

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Leo Ralph Lancaster-Gaye

Teacher ref no: 7847917

Teacher date of birth: 2 July 1954

TA Case ref no: 7640

Date of Determination: 5 March 2013

Former Employer: Nyland School, Swindon.

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 4 - 5 March 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Leo Ralph Lancaster-Gaye.

The Panel members were Professor Ian Hughes (Lay Panellist – in the Chair), Ms Lynn O’Malley (Lay Panellist) and Mr Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mr Nigel Parry, Solicitor.

The Presenting Officer for the Teaching Agency was Ms Melinka Berridge of Kingsley Napley LLP Solicitors.

Mr Lancaster-Gaye was present and was represented by Mr Andrew Faux of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 31 July 2012.

It was alleged that Mr Lancaster Gaye was guilty of unacceptable professional conduct, in that:

1. During the course of his employment at Nyland School, Swindon, between January 2002 and July 2009, he failed to fulfil his responsibilities as Child Protection Coordinator in that he:

- i. failed to recognise that children were **at risk of*** being physically and emotionally abused; [* the Panel agreed to the addition of the words in bold]
- ii. did not appropriately follow up or feedback on Child Protection concerns reported to him by staff logged in the Pastoral books;
- iii. failed to ensure that an adequate recording system was in place for Child Protection issues;
- iv. did not appoint a deputy Child Protection Coordinator;
- v. did not ensure that staff received appropriate training;
- vi. did not keep his own safeguarding training up-to-date;
- vii. did not keep the school's Child Protection Policy up-to-date;
- viii. on an unknown date engaged in unsafe practice when transporting Pupil A, in that he transported him alone.

Mr Lancaster-Gaye admitted that he did not appoint a deputy Child Protection Coordinator and that he did not keep his own safeguarding training up-to-date. He also admitted that he transported Pupil A alone but he did not admit that this was an unsafe practice.

He did not accept that his admitted conduct amounted to a failure to fulfil his responsibilities as a Child Protection Coordinator nor that they constituted Unacceptable Professional Conduct.

C. Preliminary Applications

Application to Amend Allegation

Ms Berridge applied to amend particular 1 to add the words "at risk of" after the word "were". Mr Faux did not object to the amendment and the Panel agreed to it being made.

Submission of Late/Additional Documents

Mr Faux applied to add further documents to the Teacher Documents section of the bundle. Ms Berridge did not object to this and the Panel agreed to add the further documents to the bundle.

Procedure

The Panel decided that it would firstly decide if any facts were proved and if any were it would then consider whether they amounted to Unacceptable Professional Conduct.

D. Summary of Evidence

Documents

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

Section 1: Chronology and Anonymised Pupil List, pages 1 to 5;

Section 2: Notice of Proceedings and Response, pages 6 to 14;

Section 3: Teaching Agency Witness Statements, pages 15 to 34;

Section 4: Teaching Agency Documents, pages 35 to 255.

Section 5: Teacher Documents, pages 1 - 152

In addition, the Panel agreed to accept additional documents from the teacher and they were added to the bundle as pages 153 – 179.

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

Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

Two witnesses gave evidence on behalf of the Teaching Agency: Witness A, Senior Human Resource Officer, Swindon Borough Council and Witness B who at the time was Special Educational Needs Inclusion and School Safeguarding Adviser at Swindon Borough Council.

Witness A told the Panel that her role involved providing employment advice to schools and Nyland School was one of the schools for which she had responsibility. Her main role in relation to this case was providing advice and taking notes of various interviews which were conducted during the investigations into what was alleged to have occurred at the school.

Witness B told the Panel that she first became involved with Nyland School and Mr Lancaster-Gaye on 24 October 2008 when she attended a Strategy Meeting to discuss allegations which had made to the police by a member of staff at the school. The allegations did not relate to Mr Lancaster-Gaye however in the course of the

investigations into the allegations made to the police concerns were raised about the Child Protection procedures for which he was responsible.

