

# THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

**Teacher:** Mr Phillip Yourell

**Teacher ref no:** 99/42487

**Teacher date of birth:** 24/08/1966

**TA Case ref no:** 3568

**Date of Determination:** 27 September 2012

**Former Employer:** Portfields School, Newport Pagnell, Milton Keynes.

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## **A. Introduction**

A Professional Conduct Panel ("the Panel") of the Teaching Agency convened on 24 /25 May and 26/27 September 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Phillip Fitzpatrick Yourell.

The Panel members were Mrs Kathy Thomson (Teacher Member in the Chair), Mr Anthony Bald (Teacher Member) and Mr David Foster (Lay Member).

The Legal Adviser to the Panel was Mr Paddy Roche of Morgan Cole LLP, Solicitors, Oxford.

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

Mr Phillip Yourell was present on 24 and 25 May 2012 but absent on 26 and 27 September 2012. He 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 15 March 2012.

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

1. Whilst employed at Portfields School, Westbury Lane, Milton Keynes between September 2000 and July 2006 he:-

- a) formed an inappropriate relationship with pupil A;
- b) showed favouritism towards a pupil, Pupil A in allowing him to behave in ways other pupils were not;
- c) breached the acceptable user policy regarding the school laptop by using it for his private business;
- d) utilised his post as a teacher to promote his business interests including a holiday club, against instruction;
- e) ran outside business interests alongside his teaching role, conducting business during teaching/school time;
- f) misled the school and Milton Keynes Council during his recruitment by failing to fully declare his convictions;
- g) behaved and spoke to pupils, parents and staff in an inappropriate manner.

2. That he had committed the following offences:

a) OFFENCE/DATE COURT/DATE DISPOSAL	Criminal damage Newport Pagnell Juvenile 22/05/79 Conditional discharge 12 months, compensation £25.
b) OFFENCE/DATE COURT/DATE DISPOSAL	Theft Newport Pagnell Juvenile 22/05/79 Conditional discharge 12 months.
e) OFFENCE/DATE COURT/DATE DISPOSAL	Criminal damage Fenny Stratford Magistrates 28/09/81 Conditional discharge 12 months.
k) OFFENCE/DATE COURT/DATE DISPOSAL	Theft - shoplifting Fenny Stratford Juvenile 04/01/83 Conditional discharge 12 months, costs £10.
l) OFFENCE/DATE COURT/DATE DISPOSAL	Theft Stony Stratford Magistrates 04/01/85 Conditional discharge 2 years.

q) OFFENCE/DATE COURT/DATE DISPOSAL	No insurance Newport Pagnell Magistrates 19/02/88 Conditional discharge 12 months, driving licence endorsed.
t) OFFENCE/DATE COURT/DATE DISPOSAL	No insurance Newport Pagnell Magistrates 19/02/88 Conditional discharge 12 months, compensation £825, costs £20, disqualification from driving 2 years.
v) OFFENCE/DATE COURT/DATE DISPOSAL	No insurance Newport Pagnell Magistrates 16/08/88 Absolute discharge.
z) OFFENCE/DATE COURT/DATE DISPOSAL	No insurance Newport Pagnell Magistrates 16/08/88 Absolute discharge resulting from original conviction 19/02/88.
aa) OFFENCE/DATE COURT/DATE DISPOSAL	No insurance Newport Pagnell Magistrates 16/08/88 Absolute discharge resulting from original conviction 19/02/88.

3. It was further alleged that he had been convicted of the following relevant offences:

c) OFFENCE/DATE COURT/DATE DISPOSAL	Taking conveyance without authority Fenny Stratford Juvenile 05/02/80 Supervision order 2 years.
d) OFFENCE/DATE COURT/DATE DISPOSAL	Theft - Shoplifting Fenny Stratford Juvenile 11/11/80 Fine £100.
f) OFFENCE COURT/DATE DISPOSAL	Theft of a vehicle Newport Pagnell Juvenile 23/02/82 Detention Centre 3 months, driving licence endorsed.

