

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Benjamin Conway

Teacher ref no: 03/42442

Teacher date of birth: 18/07/1976

TA Case ref no: 4258

Date of Determination: Thursday 11 October 2012

Former Employer: Jo Richardson School, London Borough of Barking and Dagenham

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 11 October 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Benjamin Conway.

The Panel members were Mrs Jennifer Sims (Teacher Member in the Chair), Mr Nicholas Andrew (Lay Member), Mr Peter Monfort (Teacher Member).

The Legal Adviser to the Panel was Mr Paddy Roche of Morgan Cole, LLP Solicitors of Oxford.

The Presenting Officer for the Teaching Agency was Dr Francis Graydon of Browne Jacobson Solicitors, Nottingham.

Mr Benjamin Conway was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 6 August 2012.

It was alleged that Mr Benjamin Conway was guilty of Unacceptable Professional Conduct, in that:-

Whilst employed at Jo Richardson School, London Borough of Barking and Dagenham he:-

1. Engaged in inappropriate communication via the Facebook networking web site between 17 October 2007 and 20 March 2008 with a former pupil, Pupil A, of Farlingaye High School, Suffolk, whom he had previously taught;
2. Failed to follow a reasonable instruction from the Head Teacher in that he continued to use a computer in School time to contact Pupil A.

The Teacher did not admit the facts.

C. Summary of Evidence

Documents

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

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| Section 1 | Notice of Proceedings and Response | Pages 1 to 9. |
| Section 2 | Witness Statements | Pages 10 to 24. |
| Section 3 | Teaching Agency Documents | Pages 25 to 240. |
| Section 4 | Teacher Documents | Pages 242 to 245. |

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 made an opening address.

He called the following witness to give evidence in person:-

Mr Ges Smith.

This witness adopted his witness statement at Pages 15 to 24. He gave evidence as follows:-

- He was the Head Teacher at Jo Richardson School.
- He received a report from a number of Year 8 girls who had been in Mr Conway's room that they had seen the image of a semi-clothed female on Mr Conway's computer.
- The School IT Team investigated and found that Mr Conway had made many visits to Facebook on the computer.

- As a consequence he spoke with Mr Conway and told him that he would be issuing further advice and guidelines re internet use and that Mr Conway should take that guidance on board.
- At the time (November 2007) there was no suggestion that Mr Conway's use of Facebook was inappropriate at all.
- He held a meeting of all staff on 3 December when issues around internet use were discussed – he could not say whether Mr Conway attended that meeting.
- In April 2008 he was contacted by the Head Teacher of Farlingaye High School, Suffolk who suggested there had been inappropriate contact with Pupil A at her School – the telephone conversation raised real concerns.
- He received a transcript of the communications on Facebook – the person shown in the photo is Mr Conway.
- A colleague prepared a report of the dates and times when messages had been sent in accordance with the transcript - some appeared to have been sent during School time.
- He was appalled at the content of the transcript in respect of the tone, language and the predatory nature of the messages sent.
- As he investigated further it became obvious that the person who had sent the messages to Pupil A was Benjamin Conway.
- A strategy meeting was called soon after the transcript had been received.
- The Police carried out an investigation and the School had to wait for the Police investigation to be completed.
- In due course he received transcripts of the Police interviews – the Police decided that no further action should be taken.
- Mr Conway had declined on advice to hand over his computer to the Police.
- In the course of the Police interview Mr Conway said that he may have had contact with Pupil A – he knew her very well – she was a pupil to whom Mr Conway had provided extensive support.
- During the course of his various interviews Mr Conway appeared to develop and change his explanations.
- He said that somebody must have developed a parallel web site but could not give a reason.

- Following the Police investigation the School analysed Mr Conway's personal computer but because of the time lapse it was not possible to trace his activity.
- Mr Conway had never produced anything at all to refute the allegations that he was the author of the messages.
- He claimed that he closed the Facebook account two days before the School started its investigation.
- The investigation never disclosed anything which suggested that Pupil A had the motive, technical knowledge or expertise to create a parallel account.
- All staff were told in the briefing that they were not to access the Facebook site.
- The School day ran from 8.20 am to 3.20 pm and members of staff should be on site during those hours.
- The School building was actually open from 6.00 am onwards.

