his oral evidence, acknowledged that he knew at the time that his actions were wrong. Mr Morton failed to heed the informal warning that he was given in February 2008 and continued to develop the relationship. The Panel is satisfied that his actions were deliberate and intended to develop the relationship further. Safeguarding of pupils is a fundamental duty of all teachers and is part of the Teachers' Standards. Mr Morton failed in this duty.

Having considered the above, we are satisfied that Mr Morton's behaviour was fundamentally incompatible with being a teacher. The Panel recommend a Prohibition Order on the basis that it is necessary to maintain public confidence in the profession and to declare and uphold proper standards of conduct.

We considered whether to recommend that the period after which Mr Morton should be eligible to apply for the Prohibition Order to be set aside should be longer than the minimum period of 2 years. However, we recommend that the minimum period of 2 years should apply for the following reasons. Mr Morton has expressed remorse and demonstrated some insight into his behaviour during 2008. The Panel recognises that Mr Morton has taken steps to address his health issues and is in continuing therapy.

Secretary of State's Decision and Reasons

I have given careful consideration to this case and to the recommendation of the panel. Mr Morton has been found guilty of engaging in an inappropriate relationship with a Student. He has admitted the facts and that his conduct was unacceptable.

Teachers hold positions of trust and Mr Morton has seriously abused that trust. His behaviour was deliberate and was a serious breach of the standards expected of a teacher. I support the recommendation that he be prohibited.

I have also considered the recommendation in respect of review. Mr Morton has shown some insight and has taken some steps to address his health issues. I therefore support the recommendation that a two year review period is in place.

This means that Mr Andrew Morton 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 26 March 2015, 2 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 Andrew Morton remains barred from teaching indefinitely.

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

Mr Andrew Morton 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: 19 March 2013