

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr James Thornton

Teacher ref no: 0618297

Teacher date of birth: 3 November 1981

TA Case ref no: 8319

Date of Determination: 27 July 2012

Former Employer: The Deanes School, Benfleet

A. Introduction

A Professional Conduct Panel ('the Panel') of the Teaching Agency convened on 23 to 27 July 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr James Thornton.

The Panel members were: Dr Geoffrey Penzer (Lay Panellist – in the Chair); Professor Ian Hughes (Lay Panellist); and Mrs Kathy Thomson (Professional Panellist).

The Legal Adviser to the Panel was Mr Michael Williams of Counsel.

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

Mr Thornton was present and represented by Mr Keith Bunting of the National Union of Teachers.

With the exception of the evidence of Witness C (which was the subject of an order made at the Case Management Hearing held on 2 July 2012), the hearing took place in public. The entirety of the hearing was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 16 March 2012.

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

1. Whilst employed as a teacher at The Deanes School, Benfleet, between September 2009 and March 2010, he entered into an inappropriate relationship with Pupil A in that he:

- a. sent and received text messages from Pupil A that were of a personal nature;
- b. put his arm around Pupil A whilst they were alone in a classroom on a date unknown in November 2009;
- c. informed Witness A, Deputy Head Teacher, that he had put his arm around Pupil A to comfort her about a bereavement, which was not true, on a date unknown in November 2009;
- d. spent the day alone with Pupil A at a venue unknown, without her parent's [sic] knowledge or consent on 15 March 2010;
- e. visited Pupil A at her home address without her parent's [sic] knowledge or consent on one or more occasions between September 2009 and March 2010;
- f. engaged in sexual activity with Pupil A on dates unknown between September 2009 and March 2010, which involved:
 - i. kissing;
 - ii. holding each other;
- g. when questioned by Head Teacher, Witness B, about his relationship with Pupil A, he lied on 16 March 2010.

Mr Thornton denied the allegation in its entirety.

Immediately prior to the close of the Teaching Agency's case, Ms Berridge applied – pursuant to paragraph 4.55 of the Disciplinary Procedures for the Regulation of the Teaching Profession ('the Procedures') – to amend paragraphs 1(b), 1(c) and 1(d) of the allegation to reflect the evidence that had been presented at the hearing.

Mr Bunting did not oppose that application.

The Panel carefully considered whether the proposed amendments were appropriate. It was satisfied that they did not fundamentally alter the case against Mr Thornton but simply provided clarification of the basis on which the Agency had put its case and reflected the evidence that had been served upon Mr Thornton and subsequently presented before the Panel.

The Panel was satisfied that the proposed amendments could be made without injustice to the teacher.

Accordingly, paragraphs 1(b), 1(c) and 1(d) of the allegation as set out in the notice dated 16 March 2012 were amended to read as follows:

- 'b. on or about 16 November 2009, put your arm around Pupil A whilst you were alone in a classroom;

- c. on 16 November 2009, informed Witness A, Deputy Head Teacher, that you had put your arm around Pupil A to comfort her about a bereavement, which was not true;
- d. spent part of the afternoon of 15 March 2010 alone with Pupil A, at a venue unknown, without her parents' knowledge or consent;

C. Summary of Evidence

Documents

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

Section 1	Anonymised Pupil List	pages 1 - 2
Section 2	Notice of Proceedings and Teacher's Response	pages 3 - 10a
Section 3	Teaching Agency Witness Statements	pages 11 - 41
Section 4	Teaching Agency documents	pages 42 – 302
Section 5	Teacher's Documents	pages 303 - 581

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

Additional Documents

At the outset, Ms Berridge sought to admit the following additional documents:

1.	Amended Index	
2.	Additional Teacher's Documents	pages 582 – 671
3.	Supplementary Hearing Bundle	pages 1 to 51
4.	Additional Teacher's Documents	Unpaginated

Mr Bunting supported the late admission of those documents.

The Panel was satisfied that the documents were relevant to the issues that it was called upon to decide and that it would be assisted by their admission. Their admission was not opposed and caused no unfair prejudice to Mr Thornton.

Background

On 1 September 2006 Mr Thornton commenced work as an unqualified teacher of Religious Education at the Deanes School, Benfleet ('the school'). He subsequently studied for and obtained a teaching qualification and, by September 2009, was an early career teacher.

It was alleged that between September 2009 and March 2010 he engaged in a personal relationship with a 15 year old female student, who had also attended his church.

Brief Summary of Oral Evidence

Witness A

Witness A, Deputy Head Teacher of the school confirmed the truth of the statement signed by her on 14 May 2012 and gave evidence in accordance with that statement.

