

## THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

**Teacher:** Mr Nicholas Grenville Fallon

**Teacher ref no:** 0848656

**Teacher date of birth:** 22 April 1969

**TA Case ref no:** 0008623/MG/FALLON

**Date of Determination:** 8 November and 7 December 2012

**Former Employer:** Ripon College

---

### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 8 November 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Nicholas Grenville Fallon.

The Panel members were Kathy Thomson, (in the Chair), William Brown OBE and Aftab Zia.

The Legal Adviser to the Panel was Mrs Eve Piffaretti, Partner of Morgan Cole LLP Solicitors.

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

Mr Nicholas Grenville Fallon was present and was represented by Mr Ballinger of the NASUWT.

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 August 2012.

It was alleged that Mr Nicholas Grenville Fallon was guilty of unacceptable professional conduct that may bring the profession into disrepute, in that:

- 1) Whilst employed at Ripon College, North Yorkshire, between May 2010 and March 2011, you had an inappropriate relationship with Student A, a sixth form student, in that you:
  - a) socialised with Student A outside of school;
  - b) gave Student A lifts in your car on more than one occasion;
  - c) engaged in unprofessional communication with Student A;
    - i. through social networking sites such as Facebook and Twitter;
    - ii. via text messages on your mobile phone
  - d) engaged in sexual activity with Student A

The facts of allegation 1a), 1b) and 1c) were admitted. Mr Fallon admitted unacceptable professional conduct in relation to 1a), 1b) and 1c). Mr Fallon did not admit the fact of allegation 1 d) and denied unacceptable professional conduct in relation to 1d) .

## **C. Summary of Evidence**

### Documents

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

- Section 1: Anonymised Pupil List and Chronology, with page numbers from 1 to 2a
- Section 2: Notice of Proceedings and response, with page numbers from 3 to 9
- Section 3: Witness Statements, with page numbers from 10 to 18
- Section 4: Teaching Agency Documents, with page numbers from 19 to 89
- Section 5: Teacher Documents , with page numbers 90 to 96

In addition, the Panel agreed to accept the following:

- Witness statement of Witness A, with page numbers from 97 to 99
- Email from Student A to Witness A dated 29 March 2011 , with page number 100
- Witness statement of Individual A, with page numbers 101 to 102

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 Presenting Officer called three witnesses to give evidence as follows:-

The Panel heard evidence from Student B who confirmed her witness statement at pages 16-18 of the case papers. She confirmed that she had known Student A since primary school but became good friends with her in sixth form as they had the same lessons. She gave evidence as to the rumours about Mr Fallon's relationship with Student A that had circulated on Twitter. A few days after Student B had seen the messages on Student A's phone, Student A stopped speaking to her. Student B has followed Student A on Twitter as they had been good friends she was interested to see what Student A was doing. She confirmed her statement dated 10 May 2011 at page 45 of the case papers. She did not feel under any pressure to make this statement and is happy that it is accurate.

On cross-examination Student B confirmed that she asked to go on Student A's phone and went into her messages. She saw private messages received as described in her witness statement. She was sure the messages came from Mr Fallon. She could particularly recall a message saying "I can smell you on my fingers". She could not recall whether she mentioned it when she was interviewed on 3 May 2011. By the time that Student B met with Witness A to provide her statement she and Student A were no longer speaking. Student B could not recall the timeline in detail but recalled that she went to see Witness A having read the messages on Student A's phone.

In response to Panel questions Student B explained how a tweet can be seen on someone's Twitter timeline. She was certain of the words that she read on Student A's phone as described in paragraph 5 of her statement at page 17 of the case bundle. She felt that it was necessary to report what she had read because it was not acceptable for a teacher to have that sort of relationship with a student.

The Panel heard evidence from Witness A, Assistant Head Teacher at the College, who investigated the allegations. She read her witness statement at pages 97-99 of the case papers and confirmed that the contents were true to best of her knowledge and belief. She had undertaken level three child protection training and dealt with Student A in accordance with that training. She did not know Student A well but, having taught her for a year, she had a professional teacher/student relationship with her. She denied that she had placed Student B under any pressure to provide a statement. She offered Student A support throughout the process. Student A sent an email to her on the school email account, (at page 100 of the case papers). Mr Fallon had been suspended by that point. On the first occasion that she met with Student A, Student A denied a relationship and on the second occasion she stated that a sexual relationship had taken place. Witness A did not feel that what she said on the second occasion was untrue.

