

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Mark Gibbard
Teacher ref no: 0260018
Teacher date of birth: 17 December 1960
TA Case ref no: 3925
Date of Determination: 20 November 2012
Former Employer: Maltings Academy, Essex

A. Introduction

A Professional Conduct Panel (“the Panel”) of The Teaching Agency convened on 19 and 20 November 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3HH to consider the case of Mr Mark Gibbard.

The Panel members were Dr Dena Coleman (Teacher Panellist – in the Chair), Peter Cooper (Teacher Panellist) and Michael Sanderson (Lay Panellist).

The Legal Adviser to the Panel was Christopher Alder of Blake Laphorn Solicitors.

The Presenting Officer for The Teaching Agency was Ben Bentley of Browne Jacobson LLP Solicitors.

Mr Gibbard was present and was represented by Cliff Anderson of the NASUWT.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 19 July 2012.

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

Whilst employed at Maltings Academy, Essex:

- a) Mr Gibbard repeatedly behaved inappropriately with colleagues in that:-
 - i) On 20th May 2008, he shouted violently at Witness A;
 - ii) On 3rd October 2008, he behaved in a threatening manner towards his line manager, Witness B, and shouted at her in the staff room, in the presence of other staff members;
 - iii) On 3rd October 2008, after requesting a meeting with the principal, Witness E, he became unprofessional and rude;
 - iv) On 7th November 2008, he was rude and aggressive toward Witness D, Witness C and pupils;
 - v) On 28th November 2008, he was rude and aggressive to his line manager, Witness B;
- b) On 3rd October 2008, Mr Gibbard absented himself from the last 3 lessons of the day without seeking permission.

Mr Gibbard did not admit the facts of the allegation.

C. Summary of Evidence

Documents

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

Section 1	Notice of Proceedings and Response	pages 2 to 8.
Section 2	Witness Statements	pages 10 to 34.
Section 3	Teaching Agency Referral Documents	pages 36 to 174.
Section 4	Teacher Documents	pages 176 to 194.

In addition, the Panel agreed to accept the following:

Job description	page 195
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Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

The Panel gave careful consideration to the submissions made by the Presenting Officer and Teacher's Representative.

The Panel heard evidence from Witness A, Assistant Principal of the Maltings Academy. The Panel accepted her written statement (pages 10 – 11 of the hearing bundle). Witness A gave further evidence regarding her lesson observations and her recollection of Mr Gibbard's behaviour.

The Panel heard evidence from Witness B, Head of ICT at the Maltings Academy. The Panel accepted her written statement (pages 13 – 16 of the hearing bundle). Witness B elaborated on the management structure and lines of responsibility within the school and the ICT and Business Faculty. She described Mr Gibbard's behaviour towards her and the way this behaviour made her feel. She clarified the timing of the notes which she had prepared in relation to the incidents.

The Panel heard evidence from Witness C, Learning Support Assistant at the Maltings Academy. The Panel accepted her written statement (pages 17 – 19 of the hearing bundle). Witness C gave additional evidence regarding her role as a Learning Support Assistant and the assistance she provided to Pupil A during the lesson of 7 November 2008.

The Panel heard evidence from Witness D, Advanced Skills Teacher and Head of ICT and Business Faculty. The Panel accepted Witness D's written statement (pages 20 – 24 of the hearing bundle). Witness D provided additional clarification about the management structures within the faculty and about the lesson on 7 November 2008. She provided evidence about the management discussions held with Mr Gibbard and provided the Panel with a copy of his job description.

The Panel heard evidence from Witness E, former Principal of the Maltings Academy and the current Head Teacher at St Martin's School, Essex. The Panel accepted his written statement (pages 25 – 34 of the bundle). He provided clarification about his meeting with Mr Gibbard on 3 October 2008 and then his subsequent involvement with Mr Gibbard and investigation. He provided further clarification about the decisions he had taken in respect of his investigation.

