

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Andrew Riley

Teacher ref no: 92/59782

TA Case ref no: 8439

Date of Determination: 14 & 15 June 2012

Former Employer: Baines School, Poulton Le Fylde, Lancashire

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 14 & 15 June 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Andrew Riley.

The Panel members were Mr William Brown (Lay Panellist– in the Chair), Ms Jean Carter (Lay Panellist) and Mrs Pamela Belmour (Professional Panellist).

The Legal Adviser to the Panel was Mr Paul Owston of Berrymans Lace Mawer LLP Solicitors.

The Presenting Officer for the Teaching Agency was Ms Lucy Alicea of Kingsley Napley LLP Solicitors.

Mr Riley 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 13 March 2012.

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

1. In around May 2005, accessed and/or downloaded pornographic material using his School laptop;
2. Between around May and September 2005, exchanged inappropriate instant messages with Pupil A, in which he:
 - a. referred to pornographic websites and/or websites with sexual content;
 - b. suggested that Pupil A should engage in internet sex via laptops during a trip to Manchester with him;

- c. offered to provide cocaine to Pupil A, and/or referred to his personal use of cocaine;
 - d. made sexual comments;
 - e. made derogatory comments about members of staff and/or pupils at the School;
 - f. encouraged Pupil A to send him inappropriate photographs of herself;
 - g. sent Pupil A inappropriate photographs of himself;
3. On or around 28 June 2005 and/or 7 July 2005, he provided cocaine to Pupil A;
 4. On or around 28 June 2005 and/or 7 July 2005, he used cocaine in Pupil A's presence;
 5. On an unknown date in 2005, he provided cannabis to Pupil A;
 6. Between around May and around September 2005, had an inappropriate relationship with Pupil A in that he:
 - a. had a sexual relationship with Pupil A;
 - b. took Pupil A to Snow Heights in the School minibus on or around 11 July 2005;
 - c. stayed in a Manchester hotel with Pupil A on or around 29 June 2005 and/or 7 July 2005;
 - d. played a drinking game with Pupil A on 27-28 May 2005, in which he passed alcohol between his mouth and Pupil A's mouth;
 - e. touched Pupil A in an inappropriate manner;
 7. At the 'Leaver's Ball' event at the De Vere Hotel, on 27 and 28 May 2005, he:
 - a. purchased alcohol for Pupil A and Pupil B, who were under the age of 18;
 - b. paid for alcohol with money taken from a charity collection organised by the School, for which he had responsibility;
 - c. paid the sum of £20 to the bartender at the Hotel in an attempt to ensure that he did not disclose to others the details of his behaviour that evening.

C. Summary of Evidence

Documents

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

Section 1 – Anonymised Pupil List – on pages 1 & 2

Section 2 – Notice of Proceedings and Response – on pages 3 – 10

Section 3 – Teaching Agency Statement – on pages 11 – 19

Section 4 – Teaching Agency Documents – on pages 20 – 714

Section 5 – Teacher’s Documents – on pages 716 - 722

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

Opening Address

Ms Alicea outlined the allegations against Mr Riley and that in his response to those he had made much of the fact that he had been acquitted at Court. She pointed out that there was a different standard of proof in that case, namely beyond all reasonable doubt and in this case the Panel were not judging whether a crime had been committed. Ms Alicea recounted the history of the matters in question and for each allegation referred the Panel to the relevant documents and Mr Riley’s response.

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, Headteacher of Baines School, whose statement, on pages 11 – 19, was taken as read. Witness A:

- Recounted how Pupil A had given a teacher a CD containing messages that had been exchanged with Mr Riley. That had prompted Witness A to begin an investigation which was suspended whilst the police investigated the matter.
- Detailed the School’s IT policies, confirmed that Mr Riley would have been aware of those and that Mr Riley’s laptop would have been password protected. The laptop had originally been taken by the police and when it was returned by the school Witness A had asked the network manager to gain access to it. There were various school based documents but in a folder he found still and moving pornographic images, and he had written down the websites they had been obtained from. When he first interviewed Mr Riley he had denied that he had viewed the sites in question. Mr Riley later said that he had given pupils access to the laptop and inferred some of them had put the material on it. Witness A did not think that likely, particularly since Mr Riley had said that he had not given his password to any pupils.
- Confirmed that the messages exchanged between Mr Riley and Pupil A had come from the CD provided by Pupil A and the dates of those matched various school activities mentioned in the messages.
- Was of the opinion that Pupil A was a pupil of the school until 31 August 2005. Until then she was on the school roll. After their exams pupils would come into the school for their exam results, in relation to applications to university and in some cases re-enrolment. There was a clear understanding they were pupils until 31 August. Witness A gave details about the summer school Mr Riley and Pupil A were involved in and their visit to Snow Heights. Whilst the latter was a

legitimate visit it was not normal for it to have been conducted on a one to one teacher/pupil basis.

