

## THE TEACHING AGENCY

### Decision of a Professional Conduct Panel and the Secretary of State

Teacher: MR STEWART BATES  
Teacher date of birth: 4 OCTOBER 1949  
Teacher Reference Number: 95/64639  
Date of Determination: 1 OCTOBER 2012  
Former Employer: X SCHOOL

---

#### A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 1 October 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Stewart Bates.

The Panel members were Mr William Brown OBE (Lay Member– in the Chair), Ms Gail Goodman (Teacher Member) and Mr Mark Tweedle (Teacher Member).

The Legal Adviser to the Panel was Mr Andrew Lockley of Irwin Mitchell LLP.

The Presenting Officer for the Teaching Agency was Ms Sarah Knight of Bevan Brittain LLP.

Mr Bates was present but was not represented.

The hearing took place in public and was recorded.

#### B. Allegations

The Panel considered the allegations set out in the amended Notice of Proceedings dated 24 July 2012. These were as follows:-

1. You are guilty of unacceptable professional conduct in that whilst employed as Head of Religious Studies at X School, in January 2009 you accessed websites and emails on your laptop during lesson time that were not related to the classes that you were teaching or your work at school.
2. You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that in 2010 you conducted an inappropriate sexual relationship with a former pupil of yours who was sixteen at the material time.
3. You have been convicted of the following relevant offences, namely;

- a. That on 23 April 2009 you were fined £800 by Bolton Magistrates and ordered to pay costs, for driving a motor vehicle with excess alcohol on 10 April 2009. You were also disqualified from driving for 2 years, that to be reduced by 6 months if by 22 August 2010 you satisfactorily completed a course approved by the Secretary of State.
- b. That on 5 November 2009 you were convicted by Bolton Magistrates of driving a motor vehicle on 12 May 2009, whilst disqualified, and made subject to a community order, ordered to pay costs and disqualified from driving for 18 months.
- c. That on 5 November 2009 you were convicted by Bolton Magistrates of using a vehicle whilst uninsured and your licence was endorsed.
- d. That you were convicted on 5 November 2009 at Bolton Magistrates Court of driving without due care and attention on 12 May 2009 and your driving licence was endorsed.
- e. That on 24 June 2011 you were found guilty at Preston Crown Court of common assault on 16 July 2010, and sentenced on 22 July 2011 to 6 weeks imprisonment.

## C. Preliminary Applications

As a result of a preliminary application the name and identity of the school shall not be disclosed during the hearing or at all.

## D. Summary of Evidence

### Documents

In advance of the hearing, the Panel received a bundle of documents numbered 1 to 149. The bundle consisted of:-

1. Section 1: anonymised pupil list (page 2)
2. Section 2: notice of proceedings and the teacher's response (pages 4 to 10)
3. Section 3: Witness statement of Individual A and Individual B (pages 11 to 15)
4. Section 4: Teaching Agency documents (pages 17 to 86)
5. Section 5: teacher's documents (pages 87 to 149).

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

Opening address by the presenting officer

Ms Knight made an opening statement in which she outlined the allegations which the Panel was to consider. She pointed out that the allegations covered a period of time and showed a lack of adherence by Mr Bates to any sort of authority. The allegations had first been brought when the GTC was in existence. The GTC Code remained applicable to these allegations. They were all allegations relating to

activities outside of school and could bring the teaching profession into disrepute. It was irrelevant that Mr Bates was not employed as a teacher at the time, which spanned the period January 2009 to July 2010.

In relation to allegation 1 it was an aggravating feature that Mr Bates had accessed a dating website during a class although it would be unprofessional to access personal emails during lessons in any event. Although an Employment Tribunal had found that the investigation of this disciplinary matter by the school had been flawed, it had concluded that Mr Bates' conduct in this regard had not been blameless. Furthermore Mr Bates had signed a policy document confirming he understood the school's policy in relation to computer use which included a rule that it was not to be used for private communications.

Allegation 2 concerned the inappropriate sexual relationship which he had formed with a former pupil who was 16 at the material time (referred to in this Decision as 'Pupil A'). It was accepted that this conduct took place after the termination of his employment. The relationship had not been illegal but it was conduct which brought the profession into disrepute in that it showed a breach of trust and abuse of position. The Panel was invited to consider the Judge's sentencing remarks when Mr Bates was found guilty of common assault and imprisoned for six weeks.