<p>g) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>h) OFFENCE/DATE COURT/DATE DISPOSAL</p>	<p>Theft of a vehicle Newport Pagnell Juvenile 23/02/82 Detention Centre 3 months concurrent, driving licence endorsed compensation £5.</p> <p>Theft Newport Pagnell Juvenile 23/02/82 Detention Centre 3 months concurrent.</p>
<p>i) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>j) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>m) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>n) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>o) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>p) OFFENCE/DATE COURT/DATE DISPOSAL</p>	<p>Criminal damage Newport Pagnell Juvenile 23/02/82 Detention Centre 3 months concurrent, compensation £50.</p> <p>Criminal damage Newport Pagnell Juvenile 23/02/82 Detention Centre 3 months concurrent, resulting from original Conviction of 28/09/81.</p> <p>Handling Hemel Hempstead Magistrates 13/08/86 Fine £50.</p> <p>Theft Fine £25, costs £5, resulting from original conviction of 04/01/85.</p> <p>Wounding Newport Pagnell Magistrates 19/02/88 Imprisonment 3 months wholly suspended 2 years.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 19/02/88 Imprisonment 3 months consecutive wholly suspended 2 years, driving licence endorsed.</p>
<p>r) OFFENCE/DATE COURT/DATE</p>	<p>Assault occasioning actual bodily harm Newport Pagnell Magistrates 19/02/88</p>

<p>DISPOSAL</p> <p>s) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>u) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>w) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>x) OFFENCE/DATE COURT/DATE DISPOSAL</p> <p>y) OFFENCE/DATE COURT/DATE DISPOSAL</p>	<p>Imprisonment 3 months concurrent wholly suspended 2 years.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 19/02/88 Imprisonment 3 months concurrent, wholly suspended 2 years.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 16/08/88 Imprisonment 3 months.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 16/08/88 Imprisonment 3 months consecutive, disqualification from driving 2 years.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 16/08/88 Imprisonment 3 months concurrent, resulting from original conviction of 19/02/88.</p> <p>Driving whilst disqualified Newport Pagnell Magistrates 16/08/88 Imprisonment 3 months concurrent, resulting from original conviction of 19/02/88.</p>
<p>ab) OFFENCE/DATE COURT/DATE DISPOSAL</p>	<p>Obstructing police Fenny Stratford Magistrates 02/05/89 Imprisonment 1 month wholly suspended 2 years.</p>

ac) OFFENCE/DATE COURT/DATE DISPOSAL	Assault on police Fenny Stratford Magistrates 02/05/89 Imprisonment 6 months wholly suspended 2 years, compensation £100.
ad) OFFENCE/DATE COURT/DATE DISPOSAL	Criminal damage Fenny Stratford Magistrates 02/05/89 Imprisonment 3 months concurrent, wholly suspended 2 years.
ae) OFFENCE/DATE COURT/DATE DISPOSAL	Driving a motor vehicle with excess alcohol Bedford and Mid Bedfordshire Magistrates 28/10/99 Fine £200, disqualification from driving 12 months and licence endorsed, costs £50.

### **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 Response	Pages 03 to 14
Section 2	Witness Statements and Agreed Facts	Pages 16 to 30.
Section 3	Teaching Agency Documents	Pages 31 to 233.

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

#### Brief summary of evidence given

The Presenting Officer called the following witnesses:-

**Witness A**, who gave evidence in accordance with her witness statement at pages 17 to 26.

She said that:-

- She was employed at Portfields School as the Deputy Head Teacher.
- She told the panel about Mr Yourell's employment history at Portfields School.
- That he had formed a relationship with the mother of Pupil A.

- She described a number of incidents of allegedly inappropriate behaviour involving Mr Yourell and Pupil A including putting fake tan on him and spending a night in a hotel with him.
- She was appointed as Investigating Officer in May 2006.
- A number of meetings were held to discuss Mr Yourell's overall conduct at the School, his involvement in running Out of School activities during holidays, and complaints from parents in relation to the way he treated children.
- Mr Yourell was given the opportunity to put his account of events.
- It became apparent that he had shown favouritism towards Pupil A and had acted inappropriately with other children.
- Many personal possessions belonging to Mr Yourell were found in his class room following his suspension.
- There was information relating to both the limousine and fancy dress hire business.
- Witnesses had confirmed that Mr Yourell had conducted some business on the School premises.
- An investigation of his School lap top contained a number of business files.
- It appeared that he had breached the School's Acceptable User Policy in force at the time.
- There was evidence of Mr Yourell behaving aggressively towards members of staff and using inappropriate language towards some pupils.
- The investigation concluded that Mr Yourell's conduct over a period of time had caused serious concern to some children and parents.
- A disciplinary hearing was arranged to deal with a number of allegations relating to inappropriate behaviour, bringing the School into disrepute and other issues.
- The allegations were upheld and Mr Yourell was dismissed for six counts of gross misconduct. Mr Yourell appealed against the decision but his appeal was dismissed.