Witness B told the Panel what she considered to be best practice in relation to a number of Child Protection issues and why she considered that Mr Lancaster-Gaye had not adhered to best practice. She also detailed her own investigations at the school and her meetings with Mr Lancaster-Gaye. Additionally, she told the Panel about changes in policy and procedure which she had been responsible for promulgating to schools but which had not been incorporated into Nyland's policy. She told the Panel that when she pointed out deficiencies in Mr Lancaster-Gaye's procedures to him he seemed to take on board what she was saying.

Mr Lancaster-Gaye gave evidence on his own behalf.

He told the Panel how he approached the issue of Child Protection and in essence said that, although he accepted there were deficiencies in how he recorded his actions, he did act appropriately. He was of the view that pupils at the school were adequately safeguarded. He did not accept that he failed to fulfil his responsibilities as Child Protection Coordinator.

E. Decision and Reasons (Facts)

The Panel announced its decision and reasons as follows:

"At the outset of the hearing the Panel decided to make its determination in relation to the facts first and then to proceed to consider the issue of unacceptable professional conduct subsequently if necessary.

We have now carefully considered the case before us and have reached a decision in relation the facts.

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

Mr Lancaster-Gaye commenced employment at Nyland School on 1 September 2001 as Deputy Head Teacher. Nyland School is a small primary school which caters for children aged 5 to 11 who have social, emotional and behavioural difficulties. Mr Lancaster-Gaye became the school's Child Protection Coordinator and his job description dated September 2003 records that he was "to act as the School's Child Protection Coordinator and to ensure that the child protection practice adheres to school policy."

In 2008 a member of staff made a complaint to the police regarding the alleged inappropriate restraint of pupils by staff at the school. As a result a number of staff members including the Head Teacher were suspended. In October 2008, following the suspension of the Head Teacher, Mr Lancaster-Gaye became Acting Head Teacher.

As a result of the allegations an investigation was undertaken by the National Society for the Prevention of Cruelty to Children (NSPCC). The NSPCC identified concerns in relation Mr Lancaster-Gaye's management of child protection issues.

Findings of Fact

The Panel determined that the appropriate way to proceed was firstly to decide whether or not any of the facts listed in paragraphs (i) to (viii) had been proved. If any facts were proved the Panel would then consider whether they constituted a failure to fulfil Mr Lancaster-Gaye's responsibilities as a Child Protection Coordinator.

- i. failed to recognise that children were at risk of being physically and emotionally abused;

The Panel has found this paragraph proved.

The Panel has no doubt that any teacher let alone a Child Protection Coordinator has a duty to recognise whether children are at risk of being abused.

The Panel has evidence that on at least two occasions Mr Lancaster-Gaye received reports that pupils had been injured by members of staff. He resolved these incidents without reference to the Local Authority Designated Officer who would need to consider whether to instigate their own investigation. The Panel considers that this demonstrates that the children were at risk of harm and that by acting without recourse to proper procedures Mr Lancaster Gaye failed to recognise that risk.

- ii. did not appropriately follow up or feedback on Child Protection concerns reported to him by staff logged in the Pastoral books;

The Panel has found this paragraph proved.

The Panel consider that appropriate follow up or feedback has to be given consistently and promptly, and that it has to be recorded. On his own admission, Mr Lancaster-Gaye did not provide feedback regularly or in writing and the Panel do not consider this appropriate.

- iii. failed to ensure that an adequate recording system was in place for Child Protection issues;

The Panel has found this paragraph proved.

The Panel accept the evidence of Witness B that an adequate recording system requires a file for each pupil including a chronology and a summary of important points.

Mr Lancaster-Gaye admitted that he kept information in a variety of locations such as the Pastoral books, personal files, the restraint book, files in his office, files in the Head Teacher's office and in teachers' records in classrooms. He also accepted that information was often recorded by date rather than by name.

The Panel has concluded that this does not constitute an adequate recording system.

- iv. did not appoint a deputy Child Protection Coordinator;

The Panel has found this paragraph proved.

Mr Lancaster-Gaye has admitted that he did not appoint one.

- v. did not ensure that staff received appropriate training;

The Panel has found this paragraph proved.

Mr Lancaster-Gaye has admitted that in January 2005 and December 2007 he delivered training to staff. The training consisted of a “Risk and Reflection” module which originated in 2003. It was also based on the school’s Child Protection Policy which, as the Panel will detail later, was out of date. The Panel is firmly of the view that out of date child protection training is inappropriate training.