In her evidence, she described an incident which she said took place on 16 November 2009 when Mr Thornton said that he had put his arm around Pupil A to comfort her over a family bereavement (or possibly serious illness). He said that he thought that it might have been seen and was concerned that it could be misconstrued. She reminded him that his behaviour was inappropriate and that he should maintain proper boundaries with pupils.

Thereafter, she described (i) information that Pupil A's friend, Pupil B had passed to their form tutor, Individual A, (which she subsequently disclosed to the Head Teacher, Witness B on 8 March 2010), (ii) a meeting that she had with Pupil B on 16 March 2010 and (iii) two meetings the same day between her, Witness B and Mr Thornton. After those meetings, Mr Thornton was 'sent home' pending further investigation of the concerns raised by Pupil B.

Witness A and Witness B met with Pupil A on the same day. Witness B took notes in the course of that meeting. Having obtained the permission of Pupil B's mother to access the text messages on Pupil B's phone, that was done by Witness B on 18 March 2010. Witness A was present and produced transcripts of those messages, although her evidence was that she did not herself see, on the phone itself, the text messages that were transcribed.

Witness A then described a meeting that took place on 19 March 2010, between her, Witness B and Pupil A's parents.

She described joint agency strategy meetings that took place in relation to the relationship between Mr Thornton and Pupil A. Contrary to what is said in her statement, she said that she was not present at an investigatory meeting with Mr Thornton and his representative on 27 November 2010. She said that the statement had been compiled on her behalf following a telephone interview and that she had not noticed the incorrect paragraph relating to that meeting.

She was cross-examined by Mr Bunting but maintained her version of events.

Witness B

Witness B, Head Teacher of the school confirmed the truth of the statements signed by her on 10 May and 4 July 2012 and gave evidence in accordance with those statements.

In her evidence she described information that Pupil A's friend, Pupil B had passed to their form tutor, which had been brought to her attention by Witness A on 8 March 2010.

She inquired with Witness A as to whether concerns had been raised previously and learned from her of an incident which took place on or about 16 November 2009 after which Mr Thornton went to see Witness A to say that he had put his arm around Pupil A to comfort her over a family bereavement (or possibly serious illness). He said that he thought that might have been seen and was concerned that it could be misconstrued. Witness A reminded him that his behaviour was inappropriate and that he should maintain proper boundaries with pupils. Witness B felt that was appropriate action.

Thereafter, she described meetings that she and Witness A had with Mr Thornton on 16 March 2010, after which Mr Thornton was 'sent home' pending further investigation of the concerns raised by Pupil B.

Witness B (along with Witness A) also met with Pupil A on 16 March 2010. She identified notes taken in the course of that meeting. Having obtained the permission of Pupil B's mother to access the text messages on Pupil B's phone, on 18 March Witness B accessed three messages sent by Pupil A to Pupil B on 16 and 17 March 2010. She identified the transcripts of those messages, and confirmed that they were accurate.

Witness B testified that she met with Pupil B and Pupil C (another friend of Pupil A who had attended of her own volition) on 18 March 2010 and produced notes of that meeting.

She said that Mr Thornton was formally suspended on 18 March 2010.

The same day she had a telephone conversation with Pupil A's father regarding his knowledge of the relationship between Mr Thornton and Pupil A. She testified that she and Witness A met with Pupil A's mother and father on 19 March 2010 and produced notes of that meeting.

Witness B said that she met with Pupil B again on 19 March 2010 and also produced notes of that meeting.

She then described a series of joint agency strategy meetings that took place in relation to the relationship between Mr Thornton and Pupil A and an investigatory meeting with Mr Thornton and his representative. She produced the record of that meeting.

She was cross-examined by Mr Bunting but maintained her version of events.

Witness C

Witness C gave evidence by video link. He confirmed the truth of the statement signed by him on 12 March 2012 and gave evidence, in private, in accordance with that statement. He described conversations that he had with Mr

Thornton regarding Mr Thornton's relationship with Pupil A that took place in public houses on 28 March 2010 and 8 April 2010.

He produced statements made to the Senior Pastors of his church and the police in relation to those meetings.

He was cross-examined by Mr Bunting but maintained his version of events.

James Thornton

Mr Thornton gave evidence on his own behalf.

He conceded that he had sent text messages to Pupil A but that it would have been no more than one or two a month. He said that all were related to his pastoral activities within the church. Some were messages to multiple addressees, including Pupil A; others were to Pupil A alone but only in relation to church activities (with which Pupil A was connected). She attended at least two church events a month.

He said that none of the text messages were of a romantic or sexual nature. He said that he had advised Witness A that he was in communication by texting with other pupils who also attended his church (as had been acknowledged by Witness A).

