

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Dr Michael Ray Davis

Teacher ref no: 02/04106

Teacher date of birth: 7 September 1956

TA Case ref no: 7095

Date of Determination: 2 July 2012

Former Employer: Highbury Fields School, Highbury, London

A. Introduction

A Professional Conduct Panel ("the Panel") of the Teaching Agency convened on 2 July 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Michael Ray Davis.

The Panel members were Mr Anthony Bald (Professional Panellist– in the Chair), Mr Michael Sanderson (Professional Panellist) and Ms Jean Carter (Lay Panellist).

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

The Presenting Officer for the Teaching Agency was Ms Sarah Harris of Kingsley Napley LLP Solicitors.

Mr Davis was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 13 March 2012.

It was alleged that Mr Davis was guilty of unacceptable professional conduct in that:

Whilst employed at Highbury Fields School, London between 1 September 2007 and 31 July 2008 he made inappropriate comments to:

- a) year 7 students
- b) year 8 students
- c) year 10 students
- d) year 12 students

There were no admissions made by Mr Davis of either the factual particulars of the allegation or that they amount 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: Anonymised Pupil List, pages 1 to 4;

Section 2: Notice of Proceedings and Response, pages 5 to 11;

Section 3: Teaching Agency Statements, pages 12 to 21;

Section 4: Teaching Agency Documents, pages 22 to 145.

In addition, the Panel agreed to accept the following:

Emails between Dr Davis and the Presenting Officer's firm which were added as pages 146 - 155

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

Brief summary of evidence given

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

The Panel heard evidence from Witness A, the Deputy Head Teacher of Highbury Fields School. She told the Panel that she had line management responsibility for Dr Davis but that no pupils had reported any concerns regarding Dr Davis directly to her. The Head Teacher had initial dealings with the allegations and she took over the investigation when the Head Teacher retired.

Witness A stated that a number of teachers had reported concerns about inappropriate behaviour by Dr Davis and as a result the Head Teacher warned Dr Davis to be ultra-careful. In due course the Head Teacher asked Year 8 and Year 10 students to write down anything that happened in Dr Davis's lessons that did not happen in other teachers' lessons.

Witness A did not feel comfortable in Dr Davis's presence as she found him too open and he talked about being an author of books which contained sexual scenes which he sometimes described.

She stated that students tended to find his teaching style strict and formal and described him as frightening. She would describe his lessons as satisfactory with

some good. There were no complaints from parents about him behaving inappropriately to their children.

Although she was confident that the evidence about Dr Davis's behaviour was reliable she was concerned that he may challenge, in the disciplinary proceedings, the procedure that the school had followed. Accordingly, having taken advice from the Local Authority, she agreed to Dr Davis leaving his employment under the terms of a compromise agreement.

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.

This case concerns the alleged behaviour of Dr Michael Davis whilst employed at Highbury Fields School, Highbury, London. He was employed as the Head of the Sixth Form and had a significant pastoral role for his students. Dr Davis was also a member of the humanities department and was responsible for teaching history to Key Stage 3, 4 and 5. He also taught Personal Social and Health Education to Year 11 students and one lesson of sociology to Year 10 students.

Allegations were made that Dr Davis was behaving inappropriately and he was suspended on 19 June 2008. A Disciplinary hearing was due to be held but before it was held Dr Davis and the school reached a compromise agreement.

It was alleged that Dr Davis was guilty of unacceptable professional conduct in that:

Whilst employed at Highbury Fields School, London between 1 September 2007 and 31 July 2008 he made inappropriate comments to:

- a) year 7 students
- b) year 8 students
- c) year 10 students
- d) year 12 students

Findings of fact

We have heard evidence from Witness A, Deputy Head Teacher of Highbury Fields School who we found to be a credible witness. However, she was not able to give direct evidence of the incidents but she gave clear evidence of how information was collected regarding Dr Davis's behaviour.

Although we have formed our own view of the evidence we found that our analysis of that evidence was helped greatly by the two tables she produced analysing the accounts given by Year 8 and 10 students. As none of the students gave evidence we also derived assistance from the results of the steps Witness A took to assess

the credibility of the students namely by asking teachers who knew the students whether they considered the students to be honest.

We consider that the statements written by the Year 8 and 10 students to be reliable as they were written without the students being given prior notice and whilst being supervised so as to prevent the possibility of collusion.

In view of the wording of the allegations we have ignored evidence that does not relate to potentially inappropriate comments.

Against this background our findings of fact are as follows:

a) Made inappropriate comments to Year 7 students.

