

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr David Russon

Teacher ref no: 66/06728

Teacher date of birth: 23 June 1969

TA Case ref no: 4292

Date of Determination: 2 July 2012

Former Employer: Ridgewood High School, Stourbridge, West Midlands

A. Introduction

A Professional Conduct Panel ("the Panel") of the Teaching Agency convened on 9 May and 28 June 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr David Russon.

The Panel members were Mr Peter Monfort (Professional Panellist – in the Chair), Ms Jean Carter (Lay Panellist) and Mr Stan Szaroleta (Lay Panellist).

The Legal Adviser to the Panel was Christopher Alder of Blake Laphorn Solicitors.

The Presenting Officer for the Teaching Agency was Miss Kate Bear of Browne Jacobson Solicitors.

The Teacher was not present but was represented by Mr Tony Pearce of The National Union of Teachers.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 7 March 2012.

It was alleged that Mr Russon is guilty of unacceptable professional conduct, in that he:

1. broke condition 1 of the additional conditions to his employment contract agreed in 2006 in that;
 - a. on the 13 October 2007, he travelled on a coach with pupils from Ridgewood High School and attended a choir visit in Kent he knew the students were travelling to;

- b. at a Duke of Edinburgh award residential expedition in July 2007 he:
 - i travelled to the location of the trip where he knew current pupils of Ridgewood High School would be present;
 - ii once he had arrived at the location, he spent time with the current pupils from the Ridgewood High School;
 - c. on a school trip to Las Vegas in February 2006 he:
 - i travelled to and stayed in the same location as the school trip;
 - ii once in the location spent time with pupils on the trip
2. acted in an inappropriate manner and breached condition 3 of the additional conditions to your employment contract agreed to in 2006, in that he;
- a. sent a Christmas card in December 2006 to a pupil by post with his personal contact details on;
 - b. gave out Christmas cards in December 2006 at school to pupils with his personal contact details;
 - c. produced letters and cards to year 11 pupils in July 2007 with his personal contact details on;
 - d. whilst suspended on the 11 December 2007 he asked if it would be acceptable for him to send Christmas cards to current students;
 - e. whilst suspended in Autumn term 2007 made contact with a pupil.

Mr Russon admitted particular 1a, elements of 1bi, and particulars 1bii, 1ci and cii. Mr Russon did not admit that he had broken condition 1 of the additional conditions to his employment contract.

Mr Russon admitted particulars 2a, b, c, d, e. He did not admit that he had acted in an inappropriate manner and breached condition 3 of the additional conditions to his employment contract.

Mr Russon did not accept that his actions 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 – Notice of proceedings and teacher's response, pages 1 – 7
- Section 2 – Teaching Agency witness statements, pages 8 – 11
- Section 3 – Teaching Agency documents, pages 12 – 178
- Section 4 – Teacher's documents, pages 179 – 192

In addition, the Panel agreed to accept the following:

1. Guidance for safe working practice for the protection of children and staff in educating settings – June 2007
2. Disciplinary procedure

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

Brief summary of evidence given

The Panel considered the submissions of both parties very carefully.

The Teaching Agency relied upon the witness evidence of Individual A, Headteacher of Ridgewood High School. His evidence was presented in the form of his witness statement and he was not present to give oral evidence. Individual A's statement confirmed his investigation into the conditions attached to Mr Russon's employment. His investigation culminated in his report of 5 March 2008, which he exhibited to his statement.

The Teaching Agency called Witness A, Deputy Head of HR, to give evidence. She confirmed the content of her investigation in her role as Deputy Head of HR supporting Children's Services at the Directorate of Corporate Resources at Dudley Metropolitan Borough Council. She investigated a number of the allegations concerning Mr Russon regarding alleged breach of the additional conditions. She gave evidence regarding the status of the additional conditions. She confirmed her view that the conditions were imposed for Mr Russon's protection and to safeguard him from allegations. Her view was the additional conditions did form a part of his employment contract, given that Mr Russon had been involved in the discussion regarding the conditions. She was concerned that Mr Russon appeared to be trying to act within the strict letter of the conditions, but not in line with their spirit. The trigger for the investigation had been when Mr Russon had travelled to a Duke of Edinburgh Award residential expedition in July 2007. She explained that Mr Russon's reputation appeared to be very important to him and that he had received an MBE for his services to education. She was aware of a number of positive testimonials presented on his behalf, but equally she referred to letters and statements of which did not support him.