On the second day of the hearing Mr Yourell advised the Panel that he believed there had been collusion overnight between Witness A (who by then had completed her evidence) and Witness B, the Head Teacher of Portfields School, who was still due to give evidence to the Panel. He alleged that they had been speaking about the case overnight in a public room of the Premier Inn within the

hearing of a witness Witness C. He said he had a photograph of the witnesses, establishing that this inappropriate conversation had taken place, despite Witness A being advised not to have any discussions with the witness who was still to give evidence.

The Panel adjourned to consider the position and made the following announcement - that having considered the advice from the Legal Adviser and representations from both parties this serious issue needed to be properly investigated. It would be the Panel's intention therefore to call the following witnesses:

- i. Mr Yourell.
- ii. His ex-colleague who took the photograph (Witness C).
- iii. Witness A.
- iv. Witness B.

The witnesses could be cross examined by the other party and the Panel would be entitled to ask questions as well. The Panel would invite both parties to make submissions at the close of the evidence before making its findings of fact as to whether an inappropriate conversation had taken place between the witnesses.

The Panel then heard evidence from the witnesses and adjourned the case to a date to be fixed to hear submissions from the parties on the evidence.

On 26 September the Panel reconvened to continue the hearing. Mr Yourell failed to attend.

### Proof of Service

The Presenting Officer produced copies of correspondence sent to Mr Yourell at the address he had given to the Panel as his correct address on 25 May 2012. Letters dated 7 August and 7 September informed him of the adjourned hearing date and a further letter sent on 21 September enclosed documents in relation to the adjourned hearing.

The Presenting Officer submitted that this was adequate notice provided by the Teaching Agency to Mr Yourell of the hearing date. The Panel having considered these documents confirmed that Mr Yourell had been properly served with notice of the adjourned hearing date.

### Proceeding in the absence of the Teacher

The Presenting Officer told the Panel that no response had been received from Mr Yourell at all and there had been no contact from him during the adjournment period. She applied to proceed in the absence of Mr Yourell and took the Panel through the history of the case and previous adjournments of the hearing. She submitted that Mr Yourell had had an abundance of opportunity to attend and that the public interest in proceeding in his absence outweighed any prejudice to Mr Yourell which might be caused as a consequence. She said that Witness B had attended to give evidence that morning and on two previous occasions and there was no good reason why the Panel should not proceed with the hearing.



The Panel adjourned to consider the Presenting Officer's submission but were subsequently notified that a text message sent to Mr Yourell had elicited a response from him that he was unwell.

The Panel reconvened to receive updated information from the Presenting Officer (as set out in the Transcript of Text Messages annexed hereto – appendix A).

The Panel heard further submissions from the Presenting Officer that the case should proceed in the absence of Mr Yourell and retired again to consider the Application.

The Panel made the following announcement:-

"We are asked to consider proceeding in the absence of Mr Yourell today. Mr Yourell attended the first two days of this hearing on 24 and 25 May. At the end of the hearing he was asked to confirm his address which he gave as 107 Clay Hill, Two Mile Ash, Milton Keynes MK8 8BB. He did so. He was further advised that the case would be relisted for a further 2 days on dates to be fixed by the Teaching Agency. He said that if he were to move from that address "I'll let you know." From that date till this morning we are told that neither the Teaching Agency nor the Presenting Officer had received any communication whatsoever from Mr Yourell.

We have been shown copies of letters sent by the Teaching Agency to Mr Yourell at the Clay Hill address on 7 August, 7 September and 21 September relating to this adjourned hearing. The letters of 7 August and 7 September specifically notify him of the adjourned hearing dates for this case. The letter of 21 September encloses notes of evidence for the adjourned hearing. We understand the letters were sent by first class post. We are therefore satisfied that Mr Yourell has been notified of today's date.

There has been no response from him at all until he replied to a text message sent to his mobile phone this morning at approximately 10.30. In that response he does not suggest that he had until then been unaware of today's hearing.

We are advised therefore that we have a discretion to continue with this case in the absence of Mr Yourell but should only do so with great care and caution and with close regard to the overall fairness of the proceedings. We have also been advised of the guidance given in the cases of R v Jones and Tait v Royal College of Veterinary Surgeons.

This case has been adjourned on two previous occasions when Mr Yourell firstly failed to attend for a hearing before the GTC Disciplinary Committee and secondly at his request for reasons of ill health and lack of time to prepare for the hearing.

We are satisfied that Mr Yourell has displayed a consistent failure to engage with the GTC and the Teaching Agency in the lead up to the scheduled hearings. That course of conduct has been repeated this morning. At 9.30 when this Panel convened there had been no contact from the teacher.

