

# THE TEACHING AGENCY

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

**Teacher:** Mr Alan Bromley

**Teacher ref no:** 9454623

**Teacher date of birth:** 23 July 1964

**TA Case ref no:** 8260

**Date of Determination:** 18 May 2012

**Former Employer:** Wheatley Hill Community Primary School/ Durham County Council

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### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 18 May 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Alan Bromley.

The Panel members were Mrs Bridget Evans (Professional Panellist– in the Chair), Mrs Gail Goodman (Professional Panellist) and Mr Andrew Potts (Lay Panellist).

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

The Presenting Officer for the Teaching Agency was Miss Shannett Thompson of Kingsley Napley LLP Solicitors.

Mr Alan Bromley was present and was represented by Mr Andrew Faux of Counsel, instructed by the NAHT.

The hearing took place in public and was recorded.

### **B. Allegations**

The Panel considered the allegation set out in the Notice of Proceedings dated 14 March 2012.

It was alleged that Mr Bromley was guilty of having been convicted of a relevant offence, namely:

**OFFENCE/DATE - Fraud on 12 May 2011.**

**COURT DATE/DISPOSAL Durham Crown Court on 3 June 2011. 12 weeks imprisonment suspended for 12 months on suspended sentence. Must reside at an address approved by the Probation Officer for 12 months. To pay £2000 towards the costs of the prosecution.**

Mr Bromley admitted the facts of the allegation (that is, that he was convicted of the specified offence). Mr Bromley also admitted that the conviction was for a relevant offence.

**D. Summary of Evidence (Facts and conviction of a relevant offence)**

Documents

In advance of the hearing, the Panel received a bundle of documents which included:  
Section 1: Notice of Proceedings and Response, page numbers 2 to 7;

Section 2: Witness Statement, page number 8;

Section 3: Teaching Agency documents, page numbers 9 to 22;

Section 4: Teacher Documents, page numbers 23 to 86

The additional documents introduced by Mr Faux were added to Section 4 of the bundle as pages. The Panel Members confirmed that they had read all of the documents in the original bundle in advance of the hearing and all of the additional documents during the period of adjournment.

Brief summary of evidence given

The parties confirmed that, although Mr Bromley admitted the alleged facts and that the conviction was for a relevant offence, there was no agreed statement of facts. Mr Faux said that an agreed statement was unnecessary in the context of this case.

Miss Thompson drew the Panel's attention to the fact that the conviction was for an offence of dishonesty and had resulted in a sentence of imprisonment, albeit suspended. Mr Bromley had a duty to uphold the reputation of the profession and he had breached that duty. Miss Thompson also referred to Mr Bromley's written statement at page 27 of the bundle in which he said 'I have always and will always maintain my innocence', which indicated a lack of insight on his part.

Mr Faux submitted that, although dishonesty is serious, it is now dealt with in relation to some offences by way of a fixed penalty notice. Mr Faux suggested that the submission by the Presenting Officer about lack of insight was not for this stage and that the focus should be on whether the offence was a relevant one. Mr Bromley was not disputing that this was a conviction for a relevant offence. Mr Faux submitted that

an important factor in coming to this conclusion was that the court concluded that the offence crossed the custody threshold (see page 12 of the bundle).

## **F. Decision and Reasons (Facts and conviction of a relevant offence)**

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 Alan Bromley was employed as Head Teacher at Wheatley Hill Community Primary Nursery School, County Durham. On 12 May 2011 he was convicted by a jury at Durham Crown Court in relation to an offence of fraud. On 3 June 2011 he was sentenced to 12 weeks imprisonment suspended for 12 months. He was also ordered to reside at an address approved by his Probation Officer for a period of 12 months and pay £2,000 towards the costs of the prosecution.