In relation to the text apologising for sending Pupil A 'inappropriate texts' which he sent to Pupil A's mother (which he did not dispute), he said that he didn't believe that any of his texts were inappropriate but because the mother believed that there had been such texts, he responded in the terms that he did in order to defuse the situation. He intended to speak with her after a few days to explain the true position. In relation to what was said by him at the investigatory meeting held on 14 July 2010 confirming that Pupil A's parents had been concerned at the number of texts Pupil A was sending to him, he said that he believed that was a reference to texts relating to church business.

He denied that he had sent a text or texts to Pupil A after 16 March 2010 and denied that he was responsible for the text sent on 20 March 2010 that is referred to by Pupil A's mother in her statement dated 14 March 2012.

He said that he now appreciates the dangers of communicating with pupils. He did so only in relation to church business but in similar circumstances would not do so again.

He said that on or about 16 November 2009 Pupil A had put her head on his shoulder and that he had either 'patted' Pupil A on the shoulder or put his arm around her. He said that he did that only to comfort her. He conceded that in a statement dated 3 November 2010 he said that he had put his 'arm around her'. He said that he had already taken his arm away when someone else came into the room to collect a guitar and denied that he had only ceased the physical contact with Pupil A when he became aware that someone else had entered the room.

He said that he now realised that his behaviour in comforting Pupil A was inappropriate in school (although 'normal' in church) and that he would not do the same thing again.

He denied that he had spent the afternoon of 15 March 2010 with Pupil A. He said that he was at home with his family that afternoon until his wife took his children swimming later in the afternoon. He could not recall why he had not told Witness B that fact during the meeting on 16 March 2010, other than to say that the meeting did not go 'into much detail', or when Witness B telephoned him on 18 March 2010 to tell him that he was suspended.

He said that he had visited Pupil A's home, although only on one occasion. That, he thought, was early in 2010. He had called around to drop off a music book, only entered the kitchen and had left after only about 5 minutes. He conceded that Pupil A was alone at the time but said that he was not aware of that fact until after he had entered. He said that his wife telephoned him as he was leaving to remind him that he was running late to pick up their daughter. He conceded that he walked away quickly but denied that he was running.

In relation to his meeting with Witness C on 28 March 2010, he denied that he had said the things about his relationship with Pupil A that Witness C had subsequently attributed to him. He said that a nearby audio speaker had made it difficult for the two to hear each other and that he had disconnected it in order to improve the situation, though the actual improvement was small. He said that he had also told Witness C about a female colleague with whom he had had an affair and believes that Witness C may have been confused between things he was saying about the events involving Pupil A and those relating to his colleague. So far as the meeting of

8 April 2010 is concerned, Mr Thornton said that the meeting was quite short, the pub was a lot noisier and that he did not appreciate that Witness C understood that some of the things that he (Mr Thornton) had said about the affair related to Pupil A. He thought that Witness C was simply repeating that which he had heard regarding the allegations that were being made about him (Mr Thornton) and about which speculation and rumour were rife.

He said that although they attended the same church and used to be friends, he and Witness C had fallen out some years previously. In consequence, Mr Thornton had pulled out of a church sub-group led by Witness C.

He said that he was as candid as it was possible to be during his meeting with Witness B on 16 March 2010.

He was not aware at the time that Pupil A may have been attracted to him.

Witness D

Witness D confirmed the truth of the statements signed by her sometime prior to the first internal disciplinary hearing (i.e. late in 2010) and 5 December 2010.

She gave evidence in accordance with those statements, saying that Mr Thornton and Witness C were not good friends and that rumour and speculation abounded amongst churchgoers as to the reason for Mr Thornton's suspension.

She conceded that neither she nor her husband were friendly with Witness C. Although she does not believe that Witness C is malicious, she believes that his confusion has harmed Mr Thornton.

Witness E

Witness E attested to the truth of six statements signed by her in late September/early October 2010 (two statements); 2 November 2010 (two statements); 3 November 2010; and 12 July 2012. She gave evidence in accordance with those statements.

Witness E said that at about 2.30pm on 15 March 2010 she received a text message from her husband, in which he offered to collect their children from school. She declined that offer. She drove past the family home at 3.20pm on the way to the children's nursery and returned home at 3.35pm to find Mr Thornton watching TV. She took the children out again at about 4.40pm. When they returned between 5.45 and 6.00pm, Mr Thornton was at home. She was sure of the date as it had been Mothers' Day the previous day and she had been ill.

She said that she had encouraged Mr Thornton to meet with Witness C as she thought it would be of benefit to him. She said that on 3 May 2010 Individual B and Individual C had come to see her. She testified that Individual B had provided her with a summary of the information that Witness C had provided to him (Individual B) regarding the meetings that Witness C had with Mr Thornton. She confirmed that in a letter dated 12 November 2010, Individual B said that a statement that had been made by Witness C accorded with his (Individual B) recollection of that which Witness C had told him immediately after the two meetings with Mr Thornton.