On our instructions attempts were made by the Teaching Agency to contact Mr Yourell by telephone, text and Email to establish whether he was proposing to attend the hearing. We believe it is significant that he did not make any contact at all with the Teaching Agency or the Presenting Officer until 10.45 this morning when he replied to a text from Miss Harris sent at the Panel's request. We exhibit to this decision the full transcript of the text message exchange which has developed this morning between the Presenting Officer and Mr Yourell. The following observations are pertinent.

Prior to receiving the text message sent by the Presenting Officer this morning Mr Yourell apparently had made no attempt to notify the TA that he had been taken ill during the night. Even then his response says he "will be going to A&E Emergency Department this morning." That response does not suggest to this Panel that he was too ill to make a call to the Teaching Agency to notify his condition. However he did not do so. In view of the importance of this case to him we find that failure to be inexplicable and it causes us to question the extent of his claimed indisposition.

On requesting independent verification from the hospital (whichever one it may be) of his condition and fitness to attend this hearing we have been told that Mr Yourell has simply made an appointment with his General Practitioner at 4.15 this afternoon. That causes us to further question how serious his condition may actually be and whether he is physically unable to attend this hearing and participate in it.

We had a full opportunity to assess Mr Yourell over the first two days of the hearing. We find the present position to be highly unsatisfactory. We have not at any time seen any independent evidence of Mr Yourell's medical condition, diagnosis and treatment. We are particularly concerned to establish Mr Yourell's current state of health and clearly the best way of obtaining that information would appear to be in the form of a report from Individual A whom, we are told, Mr Yourell is seeing this afternoon. A report from Individual A should clarify Mr Yourell's current fitness, or otherwise, to attend this hearing tomorrow at 9.30. We therefore require Mr Yourell to arrange for such a report to be lodged with the Teaching Agency by 9.00.a.m tomorrow morning or to authorise Individual A to provide a verbal report as to his condition to the Teaching Agency. The Teaching Agency staff to whom such a report may be given are Individual B 0247 345 0199 or Individual C 0247 345 0235. Should Mr Yourell fail to attend the hearing tomorrow at 9.30 we will decide then on the medical and other evidence available whether this hearing should continue in his absence."

The case was therefore adjourned until 9.30 am the following morning.

On 27 September 2012 the Panel heard further submissions from the Presenting Officer. The Panel was told that there had been no medical evidence received from Mr Yourell. In those circumstances the Presenting Officer applied to proceed with the case in his absence.

The Panel retired to consider the application and made the following announcement:-

“Further to our decision made yesterday requiring Mr Yourell to provide details from his General Practitioner of his medical condition and fitness to attend the hearing of his case this morning we have been told that the Panel’s full written decision was sent to Mr Yourell early yesterday afternoon by Email.

We are also told that Mr Yourell communicated with the Presenting Officer yesterday afternoon by text – well before his 4.15 appointment with Individual A – and we exhibit to this decision a transcript of the text messages passing between the teacher and the Presenting Officer. In the text message sent by the Presenting Officer at 14.24 she concludes in the following terms – “The Email that you will (then) receive will contain details of action you have been required to take by the Panel.”

We conclude from the transcript that - had he followed that important advice - Mr Yourell would have been made acutely aware of the paramount importance of furnishing, by 9:00am, a medical report providing independent professional verification of the illness which is claimed to prevent him appearing in person before the panel this morning. No such report has been provided. Mr Yourell has not attended the hearing and neither the Presenting Officer or the Teaching Agency have received any communication from Mr Yourell since the last text message received by the Presenting Officer yesterday. In addition a letter from the Teaching Agency could not be delivered to Mr Yourell’s home address this morning as there was no one at the house to sign for it.

We have no adequate information to justify Mr Yourell’s failure to attend today.

In the circumstances we find it extraordinary that there has been no communication at all from Mr Yourell this morning. We believe that his failure to communicate with the Presenting Officer or the Teaching Agency at all suggests, in all probability, that he has effectively waived his right to be present. He was able to send text messages yesterday so had a line of communication which he has apparently not chosen to utilise today. We find it difficult to accept that there can be any adequate explanation for his failure to engage with the Teaching Agency which seems to be consistent with his approach to previous scheduled hearings.