- Confirmed that Pupil A was not 18 at the time of the Leaver's Ball.
- Detailed Mr Riley's career at the school and that he had worked closely with him in his role as Head of the sixth form. Mr Riley had been doing very well and was very energetic. There had been no inappropriate behaviour. Pupil A had not struggled academically but had done so socially and had seen the school counsellor. She had problems with self-esteem and confidence and had suffered meltdowns at times. She had improved but was still needy. She was absolutely a vulnerable pupil. Prior to these events he had a couple of discussions with Mr Riley about his interactions with female pupils. These were on a very low level and basically he felt that Mr Riley could have been a bit more circumspect. He had been shocked when these events came to light.
- Confirmed that Mr Riley, as Head of the sixth form, had a central role in the organisation and supervision of the Leaver's Ball and it was made clear to staff that they should not get involved with pupils in relation to drinking alcohol. Mr Riley gave the staff briefing prior to the event and he would have addressed this issue.
- Gave details of Mr Riley's training in relation to safeguarding, which he received as a member of staff and in his role as the Head of Governors at a primary school. It should have been doubly clear to him what standards were expected of him.

Closing Address

Ms Alicea referred the Panel to those matters that had been admitted, either fully or partially, by Mr Riley and those which he denied. She took the Panel to the evidence they had heard from Witness A and briefly summarised the other evidence before them. She then addressed the Panel on the issue of unacceptable professional conduct, drawing their attention to Witness A's evidence about the status of Pupil A, as a pupil, at the time of the events in question, which were echoed by the contents of the instant messages, and the warnings that Mr Riley had been given by the school counsellor and Witness A. In summary, Mr Riley had taken advantage of a vulnerable pupil.

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.

It is alleged that in 2005 whilst employed at the Baines School, Poulton Le Fylde, Lancashire Mr Riley engaged in inappropriate behaviour involving pornography, drugs and alcohol, exchanged inappropriate instant messages with a pupil and had an inappropriate relationship with that pupil.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against Mr Riley proven, for these reasons:

Whilst employed as a teacher at Baines School between 1 June 1997 and 8 December 2008, he:

1. In around May 2005, accessed and/or downloaded pornographic material using his School laptop;

We have heard direct oral evidence about this allegation from Witness A, the Headteacher at the school. He gave entirely credible evidence about the data stored on the laptop and we accept that the material in question is as listed at page 637. From the names of the websites alone it can clearly be seen that the material was pornographic in nature. It is particularly concerning that one site referred to is www.schoolgirlpain.com.

We do not find Mr Riley's explanation that pupils had stored this material in the laptop credible. Witness A confirmed that the laptop was password protected and Mr Riley had confirmed that he had not divulged his password to anyone. Further, It seems unlikely that Mr Riley would not have noticed that pupils were using his laptop for this purpose and the storage of the material in one, unusual location - 'My Music', suggests that this was an organised form of storage by the user of the laptop.

Witness A also gave credible evidence that the school had policies and procedures in place which Mr Riley would have been familiar with. In particular, he confirmed that Mr Riley's signature appears on the school's Staff Acceptable Use Policy and Laptop Use Policy at page 661. Accordingly Mr Riley should not have been in any doubt that the laptop should not have been used for this purpose.

2. Between around May and September 2005, exchanged inappropriate instant messages with Pupil A, in which he:
 - a. referred to pornographic websites and/or websites with sexual content;
 - b. suggested that Pupil A should engage in internet sex via laptops during a trip to Manchester with him;
 - c. offered to provide cocaine to Pupil A, and/or referred to his personal use of cocaine;
 - d. made sexual comments;

- e. made derogatory comments about members of staff and/or pupils at the School;
- f. encouraged Pupil A to send him inappropriate photographs of herself;
- g. sent Pupil A inappropriate photographs of himself;

We have seen the actual messages which Mr Riley has admitted he sent and received. He has accepted they were accurate. He has asserted though that they are not inappropriate insofar as Pupil A was no longer a pupil at the school. On that basis he believes that he was free to engage in whatever communication he wished with Pupil A.