Mr Gibbard gave evidence. The Panel accepted his written statements (pages 176 – 185). Mr Gibbard provided additional evidence regarding the management structures within the faculty and his understanding of his role and responsibilities. He provided clarification about the observations of his lessons and his interactions with colleagues. He explained his professional history and reiterated that he would not behave in a manner which was rude and unprofessional towards any colleague.

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.

Summary

Mr Gibbard was employed as an ICT teacher at the Maltings Academy, Essex, from April 2008. In line with the School's Aim to Achieve Policy a number of observations of his lessons were organised. At the end of the second observation on 20 May 2008, undertaken by Witness A, Witness A spoke with Mr Gibbard about the lesson. She was concerned when Mr Gibbard became angry and shouted at her before she tried to explain that the lesson had been satisfactory overall.

Concerns were raised in September 2008 regarding the class sizes for Mr Gibbard's ICT class. Mr Gibbard was asked to move 3 students between classes to balance class numbers. He was concerned about being asked to move students and is said to have acted in a threatening manner to the Head of ICT, Witness B, in the staffroom on 3 October 2008. On the same day it was alleged that he absented himself from 3 lessons without authorisation and that he was rude and unprofessional during a meeting with the Principal, Witness E.

Concerns were raised about Mr Gibbard's behaviour during a lesson on 7 November 2008 towards pupils, Witness D (Head of the Business and ICT Faculty) and Witness C, a Learning Support Assistant working with Pupil A. His behaviour during this lesson was said to be rude and aggressive. Following his return to work Mr Gibbard attended a Target Setting Day with other colleagues on 28 November 2008. Later in the day following a meeting with a parent he was said to have behaved towards Witness B in a rude and aggressive manner.

Mr Gibbard denies the allegations. He maintains that he did not receive support from the school's management in relation to concerns which he was raising about colleagues and resources for pupils. He maintains that he did not act in a manner which was inappropriate towards colleagues or pupils, but that the management was unsupportive towards him. He asserted that the environment at the school was hostile.

The allegation we have considered is that you are guilty of unacceptable professional conduct in that:

Whilst employed at Maltings Academy, Essex:

- a) you repeatedly behaved inappropriately with colleagues in that:-
 - i) On 20th May 2008, you shouted violently at Witness A;
 - ii) On 3rd October 2008, you behaved in a threatening manner towards your line manager, Witness B, and shouted at her in the staff room, in the presence of other staff members;

- iii) On 3rd October 2008, after requesting a meeting with the principal, Witness E, you became unprofessional and rude;
 - iv) On 7th November 2008, you were rude and aggressive toward Witness D, Witness C and pupils;
 - v) On 28th November 2008, you were rude and aggressive to your line manager, Witness B;
- b) On 3rd October 2008, you absented yourself from the last 3 lessons of the day without seeking permission.

Findings of fact

Our findings of fact are as follows:

We confirm that we have carefully considered all of the relevant evidence provided to us in written form as well as the oral evidence of witnesses and your evidence.

Particular a i

We have considered the evidence of Witness A. We found her to be a credible witness and have given weight to her evidence. She gave clear evidence about what she called your violent verbal onslaught towards her. Her evidence was tested in cross examination.

We considered your evidence. You do not accept that there was a heated exchange with Witness A and that you shouted at her. You maintain that Witness A did not report her concerns to you until March 2009. We did not accept your recollection of the events.

We have given weight to Witness A's evidence and find this particular proven.

Particular a ii

We have considered the evidence of Witness B. Her evidence was that you approached her in the staffroom. You raised a concern with her before becoming aggressive, intimidating and then shouting at her. She described feeling threatened by you. Her evidence was tested in cross examination. We found her to be a credible witness and have given weight to her evidence.

We have considered the statements signed by Individual F (Head of Science), Individual G (ICT teacher), Individual H (ICT teacher) and Individual I (Head of Art). They were in the staffroom and witnessed the incident. These statements provide corroboration to the events on 3 October 2008 and refer to you acting in a way which was very threatening, rude, aggressive and unprofessional towards Witness B. We have not heard persuasive evidence that any of these individuals had any motivation to fabricate their accounts. Given that we have not been able to test their evidence we have afforded it less weight, but have decided that this evidence does corroborate Witness B's oral testimony.

