

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Ms Patrica Bain
Teacher ref no: 7950/EA
TA Case ref no: 93/40820
Date of Determination: 3 July 2012
Former Employer: Cumbria Local Education Authority

A. Introduction

A Professional Conduct Committee of the Teaching Agency convened on 3 July 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Patricia Bain.

The Panel members were Mr Peter Monfort, (Professional Panellist – in the Chair), Mr Stan Szaroleta (Lay Panellist) and Mr David Longson (Professional Panellist).

The Legal Adviser to the Panel was Mr Stephen Murfitt of Blake Laphorn Solicitors.

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

Ms Patricia Bain was not present and was not represented

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 13 March 2012.

It was alleged that Patricia Bain was guilty of unacceptable professional conduct in that:

Whilst employed as acting Headteacher at Waberthwaite Church of England School Cumbria Ms Bain:

1. Wrote and distributed a letter to parents, staff and governors on 26 August 2010 which was inappropriate and unprofessional in its tone and context as it:
 - a) publicly outlined her unhappiness with the Governing Body and

- b) was derogatory towards the new Headteacher, Mrs Khan, and to the Governing Body
2. Changed the terms of her contract of employment without proper authorisation in 2010

Patricia Bain denied the facts of the allegation and denied that she was guilty of unacceptable professional conduct.

C. Summary of Evidence

Documents

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

- Section 1: Pupil identifier with page numbers from 1 – 2
- Section 2: Notice of proceedings and response with page numbers from 3 – 10
- Section 3: Witness statements and agreed facts with page numbers from 11 - 37
- Section 4: Teaching Agency documents, with page numbers from 38 – 161
- Section 5: Teacher documents with page numbers from 162 – 204

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

Brief summary of evidence given

The Panel heard evidence from the Reverend Anne Baker who at all relevant times was the acting chair of governors for Waberthwaite Church of England School. The Reverend Anne Baker gave evidence about procedures undertaken by the school to find a Headteacher. Patricia Bain was a candidate for that post but an external candidate Mrs Khan was appointed. Reverend Anne Baker informed the Panel that Patricia Bain responded unprofessionally to that appointment and in particular had on 26 August 2010 sent a letter on the school's headed paper to the parents of all the children in the school including the new starters. In addition the letter was sent to teaching colleagues and the governors. The Reverend Anne Baker explained the devastating effect of the letter on those who received it and in the wider community.

Reverend Anne Baker also gave evidence to the Panel in relation to her knowledge of the circumstances concerning an alleged change of contract of employment for Patricia Bain. Reverend Anne Baker told the Panel that at no time did she authorise any change of terms of the contract for Patricia Bain.

Diana Fenton, an educational consultant, gave evidence to the Panel that she had been instructed to carry out an investigation as to the circumstances of the letter of 26 August and an allegation that Patricia Bain had changed her contract of employment without proper authorisation.

Diana Fenton gave evidence as to the persons whom she had interviewed in relation to both matters, and the reaction and understanding of those persons in relation to the two allegations that were made against Patricia Bain.

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.

Ms Bain commenced employment at Waberthwaite Church of England School ('the school') in 1996. The school is a small school, with approximately 35 children, consisting of two teaching classes, one teaching Key Stage 1 and the other teaching Key Stage 2. Ms Bain taught the Key Stage 1 class. In September 2009 Ms Bain became Acting Headteacher at the school and taught the Key Stage 2 class. In February 2010 Penny Khan, an external candidate, was appointed in favour of Ms Bain. The two allegations we have to determine today are concerned with Ms Bain's alleged response to that appointment and an allegation that Ms Bain changed the terms of her contract of employment without authorisation.

The Notice of Proceedings dated the 13 March 2012 makes an allegation that Ms Bain is guilty of unacceptable professional conduct namely:

Whilst employed as Acting Headteacher at Waberthwaite Church of England School Ms Bain:

1. Wrote and distributed a letter to parents, staff and governors on 26th August 2010, which was inappropriate and unprofessional in its tone and context as it:
 - a. Publically outlined your unhappiness with the Governing Body: and
 - b. Was derogatory towards the new Headteacher, Mrs Khan, and to the Governing Body;
2. Changed the terms of your contract of employment without proper authorisation in 2010.

Ms Bain did not attend the hearing and we gave our reasons earlier for proceeding in her absence. The Presenting Officer called two witnesses namely the Reverend Anne Baker who was the Acting Chair of Governors at the school and Diane Fenton who was an Educational Consultant. We have found both witnesses to be credible and both gave relevant evidence in relation to the matters we were asked to determine.

Findings of fact

We make the following findings of fact by reference to each allegation set out in the Notice of Proceedings.

1. Wrote and distributed a letter to parent's staff and governors on the 26 August 2010 which was inappropriate and unprofessional in its tone and context.

Ms Bain accepts that she wrote and distributed the letter of the 26 August 2010. We are satisfied on the evidence that the letter was inappropriate and unprofessional. The letter clearly made public matters which concerned her failing relationship with the Governing Body, and went far beyond what any reasonable teacher would have seen fit to share with parents and staff. The evidence is clear to us that the effect of the letter in such a small close knit community was bound to, and did cause great anxiety for parent's staff and students in relationship to the close commencement of the start of the term. Furthermore we are satisfied on the evidence that the letter clearly undermined the new head that was due to take up her post at the start of the academic year. We do not intend to specify each concern in the letter but we do think it may be helpful to provide some examples of phrases used by her that we found particularly concerning:

- *I find your letter abusive and sinister*
- *A pamphlet of bare- faced falsehoods and pseudo-child psychology*
- *Authors of that ridiculous letter*
- *I openly repeat that your letter seeks to mislead the parents and I will not associate with it.*
- *Clandestine gang of three in a pub car park*
- *Where is Mrs Khan's current KS1 experience?*
- *And yet this immature letter seeks to mislead young and trusting parents by stating that moving Mrs Khan to KS1 'will make for the best educational provision for all the children'.*
- *I can only suggest to parents with children in KS2 that they consult the Governing Body and Mrs Khan as to the standard of education their children will receive.*

We will find this allegation proved.