We do not accept that Pupil A was simply another member of the public and not a pupil at the school when the messages were exchanged with Mr Riley. We have heard evidence from Witness A that Pupil A remained on the school roll until 31 August 2005 and up to that point was considered a pupil for whom the school had a responsibility and continued to engage with. Further, at the time Mr Riley himself recognised this, given that many of the messages relate to the school and the relationship between him and Pupil A as a teacher and pupil. It is inconceivable that, in his position as the head of the sixth form with responsibility for a cohort of about 250 students and a senior pastoral role, Mr Riley would not have been fully aware that Pupil A was a pupil under his care and she would have been considered as such.

With regard to the specific content of the messages we highlight the following extracts in respect of each allegation. These and others are clearly inappropriate between a teacher and a pupil :

- a. page 603 – “www3.kinghost.com.hardcore/fcsex...”
 - b. page 268 – “...me in the bathroom, you in the bedroom, two laptops and type messages all night...internet sex!!!!!!”
 - c. page 297 – “...on a mixture of champagne, coke and ecstasy...”
 - d. page 371 – “...come in on Monday and I’ll shag you in the office...”
 - e. page 555 – “...shes worse than you used to be in terms of depression...”
 - f. page 437 – “...skirt off ?(I CANNOT believe im doing this)
 - g. page 434 – “...ive just taken a video clip of me takin my shirt off...”
6. Between around May and around September 2005, had an inappropriate relationship with Pupil A in that he:
- a. had a sexual relationship with Pupil A;
 - b. took Pupil A to Snow Heights in the School minibus on or around 11 July 2005;
 - c. stayed in a Manchester hotel with Pupil A on or around 29 June 2005 and/or 7 July 2005;
 - d. played a drinking game with Pupil A on 27-28 May 2005, in which he passed alcohol between his mouth and Pupil A’s mouth;
 - e. touched Pupil A in an inappropriate manner;

Despite Mr Riley’s assertion to the contrary we have the same view of his relationship with Pupil A as with allegation 2, namely that she was a pupil at the

time of the events in question. It is notable with regard to this allegation that b and d took place in the context of school related activities.

Mr Riley has admitted that he spent the night with Pupil A at a Manchester Hotel, played a drinking game with Pupil A and when they spent the night together they kissed and cuddled. In themselves these are clearly inappropriate and in the context of them allegation b, which is also admitted, can be viewed as part of a course of inappropriate conduct rather than an innocent trip. Further, Witness A was clear in his evidence that it did not take place in accordance with school protocols.

We are not able to conclude on the balance of probabilities whether sexual intercourse took place between Mr Riley and Pupil A. He has denied that and the jury at the Crown Court must have considered there to be reasonable doubt in that regard. However, that does not preclude us from making a finding of fact on the balance of probabilities. Despite the content of some of the instant messages and the statement of Pupil A we do not consider that there is sufficient evidence before us to conclude that sexual intercourse took place. In particular we have not heard direct oral evidence from Pupil A. Nevertheless, part a of the allegation is drawn wider than this and sexual relationships can encompass a wide variety of activities as occurred in this case, not least the sexual nature or context of the instant messages. Further, by his own admission Mr Riley and Pupil A shared a bed and at the very least kissed, cuddled and he massaged her. Accordingly we find this part of the allegation is proved.

7. At the 'Leaver's Ball' event at the De Vere Hotel, on 27 and 28 May 2005, he:
 - a. purchased alcohol for Pupil A and Pupil B, who were under the age of 18;

Mr Riley has admitted the facts of this allegation. Even if true we do not find Mr Riley's assertion that other teachers were buying drinks is an excuse for his behaviour. As the Head of the sixth form he was in a particular position of trust and authority on this occasion. Witness A gave clear evidence that staff should not have purchased alcoholic drinks for pupils. Further, in that position he should have been aware of the pupil's ages and indeed given his close relationship with Pupil A should have been well aware of her age.

We have found the following particulars of the allegations against Mr Riley not proven, for these reasons:

Whilst employed as a teacher at Baines School between 1 June 1997 and 8 December 2008, he:

3. On or around 28 June 2005 and/or 7 July 2005, he provided cocaine to Pupil A;

We have noted that Mr Riley passes off references to cocaine as a fantasy or jokes which were made in an attempt to impress Pupil A. We have not had the benefit of hearing evidence from either Mr Riley or Pupil A and therefore have approached the evidence about this serious allegation with caution. Her account is realistic but when this was tested at the Crown Court trial a not guilty verdict

was returned. Accordingly whilst the instant messages do suggest that there is some truth to what Pupil A says we cannot find this allegation proved on the balance of probabilities.