Mr Yourell faces serious allegations which could mean that his livelihood is put at risk – we think that makes his failure to provide any medical evidence, as directed, all the more extraordinary. We believe that we have given Mr Yourell every possible opportunity to provide that evidence and his failure to do so or even to explain that failure leads us to question whether his claimed illness can be relied upon as a justification for his absence. We also cannot overlook the history of previous deferments of this case arising from Mr Yourell’s failure to attend or prepare for earlier scheduled hearings.

We appreciate that a decision to continue with this case today may place the teacher at a disadvantage as we would not be able to hear his version of events. We have however heard and considered his cross examination of Witness A, the Agency’s principal witness on the first day of the hearing and have some understanding of the way his case is put and his challenge to the evidence the Teaching Agency rely upon.

We are very anxious that the events with which this case is concerned mostly occurred in 2005/6 - some 6 years ago. We do not believe that it is appropriate or fair to delay these proceedings further. We doubt that to do so would achieve anything other than further delay in a case which has already taken much longer to resolve than seems reasonable. We have to consider the interests of the Agency witness Witness B who has attended to give evidence on two previous occasions and was waiting all yesterday to be called. We also need to take account of the interests of the public generally, the need for these hearings to be concluded within a reasonable time frame and the fact that Mr Yourell is still able to continue to teach while this case remains unresolved. We believe our duty to the public in particular requires that this investigative hearing should be brought to a conclusion.

For all those reasons we have decided to proceed in the absence of Mr Yourell. We are clear that in making that decision we have no medical evidence whatsoever which allows us to conclude that Mr Yourell is not fit to attend the continued hearing in person. We only have an unsubstantiated assertion from him that he is too ill to attend. Our efforts to obtain medical evidence which would support his claim have been entirely frustrated by his failure to engage with the Teaching Agency and cooperate in providing that evidence. Above all, his failure to communicate at all with the Teaching Agency since yesterday afternoon to provide a reason for the failure to furnish a medical report leads us to conclude that this is probably an attempt to delay the case further without good reason.

In deciding to proceed in the teacher's absence we will do so, as required, with great care and caution and will do our best to ensure, as far as possible, that the teacher's interests are protected."

The case therefore proceeded in the absence of Mr Yourell. The Panel heard a submission from the Presenting Officer in relation to the alleged inappropriate conversation between Witness A and Witness B.

The Panel considered the evidence on that issue and determined that the allegation that Witness A and Witness B had been discussing the case and evidence was not made out. The Panel simply did not believe the evidence of Witness C on this issue and accordingly there was no impact at all on the evidence which had yet to be given by Witness B. The Panel however felt that the two witnesses had behaved irresponsibly in talking in a public place at a time when Witness B was transferring some case papers openly from her bag into her suitcase.

**Witness B** then gave evidence in accordance with her witness statement (pages 27 to 30). She said:-

- Portfields was a large and very popular School.
- Mr Yourell had been interviewed by her with members of the Governing Body in 2000.
- He said he only had one spent driving offence.

- She learned later about his long list of previous convictions which were subsequently considered by the Governing Body who felt that after two months in post Mr Yourell should be given a chance.
- Even then Mr Yourell apparently had failed to disclose in full his previous criminal convictions.
- She described a number of incidents reported to her of aggressive and abusive conduct over several years.
- She described incidents where she had found Mr Yourell to be aggressive towards her.
- She dealt with the School's Acceptable User Policy for School laptops.

The Presenting Officer then made her closing submission.

#### **D. Panel's 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 allegations of Unacceptable Professional Conduct in that Mr Yourell obtained employment as a teacher at Portfields School, Milton Keynes in 2000 but did not disclose on his application form the full number and nature of his criminal convictions. When the school was appraised of the position he was interviewed by the Board of Governors at an extraordinary general meeting. The Board of Governors decided to retain his services and he remained in the school's employment until being dismissed for gross misconduct in July 2006.***

***During his period of employment at the school it is alleged that on many occasions specified in the case papers he was rude, aggressive and intimidating to pupils, parents and colleagues. It is further alleged that he breached the school's acceptable user ICT policy in relation to his use of a school laptop and that he used it for running private businesses not connected with his professional responsibilities as a teacher. It is also alleged that he engaged in business activities during school time and inappropriately used his position as a teacher to promote a holiday club in which he was involved.***

***It is further said that he formed an attachment to the mother of a pupil in his class and that his relationship with her son was inappropriately close and demonstrated a failure to observe professional boundaries. Specific examples***

***of the nature of that relationship are covered in the case papers. Other pupils are said to have felt that Mr Yourell showed favouritism towards the pupil.***

***Finally in relation to Mr Yourell's convictions, the Teaching Agency allege that they constitute conduct that may bring the profession into disrepute and are convictions of relevant offences.***