The Presenting Officer then made his closing address.

D. Panel's 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.

The case concerns allegations that the teacher, Mr Benjamin Conway, over a period of approximately six months engaged in communications with a former female pupil, Pupil A, who had been a student in his class at Farlingaye School where he had taught until the start of the academic year 2007/8. It is alleged that after he left Farlingaye School Mr Conway sent a number of increasingly inappropriate messages via Facebook to Pupil A who at the time was aged 16/17. In particular some of the later messages sent to Pupil A were of an overtly sexual nature. As a consequence Pupil A reported what had been happening to the Head Teacher of Farlingaye School who contacted Mr Conway's current Head Teacher.

Mr Conway was suspended on special paid leave on 25 April 2008. A Police investigation into the allegations was conducted. Mr Conway was interviewed under caution by the Police who found there was no criminal case to answer. In the course of the caution interview he denied sending any of the overtly offending messages. He said he had not had any contact with Pupil A at all via Facebook or any other form of contact with her since leaving Farlingaye High School.

Following the conclusion of the Police investigation the School conducted its own internal investigation which appears to have established that some of the offending messages were sent during School time when it is alleged that Mr Conway would have been on the School premises and able to access a School computer.

In particular it is alleged also that in contacting Pupil A by use of his school computer he did so in breach of a specific instruction from his Headteacher.

In due course the matter was referred to a Disciplinary Hearing which took place on 2 October 2008 and his Head Teacher wrote a letter to Mr Conway on 3 October 2008 to inform him that the allegations would be referred to the Disciplinary Committee of the Governing Body.

On 20 October 2008 Mr Conway sent a letter of resignation from his post as Head of Religious Education at the School.

Findings of fact

Our findings of fact are as follows:-

We have found the following particulars of the allegations against Benjamin Conway proven, for these reasons:-

Whilst employed at Jo Richardson School, London Borough of Barking and Dagenham he:-

1. Engaged in inappropriate communication via the Facebook networking website between 17 October 2007 and 20 March 2008 with a former pupil, Pupil A, of Farlingaye High School, Suffolk whom he had previously taught;

Despite Mr Conway's denials we find that there is overwhelming circumstantial evidence to establish this particular. Mr Conway's assertion that he is the victim of an elaborate fraud on his Facebook account in our view beggars belief.

We note that Mr Conway claims to have changed his Facebook log in on two separate occasions and despite this that his Facebook account had been hacked into. His Facebook account and the conversations exhibited in the case papers contained an abundance of personal information which point to Mr Conway alone being responsible for the messages therein.

In addition we have learnt that many students whom Mr Conway would have known were listed as friends on the account such that anyone masquerading as Mr Conway would have had to engage in a complex and multiple deception. Apart from his verbal protestations that he was not the person using this account he has not advanced any independent evidence to suggest that he was the victim of a fraud nor any reason to suggest the motive behind such an elaborate and sustained deception.

We also take account of the inconsistencies contained in his answers given during the Police Caution Interview and his later questioning by the Headteacher Mr Smith. We note in particular that at the start of the Police Interview he concedes that he might have sent the initial message to Pupil A. He then goes on to deny responsibility for the later inappropriate and sexually suggestive messages that ensue in the course of the conversation with Pupil A which developed over several months.

The inherent uncertainty that is evident in many of his responses is very difficult to understand especially as on his own account he clearly took some time to help Pupil A when she was in his class and formed a close working relationship with her before he moved schools. We find it impossible to accept that he would not be able to recall with clarity whether or not he did make contact with Pupil A on Facebook. We believe that his responses in interview suggest that he has not been candid - an impression that is reinforced by many other inconsistencies in the accounts he provided as the investigation progressed.

Many of Mr Conway's submissions given in interview we found to be implausible or self contradictory – for example in relation to the use of the word “hot” as set out at p 141 of the case papers.

In summary we are satisfied on the balance of probabilities that this particular is established and that we cannot give any credence to Mr Conway's convoluted attempts to suggest that he has been the victim of an elaborate deception by a person or persons unknown for which he can provide no evidence or credible motive.