Ms Knight then turned to certificates of conviction which covered the remaining allegations. She reminded the Panel they could not go behind the convictions which are matters of fact. The convictions were in relation to driving offences committed on 10 April 2009 and 12 May 2009, and for common assault on 16 July 2011, for which Mr Bates had been convicted on 24 June 2011 and for which sentence was passed on 22 July 2011.

#### Opening address by the Teacher

Mr Bates told the Panel that the picture being presented was not real. It covered a period which was associated with health problems following the breakdown of his marriage and the termination of his employment. He had been a successful teacher for 20 years after qualifying at age 40. He had been head of Religious Studies at X school since 1999 and successfully raised the standards, including at GCSE level. He had been described as an outstanding teacher in two OFSTED reports. He believed however that the Headteacher had a vendetta against him.

#### Witnesses

The only oral evidence was given by Mr Bates. He confirmed that he admitted all the facts of the allegations except that he did not accept that his sexual relationship with a former pupil of 16 was inappropriate. Furthermore he did not accept that the facts in allegations 1 and 2 amounted to unacceptable professional conduct. Whilst he had to admit that the certificates of conviction were correct, he had applied to the Criminal Cases Review Commission (CCRC) which was at present reviewing his conviction for common assault.

In relation to allegation 1 he referred the Panel to the decision given by the Employment Tribunal that he had been unfairly dismissed. Mr Bates said that he

had been going on to his home emails every day at suitable moments in class but that it was absurd to suggest that only he was doing it. He had clicked on a link to a dating website when he had seen an email from a contact, and had responded to that contact in a matter of seconds. He drew attention to the description of this activity as “seedy” by the Headteacher and others who had given evidence to the Employment Tribunal.

Mr Bates explained to the Panel that he had not been able to drink alcohol for some time because of medication and that the first time he had had some alcohol he had unfortunately driven a car, travelling at short notice to see a girlfriend who was ill. That was the occasion of the offence on 10 April 2009.

In relation to the allegation of an inappropriate sexual relationship with a former pupil, Mr Bates drew attention to the fact that the former Chief Inspector of Schools, had had a relationship with a pupil whereas he had had a relationship with a former pupil. He had had many years of a blameless career first as a youth worker and then as a teacher. There had never been any previous suggestion of impropriety although he had had to extricate himself from a difficult encounter with a female pupil while on a school journey.

Mr Bates drew attention to the submissions that he had made to the CCRC, which were in the bundle. He emphasised that he had not known that the pupil against whom he had been convicted of common assault was vulnerable or previously in care. She had not been his pupil. Her best friend was the girl with whom he had had the sexual relationship. That girl’s evidence had been supportive during the criminal proceedings. He did not believe the conviction would stand. He had been found not guilty of all the original sexual assault charges but the Judge appeared to have taken those charges into account as background in his sentencing remarks. The only evidence which had been corroborated in relation to the assault was that his hands were on pupil B’s shoulders. The Judge had ruled the jury that if Pupil B did not want them there that would constitute common assault. He had been convicted as a result.

Mr Bates said that he did not represent a danger to children but he did not expect to be able to take up a permanent appointment again. He thought it possible that he might get some supply teaching if allowed to continue with his career.

In answer to questions from the Presenting Officer in cross-examination, Mr Bates confirmed that he had had to log in to get onto the dating website. He acknowledged that this was a step further than simply dealing with an email.

In answer to questions from the Panel, Mr Bates said that pupil A had been one of his GCSE students in 2009 but he had not known her before that. He had met her again because she had come into the charity shop where he had carried on working voluntarily after he had finished his community order for his driving offences. He had stopped being a teacher and did not see that the relationship had been inappropriate. Indeed he did not think of appropriateness in a context in which he had been denuded of self-esteem and self-respect after his career had been ruined. As a teacher, a sense of what was appropriate would have come to him

automatically. Now however with the passage of time, he took the view that the relationship had not been appropriate. He thought he had been manipulated.

In relation to the drink driving offences, he conceded that he had been some way over the limit. He had driven off after drinking in the context of what he described as a silly row.

### Submissions

Ms Knight pointed out to the Panel that Mr Bates had accepted that he had accessed a website and exchanged emails and that this was inappropriate in the classroom situation. In relation to the driving offences, her view was that Mr Bates would have been sent to prison for driving whilst disqualified but for strong mitigation. The Panel had no choice but to deal with the assault conviction on its merits and could not go behind the Judge's remarks. She pointed out also that Mr Bates had accepted that pupil A was too young to deal with the issues raised by his relationship with her.