Mr Pearce called Witness B to give evidence. Witness B had been the Headteacher at Ridgewood High School between September 2000 and August 2005. She read her witness testimonial and spoke of Mr Russon's close links with the community, his strong sense of community and commitment to pupil development. She explained that he was kind but firm and was passionate about ensuring that children were able to achieve. She believed that he instilled a sense of pride in pupils and created a strong link with universities as a mentor. Individual A had declined to meet with Witness B as the outgoing headteacher. She had dismissed earlier allegations raised against Mr Russon and had not put in place any monitoring of the additional conditions agreed with him. She had been content that there was no sense of grooming a wider group of pupils and noted that the police had taken no action. She believed that there had been a witch hunt against Mr Russon.

Mr Pearce also called Witness C to give evidence. Witness C read his witness statement to the Committee. He had been a former colleague of Mr Russon and spoke very highly of Mr Russon, referring to his involvement in the community. Witness C said that some teachers believed that Mr Russon was quite brash but this was not his real personality. He had close links with a number of charities and was a trustee of an African charity working with AIDS victims.

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

Summary

Mr Russon was formerly a science teacher employed at the Ridgewood High School, Dudley having previously been associated with the school since 1974 when he had joined Longlands School as Head of Science. In 2003 and subsequently 2006 he agreed to conditions being added to his employment at the school following concerns which had been raised about his conduct. These conditions agreed in 2006, included 1, he "must not organise or participate in residential or trips with pupils attending Ridgewood High School" and 3 he "should exercise caution when associating with any students out of school". He "should ensure that there is no unnecessary meeting other than with those with whom [he] already had an identified relationship eg as Godparent". In 2007 further matters came to light which were investigated by the school's former head Individual A and Deputy HR Manager Witness A. These matters included an allegation that he had travelled to a Duke of Edinburgh's Award expedition and had produced letters and cards for Year 11 pupils and gave out Christmas cards with his personal contact details on. Individual A was concerned that Mr Russon had acted in a way which was in breach of these additional conditions. Mr Russon maintained that his actions may have been unwise, but were not inappropriate. Further he maintained that the conditions had not been part of his employment contract.

Findings of fact

The allegation which we have considered and which is set out in the Notice of Proceedings dated 7 March 2012 is that Mr Russon is guilty of unacceptable professional conduct, in that he:

1. broke condition 1 of the additional conditions to his employment contract agreed in 2006 in that;
 - a. on the 13 October 2007, he travelled on a coach with pupils from Ridgewood High School and attended a choir visit in Kent he knew the students were travelling to;
 - b. at a Duke of Edinburgh award residential expedition in July 2007 he:
 - i travelled to the location of the trip where he knew current pupils of Ridgewood High School would be present;
 - ii once he had arrived at the location, he spent time with the current pupils from the Ridgewood High School;
 - c. on a school trip to Las Vegas in February 2006 he:
 - i travelled to and stayed in the same location as the school trip;
 - ii once in the location spent time with pupils on the trip

2. acted in an inappropriate manner and breached condition 3 of the additional conditions to your employment contract agreed to in 2006, in that he;
 - a. sent a Christmas card in December 2006 to a pupil by post with his personal contact details on;
 - b. gave out Christmas cards in December 2006 at school to pupils with his personal contact details;
 - c. produced letters and cards to year 11 pupils in July 2007 with his personal contact details on;
 - d. whilst suspended on the 11 December 2007 he asked if it would be acceptable for him to send Christmas cards to current students;
 - e. whilst suspended in Autumn term 2007 made contact with a pupil.

We have considered all of the evidence relevant to the allegations which has included the oral evidence of Witness A, Deputy HR Manager, Witness B, former Head teacher of Ridgewood School and testimonial of Witness C. We have carefully considered the statements of Individual A and Mr Russon and evidence contained within the bundle.

Our findings of fact are as follows:

Particular 1a.

Mr Russon admits the facts of this particular.

Individual A's investigation report, which he adopts through his witness statement, provides evidence that he had discussed the position with Mr Russon and sought evidence from relevant staff, which included Individual B. We have reviewed the statements which have been provided. As well as his admission, it is clear from the statements of relevant staff that Mr Russon knew about the trip and that students were travelling to Kent on the coach.

We find this factual particular proven.

Particular 1 b i

Mr Russon partially admits this particular.

Mr Russon states that he did not know that pupils would be at the residential trip, but expected pupils to be on the trip. However, in the transcript of the interview with Mr Nutting of 11 December 2007 he stated "I knew that there would be pupils there but I did not meet them".

There is apparent inconsistency in Mr Russon's evidence in relation to the issue in dispute which is his knowledge that pupils would be on the trip.