The circumstances of the offence were that the registrant's car, having been reported by him as stolen, was recovered in a burnt out condition. After submitting an insurance claim, the insurance investigator became suspicious and reported the matter to the police. Following a police investigation, Mr Bromley was charged with attempted fraud of the insurance company. Mr Bromley denied the allegation but was convicted following a trial. In his sentencing remarks the trial judge said:

*'I have to sentence you for what I regard as an act of madness on your part. I know that you continue to deny that you did anything wrong, but the jury concluded that you had arranged, for reasons of your own, for your car to be uplifted and burned out. Whatever was your intention and whatever the reasons for embarking on that enterprise it did, as Mr Davis has pointed out, singularly backfire. The result of this is that your reputation is in tatters and I suspect your career is in tatters. This is a matter of considerable sadness for someone who had got to the age of 45 without ever coming to the attention of the police, far from it you had, so far as the community is concerned, contributed an enormous amount. All of that now thrown away has passed down the drain'*

On 6 October 2011 a disciplinary hearing was held by the governing body of the school. A decision was made to dismiss the registrant on the basis that his actions amounted to gross misconduct.'

### Findings of fact

'We are satisfied that the alleged facts have been established based on the certificate of conviction and the admission made by Mr Bromley.

That Mr Bromley has been convicted of a relevant offence, namely:

**OFFENCE/DATE - Fraud on 12 May 2011.**

**COURT DATE/DISPOSAL Durham Crown Court on 3 June 2011. 12 weeks imprisonment suspended for 12 months on suspended sentence. Must reside at an address approved by the Probation Officer for 12 months. To pay £2000 towards the costs of the prosecution.**

#### Findings as to Conviction of a Relevant Offence

We are satisfied that the conviction was for an offence relevant to Mr Bromley's fitness to be a teacher and, therefore, is a relevant offence. Our reasons are:

- Mr Bromley's conduct was contrary to the standards of personal and professional conduct expected of a teacher;
- This was a serious offence reflected in the sentence of imprisonment, albeit suspended;
- Mr Bromley was convicted of fraud, which is an offence listed in our guidance as one which is likely to be considered relevant;
- It was accepted by Mr Bromley that his conduct was likely to have an impact on public confidence in the teaching profession.'

#### **G. Summary of Evidence (Facts and conviction of a relevant offence)**

Mr Faux confirmed that he wished to call Mr Bromley to give evidence in mitigation. The Chair confirmed that Mr Bromley's statement at pages 24 to 27 of the bundle would be taken as read.

In response to questions from Mr Faux, Mr Bromley stated that:

- The contents of his statement were true
- There was a massive literacy problem at Wheatley Hill Community Primary School and it was evident that the school had not fully become part of the community. It was clear to him that the emotional intelligence of the children was hampering their learning.
- After he took over as Headteacher, there was a very positive Ofsted report confirming that he was providing 'very good and effective leadership' and that he had a 'very clear grasp of the aids and barriers to raising pupils' achievement'.
- The aspirations of children improved and the school continued to be successful.
- Since leaving Wheatley Hill he has still been able to undertake supply teaching. One of the schools at which he worked was Fishburn Primary School. He had worked a week or two there. He has worked several times at Colegate Community Primary School.
- He believes that he has a natural gift for engaging with children

In response to questions from Miss Thompson, Mr Bromley stated that:

- He was innocent of the offence, but will not be the only innocent man to be convicted. However, he accepts that he was found guilty and that the conviction has implications for his professional status.
- He accepts that he has an influential role as a teacher and a responsibility to maintain confidence in the teaching profession. In the work that he has carried out so far, since his conviction, he has not found that the confidence of the schools in him has been undermined.

In response to questions from the Panel, Mr Bromley stated that:

- In terms of the impact on his private life, both he and his partner were initially both questioned and he was concerned that their young son might be taken into care.
- He has learnt a lot about justice in society.
- Not being able to work as a teacher could mean that they will not be able to keep their home.

In her closing submissions, Miss Thompson said that the Panel had to balance the interests of Mr Bromley with those of the public. Mr Bromley had described his own interests and did not seem to accept that the conviction undermined public confidence in him. Mr Bromley had demonstrated a lack of insight.

In his closing submissions, Mr Faux stated that Mr Bromley's assertion that he was innocent of the crime for which he was convicted should not be held against him. The criminal justice system is not perfect and Mr Bromley had acknowledged that the conviction was for a relevant offence. This offence, although involving dishonesty, was a single count of fraud which had been denied, but had not been covered up. The information provided in the court transcript did not give a very full description of the offence but what was known was that the judge described Mr Bromley's actions as 'an act of madness'. Mr Faux referred to the need for proportionality.