Even before March 2010, Mr Thornton would leave his phone lying around and she would check it from time to time. She saw no inappropriate text messages on her husband's phone.

She said that she 'knew' that her husband was having an affair with his colleague because of his general behaviour during the period concerned (although he did not tell her of it until sometime afterwards) but never had any suspicions during the period that it was alleged that he might be emotionally involved with Pupil A.

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 those additional documents provided at the start of the hearing.

The Panel considered the allegation set out in the Notice of Proceedings dated 16 March 2012, as it was amended in the course of the hearing.

It was alleged that you are guilty of unacceptable professional conduct, in that whilst employed as a teacher at The Deanes School, Benfleet, between September 2009 and March 2010, you entered into an inappropriate relationship with Pupil A in that you:

- a. sent and received text messages from Pupil A that were of a personal nature;
- b. on or about 16 November 2009, put your arm around Pupil A whilst you were alone in a classroom;
- c. on 16 November 2009, informed Witness A, Deputy Head Teacher, that you had put your arm around Pupil A to comfort her about a bereavement, which was not true;
- d. spent part of the afternoon of 15 March 2010 alone with Pupil A, at a venue unknown, without her parents' knowledge or consent;
- e. visited Pupil A at her home address without her parent's [sic] knowledge or consent on one or more occasions between September 2009 and March 2010;
- f. engaged in sexual activity with Pupil A on dates unknown between September 2009 and March 2010, which involved:
 - i. kissing;
 - ii. holding each other;
- g. when questioned by Head Teacher, Witness B, about your relationship with Pupil A, you lied on 16 March 2010.

Introduction

On 1 September 2006 Mr Thornton commenced work as a newly-qualified teacher of Religious Education at the Deanes School, Benfleet.

The allegation that brings him before the Panel relates to events which took place in 2009 and 2010 when it is said he engaged in an inappropriate relationship with Pupil A, a 15 year old female student.

The Panel heard from Witness A that on 16 November 2009, Mr Thornton had come to see her and had told her that he had placed his arm around Pupil A whilst they had been together in a classroom. According to her, Mr Thornton said that he had been comforting her because she was upset about a family member who was ill or dying.

Witness A then spoke to Pupil A, who said that as she was upset she had gone to give Mr Thornton a hug, at which time another pupil had entered the classroom. Pupil A was worried that it might have been perceived as something it was not. On

that occasion, Witness A spoke to Mr Thornton regarding the maintenance of proper boundaries and reminded him of the safeguarding training that she had completed with staff in September 2009.

On 5 March 2010, Pupil B, a friend of Pupil A reported to her form tutor that she had concerns about Pupil A's welfare. She reported that Pupil A and Mr Thornton were in constant communication by text message and had been spending time alone together.

On 16 March 2010, Witness A met with Pupil B. In the course of that meeting Pupil B described an incident that took place the previous day. She said that at around 6:00pm Pupil A rang her and told her that her parents had found text messages on her phone from Mr Thornton and had told her (Pupil A) to come home. According to Pupil B, Pupil A said that she had been at Mr Thornton's house since about 4pm that day. She asked Pupil B to lie for her and to tell her (Pupil A's) mother that she had been with her (Pupil B) all day.

On 16 March 2010, Witness A and Witness B met with Mr Thornton to allow him the opportunity to give his account of these events. In that meeting he denied that he had been alone with Pupil A on 15 March 2010.

When he was asked where he went after school finished at 1:30pm he said he went straight home. He said he had no text message or other form of communication with Pupil A on that day at all. He admitted that he had her mobile number because of his role as Youth Pastor at church. He said that he had sent her a text message about two weeks earlier about a church event.

On 16 March 2010, Witness A and Witness B met with Pupil A. In that meeting she said that she was aware that there was a rumour circulating that she had slept with Mr Thornton and that it was really upsetting her. She described her relationship with Mr Thornton as "friends". She described her connection to Mr Thornton through church youth groups and her music studies. She said that out of school, she felt she could tell Mr Thornton anything in confidence. She said she really trusted him. She said that he had her mobile number but as he was the Youth Pastor he had everyone's number.

When asked about her movements on 15 March 2010, she said that she had left home at 11:00am. She said she met Pupil B between 11:30 and 11:45 and had stayed with her until approximately 4:00pm. She said she then left Pupil B to buy her prom dress, although she subsequently admitted to her mother that she had been with Mr Thornton.

Witness A and Witness B met with Mr Thornton on a second occasion that afternoon. At the conclusion of that meeting Witness B asked Mr Thornton to stay at home until this matter had been fully investigated.

On 18 March 2010, Witness B spoke with Pupil B and asked to view the text messages that had been sent to her by Pupil A. She had a number of messages from Pupil A sent on 16 and 17 March 2010.