We have found the following particulars of the allegation against Benjamin Conway not proven, for these reasons:

2. Failed to follow a reasonable instruction from the Head Teacher in that he continued to use a computer in School time to contact Pupil A.

Mr Smith's evidence as to the discussion he had with Mr Conway on 26 November 2007, which he describes in his statement at p 16, leaves us in some doubt as to the precise nature of the discussion. Mr Smith told us that the main focus was in relation to an allegedly inappropriate image seen on Mr Conway's computer by some female pupils but there was also some discussion in relation to social networking sites.

The note Mr Smith subsequently made of the discussion (p53) says only “CON will follow guidelines issued by SMI to all staff in relation to internet use.”

It is conceded by Mr Smith that he cannot say whether Mr Conway was in attendance at the staff briefing when this issue was revisited on 3 December 2007 when he informed all staff that “the use of social networking sites was not permitted.”

We accept that the HT gave guidance on the use of social networking to staff at the school on more than one occasion.

However we are not clear as to the specific instructions given to Benjamin Conway by the Headteacher and therefore we find this particular is not proved

Findings as to Unacceptable Professional Conduct

We find that in relation to particular 1 this is a case of Unacceptable Professional Conduct. At the time of the offending conversation sent via Facebook Pupil A was aged 16/17. She was a former pupil of Mr Conway – he had formed a close working relationship with her when she was in his class. He was a former class teacher to her and held a position of trust. He made a number of wholly inappropriate comments of a sexual nature to her and sent other suggestive messages. She reported the conversations to her Headteacher because she felt “uncomfortable” and considered that when he asked if she had a webcam –“it was going too far.” She was known to Mr Conway to be a vulnerable pupil.

In our judgement this was conduct of a serious nature and we have no hesitation in finding that Mr Conway’s behaviour fell significantly short of the standards the public expect of the profession. This was a serious departure, over a sustained period of time, from the personal and professional standards expected of teachers and an abuse of Mr Conway’s position. This conduct may well have caused pupil A considerable anxiety. It was wholly improper behaviour.”

Panel’s Recommendation to the Secretary of State

We consider that this is a very serious case.

The primary purpose of a Prohibition Order is principally to protect pupils and maintain public confidence in the profession. We have also referred to the guidance given in the Department of Education document “The Prohibition of Teachers”.

Our decision on Unacceptable Professional Conduct indicates that many of the factors set out in the guidance which point to the imposition of a Prohibition Order are engaged in this case. We have received no evidence of mitigating features at all.

We find that the evidence in this case discloses

- a serious departure from the personal and professional conduct elements of the latest teacher standards
- misconduct which had the potential to seriously affect the wellbeing of students namely Pupil A
- abuse of a position of trust involving a vulnerable pupil.

In addition this was a sustained course of conduct which continued over approximately 6 months.

We are also very concerned about the tone of the written representation submitted this week by Mr Conway. That document demonstrates that Mr Conway is still in total denial as to his responsibility for what occurred. He shows no insight at all into the effect of his behaviour and even continues to maintain that the student herself may have created a bogus Facebook account. He continues to maintain that she has made up false allegations against him and makes further attempts to discredit her character.

We therefore recommend that a Prohibition Order is imposed with the proviso that Mr Conway shall not be permitted to apply for a review of the Prohibition Order until five years have elapsed. This recommendation has the full support of all members of this Disciplinary Panel.

Secretary of State's Decision and Reasons

I have given careful consideration to this case. The panel has found the first allegation to be proven and found that allegation does amount to unacceptable professional conduct.

Mr Conway used Facebook to conduct a wholly unacceptable relationship with a vulnerable pupil that he sustained over a period of time. In doing so, his conduct fell seriously short of the standards expected of a teacher.

Mr Conway's behaviour had the potential to cause serious harm to a vulnerable pupil.

Moreover, the continuing denial of the incident by Mr Conway in the face of overwhelming evidence, and his attempt to blame the pupil for the actions suggests a total lack of insight into, or responsibility for, his own behaviour.

I support the recommendation of the panel in respect of a prohibition and also in respect of the period of five years before a review can be considered.

This means that Mr Benjamin Conway 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 19 October 2017, 5 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 Benjamin Conway remains barred from teaching indefinitely.

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

Mr Benjamin Conway 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: 12 October 2012