We have considered the evidence of Individual A and the statements prepared for the school investigation and signed by Individual C who led the trip. We have given weight to the

evidence of Individual A, through his statement and investigation report, and that of Individual C. Having given weight to this evidence, we find this particular proven.

Particular 1 b ii

Mr Russon admits the facts of this particular.

We have considered all of the evidence very carefully, given that during the school investigation interview in December 2007, Mr Russon denied meeting pupils. In his statement before this panel, he explained that he watched them make their way down the hill and that they spoke as they crossed the road. There is, again, inconsistency in his recollection through the evidence.

We have considered the evidence of Individual C as referred to above. The detail of Individual C's statement has not been challenged by Mr Russon in his statement or through representations made on his behalf. He stated that Mr Russon visited the pupils on the trip for at most 2 hours. We have relied upon the evidence of Individual A, who interviewed Individual C and Mr Russon.

We find this particular proven.

Particulars 1 c i and ii

Mr Russon admits these particulars, but maintains that his travel to Las Vegas, staying within the same location as the school trip, was coincidental.

We considered the evidence of Witness A, who we found to be a credible witness. Mr Russon admitted to her that he was in the same hotel in Las Vegas and that once in the location spent some time with the pupils. We have accepted the evidence of meeting, record of admission and copy of the letter from Individual A sent to Mr Russon of 11 October 2006 dealing with this issue.

On the balance of probabilities we find these particulars proven.

Particular 1

Mr Russon disputes that the actions which he has admitted amount to a breach of condition 1 of additional conditions to his employment contract. He maintains that the matters referred to do not breach condition 1 as set out in the letter to him of 11 October 2006 following discussion and his agreement. He also maintains that the conditions are not a valid extension of his employment contract.

We have considered the position with respect to these conditions very carefully. We note the conditions set out in the letter of 11 October 2006 are a development of the conditions referred to in the letter to Mr Russon of 27 January 2003. We are content that the 2006 conditions are a reaffirmation and extension of the original conditions. We note that condition 1 contains identical wording. We are also satisfied from the evidence of Witness A and Individual A that Mr Russon was aware of the conditions. In respect of the 2006 conditions we are satisfied that he discussed and accepted the conditions and note that he has signed the 2006 version.

We considered the document contained within the bundle which is referred to as the additional conditions. We are satisfied that, having considered the evidence of Witness A, who gave evidence before us, these conditions are additions to the existing contract of Mr Russon. He was involved in the discussions which led to these additional matters being both brought to his attention, but also in setting out the underlying concern.

We have been invited to consider that the conditions themselves do not form part of his employment contract and are not technically binding conditions. It is not our role nor within our remit to adjudicate about the legal scope of whether these are binding conditions from an employment perspective.

However, from a professional perspective, we note that Mr Russon had been aware of the conditions since at least 2003 and was aware of their reaffirmation and extension in 2006. We have considered the conditions on the basis of common usage of the words which have been used within the conditions, as well as encompassing the intention underlying their imposition.

Condition 1 states that "you must not organise or participate in residential or trips with pupils attending Ridgewood High School"

We have considered normal English language in respect of the determination of the condition. Our findings in relation to the alleged breach of condition 1 of the additional conditions are set out below

Particular 1 a.

We find this particular proven, and that in travelling on a coach trip to Kent, with pupils from the school to attend a choir visit from Kenya. He knew pupils were travelling on this trip and this does amount to a breach of condition 1. Mr Russon's actions were to participate in a trip with pupils.

Particular 1 b i

We do not find this particular proven. Given the wording of the particular, his travelling to the location of the trip is not a breach of the condition.

Particular 1 b ii

We find it proven that spending time with the pupils at the residential trip does amount to Mr Russon participating in the trip. We have decided that this amounts to a breach of the condition.

Particular 1 ci

We do not find it proven that in travelling to Las Vegas and staying in the same location as the school trip amounts to participation in the trip. We do not find that this particular evidences a breach of condition 1.

Particular 1 cii

We have found it proven that Mr Russon spent time with the pupils on the trip in Las Vegas. We have concluded that this action amounts to participation in the trip and amounts to a breach of condition 1.

Particular 2 a

Mr Russon admits the facts of this particular. We have seen a copy of the card. We have considered the evidence of Individual A who has produced a copy of the card and, in his investigation report, refers to the complaint which the parent of a pupil had made to him about the receipt of the card. We note that the card contains Mr Russon's personal contact details.

We find this particular proven.

Particular 2 b

Mr Russon admits the facts of this particular. We have seen a copy of the card and have noted the evidence of Individual A, which includes reference to his investigation. We find it proven, that Mr Russon gave Christmas cards to pupils with personal contact details in December 2006.

