

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Joseph Owen

Teacher ref no: 0660781

Teacher date of birth: 25 February 1972

TA Case ref no: 7615

Date of Determination: 12 July 2012

Former Employer: Thorpe St Andrew High School, Norfolk

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 12 July 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Joseph Owen

The Panel members were Dr Geoffrey Penzer (Lay Panellist – in the Chair), Mr Stewart McKane (Professional Panellist) and Mr Mark Tweedle (Professional Panellist).

The Legal Adviser to the Panel was Ms Eve Piffaretti of Morgan Cole LLP Solicitors.

The Presenting Officer for the Teaching Agency was Ms Louisa Atkins of Browne Jacobson LLP Solicitors.

Mr Joseph Owen 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 20 March 2012.

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

1. Whilst employed at Thorpe St Andrew High School, Norfolk, he formed an inappropriate relationship with a 15 year old female pupil, Pupil A, between April and June 2008, in that he:-
 - a. sent text messages to her from his mobile phone;
 - b. accepted her as a friend on the social networking website

Facebook;

- c. corresponded with her on the social networking site Facebook;
- d. kept pictures of her on his computer;
- e. allowed himself to be alone with her on a one-to-one basis

The facts were admitted. Mr Owen did not admit 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.	Pages 1-2
Section 2	Notice of Proceedings and Response	Pages 3-11
Section 3	Witness Statements	Pages 12-16
Section 4	Teaching Agency Documents	Pages 17-191

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

In addition, the Panel agreed that Page 15 A, submitted by the Presenting Officer on the day of the Hearing, being the second page of the statement of Mr Ian Clayton, was relevant to the case and that it was fair to accept that document as Mr Clayton's statement had previously been sent in full to Mr Owen. The Panel Members read Page 15A before proceeding.

Brief summary of evidence given

The Presenting Officer called two witnesses to give evidence as follows:-

Witness A who adopted her witness statement at Pages 13 to 14 in the case bundle and gave evidence about:-

- Her 20 + years of experience of child protection work.
- She was present throughout Mr Owen's interview with Norfolk Police and confirmed that the record of interview at pages 80 to 82 of the case papers was an accurate summary of that interview.
- She could not recall if she asked Mr Owen whether he was in contact with Pupil A via his mobile phone but if he had indicated that at interview then he would have been asked that question.

- She confirmed that the examination report at pages 100 to 182 of the case papers was prepared following the seizure of Mr Owen's and Pupil A's computers.
- Norfolk Police considered Mr Owen's conduct to be at a serious enough level to validate consideration by the CPS.
- She met Pupil A when she attended her home to seize her computer and mobile phone. She could not recollect being involved with an interview with her.
- The officer in charge of the police investigation was Individual A. He has since retired.
- Based on her experience, the messages sent by Mr Owen to Pupil A were unacceptable and inappropriate.
- The case reached the level where it was considered necessary for the CPS to review but did not meet the threshold for further police action.
- The Police do not always retrieve texts for resource reasons - this could have been because they have been deleted from a mobile phone.
- She had no clear recollection of Mr Owen now.

Witness B adopted his witness statement at Pages 15, 15A and 16 in the case bundle and gave evidence about:

- His involvement in the investigation of Mr Owen and confirmation that Mr Owen had commenced his initial year of teaching in September 2007. Mr Owen had taught Pupil A.
- The School's Child Protection Policy (at pages 44 to 49 of the case papers), which was in place at the time of Mr Owen's conduct. He had received a copy of this and training on its content during induction. An email (at pages 187 to 189 of the case papers) from the HR Department confirmed this.
- Applying the Child Protection Policy to Mr Owen's situation it was clear that what he had done in regard to Pupil A was unacceptable. He should have followed the procedure set out in the Policy by contacting a senior member of staff. Mr Owen had a choice of people to whom he could turn for advice.
- All staff identity badges carried details of the Child Protection procedure contacts on their reverse side.
- The School issued "*Guidance for safer working practice for adults who work with children and young people*" (at pages 51 to 79 of the case papers). This was a national framework document which Mr Owen was expected to follow.