In his closing remarks Mr Bates emphasised that he had not left the children in his class unsupervised whilst he dealt with emails. They were watching a video connected with their studies. He likened it to doing photocopying or similar activities while the pupils were otherwise engaged.

He drew attention to the remarks made by the Employment Tribunal about his former head teacher which were highly critical (paragraph 3.26 of the Tribunal decision, to be found at page 68 of the Panel's bundle). Mr Bates also drew attention to the fact that if these matters had been considered by a Committee of the General Teaching Council - as there might have been - a wider range of sanctions would have been available. The transfer of the disciplinary regulatory functions to the Teaching Agency had left the Panel with the option of only a recommendation of a prohibition or no action at all.

Finally, Mr Bates told the Panel that he had thought pupil A more mature than she was.

### 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.

### Findings of fact

Our findings of fact are as follows:

We have found the facts of the following allegations against you proved, for these reasons. You admitted them all in the terms set out below, save for initially denying

that the relationship described in Allegation 2 was inappropriate. You conceded however during questioning that the relationship was inappropriate.

1. That whilst employed as Head of Religious Studies at X School, in January 2009 you accessed websites and emails on your laptop during lesson time that were not related to the classes that you were teaching or your work at school.
2. That in 2010 you conducted an inappropriate sexual relationship with a former pupil of yours who was a pupil at the material time.
3. a. That on 23 April 2009 you were fined £800 by Bolton Magistrates, for driving a motor vehicle with excess alcohol on 10 April 2009. You were also disqualified from driving for 2 years, that to be reduced by 6 months if by 22 August 2010 you satisfactorily completed a course approved by the Secretary of State.  
 b. That on 5 November 2009 you were convicted by Bolton Magistrates of driving a motor vehicle on 12 May 2009, whilst disqualified, and made subject to a community order, ordered to pay costs and disqualified from driving for 18 months.  
 c. That on 5 November 2009 you were convicted by Bolton Magistrates of using a vehicle whilst uninsured and your licence was endorsed.  
 d. That you were convicted on 5 November 2009 at Bolton Magistrates Court of driving without due care and attention on 12 May 2009 and your driving licence was endorsed.  
 e. That on 24 June 2011 you were found guilty at Preston Crown Court of common assault on 16 July 2010, and sentenced on 22 July 2011 to 6 weeks imprisonment.

In relation to Allegation 1, we have seen evidence of screenshots produced from your computer.

In relation to Allegation 2, we have seen the Judge's remarks as to the appropriateness of this relationship with a girl then aged 16, when he sentenced you for the offence of common assault referred to in Allegation 3e.

In relation to all other offences, we have seen the certificates of conviction.

#### Findings as to Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute/Conviction of a Relevant Offence

We have had regard to Teachers' Standards, issued by the DfE, which applies from April 2012, and to the GTC Code of Conduct for Teachers.

Having found the facts of Allegation 1 proved on your admission, we further find that your actions amount to unacceptable professional conduct because it is in our view a breach of the high standards required of a teacher taking a class. You did not have regard to the relevant policy of the school when you spent time – however short – on a dating website and sent an email to a contact at a time when you were in charge of a class. We note that despite making criticisms of the procedure adopted by the school in dismissing you, an Employment Tribunal came to the same conclusion on 6 December 2010.

Having found the facts of Allegation 2 proved, we find that your actions amount to unacceptable professional conduct. While we accept that former pupil with who you had a relationship was not being taught by you at the time – indeed you did not have a teaching post at the time – and that she may to some extent have led you on, she was nonetheless under your influence. Indeed the judge at your trial for common assault against former pupil J who was present with pupil at your house, made the same point. Such behaviour does not uphold public trust in the profession.

Having found the facts of all the convictions proved on your admission, the Panel has found that they all constitute ‘relevant offences’. In our view, all the offences were serious enough in their context to be ‘relevant’ as defined in DfE guidance ‘The prohibition of teachers’. Common assault is in the lowest category of offences of violence but in the sexual context mentioned above, it is serious, particularly as here, where you had taken alcohol. Offences of drink-driving and driving whilst disqualified cannot be regarded as minor, and indeed all the offences found proved on 5 November 2009 took place at the same time in the context of a conscious decision to drive only a month after disqualification, and in the knowledge that you had no insurance.