We have found this particular not proven.

Although in relation to Year 7 there is evidence that Dr Davis made a number of comments the only one that was made directly to a student is “no heavy breathing”. We are satisfied that he made this comment and that it was inappropriate. However as it was made to a student rather than to students we have been unable to find the particular proved.

b) Made inappropriate comments to Year 8 students.

We have found this particular proven.

We have accepted the evidence in the statements of the Year 8 students that on a number of occasions Dr Davis used inappropriate sexual language. We do not intend to list all the expressions used but by way of example one student wrote “In lessons Dr Davis keeps talking about sex and stuff and it’s not really relevant to the lesson” Another wrote “he uses sexual words eg breast, rape, sex”. Yet another wrote “in nearly every lesson Dr Davis always talks about sex. I think he is obsessed with that subject”. We consider this language to be clearly inappropriate.

c) Made inappropriate comments to Year 10 students.

We have found this particular proven.

We have accepted the evidence in the statements of the Year 10 students that on a number of occasions Dr Davis used inappropriate sexual language. One example being “the best form of exercise for people our age was sex” Several other students recall Dr Davis using the word SEX as a mnemonic to assist in paragraph structuring – S was for source, E was for evidence or Example and X was for Explanation.

We consider such language to be clearly inappropriate.

d) Made inappropriate comments to Year 12 students.

We have found this particular proven.

We are satisfied that Dr Davis said to one Year 12 student words to the effect of that he wanted all the girls as Facebook friends so he can keep an eye on what they are up to. We also satisfied that he said to another Year 12 student “if I was younger and you were older, I’d have you.”

We are satisfied that both these comments were inappropriate.

Findings as to Unacceptable Professional Conduct

It is clear from the evidence that inappropriate sexual comments pervaded many of Dr Davis’s lessons. Such behaviour cannot be anything other than misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

Accordingly, his conduct amounted to Unacceptable Professional Conduct.

Panel’s Recommendation to the Secretary of State

We have carefully considered the Teaching Agency guidance on the issuing of prohibition orders. We recommend to the Secretary of State that a prohibition order is appropriate in this case.

We are mindful that we must be proportionate in our recommendation and weigh up both the public interest and the interests of Dr Davis.

In relation to the public interest, in this case, we are particularly concerned with the maintenance of public confidence. The way in which teachers deal with pupils, and the language that they use to pupils, is an important part of maintaining this confidence. We are concerned that public confidence would be significantly undermined if Dr Davis’s misconduct was not subject to a sanction.

We are also mindful of the public interest in declaring and upholding proper standards of conduct.

We are concerned that when issues about Dr Davis were raised he was warned on two occasions by the Head Teacher about his behaviour. In a letter to the school governor’s dated 2 July 2008 the Head Teacher wrote “I spoke to him firmly telling him to be ultra-careful and to make sure that he did not say anything, even in jest, which could in any way be interpreted as sexual or having sexual implications” Dr Davis, an experienced teacher, failed to heed these warnings and has always denied any wrongdoing.

We consider that Dr Davis lacks insight and were concerned to note in his letter to the panel he wrote “Further, in my defence you note that the allegations are about comments, there is no allegation about any improper physical contact with pupils”. This demonstrates to us that Dr Davis has a severe misunderstanding of the potential consequences of his behaviour.

We recognise that Witness A described Dr Davis as a satisfactory teacher. However, we have concluded that his behaviour was a serious departure from the

personal and professional conduct elements of the latest Teachers' Standards and was conduct which had the potential to seriously affect the well-being of pupils.

We recommend that it would be appropriate for Dr Davis to be able to apply for the Order to be set aside after a minimum period of five years has elapsed.

We have decided to allow him the opportunity to apply to set aside the Order as we consider it is proportionate to allow Dr Davis 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 carefully considered this case. The panel have found facts proven in the majority of the allegations made, and have found that these findings do amount to unacceptable professional conduct.

It is evident that the behaviour of Dr Davis falls seriously below that expected. The repeated use of sexualised language and sexual references falls significantly short of the behaviour expected of a teacher.

For these reasons I support the panel's recommendation that a prohibition order is imposed.

I turn now to the review period. I have also considered this carefully. The behaviour of Dr Davis is serious, but on balance and in the public interest I support the opportunity that the panel recommend that he be given a review period of five years.

This means that Dr Michael Davis 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 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, Dr Michael Davis remains barred from teaching indefinitely.

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

Dr Michael Davis 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