- Individual B raised concerns about Mr Owen's relationship with Pupil A with a senior member of staff, Individual C, on 22 May 2008 (her note setting out her concerns was at page 50 of the case papers).
- The School expected teachers to follow the policy on safeguarding and to not expose themselves or pupils to risks of criticism by having one-to-one conversations at break times or lunch times, even if the door was open they should not do this as it could lead to misinterpretation.
- The questions Witness B had asked of Mr Owen at interview were based on the Police examination report (at pages 100 to 183 of the case papers). Witness B did not look for further evidence beyond the evidence contained within the Police report.
- The facts were not challenged by Mr Owen during the interview or at the Governors' meeting.
- Witness B would not expect a teacher to respond to Pupil A's Facebook message (with particular references to Facebook extracts on pages 131 and 133 of the case papers). There were clear sexual overtones to these messages and it was inappropriate for Mr Owen to have responded as he did.
- Mr Owen admitted that he found Pupil A sexually intriguing. He just said that that was the situation. Witness B was satisfied that the notes of the investigatory meeting with Mr Owen (at pages 184 to 186 of the case papers) were an accurate reflection of the meeting. These were sent to Mr Owen and were not challenged by him after the meeting or at the Governors' Disciplinary.
- Witness B's report prepared for the Governors' meeting was at pages 29 to 35 of the case papers. This is the basis of the evidence presented to the Governors. Mr Owen accepted the facts as set out in this report and admitted that his actions were inappropriate. He contended that he had attempted to stop communication with Pupil A by virtue of the conversation he had had with Pupil A over break time. Witness B did not think that such a 2 second conversation would have ended the communication and Mr Owen did not attempt any further action.
- Mr Owen had realised the errors of his ways but Witness B was not sufficiently satisfied that he was taking serious steps to rectify the situation.
- The School did not feel it necessary to interview pupil A. By the time that the School had investigated the matter, Pupil A was no longer being taught at the school.
- Mr Owen offered no real explanation for his actions other than to say that he was new to Norwich and did not have many friends.

- Witness B stated that Mr Owen has been in Norwich for 18 months by the time of the conduct. He had friends amongst staff and did not portray a picture of someone who was lonely or isolated.
- Mr Owen's conduct was wholly unacceptable. He had stepped across the line, putting himself and Pupil A at risk by using communication and language which had sexual implications.
- He had concerns that the situation could have developed into something more serious.
- Mr Owen was a newly qualified teacher with good teaching practice. He had the potential to become a good teacher. Pupil A moved on and he did not have information as to the impact of the conduct upon her. Pupil A's parents struggled to understand what was wrong about what had happened but they did not have the full facts.
- Mr Owen's induction started before he worked at the school. At the summing up of the Governors' meeting, his union representative confirmed that Mr Owen did not challenge the facts and asked for him to be allowed to resign. He accepted what he had done was wrong and inappropriate and asserted they were the actions of naive young teacher and that there was no maliciousness involved in his actions. The Governors dismissed Mr Owen notwithstanding this assertion.

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.

The case concerns Mr Joseph Owen's conduct while he was employed as a science teacher at Thorpe St. Andrew High School ("the School") in Norwich.

Mr Owen was employed as a newly qualified teacher from 1 September 2007 until his dismissal on 16 January 2009.

On 22 May 2008, concerns were raised by a member of staff that Mr Owen had been making inappropriate contact with Pupil A, a 15 year old female pupil, via text messages and the social networking site, Facebook. It was also alleged that Mr Owen had pictures and details of Pupil A on his computer and that he and Pupil A had been seen together on a one-to-one basis in the classroom.

A referral was made to Children's Services at Norfolk County Council and the Designated Officer at the Council in turn referred the matter to Norfolk Police. Mr Owen attended Bethel Street Police Station for interview on 25 May 2008 as a

voluntary attender and during this interview he admitted communicating with Pupil A. Mr Owen was suspended from his duties at the School on the 29 May 2008, pending the police, and thereafter the School's, investigation.

