



Teaching
Regulation
Agency

Mr David Abbott: Professional conduct panel meeting outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

August 2022

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Mr David Abbott

TRA reference: 19638

Date of determination: 9 August 2022

Former employer: Venn Boulevard Centre & Sullivan Centre, Hull.

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 August 2022, by virtual means, to consider the case of Mr David Abbott.

The panel members were Mrs Shabana Robertson (lay panellist – in the chair), Mr Suhel Ahmed (teacher panellist) and Mr Duncan Tilley (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr David Abbott that the allegations be considered without a hearing. Mr Abbott provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Abbott or his representative.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 3 August 2022.

It was alleged that Mr David Abbott was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, while employed as a teacher at Venn Boulevard Centre & Sullivan Centre:

1. On or around 16 October 2020, Mr Abbott sent the following messages to colleague, Person A:
 - a. "I felt a bit embarrassed when I saw you today as it broke the dream I had with you in it";
 - b. [in response to Person A's message "haha do you mean a dirty dream"] "Yeah... 'Twas a filthy one haha".
2. Between approximately 01.40am and 02.40am on 29 February 2020, he:
 - a. Sent around 23 messages to a colleague, Person B;
 - b. Attempted to call Person B;
 - c. Attempted to video chat with Person B; when any or all of those messages and/or calls were neither wanted or invited. [REDACTED]
3. On 23 October 2020, during an investigatory meeting held by the School, he falsely stated that:
 - a. That he did not communicate privately and/or individually on messenger with Person A;
 - b. That he had never communicated privately with Person A on any social media;
 - c. That he had not had a message exchange with Person A about a filthy dream;
 - d. That he did not ask Person B if [REDACTED] was alone;
 - e. That he did not ever audio call or video call Person B.
4. His conduct at paragraph 3 above was dishonest.

Mr Abbott admitted the facts alleged in allegations 1a and b, 2a, b and c, 3a,b,c,d and e and 4 and signed a statement of agreed facts.

Mr Abbott also admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

In advance of the meeting, the panel received a bundle of documents which included:

Section 1: Chronology – page 3

Section 2: Notice of Referral, Response and Notice of Meeting – pages 4 to 13

Section 3: Statement of agreed facts and presenting officer representations – pages 14 to 22

Section 4: Teaching Regulation Agency documents – pages 23 to 167

Section 5: Teacher documents – pages 168 to 170

The panel members confirmed that they had read all of the documents within the bundle, in advance of the meeting.

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr David Abbott on 11 February 2022.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Abbott for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mr David Abbott was employed by Venn Boulevard Centre & Sullivan Centre ('the School') as an unqualified teacher of English, Enterprise, P.E., Maths, Enrichment and PSHE from July 2019 to November 2020. His responsibilities included teaching groups and classes in those subjects. In addition, he was responsible for planning, marking and tracking assessment.

Person A and Person B, both of whom were [REDACTED] informed the Head of School that Mr Abbott had been sending them inappropriate text messages, was ringing and video calling, including in the middle of the night.

The School conducted an internal investigation following these reports. Mr Abbott was suspended while the investigation was undertaken. An investigatory meeting with Mr Abbott was held on 23 October 2020. During this meeting, Mr Abbott denied that he had communicated or attempted to communicate with either Person A or Person B as alleged. The matter was due to be the subject of a disciplinary hearing on 13 November 2020. However following service of the disciplinary pack on 3 November 2020, which included evidence of the messages and phone calls, Mr Abbott emailed his resignation on 6 November 2020. This was accepted by the School. No disciplinary hearing was held, but the matter was referred to the TRA.

Findings of fact

It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, while employed as a teacher at Venn Boulevard Centre & Sullivan Centre:

- 1. On or around 16 October 2020, you sent the following messages to colleague, Person A:**
 - a. “I felt a bit embarrassed when I saw you today as it broke the dream I had with you in it”;**
 - b. [in response to Person A’s message “haha do you mean a dirty dream”] “Yeah... ‘Twas a filthy one haha”.**

In the statement of agreed facts, Mr Abbott admitted that he started sending Person A friendly messages when Person A first started working at the School. At first, the messages were about how Person A’s day went and about School related matters. He admitted that, on or around 16 October 2020, the dialogue alleged in allegations 1a and b took place.

Person A said that [REDACTED] *‘felt harassed’* by the messages and that they made [REDACTED] *‘feel really uncomfortable’* and *‘really awkward’*.

The panel was presented with screenshots of the messages concerned, which confirmed the dialogue referred to in allegations 1a and b. The panel noted from the screenshots that there had been an exchange of messages between Mr Abbott and Person A and that Mr Abbott referred to the dream as being ‘filthy’ only after Person A asked if it was a dirty dream. [REDACTED]

The panel found 1a and b proved.