2. Changed the terms of your contract of employment without prior authorisation in 2010.

We are satisfied on the evidence that the process for changing the terms of a contract of employment commenced with the completion of a form entitled HRAP. Ms Bain accepted that she made a direct request of Alison Robinson to complete the relevant form with the title Early Years/ Key stage 1 Teacher. Alison Robinson in her written statement states she felt uneasy because it was evident to her that the changes that Ms Bain had instructed her to make were clearly wrong. The issue for us to determine is whether authority was given for that change. Ms Bain is clear on

the evidence before us that the authority was given by Rev Anne Baker. The evidence of Rev. Anne Baker was that there were numerous occasions when the matter of change of contract could have been raised with her but never were. We questioned Rev Anne Baker on this matter and we prefer her evidence to that of Ms Bain.

We are satisfied that Ms Bain did change the terms of her contract without proper authorisation. We find that Ms Bain directed Alison Robinson to complete and electronically submit the HRAP form containing an authorisation that had not been given and a job title that was inaccurate. We are satisfied that Ms Bain believed that by completing the HRAP form the terms of her contract had been changed.

We find this allegation proved.

We therefore find both allegations proved.

Findings as to Unacceptable Professional Conduct

We are satisfied that the conduct of Patricia Bain in relation to the facts that we have found proved involved a breach of the Code of Professional Conduct and Practice for Registered Teachers (2009). We consider that the following Principles have been breached:

- Put the wellbeing ,development and progress of children and young people first;
- Strives to establish productive partnerships with parents and carers;
- Work as part of a whole-school team;
- Uphold public trust and confidence in the teaching profession.

We are satisfied that the conduct of Patricia Bain was of a serious unprofessional nature and fell significantly short of the standard expected of a teacher.

Accordingly, we are satisfied that Patricia Bain is guilty of Unacceptable Professional Conduct.

Panel's Recommendation to the Secretary of State

We have carefully noted from our papers mitigating circumstances where they are evident. The Presenting Officer also handed to us following our determination of Unacceptable Professional Conduct the character references that Ms Bain submitted to the Investigating Committee. We have therefore done our best in the circumstances to understand mitigation relevant to Ms Bain.

In deciding whether to recommend to the Secretary of State the imposition of a Prohibition Order we have to consider the issue of public confidence in the profession, and furthermore, public interest considerations. Prohibition Orders are not to be imposed to be punitive, or to apportion blame, although they may have that effect.

We have considered in relation to public interest:

- The protection of children and other members of the public,
- The maintenance of public confidence in the profession,
- Declaring and upholding proper standards of conduct.

We have considered the advice on Teacher Misconduct in relation to the prohibition of teachers. We have concluded that the following factors are of relevance:

- Misconduct seriously affecting the education and/or well being of pupils and particularly where there is a continuing risk
- Abuse of position/trust (particularly involving pupils) or violation of the rights of pupils
- Evidence of a deep-seated attitude that leads to harmful behaviour
- Serious departure from the personal and professional conduct elements of the latest teachers' standards, as published by, or on behalf of the Secretary of State.

We regard this as a very serious case because of the impact her action had upon colleagues, Governors, parents and the local community. We heard from the Rev Baines that her letter had a damaging effect both on the school and locality. The letter created great difficulties for Mrs Khan as the incoming Headteacher in establishing herself as a leader of education in the community.

Ms Bain accepted that in writing the letter of the 26th August 2010 she made a mistake. However, Diane Fenton told us that at no stage did Ms Bain express any regret for her actions, or their consequences, and Ms Bain has not expressed any apology in relation to today's hearing.

We have concluded that given the impact of her actions as we have found proved, that the appropriate recommendation to the Secretary of State must be one of Prohibition.

Ms Bain has a previous history of good behaviour, and there is some evidence before us that Ms Bain was a good classroom teacher, we have decided to recommend to the Secretary of State that a period of two years should elapse from today's date before Ms Bain may apply for the Prohibition Order to be set aside.

Secretary of State's Decision and Reasons

I have considered this case carefully. The panel proceeded in the absence of Ms Bain but took into account mitigation and previous history.

The panel found both of the allegations proven. The panel also found that both of the proven allegations amount to unacceptable professional conduct.

The actions of Ms Bain had a serious impact on other teachers, governors, parents and the wider school community. As such her actions were a serious departure from the published teachers' standards. I support the panel's recommendation that Ms Bain is prohibited from teaching.

I turn then to the matter of a review period. Although this is a serious matter, the panel have taken into account the evidence before them of Ms Bain's teaching work, and I support their recommendation that a 2 year period is in place before a review of the prohibition order can take place.

This means that Ms Patricia Bain is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the Prohibition Order to be set aside, **but not until 9 July 2014, 2 years from the date of this order at the earliest.** If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Ms Patricia Bain remains barred from teaching indefinitely.

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

Ms Patricia Bain has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this Order.

**NAME OF DECISION MAKER: Alan Meyrick
Date: 4 July 2012**