***Mr Yourell, while apparently accepting some of the facts and in particular the convictions, denies behaving in a way that constitutes Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute/Conviction of Relevant Offences.***

### Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against Phillip Yourell proven:

1. That whilst employed at Portfields School, Westbury Lane, Milton Keynes between September 2000 and July 2006 Philip Yourell:

a) formed an inappropriate relationship with pupil A;

In summary we indicate that we found the Teaching Agency's witnesses Witness A and Witness B to be entirely credible witnesses who answered questions in the course of this hearing in a careful and convincing way. We found no reason to disbelieve the evidence which both witnesses gave and are satisfied that they gave evidence that the Panel could rely upon.

We concluded that Witness A produced an investigation report which was thorough and objective such that its conclusions could not reasonably be challenged. In relation to this particular there is an abundance of evidence referring to incidents involving Pupil A which in our view were entirely inappropriate. These include staying overnight in a hotel with him, the fake tan incident and going to the toilet with him. The investigation report also mentions Pupil A referring to Mr Yourell as Daddy and sitting on his knee. This is not conduct which demonstrates an appropriate regard for the professional boundaries that should attend the teacher/pupil relationship.

b) showed favouritism towards a pupil, Pupil A, in allowing him to behave in ways other pupils were not;

Witness B records at p149 "receiving several phone calls from parents, and others made appointments, to complain that Mr Yourell was showing favouritism (to Pupil A)" Taken in the context of the relationship disclosed in the evidence between Mr Yourell and Pupil A we believe it is probable that these reported complaints had a proper basis in fact.

c) breached the acceptable user policy regarding the school laptop by using it for his private business;

The evidence for this particular is contained in the Computer Forensic Report exhibited at p 122 in the case papers and in the print outs annexed to it (pp 125-6) which record numerous instances of using the laptop for business purposes.

- e) ran outside business interests alongside his teaching role, conducting business during teaching/school time;

Individual D indicates at p 115 that Mr Yourell received a cheque from a parent in relation to a business before a half term holiday. Of more concern Individual E refers to an incident where children were counting money – “estimate hundreds of pounds worth” – at a “lunchtime or break” – p117. Mr Yourell had said he had had a busy weekend and was off to the bank.

We rely also on the print out at pp 125/6 which contains several entries as evidence of running business interests during school time.

- f) misled the school and Milton Keynes Council during his recruitment by failing to fully declare his convictions;

Witness B gave evidence to the hearing that she was unaware of Mr Yourell’s criminal convictions when he was taken on as a teacher at Portfields School and his application form at pp 211-214 confirms that no declaration of the number and extent of his convictions was disclosed. The fact that he had a number of convictions only came to light when he had been employed for 2 months and resulted in the calling of an extraordinary general meeting of the Governing Body. Even then Witness B said that the full detail and extent of his criminal offending history was not disclosed to the Headteacher or the Governors.

- g) behaved and spoke to pupils, parents and staff in an inappropriate manner;

The case papers contain records of numerous incidents of Mr Yourell’s aggressive, intimidating and inappropriate behaviour towards pupils, parents and colleagues at pp 146-174 and we heard first hand evidence of reports made to Witness B about these incidents from the Headteacher herself. Witness B also described an incident of aggressive behaviour towards herself which led to Mr Yourell receiving a written warning.

2. That Phillip Yourell had committed the following offences

- a) Criminal Damage – Newport Pagnell Juvenile Court – 22/05/79 – Conditional Discharge 12 months – compensation £25
- b) Theft – Newport Pagnell Juvenile Court 22/05/79 – Conditional Discharge 12 months
- e) Criminal Damage – Fenny Stratford Magistrates Court - 28/09/81 Conditional Discharge 12 months

- k) Theft – shoplifting – Fenny Stratford Juvenile Court – 04/01/83- Conditional Discharge 12 months – costs £10
- l) Theft – Stony Stratford Magistrates Court – 04/01/85- Conditional Discharge 2 years
- q) No Insurance – Newport Pagnell Magistrates Court 19/02/88 – Conditional Discharge 12 months – driving licence endorsed
- t) No Insurance – Newport Pagnell Magistrates Court – 19/02/88 – Conditional Discharge 12 months – compensation £825 – costs £20 – disqualified from driving 2 years.
- v) No Insurance – Newport Pagnell Magistrates Court - 16/08/88 – Absolute Discharge
- z) No Insurance – Newport Pagnell Magistrates Court – 16/08/88 – Absolute Discharge resulting from original conviction 19/02/88
- aa) No Insurance – Newport Pagnell Magistrates Court – 16/08/88 – Absolute Discharge resulting from original conviction 19/02/88

And our reasons are that Mr Yourell has admitted committing these offences.