Your evidence is that you remained calm and that your discussion with Witness B was short, that you did not shout and you were not threatening towards her. You suggested that individuals at the school were hostile towards you and unsupportive.

We found the evidence of Witness B, as corroborated by the written statements, to be credible and we have given weight to it. We did not find your evidence to be credible or persuasive.

Given our assessment of the evidence we find this particular proven.

Particular a iii

We have considered the evidence of Witness E regarding the meeting on 3 October 2008. He was clear in his recollection about the escalation in your behaviour. He states that you shouted and became aggressive and rude towards him. He gave evidence about the content of the meeting, the volume of your voice, the words used and your manner. We found Witness E to be a credible witness and his evidence was tested in cross examination.

We have considered the statements provided by Individual J and Individual K which corroborate that you shouted at Witness E. We have not heard persuasive evidence that either individual had any motivation to fabricate their accounts. Given that we have not been able to test the evidence we have afforded less weight to it, but note that the evidence does corroborate Witness E's testimony.

We have considered your evidence in relation to the meeting. You disagree with Witness E's recollection of the content of the meeting and maintain that Witness E disregarded your concerns. You maintain that you were adamant, but that you did not shout at him.

We found Witness E's evidence to be credible and clear. It was supported in broad terms by the statements of Individuals J and K. We find this particular proven.

Particular a iv

We considered the evidence of Witness C and Witness D, regarding the events in the classroom on 7 November 2008. Both gave evidence before us and their evidence was tested during cross examination.

We found Witness D to be a credible witness. However there were inconsistencies in the evidence presented by Witness C and Witness D. It is not clear to us as to the length of time Witness D was present during lesson, the situation in the classroom or the nature of the pupil disruption.

Given the inconsistencies in the evidence presented by the Teaching Agency, we do not believe that there is sufficient evidence for the allegation to be proven. Accordingly, we do not find the particular proven.

Particular a v

We considered the evidence of Witness B about the events on 28 November 2008. She provided clear and credible evidence about the meeting with the parent, the discussion with you and how you held her arm. Her evidence was tested during cross examination.

Corroboration to Witness B's evidence is provided by Individual G. We have seen or heard no evidence and have been given no reason to support any suggestion that he had fabricated his account.

We considered your evidence regarding how you had returned to work after a period of absence around the time of the Target Setting Day on 28 November.

We found Witness B to be a credible witness. We did not find your recollection to be consistent or credible. On the basis of the evidence we have considered we find this particular proven.

In relation to the preamble to particulars a i, ii, iii, and v, it is alleged that your behaviour as alleged was inappropriate. We have found particulars a i, ii, iii and v proven and that your behaviour happened repeatedly. In acting in the way you did towards colleagues from 20 May to 28 November 2008 as we have found established, we find it proven that your behaviour was inappropriate.

Particular b

We considered Witness B's and Witness E's evidence carefully. Both gave evidence before us in relation to this allegation. We tested the evidence of Witness B and Witness E and both were cross examined.

We have reviewed the written statements of Individuals F, J and I. Whilst we have not tested this evidence through cross examination their evidence does corroborate the oral testimonies which we have heard. We have also considered the documentary evidence of the cover lessons.

Witness E gave credible evidence about the meeting which you had at the end of the school day. He was able to provide evidence, albeit hearsay, regarding your discussion with Individual L, Vice Principal. We have not seen any statement provided by Individual L and we have not heard from him. However, we have heard direct evidence from Witness E who accepted the limitations on his conversation with Individual L. We found Witness E to be credible.

We have considered your evidence carefully. You accepted that you did not teach the last three lessons of the school day. However, we do not accept your suggestion that you sought permission to be absent from those lessons in so far as you discussed the situation with Individual L and that he organised cover for you.

We have been able to test the evidence presented by Witness B and Witness E. We found both to be credible witnesses. Given the evidence of both of these witnesses, we find that on the balance of probabilities this particular is proven.