On 18 March 2010, Witness B formally suspended Mr Thornton from his duties. He was notified that a full investigation would be conducted into an allegation that he had behaved inappropriately towards a student at the school.

On 19 March 2010, Witness B met with Pupil A's parents. She asked them if they had any concerns about Pupil A's relationship with Mr Thornton. Pupil A's father reported that there had been one occasion when he had returned home early from work. As he entered the house he said he could hear someone running down the path. He said he then saw Mr Thornton running down the road. Pupil A's father also said that on another occasion he saw a number of texts on his daughter's phone from Mr Thornton. Pupil A's mother said that she sent a text to Mr Thornton to tell him to leave her daughter alone.

Thereafter, the mother of Pupil A wrote a letter to Witness B setting out her and her husband's knowledge of the matters giving rise to this allegation. In that letter she explained that Mr Thornton sent their daughter inappropriate text messages, some of which were of a sexual nature. She said that following sight of those messages she sent a text message to Mr Thornton telling him that she knew about his contact with Pupil A and that if he were to contact her daughter again she would go immediately to the Police and to the school. She said she sent that text on Monday, 15 March 2012.

At 2.40pm on 16 March 2012, Pupil A's mother received a text in response in which Mr Thornton apologised for sending 'inappropriate texts', saying how 'ashamed' he was and acknowledging that he had let her family down.

On 28 March 2010 and 8 April 2010 Mr Thornton met with a member of his church, Witness C. The evidence of Witness C was that in the course of those meetings, Mr Thornton confessed that he had been in a relationship with Pupil A since November 2009.

At a strategy meeting held on 23 March 2010 it was decided that social worker Individual D should meet with Pupil A to complete an initial assessment. Thereafter, at a second strategy meeting convened on 22 April 2010, Social Services reported that Pupil A had disclosed to Individual D that although she had not had sexual intercourse with Mr Thornton, he had asked her for sex.

Findings of Fact

For the reasons which follow, the Panel has made the following findings of fact:

a. Sent and received text messages from Pupil A that were of a personal nature.

Whilst Mr Thornton has conceded that he sent text messages to Pupil A, he said that it would have been no more than one or two a month. He said that all were related to his pastoral activities within the church. According to him, some were messages to multiple addressees, including Pupil A; others were to Pupil A alone, but only in relation to church activities.

The Panel does not accept Mr Thornton's evidence as to that. The Panel has heard evidence from Mrs Thornton of an exchange of texts that took place between Mr Thornton and Pupil A in relation to the illness of 'Miss X'. His own evidence is that there was an exchange of texts between Pupil A and himself whilst he was in hospital. Clearly, both of those exchanges related to matters that can only be described as personal.

The Panel also heard evidence – albeit hearsay evidence – that when Pupil B spoke to Individual A on 5 March 2010, amongst other matters, she expressed her concern as to the volume of text messages that were passing between Mr Thornton and Pupil A. It also had regard to evidence of Pupil D – albeit that it is in the form of a non-contemporaneous statement dated 19 November 2010 – that she had seen text messages exchanged between Mr Thornton and Pupil A arranging to meet after school and discussing matters of an emotional and sexual nature. The Panel is mindful that it must treat such evidence with care but, nonetheless, when taken together with other evidence as to the nature of the text messages that were exchanged, is satisfied that it is reliable. The Panel also had regard to the evidence of Pupil A's mother as to the nature of the text messages. Once again, it is hearsay but there is considerable support for her evidence to be found in the text message sent by Mr Thornton to her on 16 March 2010. In that, he apologises for 'inappropriate texts', says how 'ashamed' he was and acknowledges that he had let her family down.

That text was sent in response to a text sent to him by Pupil A's mother the previous day. She had sent that to him after seeing text messages on Pupil A's phone that were 'not of a teacher/pupil relationship with some of them being of a sexual nature.'

In his evidence, Mr Thornton said that he had replied in that way using the terms that had been used by Pupil A's mother in order to, 'diffuse the situation'. The Panel finds that explanation incredible. The tenor of the message is very much that of apology and regret. The Panel does not accept that anyone faced with allegations of having sent inappropriate texts – including texts with sexual content – to a 15 year old girl, would apologise in such a way – rather than defending his reputation - unless the charges levelled against him had substance.

In all of the circumstances, the Panel finds Paragraph 1(a) proved.

b. On or about 16 November 2009, put your arm around Pupil A whilst you were alone in a classroom.

In evidence before this Panel, Mr Thornton said that whilst alone with Pupil A in the music room, Pupil A was upset over a family bereavement or serious illness and had put her head on his shoulder. To comfort her, he either 'patted' Pupil A on the shoulder or put his arm around her.

He said that he had already taken his arm away when someone else came into the room to collect a guitar and denied that he had only ceased the

physical contact with Pupil A when he became aware that someone else was in the room.