On cross-examination Witness A confirmed that she did not look at Twitter messages as part of her investigation. In her opinion that she did not need go down the Twitter route as the contents of text had been confirmed by witnesses and Student A had admitted a sexual relationship with Mr Fallon.

In response to Panel questions Witness A confirmed that Student A was 18 years old but was still a student at the school. There was an element of vulnerability about Student A. She would not expect staff in the school to have a relationship with a student whatever their age. Student A was not really worldly wise. Witness A would have taken the same action for any student regardless of their age. It was not acceptable for a teacher to have a relationship with a student. She got on well with Mr Fallen professionally. All staff had basic training in child protection awareness so that they could identify issues of child protection. Staff were also told to protect themselves in relation to information placed on Facebook / social media accounts.

The Panel heard evidence from Witness B, the Head Teacher at the Former Ripon College. He confirmed the contents of his statement at pages 11-15 of the case papers.

Witness B confirmed that as part of the induction process newly qualified teachers are allotted to a designated member of staff as mentor. The College held safeguarding and child protection training every year and all staff are required to attend this training. Staff are instructed to adhere to appropriate relationships with students in accordance with the Teaching Standards. Professional distance was stressed as was how to speak to students and how to deal with disclosures that they may make. On regular occasions Witness B addressed the whole staff about the pitfalls of certain practices which included for example the use of Facebook and other electronic media. He confirmed that the minutes of the disciplinary investigation were full and accurate at page 57-62 of the case papers. He also referenced the disciplinary hearing management case at pages 81-85. These were prepared by the Human Resource advisor in partnership with him using information gleaned from evidence gathered. Witness B has worked with Witness A for about 3-4 years he appointed her as Assistant Head Teacher in approximately 2007. He had no concerns as to the way in which she dealt with the situation. She had a job to do in relation to the investigation and as far as he was concerned she supported students at difficult times with utmost professionalism reflecting her level 3 child protection status and designation as Child Protection Officer. No concerns had been raised by students about Witness A being intimidating whilst he was Head Teacher.

Mr Fallon arrived at the Investigatory meeting wearing dark glasses and Witness B did not believe him to be in 100% health. He did not request a delay in the meeting. If there had been any indication of ill health then that would have been considered. The note taken, which appears at pages 47-53 of the bundle, was an accurate account of the meeting. Mr Fallon was asked if he had a sexual relationship with Student A to which he replied "no comment". Witness B considered this to be unhelpful as it did not establish whether or not such a relationship had taken place.

On cross-examination Witness B stated that the Disciplinary Panel decided that Mr Fallen had conducted a sexual relationship with Student based on the evidence provided by Students B and C. Witness B asked Witness A to investigate the rumours going around the school. It would have been helpful if Mr Fallon had either confirmed or refuted the suggestion a sexual relationship with Student A. Mr Fallon

was reluctant admit one way or another but this did not compromise the impartiality of the Disciplinary Hearing. As far as he was aware Mr Fallon and Witness A had a purely professional relationship.

The College had an email system and every teacher had a professional email account. Students also had their own individual school email accounts. The College discouraged the use of the private emails and the use of Facebook and Twitter. This was conveyed to staff on a number of occasions by the Senior Team. He had no direct knowledge of Student A, save that she had been readmitted to year 13 due to her academic underperformance.

Mr Ballinger called Mr Fallon who gave evidence in his own defence:-

Mr Fallon confirmed his witness statement at pages 91-94 of the case papers. He did not accept that he had training in child protection as a newly qualified teacher. He only met his mentor twice in the year.

On cross-examination he confirmed that he would pick Student A up in his car in public and then take her to the cinema. He also took her for coffee at McDonalds. He drove from Ripon to York as the cinema had a greater choice of films. He thought because Student A was year 14 and over 18 there wasn't a problem with him doing this. He apologised for the inappropriate relationship with Student A but said that at no time was this a sexual relationship. He could not remember if he attended a safeguarding session at the school. His relationship with Student A was paternal and if he gave her the impression that it was anything other than that he did not mean to do so. During his Investigatory Meeting when asked if he had a sexual relationship with Student A he replied no comment and in doing meant "no". He thought that this was the best thing to say. He was not feeling well at the meeting. He denied he sent the message described by Student B to Student A. He did not know whether Witness A had put any pressure on Student A or why Student B and C had lied about what Student A said to them. Witness A was a member of the Senior Management Team and had a forceful personality. He did not know Individual A. He denied that he picked Student A up after the College awards ceremony.

