

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Alan Michael Gorbutt
Teacher ref no: 11/30326
Teacher date of birth: 26 November 1967
TA Case ref no: 8406
Date of Determination: 27 July 2012
Former Employer: FTC Arts College, Scunthorpe

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 27 July 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Alan Michael Gorbutt.

The Panel members were Mr Kevin Nolan (Professional Panellist– in the Chair), Mr Martin Pilkington (Lay Panellist) and Ms Gail Goodman (Professional Panellist).

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

The meeting took place in private. The decision of the Panel (excluding the recommendation to the Secretary of State) was announced in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Referral dated 13 December 2011.

It was alleged that Mr Gorbutt was guilty of unacceptable professional conduct, in that:

Whilst employed at the FTC Arts College, Scunthorpe, Lincolnshire, between 15 December 2008 and 7 April 2011 he:

- 1. had conversations of an inappropriate nature with a 16 year old pupil, Pupil A, via “Facebook” and via mobile phone text messages between 1 May 2010 and 9 June 2010;**
- 2. sent a photograph of his genitals to Pupil A;**
- 3. has the following criminal matter recorded against his name;**

CAUTION	Cause/ Incite sexual activity with female 13-17, offender 18 or over, abuse of position of trust on 01/05/10 – 09/06/10 Sexual Offences Act 2003, s17(1)(e)(ii)
DATE	24/03/2011

Mr Gorbutt admitted the alleged facts and admitted that they 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, page 1

Section 2: Notice of Referral and Response, pages 2 – 6

Section 3: Statement of Agreed Facts and Representations, pages 7 – 12

Section 4: Teaching Agency Documents, pages 13 – 148

Section 5: Teacher's Documents, pages 149 - 153

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 agreed statement of facts confirmed that Mr Gorbutt was employed at FTC Arts College, Scunthorpe from 3 January 2005 until 7 April 2011 and that he began communicating with Pupil A via "Facebook" in or around May 2010. Mr Gorbutt also exchanged mobile telephone numbers with Pupil A. Pupil A was aged 16 throughout the course of these communications and was still enrolled as a student at the College until 26 June 2010. On one occasion, the communication between Mr Gorbutt and Pupil A became of a flirty and inappropriate nature and culminated in Mr Gorbutt sending Pupil A photographs of his genitals. Thereafter, the communications were of a predominantly sexual nature.

On 24 March 2011, Mr Gorbutt accepted a police Caution for an offence of abuse of position of trust: causing or inciting sexual activity with a female aged 13 to 17 between 1 May 2010 and 9 June 2010 contrary to section 17 of the Sexual Offences Act 2003.

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 noted that Mr Gorbutt has requested that the case be considered at a meeting of the Professional Conduct Panel and that the Teaching Agency has agreed to this request.

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

We concluded that it was appropriate for this case to be dealt with as a meeting and we proceeded on that basis.

We note from the agreed statement of facts that Mr Alan Michael Gorbutt (DOB 26 November 1967) was employed at FTC Arts College, Scunthorpe from 3 January 2005 until 7 April 2011. Mr Gorbutt began communicating with Pupil A via "Facebook" in or around May 2010. Although Pupil A was aged 16 throughout the course of these communications, she was still enrolled as a student at FTC Arts College until 26 June 2010. Mr Gorbutt also exchanged mobile telephone numbers with Pupil A.

On one occasion, the communication between Mr Gorbutt and Pupil A became of a flirty and inappropriate nature and culminated in Mr Gorbutt sending Pupil A photographs of his genitals. Thereafter, the communications were of a predominantly sexual nature.

On 24 March 2011, Mr Gorbutt accepted a police Caution for an offence of abuse of position of trust: causing or inciting sexual activity with a female aged 13 to 17 between 1 May 2010 and 9 June 2010 contrary to section 17 of the Sexual Offences Act 2003.

Findings of fact:

Mr Gorbutt has admitted the facts of the following allegations namely:

Whilst employed at the FTC Arts College, Scunthorpe, Lincolnshire, between 15 December 2008 and 7 April 2011 he:

- 4. had conversations of an inappropriate nature with a 16 year old pupil, Pupil A, via "Facebook" and via mobile phone text messages between 1 May 2010 and 9 June 2010;**
- 5. sent a photograph of his genitals to Pupil A;**
- 6. has the following criminal matter recorded against his name;**

CAUTION	Cause/ Incite sexual activity with female 13-17, offender 18 or over, abuse of position of trust on 01/05/10 – 09/06/10 Sexual Offences Act 2003, s17(1)(e)(ii)
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Although, we have not been provided with copies of the actual messages sent via “Facebook” or text, we have noted that during the North Lincolnshire Child Protection Team Strategy Meeting on 9 July 2010, Mr Gorbutt acknowledged that he had sent a message to Pupil A in which he requested an image of her after sending her a photograph of his genitals. We are satisfied that the facts have been established based on this evidence, Mr Gorbutt’s admissions and the agreed statement of facts.

