

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher:	Thomas E. D. Carter
Teacher ref no:	0747596
Teacher date of birth:	21 June 1985
TA Case ref no:	9185
Date of Determination:	10 September 2012
Former Employer:	Borden Grammar School, Sittingbourne, Kent and the Hastings Academy, East Sussex

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 10 September 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Thomas Carter.

The Panel members were Mrs Kathy Thomson (Teacher Panellist – in the Chair), Ms Fiona Tankard (Teacher Panellist) and Dr Roland Kitchen (Lay Panellist).

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

The case proceeded as a meeting, which 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 30 May 2012.

It was alleged that Mr Carter was guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute in that he:

- 1. engaged in an inappropriate relationship with a Year 13 pupil in 2009, which included texting her, emailing her and meeting her on the evening that she left the school, for which he received a first written warning and management advice; and**
- 2. engaged in an inappropriate relationship with a Year 12 pupil in 2011, which included texting her, emailing her and meeting her on school premises where inappropriate physical contact took place.**

Mr Carter admitted the alleged facts and admitted that they amount to unacceptable professional conduct or conduct that may bring the profession into disrepute.

C. Summary of Evidence

Documents

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

Section 1: Notice of Referral and Response Pro Forma, pages 1 - 5

Section 2: Statement of Agreed Facts and Representations, pages 6 – 11

Section 3: Teaching Agency Documents, pages 12 – 125

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

Brief summary of evidence considered

The Panel was provided with a statement of agreed facts, which was signed by Mr Carter on 7 August 2012. This statement confirmed that Mr Carter was employed at the Borden Grammar School from 1 September 2008 until 31 August 2011. In October 2009, he was issued with a first written warning for unprofessional behaviour in that he had exchanged text messages and emails of a social nature with a female pupil. He had also met the pupil socially during the evening of 11 September 2011.

The statement also confirmed that, on 1 September 2011, Mr Carter commenced employment at the Hastings Academy as a Special Educational Needs Teacher. On 14 September 2011, it came to the attention of the Head Teacher at the Borden Grammar School that, prior to his departure, Mr Carter had engaged in an inappropriate relationship via email with a Year 12 female pupil. This led to inappropriate physical contact with the pupil involving Mr Carter's kissing her. Following an investigation by the Hastings Academy, Mr Carter was issued with a final written warning.

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 note that Mr Carter 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 conclude that it is appropriate for this case to be dealt with as a meeting and are proceeding on that basis.

We note from the agreed statement of facts that Mr Carter was employed at the Borden Grammar School from 1 September 2008 until 31 August 2011. On 23 October 2009 he was issued with a first written warning for unprofessional behaviour in that he had exchanged text messages and emails of a social nature with a 17 year old female pupil. He also met the pupil socially.

On 1 September 2011, Mr Carter commenced employment at the Hastings Academy as a Special Educational Needs Teacher. On 14 September 2011, it came to the attention of the Head Teacher at the Borden Grammar School that, prior to his departure, Mr Carter engaged in an inappropriate relationship via email with a Year 12 pupil at the Borden Grammar School. This led to inappropriate physical contact with the pupil whereby Mr Carter kissed her. This matter was investigated by the Hastings Academy and, on 13 December 2011, Mr Carter was issued with a final written warning.

Findings of fact:

Mr Carter has admitted the facts of the following allegations, namely:

- 1. Engaged in an inappropriate relationship with a Year 13 pupil in 2009, which included texting her, emailing her and meeting her on the evening that she left the school, for which he received a first written warning and management advice; and**
- 2. engaged in an inappropriate relationship with a Year 12 pupil in 2011, which included texting her, emailing her and meeting her on school premises where inappropriate physical contact took place.**

In relation to allegation 1, in addition to the content of the agreed statement of facts, we considered the evidence in the bundle of documents. The summary of the school's investigation into the allegation noted that on the evening of 11 September 2009, Mr Carter was observed by other members of the Sixth Form to be holding hands and kissing the 17 year old pupil. During the course of that evening, Mr Carter had texted the pupil and had arranged to meet her. Mr Carter said that he considered that the pupil had left the school. However, this was not the case as, although the pupil's last day of attendance at the school was 11 September 2009, she remained on the roll until 18 September 2009. In addition, Mr Carter and the pupil had exchanged mobile phone numbers and Mr Carter had engaged in sending text and email messages to her earlier than 11 September 2009. Some of the emails were using Mr Carter's personal email address. The friendship between Mr Carter and the pupil had started in July 2009. In his written statement as part of the investigation, Mr Carter said, "*I have feelings for [the Year 13 pupil] as she does I (sic), we have told one another this and I believe her mother to be aware of the situation*".