Mr Faux submitted that the list of public interest considerations in the guidance "The Prohibition of Teachers – DfE advice on factors relating to decision leading to the prohibition of teachers from the teaching profession" should not be seen as exhaustive. Mr Faux referred to the testimonial at page 84 of the bundle, which confirmed that Mr Bromley had been successful in preventing pupils being excluded. He submitted that there was a public interest in Mr Bromley being able to return to teaching if it meant that it could help to avoid the exclusion of pupils in appropriate cases.

In relation to the case of **Davis v General Teaching Council for Wales** [2008] EWHC 1175, Mr Faux said that this was a decision of the High Court on appeal from a decision of the General Teaching Council for Wales. The teacher involved in that case was a Headteacher who was convicted and sentenced to an immediate term of imprisonment for dangerous driving following an accident which resulted in serious injury to another driver. The decision to make a Prohibition Order was overturned by the High Court and a period of suspension was substituted by the Court. Despite the case involving an immediate sentence of imprisonment, the High Court concluded

that the public interest did not require the imposition of a Prohibition Order in that case. The public interest would be served by not making an order in Mr Bromley's case.

## **I. Panel's Recommendation to the Secretary of State**

'We have considered the submissions made by the Presenting Officer and Mr Faux, the evidence given by Mr Bromley and the references and testimonials provided. We considered the report of the case of **Davis v General Teaching Council for Wales** [2008] EWHC 1175. Whilst noting that this was not a binding precedent, we accepted that this was an example of a case in which conviction for a serious criminal offence did not result in prohibition.

We are satisfied that a Prohibition Order is appropriate in this case for the following reasons.

The Panel took into account the public interest considerations, namely:

- the protection of children and other members of the public
- the maintenance of public confidence in the teaching profession
- declaring and upholding proper standards of conduct

Mr Faux submitted that there is a strong public interest in maintaining Mr Bromley in the teaching profession, having regard to his dedication, contribution and commitment. We accepted that this is a public interest consideration against prohibition which we should take into account. After weighing the public interest considerations in favour of prohibition and those against prohibition, together with Mr Bromley's own interests, we concluded that the considerations in favour of prohibition outweighed those against making such an order.

The Panel found that Mr Bromley's conduct was incompatible with being a teacher in that there was:

- Dishonesty
- A conviction for a serious criminal offence.

The Panel considered the mitigating circumstances and the issue of proportionality. We accepted that Mr Bromley has a previous good history. However, the Panel could not accept that his actions were not deliberate. We have taken into account the fact that Mr Bromley continues to deny that he was guilty of the offence, despite his conviction. We consider that this demonstrates a lack of insight on his part. Taking all of these factors into account, we concluded that a recommendation for a prohibition order is appropriate.

Mindful of the guidance and the fact that this offence involved fraud and serious dishonesty we are recommending to the Secretary of State that a prohibition order is imposed with no provision for the teacher to apply for it to be set aside after any period of time.'

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

I have considered the recommendation of the panel carefully. I note firstly that the panel found, on the basis of the certificate of conviction and on the admission by Mr Bromley, that the facts in this case were proven. I note too that having found that the facts were proven, the panel found the conviction to be a relevant conviction. The offence was a serious one, meriting a custodial sentence, albeit suspended, and is an offence listed in the guidance issued by the Secretary of State, as likely to be considered relevant.

I turn then to the recommendation of the panel in respect of sanction. The panel recommend prohibition. I have considered the panel's reasons, namely that the offence is a serious one, that the actions were deliberate and that fraud and dishonesty are both serious matters which the guidance indicate as being likely to lead to prohibition.

I have also considered the recommendation of the panel in respect of a review period. I accept that, taking into account the balance in the public interest of Mr Bromley remaining in the teaching profession, and the balance in the public interest of having teachers who have been found guilty of such serious offences remaining in the profession, that I will accept the panel's recommendation that there be no review period.

This means that Mr Alan Bromley 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 allegation found proved against him, I have decided that Mr Alan Bromley 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 Alan Bromley 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: 18 May 2012**