He conceded that in a statement dated 3 November 2010 he said, unequivocally, that he had put his 'arm around her'. Given that Mr Thornton's recollection in November 2010 is likely to have been better than it is at this time, the Panel is satisfied that he did, in fact, put his arm around her.

In all of the circumstances, the Panel finds Paragraph 1(b) proved.

- c. On 16 November 2009, informed Witness A, Deputy Head teacher, that you had put your arm around Pupil A to comfort her about a bereavement, which was not true.**

The fact that you informed Witness A that you had put your arm around Pupil A to comfort her over a bereavement or illness is not in dispute. It is also not in dispute that there had not been a bereavement or serious illness in Pupil A's family around that time.

The question for this Panel is whether at the time you said that, you believed that which you told Witness A. The Panel cannot be satisfied that you did not believe that statement. The Panel cannot discount the possibility that, in an attempt to have physical contact with you, Pupil A made up that she was upset over a bereavement or illness and that you believed her.

In all of the circumstances, the Panel finds Paragraph 1(c) not proved.

- d. Spent part of the afternoon of 15 March 2010 alone with Pupil A, at a venue unknown, without her parents' knowledge or consent.**

The evidence in relation to this particular comes from Pupil A's admission to her mother, Pupil B's statement to the Deputy Head Teacher that she was aware that Pupil A had spent time during the afternoon with Mr Thornton and the evidence of Witness C as to the conversations that he had with Mr Thornton on 28 March and 8 April 2010. Witness C produced statements made to the Senior Pastors of his church and the police in relation to those meetings.

The Panel notes that Pupil B said that Pupil A was with Mr Thornton at his home. Witness C says that Mr Thornton told him that they were not at Pupil A's home, nor were they at school.

When asked by Witness A on 16 March 2010 about her whereabouts on the afternoon of 15 March 2010, Pupil A said that she had been out buying a prom dress. However, the evidence from Pupil A's mother was that she did not have the money for such a dress, did not return home with such a dress and when she challenged her daughter about that, Pupil A said that she had been with Mr Thornton.

However, the evidence of Mrs Thornton is that Mr Thornton was at home for at least part of the afternoon of 15 March 2010. She said that she drove past the family home at 3.20pm on the way to the children's nursery and returned home at 3.35pm to find Mr Thornton watching TV. She took the children out again at about 4.40pm. When they returned between 5.45 and 6.00pm, Mr Thornton was at home. She was sure of the date as it had been Mothers' Day the previous day and she had been ill.

She said that it was she who encouraged her husband to speak with Witness C as she thought it would help him with the difficulties that he was then facing.

In evidence before this Panel, Mr Thornton denied that he spent any time with Pupil A on the afternoon of 15 March 2010. He said that he was at home with his family that afternoon until his wife took his children swimming later in the afternoon. He could not recall why he had not told Witness B that fact during the meeting on 16 March 2010, other than to say that the meeting did not go 'into much detail'. Neither did he tell her that when Witness B telephoned him on 18 March 2010 to tell him that he was suspended.

In relation to his meeting with Witness C on 28 March 2010, he denied that he had said the things about his relationship with Pupil A that Witness C had subsequently attributed to him. He said that a nearby audio speaker had made it difficult for the two to hear each other and that he had disconnected it in order to improve the situation. He said that he had also told Witness C about a female colleague with whom he had had an affair and believes that Witness C may have been confused between things he was saying about the events involving Pupil A and those relating to his colleague. So far as the meeting of 8 April 2010 is concerned, Mr Thornton said that the meeting was quite short, the pub was a lot noisier and that he did not appreciate that Witness C understood that some of the things that he (Mr Thornton) had said about the affair related to Pupil A. He thought that Witness C was simply repeating that which he had heard regarding the allegations that were being made about him (Mr Thornton) and about which speculation and rumour was rife.

The Panel is satisfied that Pupil A was in Southchurch on the afternoon of 15 March. The Panel accepts the evidence of Pupil B that she received a telephone call from Pupil A that afternoon to say that she was there and was unable to find her way to Southend station.

The Panel found Witness C to be a credible witness. Although his first statement was not written until 27 April 2010, he informed Individual B by telephone of the substance of the two meetings with Mr Thornton immediately after they occurred. Witness C asked Individual B to check that statement to confirm that it accorded with his recollection as to what he had been told.

The Panel does not accept the suggestion that, in some way, there was a vendetta on Witness C's part. Neither does it accept that Witness C was, for whatever reason, confused as to what he was told by Mr Thornton. In

evidence before this Panel, he was adamant that was not the case and the detail contained within his statement is supportive of that fact.

Although in that statement, Witness C says that Mr Thornton told him that he spent the afternoon with Pupil A, the Panel is of the view that the phrase need not be taken literally. It is more likely to be a loose use of language on either Mr Thornton's or Witness C's part.