Findings as to unacceptable professional conduct

Having found the Particulars a i, ii, iii, v and b proven we further find that your actions amount to unacceptable professional conduct.

The nature of your repeated exchanges with colleagues at Maltings Academy demonstrates a clear pattern of inappropriate and highly unprofessional conduct. You were repeatedly rude and aggressive to your colleagues including members of the senior management team. As such you failed to either respect the basic rights of your colleagues or to build effective working relationships within the school.

The nature of your conduct failed to demonstrate proper and professional regard for the ethos, policies and practices of the school in which you were teaching. You further failed to demonstrate an understanding of the statutory framework of your duties and responsibilities as a teacher.

Teachers have a responsibility to uphold the standards of conduct expected of the profession. Your actions failed to maintain such standards.

For the reasons set out above, we find that your actions do amount to unacceptable professional conduct.

Panel's Recommendation to the Secretary of State

We have considered this case very carefully and have considered all of the evidence presented by the Agency and Mr Gibbard.

We have considered the representations which Mr Anderson, Mr Gibbard's representative, has made. We have considered the mitigation presented on Mr Gibbard's behalf and noted that there are no disciplinary matters referred to, other than those which fall within the allegation.

On the basis of the evidence we have heard, it is clear to us that Mr Gibbard's behaviour in repeatedly acting in a manner which was aggressive and rude towards colleagues is fundamentally incompatible with the expectations of the profession. In our view each instance of this behaviour was a serious departure from the standards expected of the profession and caused other members of staff to feel threatened and intimidated.

We have been concerned that Mr Gibbard has shown no apparent insight into his behaviour and the potential consequences of his actions. Such lack of insight or professional reflection is a significant concern for us. Mr Gibbard appears to refuse to acknowledge the role which he played in the breakdown of professional relationships at the school and which led, in part, to the failure for ICT students to be able to progress with their courses at the commencement of the 2008 academic year.

We considered whether to conclude this case without imposing an order but we have decided that the issues raised in this case are so serious that a sanction is necessary and appropriate.

We have reminded ourselves that our principal role is to act in the public interest. We are aware that any disciplinary order is not imposed to act punitively, but is imposed to act in the public interest. We are conscious that one key element of the public interest is to ensure that confidence in the standards of the profession is maintained. For this reason we have decided that it is appropriate and proportionate to recommend the imposition of a Prohibition Order with immediate effect.

We have carefully considered whether to recommend that Mr Gibbard be afforded the opportunity to apply to set aside the Prohibition Order. We view his actions to be significantly serious. However, there is no evidence of any other disciplinary matters against him or complaints with respect to his conduct outside of the allegation we have considered. There has been no evidence presented by the Agency which identifies that Mr Gibbard is not currently competent to teach and there is no evidence that his actions have harmed any pupil. Given these factors and carefully considering the issue of proportionality, we have decided that it is appropriate to recommend that Mr Gibbard may be entitled to apply for the Prohibition Order to be set aside after a period of 2 years.

Secretary of State's Decision and Reasons

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

Mr Gibbard's behaviour has demonstrated a clear pattern of inappropriate and highly unprofessional conduct. He has been found guilty of being repeatedly rude and aggressive to his colleagues including members of the senior management team. Mr Gibbard failed to respect the basic rights of his colleagues or to build effective working relationships within the school.

This behaviour has been repeated and it is evident that Mr Gibbard has not been able to evidence to the panel's satisfaction that he has any insight into this behaviour.

I therefore support the recommendation of the panel that Mr Gibbard should be prohibited from teaching.

I have also given careful consideration to the recommendation of the panel in terms of a review period.

The panel are clear that aside from these incidents there are no other concerns about Mr Gibbard's conduct. I therefore support the view that Mr Gibbard should be able to apply to have the Prohibition Order set aside after the minimum period of 2 years.

This means that Mr Mark Gibbard 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 29 November 2014, 2 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 Mark Gibbard remains barred from teaching indefinitely.

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

Mr Mark Gibbard 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: 22 November 2012