- vi. did not keep his own safeguarding training up to date;

The Panel has found this paragraph proved.

Mr Lancaster-Gaye has admitted that he did not keep his training up to date.

- vii. did not keep the school’s Child Protection Policy up to date;

The Panel has found this paragraph proved.

The Panel has accepted Witness B’s evidence that Child Protection Procedures were updated in 2007 and that Nyland’s policy did not include these updates.

- viii. on an unknown date engaged in unsafe practice when transporting Pupil A, in that he transported him alone.

The Panel has found this paragraph proved.

Mr Lancaster-Gaye has admitted that he transported Pupil A alone and the Panel consider that this an inherently unsafe practice.

The Panel then went on to consider whether the proved facts constitute a failure to fulfil his responsibilities as a Child Protection Coordinator and in this regard it took into account the areas of responsibility set out in the 2007 Safeguarding Children Guidance.

The Panel is satisfied that the facts in paragraphs (i), (ii), (iii), (v), (vi), (vii) and (viii) do constitute such failures.

In relation to paragraph (iv) the Panel has concluded that it was not the Child Protection Coordinator’s responsibility to appoint a deputy and it is therefore not such a failure.”

F. Decision and Reasons (Unacceptable Professional Conduct)

The Panel announced its decision and reasons as follows:

“Following the Panel’s announcement of its decision on the facts Mr Faux informed the Panel that on the basis of the Panel’s findings Mr Lancaster-Gaye conceded that his conduct was of serious nature falling significantly short of the standard of behaviour expected of a teacher and amounts to unacceptable professional conduct.

Accordingly, the Panel find that Mr Lancaster Gaye is guilty of unacceptable professional conduct.”

Panel’s Recommendation to the Secretary of State

The Panel has carefully considered the Teaching Agency guidance on the issuing of Prohibition Orders. It recommends to the Secretary of State that a Prohibition Order is appropriate in this case.

The Panel is mindful that it must be proportionate in its recommendation and weigh up both the public interest and the interests of Mr Lancaster-Gaye and take only the minimum action necessary.

In reaching its decision the Panel has taken into account the fact that although Mr Lancaster-Gaye did admit some of the facts he did not admit the majority of them. The Panel has taken into account that that Mr Lancaster-Gaye conceded that the proven facts amounted to unacceptable professional conduct but in reality he had little option.

In relation to the public interest, in this case, the Panel are particularly concerned with the maintenance of public confidence.

The Panel have no doubt that Mr Lancaster-Gaye is a dedicated teacher and recognise that no harm appears to have been caused to any pupil. However, Child Protection is fundamental in all schools and probably more so in the type of school in which he worked. For whatever reason Mr Lancaster-Gaye lost sight of his fundamental duties as a Child Protection Coordinator and the Panel is not convinced that he even now realises the seriousness of his failings. It is for this reason the Panel considers that that he needs a time of reflection before being able to return to teaching.

The panel recommend that it would be appropriate for Mr Lancaster-Gaye to be able to apply for the Order to be set aside after a minimum period of two years has elapsed.

The Panel has decided to allow him the opportunity to apply to set aside the Order as it considers it is proportionate to allow Mr Lancaster-Gaye an opportunity to demonstrate that he has recognised his failings and taken steps to address them.

Secretary of State's Decision and Reasons

I have given careful consideration to this case.

The panel has found the facts alleged against Mr Lancaster-Gaye proven. These facts centre around the responsibilities that he held relating to the role of Child Protection Co-ordinator.

These are serious matters and cumulatively Mr Lancaster-Gaye's failure to fulfil his responsibilities amount to unacceptable professional conduct. Although no direct harm was caused to children these failings were serious.

I therefore support the recommendation that Mr Lancaster-Gaye be prohibited.

I have also considered the recommendation in respect of a review period. Taking into account the panel's considerations I also support the view that a two-year review period is appropriate, proportionate and in the public interest.

This means that Mr Lancaster-Gaye 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 13 March 2015, two 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 Lancaster –Gaye remains barred from teaching indefinitely.

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

Mr Lancaster-Gaye 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 : 6 March 2013