Mr Owen's mobile phone and two laptops were seized for examination and subsequently a report was prepared by Norfolk Police's Computer Crime Unit. Pupil A's computer and mobile phone were also taken for examination. The matter was referred to the Crown Prosecution Service who decided on 13 October 2008 to take no further police action.

Thereafter, the School conducted a disciplinary investigation. The Principal of the School, Witness B, obtained a copy of Norfolk Police's Computer Crime Unit's examination report taken from the computers of Mr Owen and Pupil A. During the course of the investigation Mr Owen was interviewed by Witness B on 20 November 2008. The meeting was minuted and during it Mr Owen admitted to inappropriate communication with Pupil A.

A disciplinary hearing took place on 16 January 2009 at which Mr Owen was found guilty of gross misconduct and summarily dismissed. It is alleged by the Teaching Agency that as a consequence of his conduct Mr Owen is guilty of unacceptable professional conduct.

Mr Owen has not appeared at this hearing. We have given separate written reasons as to why we have decided to proceed with the hearing in his absence.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mr Owen proven :

1. Whilst employed at Thorpe St Andrew High School, Norfolk, he formed an inappropriate relationship with a 15 year old female pupil, pupil A, between April and June 2008, in that he:-

a. sent text messages to her from his mobile phone;

Our reasons are that Mr. Owen has admitted the facts in his written response to the Notice of Proceedings dated 20 April 2012 at page 9 of the case papers. We have accepted the evidence of Witness A that Mr. Owen admitted sending text messages to Pupil A and this is supported by the evidence in the case papers being the Record of Interview with Norfolk Police at pages 80 to 82. We have also accepted the evidence of Witness B, the School Principal that, during the Investigatory Interview with him on 20 November 2008, Mr. Owen admitted that he had sent text messages to Pupil A . The Panel also noted extracts from Mr. Owen's Facebook messages contained in the case papers, such as the entry timed at 11.39 am on page 133, which mentions text communication with Pupil A.

b. accepted her as a friend on the social networking website, Facebook;

c. corresponded with her on the social networking site Facebook;

Mr. Owen has admitted both these facts in his written response to the Notice of Proceedings dated 20 April 2012 at page 9 of the case papers. We have accepted the evidence of Witness A that Mr Owen admitted to her, during his police interview, that he had accepted Pupil A as a friend on Facebook and corresponded with her on this social networking site. He also stated at this interview that he found Pupil A “sexually intriguing”. This is supported by evidence in the case papers, being the Record of Interview with Norfolk Police at pages 80 to 82 and the examination report of the contents of Mr Owen’s and Pupil A’s computers which includes extracts from Mr Owen’s Facebook messages. We noted that Mr. Owen’s Facebook profile at page 182 of the case papers clearly indicates that Pupil A had been accepted as his friend.

We also accepted the evidence of Witness B, the School Principal, that . Owen admitted during the Investigatory Interview on 20 November 2008 that he had accepted Pupil A as a friend and communicated with her on Facebook. Witness B told us that he had put specific extracts of the Norfolk Police Computer Crime Unit report to Mr Owen and that Mr Owen admitted that he had responded to Pupil A. The Panel also noted the contents of copious and convincing extracts from Mr Owen’s Facebook messages from and to Pupil A contained in the case papers at page 108 to 135.

d. kept pictures of her on his computer;

Mr Owen has admitted this fact in his written response to the Notice of Proceedings dated 20 April 2012 at page 9 of the case papers. We have accepted the evidence of Witness A that Mr Owen admitted keeping pictures of Pupil A on his computer. This is supported by the evidence in the case papers being the record of Interview with Norfolk Police at pages 80 to 82 and the pictures of Pupil A extracted by Norfolk Police at pages 142 to 148 of Norfolk Police Crime Unit’s examination report of the contents of Mr. Owen’s computer. We noted that Mr Owen’s computer’s hard drive was found to have a folder called “Pupil A” which contained 7 images of Pupil A.