In answer to the Panel's questions Mr Fallon stated that with hindsight rather than saying "no comment" he should have said no. He was wearing dark glasses at the meeting because of his headaches and with hindsight should have asked for it to be put off. He met with his Union Representative five minutes before the Investigatory Meeting. He denied any sexual activity with Student A and said that he had had absolutely no physical contact with her. He had discussions with Student A in school and openly discussed going to films with her. It did not occur to Mr Fallon to speak to anybody about his relationship with Student A.

### **Summing Up**

At the conclusion of the evidence, the Presenting Officer and Mr Ballinger summed up to the Panel.

## **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 and the additional documents at pages 97 to 102 of the case papers.

Mr Fallon was employed as an ICT teacher at Ripon College between January 2010 and 30 June 2011. The allegation against Mr Fallon is that he engaged in an inappropriate relationship with Student A, a sixth form student. Concerns were first raised about Mr Fallon's relationship with Student A after a teacher overheard discussions between Student B and C on 18 March 2011. On that day Student A denied a relationship with Mr Fallon when interviewed by Witness A, the Assistant Headteacher, saying that they were just friends.

On 25 March 2011 Student B reported further concerns to a teacher. Witness A interviewed Student A who stated that she met with Mr Fallon on a number of occasions outside school and that they were engaging in a relationship, which included a sexual relationship. Mr Fallon was suspended and the allegations were referred to Safeguarding Authorities who decided to take no further action as Student A was aged 18 years at the time. At an Investigation Meeting on 10 May 2011 Mr Fallon accepted that he had been in contact with Student A on Twitter and the internet, that he had seen her outside school, including taking her to the cinema in York on a number of occasions. He denied that the relationship was sexual, replying, "no comment".

Mr Fallon subsequently submitted a personal statement denying the allegation that he had engaged in a sexual relationship on 24 June 2011. A disciplinary hearing took place on 30 June 2011 at which allegations of an inappropriate relationship with Student A were considered. Mr Fallon was dismissed without notice and the case was referred to the Teaching Agency's predecessor, the General Teaching Council for England.

It is alleged by the Teaching Agency that as a consequence of his behaviour, Mr Fallon is guilty of unacceptable professional conduct.

### Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against you proven, for these reasons:

- 1) Whilst employed at Ripon College, North Yorkshire, between May 2010 and March 2011, you had an inappropriate relationship with Student A, a sixth form student, in that you:**

- d) socialised with Student A outside of school;**
- e) gave Student A lifts in your car on more than one occasion;**

We are satisfied that the facts have been established based on Mr Fallon admission. He gave evidence to the Panel that he took Student A to the cinema in York in his car on four or five occasions and that he also took her for a coffee. He also accepted that he took her to Whitby in his car on 10 April 2011, following his suspension by the College at the end of March 2011 and despite instructions from Witness A not to contact any students or staff. This is also supported by the case papers and in particular, the minutes of a Disciplinary Investigation Meeting signed by Mr Fallon at page 49, his statement at page 79 and Student A's statement at page 44.

- f) engaged in unprofessional communication with Student A;**
  - i. through social networking sites such as Facebook and Twitter;**
  - ii. via text messages on your mobile phone**

We are also satisfied that the facts of this allegation have been established based on Mr Fallon's admission. Further, we found Student B to be a credible witness and we accepted her evidence. On questioning by the Panel she reinforced her evidence in relation to the content of Twitter messages on Student A's phone (as set out in paragraph 5 of her statement at page 17 of the case papers). She was clear in her evidence to the Panel that she had reported what she had seen to a teacher because she thought it was, "*wrong for a teacher to engage in this sort of communication with a student*".

The fact of this allegation is further supported by Mr Fallon's admission at page 72 of the case papers where he confirms that he provided his private Email address and mobile text number to Student A and added her as a friend on Facebook and Twitter. He accepted that he had exchanged text messages with Student A on a regular basis.