3. That Phillip Yourell has been convicted of these offences
- c) Taking conveyance without authority – Fenny Stratford Juvenile Court - 05/02/80 - Supervision Order 2 years
  - d) Theft – shoplifting - Fenny Stratford Juvenile Court – 11/11/80 – Fine £100
  - f) Theft of a vehicle – Newport Pagnell Juvenile Court – 23/02/82 –Detention Centre 3 months –driving licence endorsed
  - g) Theft of a vehicle – Newport Pagnell Juvenile Court - 23/02/82 - Detention Centre 3 months concurrent – driving licence endorsed – compensation £5
  - h) Theft – Newport Pagnell Juvenile Court - 23/02/82 – Detention Centre 3 months concurrent
  - i) Criminal Damage – Newport Pagnell Juvenile Court 23/02/82 – Detention Centre 3 months concurrent – compensation £50
  - j) Criminal Damage – Newport Pagnell Juvenile Court - 23/02/82 – Detention Centre 3 months concurrent resulting from original conviction of 28/09/81
  - m) Handling - Hemel Hempstead Magistrates Court – 13/08/86 - Fine £50
  - n) Theft – Fine £25 - costs £5 - resulting from original conviction of 04/01/85



- o) Wounding – Newport Pagnell Magistrates Court – 19/02/88 – Imprisonment 3 months wholly suspended 2 years.
- p) Driving Whilst Disqualified – Newport Pagnell Magistrates Court - 19/02/88 - Imprisonment 3 months consecutive wholly suspended 2 years, driving licence endorsed
- r) Assault occasioning actual bodily harm – Newport Pagnell Magistrates Court – 19/02/88 - Imprisonment 3 months concurrent wholly suspended 2 years.
- s) Driving Whilst Disqualified – Newport Pagnell Magistrates Court 19/02/88 - Imprisonment 3 months concurrent, wholly suspended 2 years.
- u) Driving Whilst Disqualified - Newport Pagnell Magistrates Court - 16/08/88 - imprisonment 3 months.
- w) Driving whilst Disqualified Newport Pagnell Magistrates Court – 16/08/88 – Imprisonment 3 months consecutive – disqualification from driving 2 years.
- x) Driving whilst Disqualified - Newport Pagnell Magistrates Court - 16/08/88 – Imprisonment 3 months concurrent resulting from original conviction from 19/02/88
- y) Driving Whilst Disqualified - Newport Pagnell Magistrates Court – 16/08/88 – Imprisonment 3 months concurrent resulting from original conviction of 19/02/88
- ab) Obstructing Police – Fenny Stratford Magistrates Court – 02/05/89 – Imprisonment 1 month wholly suspended 2 years.
- ac) Assault on Police – Fenny Stratford Magistrates Court – 02/05/89 – Imprisonment 6 months wholly suspended 2 years – compensation £100.
- ad) Criminal Damage – Fenny Stratford Magistrates Court – 02/05/89 – Imprisonment 3 months concurrent wholly suspended 2 years.
- ae) Driving a Motor Vehicle with Excess Alcohol – Bedford and Mid Bedfordshire Magistrates Court – 28/10/99 – Fine £200 – Disqualification from driving 12 months – licence endorsed - costs £50.

And our reasons are that Mr Yourell admitted these offences.

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

- 1.d) utilised his post as a teacher to promote his business interests including a holiday club, against instruction;

We found that there was insufficient evidence to establish this particular.

### Findings as to Unacceptable Professional Conduct

We find that this is a case of Unacceptable Professional Conduct. The evidence shows that Mr Yourell had little regard for the boundaries that a teacher should observe appropriate to his professional position. In addition he regularly breached the school's policies in relation to the acceptable use of ICT and specifically misused the school's laptop for business purposes. He wittingly failed to disclose his many criminal convictions and thereby obtained a position as a teacher at the school. He further compounded this deception by failing to make full disclosure of his convictions when extensively questioned by the Governors. The Governors therefore remained in ignorance of the full seriousness of those convictions and the fact that he had served a term of immediate imprisonment. Finally he failed to develop effective relationships with colleagues or to communicate effectively with parents. On other occasions he failed to treat pupils with dignity or respect frequently failing to observe proper boundaries appropriate to a teacher's professional position.

