

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Brian Unwin aka Mr Brian Sallery aka Mr Brian Sallery-Unwin

Teacher ref no: 04/56100

Teacher date of birth: 12 March 1971

TA Case ref no: 8437

Date of Determination: 11 December 2012

Former Employer: Walworth Academy, London

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 11 December 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Brian Unwin.

The Panel members were Councillor Gail Goodman (Teacher Panellist– in the Chair), Mrs Carolyn Robson (Teacher Panellist) and Mr Anthony Heath (Lay Panellist).

The Legal Adviser to the Panel was Mr Paul Owston of Berrymans Lace Mawer LLP Solicitors.

The Presenting Officer for the Teaching Agency was Ms Louisa Atkin of Browne Jacobson LLP Solicitors.

Mr Unwin 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 20 July 2012.

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

1. Whilst employed at Walworth Academy, London, between September 2010 and August 2011, Mr Unwin:

- a. held the position of Chief Executive Officer of Britoria Travel Limited, a company that was registered on 10 January 2011, whilst absent on long term sick leave from 13 December 2010;
- b. failed to provide a medical certificate from 19 April 2011 until 13 August 2011 therefore taking unauthorised absence from work;
- c. acted dishonestly, in that he represented that he was incapable of work during these periods, which was untrue.

Mr Unwin had not admitted the facts of the allegations or that they amounted to unacceptable professional conduct.

C. Summary of Evidence

Documents

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

Notice of Proceedings & (uncompleted) Response – on pages numbers 1 - 7

Witness statements - on pages 8 - 12

Teaching Agency documents – on pages 9 - 163.

In addition, the Panel agreed to accept the email and correspondence added to the bundle on pages 7A – 7D as above.

The Panel Members confirmed that they had read all of the documents in advance of the hearing (having read pages 7A – 7D in relation to the preliminary application relating to proof of service/proceeding in absence).

In the course of the proceedings Ms Atkin showed the Panel and the witnesses a screen shot on her laptop of the webpage that apparently showed Mr Unwin. This was not an additional document, simply a clearer image of the page in the bundle and both witnesses confirmed that.

Brief summary of evidence given

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

Ms Atkin called two witnesses – Witness A and Witness B. Their statements were taken as read and they answered questions from Ms Atkin and the Panel.

Witness A confirmed that she had prepared the report that appeared in the bundle and her findings were accurate to the best of her knowledge and belief. She had

shown the photograph that appeared on the Britoria Travel website to Individual A, a Finance and Resources Director at the Academy, who knew Mr Unwin, and he had confirmed that Mr Unwin was the man in the photograph. Witness A had been asked to investigate the matter at the outset because of concerns raised about Mr Unwin's continuing absence on unauthorised sick leave. In such circumstances it was common practice to carry out a Google search to see if that revealed any information. She did know Mr Unwin and could not confirm which checks had been carried out when he commenced employment but presumed that the school had followed usual practice with regard to CRB checks etc. She had not contacted Mr Unwin at any point. Her colleague Individual B had been in contact with Mr Unwin in relation to a grievance matter.

Witness B confirmed that the photograph on the Britoria Travel website showed the man that he had met and introduced himself as Brian Sallery. He confirmed that the emails in the bundle were the correspondence that had passed between Link Ethiopia and Mr Sallery. Further to those he had a meeting with Mr Sallery at a restaurant on 17 March 2011. At that meeting Mr Sallery had referred to himself as the MD of Britoria Travel. He said that his wife was from Ethiopia and the company had connections with many schools and had worked with the British Council. At the time the charity that he worked for was interested in any opportunity to increase its profile and therefore readily agreed to the proposed link with the company. No specifics were ever considered though and contact fizzled out.

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.

It is alleged that whilst Mr Unwin was absent on sick leave from his employment as an ICT Teacher at Walworth Academy, London he held the role of Chief Executive Officer of Britoria Travel Ltd, a period of his absence was unauthorised and he dishonestly represented that he was incapable of working.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against Mr Unwin proven, for these reasons:

1. Whilst employed at Walworth Academy, London, between September 2010 and August 2011, Mr Unwin:

- a. held the position of Chief Executive Officer of Britoria Travel Limited, a company that was registered on 10 January 2011, whilst absent on long term sick leave from 13 December 2010;
- b. failed to provide a medical certificate from 19 April 2011 until 13 August 2011 therefore taking unauthorised absence from work;
- c. acted dishonestly, in that he represented that he was incapable of work during these periods, which was untrue.

In the first instance we are satisfied that Mr Brian Unwin and Mr Brian Sallery are one in the same person who was employed at Walworth Academy, London between September 2010 and August 2011. In particular:

The CV accompanying the application form to the school refers to Brian Sallery-Unwin.

There is email correspondence to and from Individual B, one of the Academy's HR Advisors, addressed to both unwinb@yahoo.co.uk and briansallery@rocketmail.com.

There is an undated letter to Individual C, Principal at the Academy, signed Brian Sallery in which there is reference to receipt of an email at the address unwinb@yahoo.co.uk.