Particular 2 c

Mr Russon admits the facts of this particular.

We have considered a copy of the letter which has been provided by Individual A which contained Mr Russon's personal contact details. We find this particular proven.

Particular 2 d

We note that Mr Russon admits the facts of this particular. We have considered the evidence of Individual A and Witness A who confirm that, on 11 December 2007 during interview, Mr Russon asked if it would be acceptable for him to send Christmas cards to current students.

We find this particular proven.

Particular 2 e

Mr Russon admits the facts of this particular.

Mr Russon attended a party in the autumn term 2007 during which he was suspended at which was a pupil was present. We have considered the evidence of Individual D, Assistant Head Teacher at the School and that of Individual A.

We find this particular proven.

Particular 2

We have set out above our approach in respect of the additional conditions.

We have carefully considered the position in respect of the Condition 3 which shows a distinction of wording between 2003 and 2006. The 2006 condition states "You should exercise caution when associating with any students out of school. You should ensure that there is no unnecessary meeting other than with those with whom you already have an identified relationship e.g. as Godparent".

Particulars 2 a, b, c

Having considered the evidence and the wording of the condition very carefully, we have decided that Mr Russon's actions do not amount to a breach of Condition 3. Sending, giving and producing cards and letters to pupils does not, in our decision, amount to associating with students out of school. We find this element of these particulars not proven.

Although we have not found that Mr Russon's actions in sending a Christmas card, giving out Christmas cards in December 2006 and producing letters and cards to pupils with his personal contact details amounts to a breach of Condition 3, we have found it proven that such actions do amount to acting in an inappropriate manner. We have carefully considered the evidence of Individual A. On the basis of his evidence as set out in his investigation report, we have found in relation to these 3 particulars that it is proven that Mr Russon did act in an inappropriate manner.

Particular 2 d

Having considered the evidence and the wording of the condition very carefully, we have decided that Mr Russon's action in asking for advice in respect of sending Christmas cards to current students, does not amount to a breach of Condition 3.

We have carefully considered the issue as to whether such action amounts to inappropriate manner. We do not find it proven that seeking advice from a senior member of staff during a period of suspension as to whether to send cards to students is inappropriate.

Particular 2 e

We have carefully considered the evidence presented by the Teaching Agency. However, it has not been proven on the evidence presented that the pupil who was at the party which Mr Russon admits attending, was not one of Mr Russon's godchildren, or a pupil with whom Mr Russon had an identified relationship. Accordingly, it has not been proven that the condition has been breached. We do not find this element of the particular proven.

In respect of this particular, it is clear that Mr Russon attended the party at the invitation of another and there was at least one senior member of staff present at the social gathering. Given that it has not been proven that the pupil was not either a family member or god child, we do not find it proven that his actions amounted to acting in an inappropriate manner.

Findings as to Unacceptable Professional Conduct

Having found the Particulars 1a, 1 b ii, 1 cii proven and that they amounted to a breach of condition 1 and having found that the proven facts of particulars 2 a,b,c amount to acting in an inappropriate manner, we find that Mr Russon's actions amount to unacceptable professional conduct.

Teachers have a responsibility to maintain appropriate professional boundaries with pupils. Giving and sending letters and cards to pupils containing personal contact details is inappropriate. Such contact has the potential to suggest that Mr Russon wished to develop social ties with pupils and former pupils.

Mr Russon agreed not to participate in residential or trips with pupils attending the school. He had been in a variety of meetings and knew that he needed to be aware of the perception of his behaviour and interaction with pupils. Despite such clear advice and warnings, he continued to participate in school trips which included meeting pupils in Las Vegas.

His actions display a consistent pattern of behaviour which shows a disregard for agreed additional provisions which were designed to protect Mr Russon, to protect the reputation of the school and to enhance pupil safeguarding. Mr Russon's behaviour is more serious given the prior discussions and agreement which had been held with him about his conduct towards pupils. Despite these discussions Mr Russon continued to behave in way which raised concerns breaching conditions and behaving inappropriately which we have found proven.

Mr Russon knew that pupils would attend the choir trip to Kent and the DoE residential. Despite knowing this and given his knowledge of the additional conditions, he still attended and participated in trips.

Individual A referred to the concerns which related to Mr Russon's sharing of personal contact details in relation to safe working practices for the protection of children and staff in education settings and that such behaviour is not appropriate for any teacher.

We have found it proven that Mr Russon acted in an inappropriate manner. This behaviour, within the context of the previous discussion and warnings in relation to his conduct, shows disregard for his professional colleagues, peers and senior staff who were seeking to protect him, the school and pupils from allegations. His actions and pattern of his behaviour undermine the standards of conduct expected of the profession.