### Findings as to Conduct that may bring the profession into disrepute

We do not find that the court appearances listed under paragraph 2 of the particulars constitute such conduct. The most recent court appearances at 2 (q),(t),(v),(z) and (aa) all relate to court appearances where Mr Yourell was sentenced at the same time for much more serious offences as listed at paragraph 3 of the allegations on the Notice of Proceedings. For that reason alone in our view they add nothing to the case against Mr Yourell.

The remaining court appearances at 2 (a),(b),(e),(k) and (l) are of considerable antiquity the most recent being 15 years before Mr Yourell commenced his employment at Portfields School and most being appearances in the Juvenile Court. We do not consider that they are serious enough or sufficiently proximate in time to constitute conduct that may bring the profession into disrepute.

### Findings as to Conviction of a Relevant Offence

We are satisfied that the convictions from (m) onwards under paragraph 3 do constitute convictions of a relevant offence. These convictions are for offences of a serious nature involving dishonesty, violence and breach of court orders by driving whilst disqualified. Many of the offences led to the imposition of suspended and immediate prison sentences. In particular in August 1988 Mr Yourell was convicted of driving whilst disqualified when subject to a suspended prison sentence earlier that year for the same type of offence and was sent into custody for 6 months. We have no hesitation in determining that these convictions taken together constitute convictions of relevant offences.

### **Panel's Recommendation to the Secretary of State**

**We consider that this is a very serious case.**

**The primary purpose of a Prohibition Order is principally to protect pupils and maintain public confidence in the profession. We have also referred to the**

guidance given in the Department of Education document “The Prohibition of Teachers”.

We are satisfied that many of the factors set out in the guidance which point to the imposition of a Prohibition Order are engaged in this case. We can find no mitigating features at all.

We have taken account of the fact that Mr Yourell’s unacceptable conduct continued unabated over a period of years even though attempts were made by the head teacher to control and monitor his behaviour. Some features of this case are rather more serious than others and we are particularly concerned that he obtained his employment at the school without disclosing his numerous criminal convictions and maintained that cover up even when questioned later by the Governing Body. As a consequence of the responses he made to the Governing Body and the absence of full disclosure he was allowed to stay on the staff of the school.

His relationship with, and treatment of, Pupil A over a substantial period betrays a serious departure from the personal and professional conduct elements of the standards that are properly expected of teachers and causes the panel considerable anxiety.

In addition many incidents of aggressive and intimidating behaviour are recounted in the case papers towards colleagues and parents. Even more concerning are the comments made to some pupils – calling one child a retard and another a he/she. Taken together with the incidents involving Pupil A some of which were entirely inappropriate we have concluded that he engaged in behaviour over a period of years that effectively undermined his colleagues, the school and thus the profession as a whole.

Finally there is the full list of his previous convictions which disclose sentences of suspended and immediate imprisonment and of themselves are sufficient to justify the imposition of a Prohibition Order.

In summary we feel that this case has demonstrated that Mr Yourell is totally unsuited to continue as a teacher and has shown himself to be quite unable to satisfy the high standards of professional and personal conduct that retaining that status demands. Thus the unanimous recommendation of the Panel is that he should be made the subject of a Prohibition Order without limit of time.

#### **Secretary of State’s Decision and Reasons**

I have given very careful consideration to this case and to the findings of the panel. I have also given careful consideration to the recommendation of the panel in respect of sanction and also in terms of a review period.

This is a very serious case. Mr Yourell has been found guilty of a wide range of behaviours which amount to unacceptable professional conduct. Those behaviours have been evidenced over a number of years and in a very deliberate way.

**Mr Yourell has failed to behave according to the high standards that are properly expected of those in the teaching profession. His misconduct is demonstrated both in what he has done, and also in what he has failed to do.**

**It is clear to me that the panel has listened very carefully to the evidence in this case and has given very careful consideration to the pattern of behaviour as well as the serious nature of the misconduct.**

**Mr Yourell's behaviour has undermined his colleagues and the school and the profession. In addition he has harmed pupils and deliberately misled his employer.**

**I support the panel in agreeing with them that Mr Yourell should be prohibited from teaching.**

**I have also considered the panel's recommendation in respect of a review period. Mr Yourell has failed to show insight into his behaviour and has demonstrated through his misconduct that he is unable to uphold the high standards that are properly expected of those in the teaching profession. I therefore also support the recommendation that there should be no review period in this case.**

This means that Mr Philip Yourell 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 Philip Yourell 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 Philip Yourell 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: 28 September 2012**