Findings as to Unacceptable Professional Conduct

Mr Gorbutt admits that his actions amount to unacceptable professional conduct.

We are satisfied that Mr Gorbutt is guilty of unacceptable professional conduct for the following reasons:

Mr Gorbutt breached the following parts of the Code of Conduct and Practice for Registered Teachers, namely:

Principle 1, he failed to put the wellbeing of Pupil A first. In particular, he:

- Did not take all reasonable steps to ensure the safety and wellbeing of Pupil A
- Did not follow the college’s child protection policies and procedures
- Did not establish and maintain appropriate professional boundaries in his relationship with Pupil A
- Failed to demonstrate self-awareness and take responsibility to ensure that his own practice did not place Pupil A at risk of harm.

Principle 8, he failed to uphold public trust and confidence in the teaching profession. In particular, he:

- Failed to safeguard Pupil A;
- Did not maintain reasonable standards in his own behaviour or uphold public trust and confidence in the profession.

We are also satisfied that Mr Gorbutt’s conduct does not comply with the Teachers’ Standards Part Two in that he:

- Did not uphold public trust and confidence in the profession and did not maintain high standards of ethics and behaviour by:
 - failing to observe proper boundaries appropriate to his position;
 - failing to safeguard Pupil A.
- Did not have proper and professional regard for the ethos, policies and practices of the college.

- Failed to demonstrate an understanding of and act within the safeguarding framework.

Panel's Recommendation to the Secretary of State

"We have carefully considered the content of Mr Gorbutt's letters dated 6 July 2011 and 8 June 2011 and the fact that Mr Gorbutt is no longer working as a teacher.

We have decided to recommend a Prohibition Order for the following reasons.

Mr Gorbutt's behaviour was incompatible with being a teacher for the following reasons:

- This was a serious departure from the personal and professional conduct elements of the teacher's standards.
- The misconduct seriously affected the wellbeing of Pupil A. We noted that when interviewed, Pupil A said that she had panicked when Mr Gorbutt had said that he was only 15 minutes away from her.
- Mr Gorbutt's actions were deliberate and undermined the profession and the college.

We are satisfied that this is a proportionate sanction.

The Panel has considered whether a period should be specified after which Mr Gorbutt may apply for the Prohibition Order to be set aside. We have concluded that the misconduct in this case is so serious that that we should recommend a prohibition order with no provision for the teacher to apply for it to be set aside after any period of time. In coming to this view, we have taken into account the fact that, in addition to conducting inappropriate "Facebook" and text message exchanges with Pupil A, Mr Gorbutt sent the pupil a photograph of his own genitalia. The seriousness of his misconduct is reflected in the fact that Mr Gorbutt received a police caution for an offence under the Sexual Offences Act 2003. The elements of that offence were that he had abused his position of trust by causing or inciting a pupil to engage in sexual activity. Taking these factors into account, we consider this case to involve serious sexual misconduct".

Secretary of State's Decision and Reasons

I have given careful consideration to the decisions and recommendations of the panel in this case.

Mr. Gorbutt accepts the facts of the allegations and that those facts amount to unacceptable professional conduct.

The panel found that Mr Gorbutt's behaviour was incompatible with being a teacher. His actions were a serious departure from the personal and professional conduct elements of the teacher's standards and the misconduct seriously affected the wellbeing of pupil A.

The panel have recommended that a prohibition order is the appropriate sanction and I endorse this decision.

Moving on to the issue of a review period, the panel observed that the seriousness of his misconduct is reflected in the fact that Mr Gorbutt received a police caution for an offence under the Sexual Offences Act 2003. In view of this and the fact that they considered his behaviour to involve serious sexual misconduct, the panel have recommended that there be no provision for the teacher to apply for the prohibition order to be set aside after any period of time and I am in agreement with this judgement.

This means that Mr Alan Gorbutt is prohibited from teaching indefinitely and cannot teach in any school, Sixth Form College, relevant youth accommodation or children's home in England.

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

Mr Alan Gorbutt 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: 31 July 2012