- 2. Between approximately 01.40am and 02.40am on 29 February 2020, you:**
 - a. sent around 23 messages to a colleague, Person B;**
 - b. attempted to call Person B;**

c. attempted to video chat with Person B; when any or all of those messages and/or calls were neither wanted or invited.

In the statement of agreed facts, Mr Abbott admitted that when Person B started at the School in September 2019, he messaged [REDACTED] daily asking how [REDACTED] day had gone and how [REDACTED] was or messages to that effect. He further admitted that, messages sent by him became more frequent and that he messaged [REDACTED] late at night. If Person B did not respond, he would telephone and or video call [REDACTED]. Person B did not answer the calls.

Between approximately 01.40am and 02:40am on 29 February 2020 Mr Abbott sent Person B approximately 23 messages. The panel was presented with screenshots of the messages concerned. The screenshots showed that there was an exchange of messages between Mr Abbott and Person A, which included Mr Abbot saying, '*Wanna chat in general or am I being a pest?*'. Person A responded to this with a message which said, '*No its fine, I'm just not in a very good way x*'.

Missed calls from Mr Abbott to Person B were logged at 02:13am and 02:33am on 29 February 2020.

A missed video chat from Mr Abbott to Person B was logged at 02:41am on 29 February 2020. There was no definitive evidence to substantiate whether attempts to video chat would have been unwelcome on the part of Person B. When Person B provided a statement for the School's investigation on 21 October 2000, [REDACTED] said that there had been no messages from Mr Abbott 'since the Spring'.

The panel found 2a, b and c proved.

3. On 23 October 2020, during an investigatory meeting held by the School, you falsely stated that:

- a. That you did not communicate privately and/or individually on messenger with Person A;**
- b. That you had never communicated privately with Person A on any social media;**
- c. That you had not had a message exchange with Person A about a filthy dream;**
- d. That you did not ask Person B if [REDACTED] was alone;**
- e. That you did not ever audio call or video call Person B.**
- f.**

As part of the School's investigation an investigatory meeting was held with Mr Abbott on Friday 23 October 2020. The record of the meeting, the contents of which were agreed in the statement of agreed facts, included the following dialogue in relation to Person A:

Q: *'Do you have [REDACTED] phone number?'*

[Mr Abbott]: 'No'

Q: *How do you communicate with [REDACTED]?*

[Mr Abbott]: 'At work and as part of a group chat on messenger. But that's a group chat with all members of staff...'

Q: *Do you ever communicate privately on messenger with [REDACTED]?*

[Mr Abbott]: No

Q: *Have you ever communicated privately with [REDACTED]?*

[Mr Abbott]: No

Q: *So you've never communicated individually with [REDACTED] on any type of social media?*

[Mr Abbott]: No I haven't

Q: *Has there been messaging regarding a filthy dream?*

[Mr Abbott]: Definitely not.

The record of the investigatory meeting on 23 October 2020, the relevant contents of which were also agreed in the statement of agreed facts, included the following dialogue in relation to Person B.

Q: *Did you ever start messages "are you alone?"*

[Mr Abbott]: No, I maybe asked if ... was there, but not if [REDACTED] was alone.

Q: *Do you ever phone [REDACTED]?*

[Mr Abbott]: No

Q: *Did you ever video call [REDACTED]?*

[Mr Abbott]: No

Q: *So you've never audio called or video called late at night?*

[Mr Abbott]: No never.

[Mr Abbott]: 'I'm 100% innocent of these charges. I'm going to clear my name'

In the statement of agreed facts, Mr Abbott admitted that these responses to questions about his communications with Person A and Person B were false.

The panel found allegation 3a,b,c,d and e proved.

4. Your conduct at paragraph 3 above was dishonest

The panel recognised that dishonesty has a specific legal meaning. In keeping with this, the panel considered the evidence of Mr Abbott's state of knowledge or belief as to the facts before considering whether the conduct was dishonest applying the objective standards of ordinary decent people.

Mr Abbott admitted in his response to the Notice of Referral that his conduct was dishonest. This was not specifically addressed in the statement of agreed facts, but Mr Abbott had admitted that his responses during the investigatory interview were false. The panel also noted that the submission provided by Mr Abbott's union representative included the following:

'Mr Abbott admits to being less than truthful at the time and did not provide a full and accurate picture of events. Mr Abbott had been suspended [REDACTED]. The distress caused his defensive response, which he fully regrets. His intention, after seriously reflecting on the matter, was to correct the position at his disciplinary hearing; however [REDACTED] he resigned prior to this, and this was accepted by the school.'