In relation to allegation 1 a. we have accepted the evidence contained in the enquiries made by Ms Miller, which she has verified in her oral evidence today, which led her to conclude that Mr Unwin was the Chief Executive Officer of Britoria Travel Ltd, which was registered on 10 January 2011. Further, we have accepted the oral evidence of Witness B, the Director of Operations for the charity Link Ethiopia, who was a very credible witness. He confirmed that he had met Mr Unwin, who introduced himself as Brian Sallery, and identified him as the same person who appeared on the Britoria Travel website. He also confirmed that Mr Unwin had identified himself as the Managing Director of the company which amounts to the same position as a Chief Executive Officer.

Witness A confirmed that she had shown the same website photograph to Individual A, a Finance and Resources Director at the Academy, and he had confirmed to her that that was Mr Unwin.

We have accepted the documentary evidence in the form of six Med 3 certificates submitted by Mr Unwin which confirm his absence from work from 7 January until 19 April 2011, covering the period when the company was registered and when Mr Unwin was engaging with Witness B.

In relation to allegation 1 b. we have accepted the documentary evidence attached to Witness A's report which confirms that the medical certificates provided by Mr Unwin, in the name of Sallery, only covered the period 13 December 2010 to 19 April 2011 and that was in breach of the Ark Schools' Absence Management Policy and Procedures. Specifically, we have noted the requirements of Part 2 – Model Procedures for Reporting Sickness Absence.

In relation to allegation 1 c. having accepted that Mr Unwin was actively engaged in work for Britoria Travel Ltd and having failed to provide Med 3 certificates for a period of his absence we further conclude that he was not incapable of work and acted dishonestly in representing otherwise. We consider that reasonable and honest people could but plainly conclude that such behaviour was dishonest. Further, Mr Unwin must have realised himself that his behaviour was dishonest, having regard to the plainly dishonest nature of his conduct and his various attempts to obfuscate and cover up his involvement with Britoria Travel Ltd, in particular in his letter to Individual C dated 14 July 2011.

Findings as to Unacceptable Professional Conduct

Having found the facts of the allegations proved we further find that those amount to unacceptable professional conduct.

This is because:

Mr Unwin's actions constituted misconduct of a serious nature, falling significantly short of behaviour expected of a teacher.

Mr Unwin's actions breached the GTC Code of conduct and practice for registered teachers, effective from 1 October 2009. Specifically, he failed to maintain reasonable standards in his own behaviour and demonstrate honesty and integrity and uphold public trust and confidence in the teaching profession.

Mr Unwin's actions also breached the current Teachers' Standards published by the DfE. Specifically, he failed to have a proper and professional regard for the ethos, policies and practices of the school in which he taught, and maintain high standards in his attendance.

It is clearly unacceptable for a teacher to dishonestly misrepresent to their employer that they are unfit to work when that is not the case. Whilst it may be the case that a teacher may be able to undertake some activities whilst absent from work due to ill health we have found that Mr Unwin was actively engaged in business activities during the period in question which were inconsistent with his inability to teach due to long term sickness. There is also circumstantial evidence that these activities included a trip abroad.

Panel's Recommendation to the Secretary of State

When considering what sanction, if any, to recommend we have had regard to "The Prohibition of Teachers – DfE advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession. In particular we have had regard to the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. We have sought to approach the issue bearing in mind the principle of proportionality. We have concluded that in this instance it is appropriate to recommend that a Prohibition order be made.

We have carefully considered the documents that we have been provided with and the submissions made by Ms Atkin.

Dishonesty is itself incompatible with being a teacher, particularly where, as in this case, it has taken place as part of a deliberate course of conduct in the context of employment as a teacher. It also represents a serious departure from the personal and professional conduct elements of the latest Teacher's Standards published by the DfE and the GTC Code of conduct and practice for Registered Teachers, effective from 1 October 2009.

Mr Unwin has not submitted any mitigation and has not engaged with these proceedings at all. In any event his actions were deliberate and he was not acting under duress.

We recommend that Mr Unwin should not be allowed to apply to set aside the Prohibition Order. The nature of his dishonest behaviour and his failure to engage with these proceedings and to demonstrate insight or show contrition leads us to consider that he will remain unfit to be a teacher.

Having had to consider the various names in which Mr Unwin has represented himself we would urge the Secretary of State to ensure that any order that is made is recorded so that any prospective employer is aware of all of the names presented in this case.

Secretary of State's Decision and Reasons

I have considered the findings and recommendations of the panel in this case.

The panel have found the facts and determined that they amount to unacceptable professional conduct. Mr Unwin's behaviour is a serious departure from the standards expected of a teacher. He has acted dishonestly and has submitted no mitigation, nor has he engaged with the disciplinary process at any stage.

In the circumstances I agree the panel's recommendation that Mr Unwin is prohibited from teaching and that no review period is allowed.

NAME OF DECISION MAKER: Paul Heathcote

Date: 11 December 2012