- d) engaged in sexual activity with Student A**

We have found this allegation against Mr Fallon not proven. The case presented by the Teaching Agency was that in March 2011 Student A told Student B that she had engaged in sexual activity with Mr Fallon. Student A subsequently also reported this to Witness A during interview. However, the Panel were also provided with an affidavit (a statement sworn on oath before a solicitor) from Student A, dated 19 September 2012 in which she now denies that she engaged in sexual activity with Mr Fallon. Mr Fallon also gave evidence to the Panel in which he strongly denied that he had engaged in sexual activity with Student A.

We are satisfied by the evidence of Witness A and Student B that Student A did report to them that she had engaged in sexual activity with Mr Fallon. Indeed, in her sworn affidavit Student A acknowledges that she did make a statement on 3 May 2011 that she had engaged in a sexual relationship with Mr Fallon, but now wishes

to retract this statement. We have not had the benefit of hearing from Student A in person or had the opportunity to question her about her conflicting accounts relating to this allegation. However, the content of her affidavit makes it unsafe to rely on her previous account that sexual activity had taken place. As there is no other direct evidence in support of the allegation, we could not be satisfied, on the balance of probabilities, that sexual activity did take place.

### Findings as to Unacceptable Professional Conduct

Mr Fallon admits that his actions in relation to the facts we have found proved amount to unacceptable professional conduct.

We are satisfied that the conduct of Mr Fallon in relation to the facts proved falls seriously short of the standards of behaviour expected of the profession and bring the teaching profession into disrepute. Accordingly, we are satisfied that Mr Fallon is guilty of unacceptable professional conduct.

The Panel has carefully considered the Code of Conduct for Practice for registered teachers and the Teachers' Standards. Mr Fallon is in breach of these in that:

He has failed to uphold public trust and confidence in the teaching profession or maintain high standards of ethics and behaviour appropriate to a teacher's professional position within and outside school. In particular, he:

- did not treat Student A with dignity, build a relationship rooted in mutual respect, and at all times observe professional boundaries appropriate to a teacher's professional position, which apply regardless of the age of the student
- did not establish and maintain appropriate professional boundaries in his relationship with Student A
- failed to have regard for the need to safeguard Student A's well-being, in accordance with statutory provisions
- did not maintain an understanding of and act within the statutory frameworks which set out his professional duties and responsibilities

We are also satisfied that Mr Fallon's conduct did not demonstrate proper and professional regard for the ethos, policies and practices of the College in which he taught. He has also failed to understand and act within statutory frameworks which set out his professional duties and responsibilities, given the position of trust he held in relation to Student A.

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

We have taken into account and carefully considered the mitigation put forward by Mr Fallon, namely that he was a newly qualified teacher lacking in experience and that he was given a high level of responsibility in his Newly Qualified Teacher (NQT) year.

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

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

Mr Fallon's behaviour was incompatible with being a teacher for the following reasons:

- This was a serious departure from the personal and professional conduct elements of the Teachers' Standards.
- Mr Fallon's conduct constituted an abuse of his position of trust in relation to Student A and represents a serious failure to observe professional boundaries, which apply between teacher and student irrespective of a student's age
- We have limited evidence of insight on Mr Fallon's part into the need to maintain professional boundaries with students.

We are satisfied that this is a proportionate sanction.

The Panel recommends that the period after which Mr Fallon may apply for the Prohibition Order to be set aside should be five years. We were not satisfied that the conduct was so serious that we could recommend a prohibition order with no provision for the teacher to apply for it to be set aside after any period of time. However, the conduct was sufficiently serious to warrant a period of five years.

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

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

Taking into account the admissions of the teacher and the evidence presented to them the panel have found some of the facts of this case proven. They have also found that those facts proven amount to unacceptable professional conduct.

It is clear from the recommendation of the panel that this is a serious case.

It is evident that Mr Fallon's behaviour fell seriously short of the standards expected of a teacher. His behaviour caused harm to student A's well-being as well as having the potential to seriously undermine public confidence in the profession.

Mr Fallon engaged in an inappropriate relationship with a student which exploited his position of trust.

On this basis I support the recommendation that Mr Fallon should be prohibited. A prohibition order is necessary to uphold the standards of the profession and is proportionate.

I have also given careful consideration to the issue of a review period.

The panel are very clear that Mr Fallon's behaviour was serious – however they recommend that it would be appropriate for a review period of five years taking into account the serious nature of the case. I support that view.

This means that Mr Nicholas Fallon 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 December 2017, 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, Mr Nicholas Fallon remains barred from teaching indefinitely.

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

Mr Nicholas Fallon 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 10 December 2012**