It has had regard to the evidence of Witness E as to the approximate times she was with her husband that afternoon. The Panel has also taken into account the evidence from Pupil B that Pupil A was walking back from Mr Thornton's house at 6pm and the evidence from Pupil A's mother that Pupil A was picked up at Southend railway station at about 5.45pm.

That being so, there were 'windows' that afternoon when Mr Thornton could have been alone in his house with Pupil A. Witness E testified that she believed she left and returned to her home at certain times because that was her routine. Mr Thornton must have been aware of that routine.

The Panel has also had regard to the evidence of Pupil A's mother that she telephoned her daughter at about 5.20pm to tell her to come home. The evidence of Witness C was that Mr Thornton told him that he and Pupil A were together at the time Pupil A received that telephone call. The Panel is of the view that Witness C could not have been aware that such a call had been made at that time, unless Mr Thornton had told him about it. Moreover, the timing of that call falls squarely within one of the windows of opportunity for Mr Thornton and Pupil A to be together.

Accordingly, the Panel does not accept his evidence that he was not alone with Pupil A that afternoon. On the balance of probabilities, it is satisfied that he was.

In all of the circumstances, the Panel finds Paragraph 1(d) proved.

e. Visited Pupil A at her home address without her parent's [sic] knowledge or consent on one or more occasions between September 2009 and March 2010.

The evidence in relation to this particular comes from Pupil D's statement recorded on 19 November 2010, the evidence of Witness C as to the conversations that he had with Mr Thornton on 28 March and 8 April 2010 and the admission by Mr Thornton that he has been to Pupil A's home on one occasion without her parent's consent or knowledge.

Mr Thornton's evidence as to that was that sometime early in 2010, he had called at Pupil A's house to drop off a music book, only entered the kitchen and had left after only about 5 minutes. He conceded that Pupil A was alone at the time but said that he was not aware of that fact until after he had entered. He said that his wife telephoned him as he was leaving to remind him that he was running late to pick up their daughter. He conceded that he

walked away quickly but denied that he was running. The Panel has inferred that this was the occasion when Pupil A's father saw Mr Thornton 'running' away from the premises.

Mr Thornton failed to report that visit to the school.

Mr Thornton denies visiting Pupil A's home on other occasions. However, his evidence to the Panel that he was not familiar with her house or its location was not compelling. Despite having described the house to Witness B when questioned by her on 16 March 2010, when questioned as to that by the Panel, he was evasive and his answers were not convincing. When questioned as to the reason that he had been seen in the vicinity more than once by Pupil A's father, he said that he may have been giving music tuition in the area. That evidence is contradicted by the evidence of Witness E that, at the time, he had not given private lessons for a number of years.

In his evidence, Witness C said that Mr Thornton told him that he visited Pupil A at her home on a number of occasions. For the reasons already given, the Panel found Witness C to be a reliable witness and prefers his evidence to that of Mr Thornton.

In all of the circumstances, the Panel finds Paragraph 1(e) proved.

- f. **Engaged in sexual activity with Pupil A on dates unknown between September 2009 and March 2010, which involved:**
- i. **kissing;**
 - ii. **holding each other.**

In his evidence, Witness C said that in his first meeting with Mr Thornton he asked him how far the physical contact with Pupil A had gone. He said that he recalls that Mr Thornton said that there had been kissing and holding each other, which Witness C took to mean 'heavy petting and fondling'

However, that was only an assumption on Witness C's part and there is no other evidence of physical contact, other than the incident in November 2009. Kissing and holding are acts that may or may not be sexual. If indeed those things took place, in all of the circumstances, the Panel cannot be satisfied as to Mr Thornton's intention as to them.

In all of the circumstances, the Panel finds Paragraph 1(f) not proved.

- g. **When questioned by Head Teacher, Witness B, about your relationship with Pupil A, you lied on 16 March 2010.**

The evidence as to what was said by Mr Thornton during the interview with Witness B on 16 March 2010 is set out within her contemporaneous notes. Whilst the Panel accepts that Mr Thornton might have been shocked when confronted about his relationship with Pupil A, nonetheless the Panel is of the view that by either denying or not disclosing the matters which the Panel has found proved, Mr Thornton lied as to the extent of the relationship.

In all of the circumstances, the Panel finds Paragraph 1(g) proved.

In arriving at these conclusions, the Panel had regard to the extent to which any fantasies developed by any of those involved, may have influenced the evidence that it received.

The Panel is satisfied that the factual findings that it has arrived at demonstrate that you entered into an inappropriate relationship with Pupil A. Accordingly, it finds the allegation proved.