We also accepted the evidence of Witness B, the School Principal, that Owen admitted that he had pictures of Pupil A on his computer and that he had looked at these on a number of occasions.

e. allowed himself to be alone with her on a one-to- one basis

Mr. Owen has admitted this fact in his written response to the Notice of Proceedings dated 20 April 2012 at page 9 of the case papers. We also accepted the evidence of Witness B, the School Principal, that Mr. Owen admitted that he had allowed himself to be alone with Pupil A in the classroom on a one-to -one basis. This is supported by the written evidence of Individual B, at page 50 of the case papers, and the contents of Facebook messages at pages 113 and 131 on the case papers.

In finding the facts proved in relation to a to e we have found that Mr Owen had, by his conduct, formed an inappropriate relationship with Pupil A.

Findings as to Unacceptable Professional Conduct

We are satisfied that the conduct of Mr Owen in relation to the facts that we have found proved involved a breach of the Teacher's Standards and that his conduct fell seriously short of the standards of behaviour expected of the profession. Accordingly we are satisfied that Mr Owen is guilty of unacceptable professional conduct.

In reaching this decision we have taken account of the Teaching Standards and are satisfied that Mr Owen has failed to demonstrate standards of personal and professional conduct in that he has not upheld public trust or maintained high standards of ethics and behaviour, within and outside school, by:

- Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
- Having regard to the need to safeguard pupils' well being , in accordance with statutory provisions

He has also failed to demonstrate a proper or professional regard for the ethos and clear policies and practices of the School.

Panel's Recommendation to the Secretary of State

In this case Mr Owen has not advanced any mitigation or personal circumstances. We have noted that Mr Owen did not agree that his actions amounted to unacceptable professional conduct.

In deciding whether to recommend to the Secretary of State the imposition of a Prohibition Order we have to consider the issue of the public interest and proportionality. We have carefully considered the relevant factors set out in the guidance on the Prohibition of Teachers.

We have limited evidence of insight on Mr Owen's part into the effect of his behaviour on others. We consider Mr Owen's conduct to be a serious departure from the personal and professional conduct elements of the teachers standards: it constituted an abuse of a position of trust and represents a serious failure to observe professional boundaries.

We therefore recommend that the Secretary of State should make a Prohibition Order in the public interest in this case.

We further recommend that the minimum period before the end of which Mr Owen may apply for a review of the Prohibition Order should be 4 years.

Our reasons for this are that although Mr Owen's conduct in this case represents serious failings on his part, at the time the conduct was committed, we note that Mr Owen was an inexperienced teacher and that his actions were not part of a established pattern of unacceptable behaviour.

Secretary of State's Decision and Reasons

I have considered this case carefully. Mr Owen did not attend the hearing but did make admissions of fact.

The panel have found the facts of Mr Owen's relationship with Pupil A proven, and found that Mr Owen's behaviour in establishing the relationship with Pupil A amounts to unacceptable professional conduct.

The panel have recommended that a prohibition order be imposed. This was a serious departure from the standards expected and was an abuse of the position of trust that a teacher holds. It also represented a serious crossing of professional boundaries.

For these reasons I support a prohibition order.

I have also considered the period of time before which Mr Owen may seek to have his order reviewed.

Abuse of trust is a serious matter, and it is in the public interest for that to be recognised. Nonetheless, the panel's advice is that because this teacher was relatively inexperienced and that this was not part of an established pattern of unacceptable behaviour a review period should be allowed. A four year period represents a proportionate period that will maintain public confidence in the profession but also allow a review to take place that may see Mr Owen able to evidence that he is suitable to return to teaching. I support that review period.

This means that Mr Joseph Owen 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 2016, 4 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 Joseph Owen remains barred from teaching indefinitely.

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

Mr Joseph Owen 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: 13 July 2012