We are satisfied that the facts of allegation 1 have been established based on this evidence, Mr Carter's admissions and the agreed statement of facts.

In relation to allegation 2, we note that when interviewed on 11 November 2011, Mr Carter admitted sending texts and emails to the Year 12 pupil. He also admitted kissing the pupil when on school premises. We also note the content of the email dated 18 July 2011 between Mr Carter and the pupil in which the "kiss incident" is referred to. We also note that the Year 12 pupil reported to the police that Mr Carter would call her "*his beautiful girl and wheel himself on his chair quite close to her. He would move away if he thought someone was coming*". The pupil also reported to the police that Mr Carter did kiss her once and put his tongue in her mouth.

We are satisfied that the facts of allegation 2 have been established based on this evidence, Mr Carter's admissions and the agreed statement of facts.

Findings as to unacceptable professional conduct or conduct that brings the profession into disrepute.

Mr Carter admits that his actions amount to unacceptable professional conduct or conduct that may bring the profession into disrepute.

We are satisfied that Mr Carter is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute for the following reasons:

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

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

- did not establish and maintain appropriate professional boundaries in his relationship with either pupil

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

- failed in his duty to safeguard the pupils.
- did not maintain reasonable standards in his own behaviour.

We are also satisfied that Mr Carter'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 the pupils' well-being in accordance with statutory provision.

Panel's Recommendation to the Secretary of State

We have taken into account the fact that Mr Carter was described as an outstanding teacher by Mr Vafeas, Head Teacher at Borden Grammar School. Ms Phillips, Principal of Hastings Academy stated that she found Mr Carter to be an excellent addition to the team and that he was professional and competent at all times at the Academy.

We have also carefully considered the mitigation put forward by Mr Carter, namely that in 2009 and 2011 he was under very significant personal strain due to a range of challenging caring responsibilities caused by the death of his parents and due to the separation from his partner and young daughter. Mr Carter says that his actions resulted from losing his sense of judgment and decency.

The panel note that this mitigation was put forward at the time of the first allegation in 2009 when Mr Carter gave an assurance that the boundary would not be crossed again. Following this incident, Mr Carter was given a first written warning. Despite this, the same pattern of behaviour occurred in 2011, with the same mitigation put forward.

We have decided to recommend a Prohibition Order.

Mr Carter'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 teachers' standards.
- Mr Carter abused his position of trust in relation to the pupils. In relation to the pupil in the second allegation, we considered that she was particularly vulnerable, being younger and having had mental health issues, of which Mr Carter was aware.

We are satisfied that this is a proportionate sanction.

The Panel recommends that the period after which Mr Carter may apply for the Prohibition Order to be set aside should be three years. We were not satisfied that this could be described as a case of serious, sexual misconduct or that the conduct was so serious that we could recommend a prohibition order with no provision for the teacher to apply for it to be set aside after any period of time. However, the conduct was sufficiently serious to warrant a period of more than the minimum period of two years".

Secretary of State's Decision and Reasons

I have given careful consideration to this decision. I have considered carefully the findings of the panel alongside the admissions made by the teacher. Mr Carter's behaviour represents a clear breach of the standards expected of the teaching profession. Moreover his behaviour appears to have continued despite clear warnings being given. The mitigation offered by Mr Carter has been taken into account but does not excuse such behaviour. Mr Carter's admissions recognise that his behaviour is unacceptable.

I have also considered carefully the recommendation made by the panel that Mr Carter should be prohibited from teaching. This is a proportionate sanction taking into account the behaviour that has been found.

I have also given careful consideration to the issue of the period of time after which Mr Carter may apply to have that prohibition lifted. I consider that taking the relevant issues into account – both mitigation and the seriousness of the behaviour, that a three year period is also proportionate.

This means that Mr Thomas Carter 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 17 September 2015, 3 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 Thomas Carter remains barred from teaching indefinitely.

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

Mr Thomas Carter as 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: 10 September 2012