#### Submissions as to sanction

The Presenting Officer pointed out to the Panel that Mr Bates had been just over three times the legal alcohol limit and his period of disqualification on 10 April 2009 had been at the upper end of the range as had his hefty fine of £800.

Ms Knight suggested that Mr Bates did not take responsibility for his actions. He had talked a lot about the impact of his dismissal and what followed up on his life but not the impact on pupil A or pupil B. He had not conceded that there had been a breach of trust. She accepted that Allegation 1 was not one of the most serious but advised the Panel to look at all the allegations in the round. In her view they all involved a lack of judgment. She considered that taking the 2009 GTC Code which remained in force it was fair to characterise Mr Bates as not having put the interests of his pupils first nor upheld public confidence in the profession. She reminded the Panel that the primary purpose of professional sanctions is not to punish but to maintain public confidence in the teaching profession and that the Panel should consider proportionality when deciding on sanctions.

Mr Bates’ submissions on sanctions focused on his 20 years of an unblemished teaching career with an excellent record. If he was prohibited from teaching it would be the loss of a good, charismatic teacher.

#### **Panel’s Recommendation to the Secretary of State**

Having made its decision, the Panel has considered whether it is necessary to recommend to the Secretary of State, that he make a prohibition order.

The Panel has borne in mind that the purpose of a sanction is not to be punitive, although it may have a punitive effect. The purpose is to maintain confidence in the

teaching profession. The question for the Panel is whether a recommendation for prohibition would be proportionate.

The panel has had regard to the public interest considerations set out in DfE guidance:

1. The protection of children and other members of the public
2. The maintenance of public confidence in the profession
3. Declaring and upholding proper standards of conduct.

All of those considerations are in play in this case in the Panel's view. As to whether a recommendation for a prohibition order is appropriate, the Panel has weighed those considerations against the interests of the teacher.

Mr Bates told the Panel that he had an unblemished record of 20 years teaching, and that he was an inspirational teacher. His former headteacher, whom he accused of conducting a vendetta against him, had praised his pupils' exam results, and the Panel accepts that there is no evidence that Mr Bates has not been a competent teacher. The Panel however found that Mr Bates seemed unwilling to acknowledge his own fault and sought to place blame on others.

In the view of the Panel, Mr Bates' unacceptable professional conduct, together with the convictions found by the Panel to be 'relevant', constitute serious departures from the personal and professional standards expected of a teacher. In particular, his conviction for an offence of violence – for which he received a sentence of imprisonment – in the aggravated context of a sexual encounter with a 16 year old former pupil involving an abuse of trust, on its own justifies a Prohibition Order. To recommend otherwise would in our view, threaten public confidence in the profession. The relationship was in any event the subject of a separate allegation which, the Panel also found, constitutes unacceptable professional conduct. The Panel recommends that a Prohibition Order be made.

Mr Bates has made an application to the Criminal Cases Review Commission for referral of his conviction for common assault to the Court of Appeal. This review will take some time. The Panel has considered whether, in light of the possibility that this conviction may be overturned, Mr Bates should be able to apply to the Secretary of State under para 16 (1) of the regulations for a review of any Prohibition Order.

However, the Panel's recommendation for a Prohibition Order has been made after taking all the allegations and convictions into consideration. The Panel's view is that there should be no right of review.

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

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

The panel has found that Mr Bates is guilty of both unacceptable professional conduct and relevant criminal convictions.



Mr Bates' misconduct was of a serious nature and brings the profession into disrepute. It is behaviour that does not uphold the reputation of the profession.

The convictions that Mr Bates has are serious and involve an abuse of trust. The driving convictions represent a deliberate decision to drive whilst uninsured.

There is a pattern of misconduct here and even in the absence of a particular incident or conviction, that pattern amounts to a serious failing to meet the standards expected of a teacher.

I therefore support the recommendation of the panel that Mr Bates receive a prohibition order.

Turning to the matter of a review period, I support the recommendation of the panel that there be no review period. The matters found in this case are very serious and suggest a fundamental incompatibility with the standards expected of a professional teacher.

This means that Mr Stewart Bates is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Stewart Bates shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Stewart Bates 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: 3 October 2012**