The panel noted that the investigatory interview with Mr Abbott took place on 23 October 2020 and Mr Abbott's exchange of messages with Person A had taken place on 16 October 2020. Given the proximity in time between the messages and the interview, the panel was satisfied that Mr Abbott must have been aware that his answers relating to communications with Person A were false. As regards the alleged communications with Person B, these had taken place several months earlier. However, the panel was satisfied that Mr Abbott would not have forgotten the exchanges, given the number of messages and the times at which they were sent.

The panel was satisfied that Mr Abbott was aware that his answers in relation to communication with Person A and Person B were false and that this conduct would be viewed as dishonest by ordinary decent people.

The panel found allegation 4 proved

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found the allegations proved, the panel went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel noted that Mr Abbott admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel took these admissions into account, but made its own determinations.

The panel was satisfied that the conduct of Mr Abbott in relation to the facts found proved in allegations 1 and 2, involved a breach of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Abbott was in breach of the following standard:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...:

The panel concluded that Mr Abbott's conduct in allegations 1 and 2 had breached the School's code of conduct which required Mr Abbott to exercise caution in his communications with other adults, including members of staff.

Although the conduct of Mr Abbott in allegations 1 and 2 was inappropriate and unprofessional, the panel was not satisfied that it reached the threshold of serious misconduct which fell significantly short of the standard expected of a teacher. Accordingly, the panel was not satisfied that the conduct in allegations 1 and 2 amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

As regards allegations 3 and 4, the panel was satisfied that the conduct of Mr Abbott in relation to the facts found proved involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Abbott was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...;

The panel was satisfied that the conduct of Mr Abbott in allegations 3 and 4 amounted to misconduct of a serious nature which fell significantly short of the standards expected of a teacher. Accordingly, the conduct amounted to unacceptable professional conduct. In making this finding, the panel considered that Mr Abbott deliberately and knowingly gave false responses during a formal interview relating to allegations against himself. The panel noted that Mr Abbott was provided with a record of the investigatory interview within a few days after the interview, which he then signed to confirm was correct. This provided an opportunity to give a truthful account, but he failed to do so, thereby compounding the dishonest behaviour.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct were serious, in particular the finding of dishonesty. The panel, therefore, considered that the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Mr Abbott's actions constituted conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Abbott, which involved a finding of dishonesty, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel decided that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Abbott was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Abbott.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of prohibition as well as the interests of Mr Abbott. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- dishonesty.

The panel recognised that, whereas all dishonesty is serious, there is a spectrum of dishonesty. In this case, the dishonest conduct of Mr Abbott was confined to denying the allegations against him. There was no element of financial gain and no serious consequences, other than for Mr Abbott. Although he did not take the earliest opportunity to give accurate responses, he resigned from his role, which avoided the need for Person A and Person B giving evidence at a disciplinary hearing. Mr Abbott admitted dishonesty in response to the Notice of Referral sent by the TRA. He has also co-operated with the TRA's investigation, including signing a statement of agreed facts.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

Although the panel has found that his actions were deliberate, the panel was satisfied that there was no pre-meditation or pre-determined course of action surrounding his dishonest behaviour.

There was no evidence to suggest that he was acting under duress.

The panel saw evidence that Mr Abbott did have a previously good history.

Mr Abbott has expressed regret for his actions. The panel was satisfied that the allegations found proved did not involve any impact on pupils.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order was a proportionate and appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr David Abbott is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...;

In relation to allegations 3 and 4, the panel finds that the conduct of Mr Abbott fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty, “the panel considered that Mr Abbott deliberately and knowingly gave false responses during a formal interview relating to allegations against himself.”

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Abbott, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel observed “The panel was satisfied that the allegations found proved did not involve any impact on pupils.”

I am also mindful that in relation to the proven facts found relating to allegations 1 and 2, the panel observed, “Although the conduct of Mr Abbott in allegations 1 and 2 was inappropriate and unprofessional, the panel was not satisfied that it reached the threshold of serious misconduct which fell significantly short of the standard expected of a teacher. Accordingly, the panel was not satisfied that the conduct in allegations 1 and 2 amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Mr Abbott has expressed regret for his actions.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “In the light of the panel’s findings against Mr Abbott, which involved a finding of dishonesty, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against were not treated with the utmost seriousness when regulating the conduct of the profession. The panel decided that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Abbott was outside that which could reasonably be tolerated.” I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.” I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Abbott himself, the panel comment “The panel saw evidence that Mr Abbott did have a previously good history”. A prohibition order would prevent Mr Abbott from teaching and clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments regarding dishonestly, “The panel recognised that, whereas all dishonesty is serious, there is a spectrum of dishonesty. In this case, the dishonest conduct of Mr Abbott was confined to

denying the allegations against him. There was no element of financial gain and no serious consequences, other than for Mr Abbott.”

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read "John Knowles". The signature is written in a cursive, flowing style.

Decision maker: John Knowles

Date: 11 August 2022

This decision is taken by the decision maker named above on behalf of the Secretary of State