4. On or around 28 June 2005 and/or 7 July 2005, he used cocaine in Pupil A's presence;

For the same reasons as at allegation 3 we do not have sufficient evidence to find this allegation proved.

5. On an unknown date in 2005, he provided cannabis to Pupil A;

This allegation has been withdrawn by the Presenting Officer and we can see no evidence to support it.

7. At the 'Leaver's Ball' event at the De Vere Hotel, on 27 and 28 May 2005, he:
 - b. paid for alcohol with money taken from a charity collection organised by the School, for which he had responsibility;
 - c. paid the sum of £20 to the bartender at the Hotel in an attempt to ensure that he did not disclose to others the details of his behaviour that evening."

Mr Riley has denied these allegations and although they are supported by the contents of the instant messages we do not feel able to reach a conclusion on the balance of probabilities on the basis of the evidence before us.

Findings as to Unacceptable Professional Conduct

Having found the facts of allegations 1, 2, 6 and 7 a. proved we further find that those amount to unacceptable professional conduct.

This is because:

Mr Riley's actions constituted misconduct of a serious nature, falling significantly short of behaviour expected of a teacher.

Mr Riley's actions breached the relevant GTC Code of conduct and practice for registered teachers, effective from 1 October 2009. Specifically he:

Failed to put the wellbeing of, development and progress of young people first by:

- Failing to use his professional expertise and judgement to do the best for young people in his care;
- Failing to establish and maintain professional boundaries in his relationships with young people.

Failed to uphold public trust and confidence in the teaching profession by failing to maintain reasonable standards in his own behaviour.

Mr Riley's actions were a clear breach of his position of trust which progressed from support given to a vulnerable pupil to sexual behaviour. That was plainly a course of conduct that is wholly unacceptable for a teacher to engage in and is behaviour that the public would rightly be extremely concerned about. Further, any parent would be alarmed by the content of the messages that passed between Mr Riley and Pupil A and that he sought to pass those off as simply a conversation between two adults on the same footing. This was clearly not the case.

Panel's Recommendation to the Secretary of State

When considering what sanction, if any, to recommend we have had regard to "The Prohibition of Teachers – DfE advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession". In particular we have had regard to the protection of children and members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. We have sought to approach the issue bearing in mind the principle of proportionality. We have concluded that in this instance it is appropriate to recommend that a Prohibition order be made.

We have carefully considered the documents that we have been provided with including the letter from Mr Riley.

Mr Riley's behaviour is completely incompatible with being a teacher because it represented a serious departure from the GTC Code of Conduct in relation to a number of instances of unacceptable professional conduct over a period of time. Those also constituted a serious abuse of his position and the trust vested in him in particular as Head of the Sixth Form.

Mr Riley took advantage of a vulnerable pupil despite having been warned by the school counsellor about the potential direction of their relationship. There is also evidence that he had considerable training in his pastoral role. Mr Riley has also demonstrated, in his response to the internal school investigation, his letter of resignation and his letter to the Teaching Agency a complete lack of remorse and revealed himself as an angry man seeking to blame others and taking no responsibility for his actions. It is particularly regrettable Mr Riley has sought to say that Pupil A was not a student.

We cannot see that there is any real mitigation in this case. Further, his letter to the Teaching Agency reveals a disregard for these proceedings and a complete failure to accept any responsibility. Mr Riley's inappropriate contact with Pupil A was sustained over a period of time and he acted entirely of his own free will.

We have noted Witness A's evidence that Mr Riley had previously been a competent and enthusiastic teacher. It is therefore particularly disappointing that he abused his position.

In light of the importance of safeguarding and the serious nature of the sexual misconduct with a pupil in this case we recommend that Mr Riley should be not be allowed to apply to set aside the Prohibition Order.

Secretary of State's Decision and Reasons

I have given full consideration to the careful and detailed findings of the panel and its recommendation as to sanction.

The panel has found a significant number of the facts proven and has found that those facts amount to unacceptable professional conduct. I have noted that there is little in the way of mitigation or insight offered by Mr Riley.

I have considered the recommendation that Mr Riley should be prohibited from teaching. The behaviour Mr Riley has exhibited is incompatible with being a teacher and I support the recommendation of imposing a prohibition order.

Finally I agree with the panel's recommendation that Mr Riley should not be allowed to apply to set aside the prohibition order in view of the serious nature of the sexual misconduct with a pupil in this case and his lack of remorse.

This means that Mr Andrew Riley 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 allegation(-s) found proved against him, I have decided that Mr Andrew Riley 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 Andrew Riley 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: Paul Heathcote
Date: 15 June 2012**