For the reasons set out above, we find that Mr Russon's actions do amount to unacceptable professional conduct

Panel's Recommendation to the Secretary of State

We have considered this case very carefully and have considered all of the evidence presented by the Agency and Mr Russon. We have considered the representations which Mr Pearce, Mr Russon's representative, has made. We have considered the testimonials presented by Witness B and Witness C. Mr Russon has referred to significant mitigation

which we have considered. He has had a long career in education for which he received an MBE. He has now retired from teaching and we understand is living abroad.

We have considered whether to conclude this case without imposing an order but we have decided that the issues raised in this case are so serious that a sanction is necessary and appropriate.

It has been suggested that Mr Russon's actions have not caused any harm to pupils and there is no evidence that he presents an actual risk. It is also suggested that the main concern in this case is Mr Russon's breach of employment conditions.

However, we are significantly concerned about Mr Russon's behaviour. His failure to observe appropriate professional boundaries, his inappropriate manner in his contact with pupils and his participation in a number of trips in breach of an employment condition shows a lack of insight and lack of professional reflection. He had been warned on numerous occasions about his behaviour across a number of years. Information and evidence has been presented to us in the bundle of evidence which identifies a number of concerns. Whilst Mr Russon had not been subject to previous disciplinary findings, there had been a number of unsubstantiated allegations made against him. We make it clear that we accept that previous allegations whilst serious, were unsubstantiated, and did not form part of the allegation we have considered. However, the previous concerns and subsequent action did result in the imposition of the additional conditions which were before us. His behaviour towards pupils led to conditions being imposed on his employment in 2003. These conditions were repeated, reiterated and expanded in 2006.

We have considered the evidence of the Headteacher who was working daily with Mr Russon. In his investigatory conclusion, Individual A states that he no longer had the trust and confidence that if Mr Russon returned to work the safety of students could be guaranteed. Individual A was involved in the investigation of the matters which have appeared before us. We have given weight to his conclusion given that he is remarking upon Mr Russon's behaviour and because his conclusion is limited to the scope of the allegations we have considered.

We have considered the GTCE Code of Conduct which was relevant at the time of the allegations. In this case, the evidence identifies that Mr Russon failed to establish and maintain appropriate professional boundaries in his relationships with children and young people, and that he did not satisfactorily understand that his duty to safeguard children and young people comes first. The duty to safeguard children and the maintenance of appropriate professional boundaries is a key expectation of teachers. Mr Russon acted deliberately in participating with school trips when he knew about the conditions on his employment. Mr Russon's representative submitted that Mr Russon sometimes had a misguided view of his role in the community and placed it over and above his role as a teacher. We have concluded that his actions are incompatible with the expectations of the profession.

Our principal role is to act in the public interest - to ensure the safety of pupils, children and young people and to ensure confidence in the maintenance of professional boundaries. We are aware that any disciplinary order is not imposed to act punitively, but is imposed to act in the public interest. We are conscious that one element of public interest is to ensure that confidence in the standards of the profession is upheld. For this reason we have decided

that it is appropriate and proportionate to recommend the imposition of a Prohibition Order with immediate effect.

We have carefully considered whether to recommend that Mr Russon be afforded the opportunity to apply to set aside the Prohibition Order after a period of time. However, given the seriousness with which we view Mr Russon's deliberate acts and failure to apparently understand fundamental requirements of professional conduct, we have decided that it is not appropriate to make such a recommendation.

Secretary of State's Decision and Reasons

I have given considerable care to my decision in this case. This case features a number of allegations, some of which are found proven and some of which are not found proven. The panel have considered the evidence very carefully and have explained how they have reached their decisions of fact across all the allegations. The panel have also given careful consideration to their findings of unacceptable professional conduct. In summary the panel have found that the actions of Mr Russon do amount to unacceptable professional conduct.

The panel have recommended a prohibition order in this case. I support the recommendation for the following reasons. Mr Russon's behaviour in deliberately participating in a number of school trips, despite the clear expectation that he should not, shows a clear disregard for the standards expected of a teacher. He failed to maintain professional boundaries and lacked insight into his behaviour.

I have also considered the question of a review period, taking into account the recommendation of the panel that there should be no review period. Mr Russon deliberately and repeatedly acted against the advice and guidance and framework in which he was asked to work and behave. He has shown little insight into his behaviour and that falls significantly short of the expectations of professional conduct of a teacher. I therefore support the recommendation.

This means that Mr David Russon 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 David Russon 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 David Russon 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: 2 July 2012