Finding as to Unacceptable Professional Conduct

Principle 1 of the Code of Conduct and Practice for Registered Teachers (2009) ('the Code') requires registrants to 'take all reasonable steps to ensure the safety and well being of children and young people under their supervision'. Entering into a relationship with a pupil that involved the exchange of text messages of a personal nature, is a blatant violation of that principle.

Principle 8 of the Code requires registered teachers to 'maintain reasonable standards in their own behaviour that enable them to maintain an effective learning environment and also to uphold public trust and confidence in the profession.'

By acting as you did, you disregarded the school's policy on the maintenance of proper boundaries between pupils and teachers and thereby allowed Pupil A to be distracted from her studies at an extremely important stage of her academic development. In that regard, you demonstrated a serious lack of professional judgement that had the very real potential not only to damage your own professional reputation but also the reputation of the school and the profession as a whole. Moreover, when confronted with that relationship you lied about it from the outset. The investigation that followed must, inevitably, have impacted on Pupil A and her family.

In all of the circumstances, the Panel is satisfied that your conduct fell well short of the standard expected of the profession and, hence, amounted to 'unacceptable professional conduct'.

Panel's Recommendation to the Secretary of State

The Panel heard advice from the Legal Adviser that the primary object of imposing a sanction in proceedings such as these is not to be punitive but is to protect pupils and maintain the standing of the profession and the confidence of the public in the profession. The impact of an order on the teacher is also relevant, because the Panel must act proportionately but, as the primary objectives concern the wider public interest, such impact has been said not to be 'a primary consideration'.

In deciding whether to recommend the imposition of a prohibition order, the Panel has applied the principle of proportionality, weighing the interests of the public with those of the teacher.

The Panel considers this to be a case where a Prohibition Order should be imposed. This case involves a serious departure from the standards expected of a teacher. By acting as he did, Mr Thornton failed to follow the school's policy on the maintenance of boundaries between teachers and pupils. His conduct demonstrated a serious lack of professional judgement that had the very real potential not only to damage his own professional reputation but also the reputation of the school and the profession as a whole.

The Panel has carefully considered the representations made on Mr Thornton's behalf, the fact that he has not offended previously and the evidence that it has heard regarding Mr Thornton's professional qualities and the regard in which he was held within his church community. However, the Panel is of the view that those matters do not serve to reduce the nature of his offending behaviour and its potential consequences.

Teachers are required to demonstrate consistently high standards of personal and professional conduct. They are expected to uphold public trust in the profession and maintain high standards of ethics and behaviour, within and without the School. Parents who entrust the safety and well being of their children to teachers are entitled to expect that professional boundaries are maintained. By acting as he did, Mr Thornton breached that trust. Potentially, his behaviour was detrimental not only to the personal and academic development of Pupil A but also to those other pupils who were aware of the relationship and became embroiled in the investigation.

In coming to its decision, the Panel has had regard to the fact that the public interest includes the retention of a qualified and otherwise competent teacher. However, in this case the Panel is satisfied that the public interest, including the maintenance of proper standards of conduct and behaviour, can be met only by the imposition of a prohibition order.

The Panel does not believe that it has seen evidence of deep-seated attitudinal problems on Mr Thornton's part. He is of previous good character and has displayed some insight, to the extent that he has acknowledged that he would behave differently in similar circumstances were they to occur. He is well regarded as a teacher. Accordingly, having had regard to the principle of proportionality the Panel is of the view that Mr Thornton should be allowed to apply to have the order reviewed after a period of two years. Such a period will allow Mr Thornton to develop further insight into his unprofessional conduct and will send out a sufficiently strong signal to the profession as to the unacceptability of such behavior.

S e c r e t a r y o f S t a t e ' s D e c i s i o n a n d R e a s o n s

I have given careful consideration to the decisions and recommendations of the panel in this case.

The panel have found a number of the allegations and further determined that they amount to unacceptable professional conduct.

The panel concluded that Mr Thornton's behavior represented a serious departure from the standards expected of a teacher. By acting as he did, Mr

Thornton failed to follow the school's policy on the maintenance of boundaries between teachers and pupils. His conduct demonstrated a serious lack of professional judgement that had the very real potential not only to damage his own professional reputation but also the reputation of the school and the profession as a whole.

The panel have taken into account the representations made on behalf of Mr Thornton but have concluded that imposing a prohibition order is the appropriate sanction. I endorse this decision.

Moving on to the issue of a review period the panel does not believe that it has seen evidence of deep-seated attitudinal problems on Mr Thornton's part. He is of previous good character and has displayed some insight, to the extent that he has acknowledged that he would behave differently in similar circumstances were they to occur. He is well regarded as a teacher. In the circumstances I concur with their recommendation that Mr Thornton be allowed to have the order reviewed after a minimum period of two years

Decision maker: Paul Heathcote

Date of Decision: 27 July 2012