

THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Ms Nicola Hibberd
Teacher ref no: 06/35655
TA Case ref no: 4207
Date of Determination: 11 June 2012
Former Employer: The Park Junior School, Mansfield

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 11 June 2012 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Nicola Hibberd at a meeting.

The Panel members were Mrs Fiona Tankard (Professional Panellist– in the Chair), Dr Geoffrey Penzer (Lay Panellist) and Professor Ian Hughes (Lay Panellist).

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

The meeting took place in private and the decision was announced in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 24 May 2012.

It was alleged that Ms Hibberd was guilty of unacceptable professional conduct, in that:

Whilst employed at The Park Junior School, Mansfield between 2006 and 2010 in relation to her claim to have cancer she:

1. Acted dishonestly in that she;
 - (i) Produced fraudulent letters about her health purporting to be from Individual A;
 - (ii) Made references to a Macmillan nurse Individual B, who was purportedly supporting her, when there was no nurse of that name working within the named organisation;

- (iii) Falsely claimed to be attending hospital appointments in order to be absent from school and;

2. Unreasonably failed to attend an Occupational Health Appointment.

C. Summary of Evidence

Documents

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

Notices of Referral & Meeting – on pages 1 – 5a

Representations of Presenting Officer & Statement of Agreed Facts – on pages 5b – 13

Teaching Agency documents – on pages 14 – 46

Agreed Facts

The Statement of Agreed Facts in the above documents at pages 10 -13 stated that:

1. Nicola Lynne Hibberd (DOB: 05/05/1968) is a registered teacher (TRN 06/35655).
2. Nicola Lynne Hibberd admits the facts of the allegations against her and that they amount to unacceptable professional conduct as defined within the GTCE Disciplinary Procedure Rules 2008; namely that her conduct fell short of the standard expected of a registered teacher and was behaviour which involved a breach of the standards of propriety expected of the profession.
3. Whilst employed at The Park Junior School, Nicola Lynne Hibberd, for a period extended to four years, claimed to have been terminally ill and suffering from Mediastinal large B-cell lymphoma. Nicola Hibberd sought support and sympathy from colleagues, school management, pupils and parents. She had a considerable amount of time off work for attending appointments so as to assist her with coping with her condition.
4. During the course of her employment with The Park Junior School Nicola Hibberd made references to at least three medical doctors and/or consultants said to be within her care team at the Queen's Medical Centre Campus, Nottingham University Hospital and other hospitals.
5. In January 2008 Nicola Hibberd supplied the Headteacher of The Park Junior School, Individual C, with a letter of a Individual A, Consultant Clinical Oncologist at the QMC, Nottingham University Hospital in Nottingham. The letter confirmed Nicola Hibberd as having been diagnosed with Non-Hodgkin Lymphoma, which was in its final stages and in need of prompt treatment.

6. Shortly thereafter and with the aim of ensuring that he was providing Nicola Hibberd with a sufficient amount of support throughout her employment with the school, Individual C researched the internet for details of Nicola Hibberd's condition. Individual C to his surprise found that a third of the letter, said to have been from Individual A, appeared to have been "lifted from the Macmillan Cancer webpage".
7. Individual C subsequently decided to contact Nottingham University Hospital in order to speak with a member of Nicola Hibberd's care team. His enquiries led to a discovery that the doctor and/or practitioners referred to by Nicola Hibberd were not registered as practising at the QMC, Nottingham University Hospital and/or did not appear as practising at any other NHS hospitals.
8. Further, there was no record of the Macmillan nurse, Individual B, referred to by Nicola Hibberd and alleged to have been supporting her, as employed and/or acting on behalf of the Macmillan Cancer Support Group.
9. Moreover the admissions at QMC, Nottingham University Hospital confirmed there being no record of Nicola Hibberd having been admitted to the QMC, Nottingham University Hospital and there was no record of Nicola Hibberd having attended any appointment at the hospital.
10. As a result Individual C contacted the Fraud Department of the Nottingham University Hospital and commenced an investigation alongside the Local Health Authority team in order to ascertain the validity of Nicola Hibberd's illness.
11. In January 2010 Individual C was informed that Nicola Hibberd had cancelled an appointment with the Local Authority's Occupational Health Department which was scheduled on 26 January 2010.
12. On 4 February 2010 Individual C wrote to Nicola Hibberd expressing his concern and reminding her that she had a contractual obligation to engage with the Management of Sickness Absence Procedures that the Governing Body has agreed which required her attendance on request at a medical consultation with an independent medical expert.
13. Nicola Hibberd did not arrange and/or attend any subsequent appointment with the Local Authority's Occupational Health Department.
14. Nicola Hibberd subsequently resigned from her position at the Park Junior School.

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 was alleged that whilst employed at The Park Junior School, Mansfield Ms Hibberd acted dishonestly in relation to a claim that she had cancer and unreasonably failed to attend an occupational health appointment.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against Ms Hibberd proven, for these reasons:

Whilst employed at The Park Junior School, Mansfield between 2006 and 2010 in relation to her claim to have cancer she:

1. Acted dishonestly in that she;
 - (i) Produced fraudulent letters about her health purporting to be from Individual A;
 - (ii) Made references to a Macmillan nurse Individual B, who was purportedly supporting her, when there was no nurse of that name working within the named organisation;
 - (iii) Falsely claimed to be attending hospital appointments in order to be absent from school and;
2. Unreasonably failed to attend an Occupational Health Appointment.

Ms Hibberd has admitted the facts of the allegations in the Statement of Agreed Facts dated 14 March 2012, at pages 10 – 13. We have also accepted the evidence contained in the documents at pages 27 – 45.

Specifically, in relation to allegation 1 that Ms Hibberd acted dishonestly, we find that her actions were dishonest by reference to the standards of reasonable honest people and that she herself must have realised by those standards that her conduct was dishonest. It is clearly dishonest by any standard to produce false letters, refer to someone who does not exist and falsely claim to be attending hospital appointments.

We have noted that at paragraph 5 of the Statement of Agreed Facts there is reference to the supply of a letter in January 2008 whereas the said letter at pages 36 & 37 is dated 21 January 2009. This does not affect the substance of the allegation.

Findings as to Unacceptable Professional Conduct

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

This is because:

Ms Hibberd's actions constitute misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

We have noted Ms Hibberd's admission, in the Statement of Agreed Facts, that her actions amount to unacceptable professional conduct.

We have referred to the Teacher's Standards published by the Department for Education and find that Ms Hibberd's actions constituted a failure to:

- Demonstrate consistently high standards of personal and professional conduct in that she failed to have proper and professional regard for the ethos, policies and practices of the school in which she taught, and maintain high standards in her attendance.

Ms Hibberd's actions constituted a sustained course of dishonesty for personal benefit over a lengthy period of time. It is quite clearly not the sort of behaviour that the public expects of a teacher.

Panel's Recommendation to the Secretary of State

When considering what sanction, if any, to impose 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 maintaining 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 a Prohibition Order.

We have carefully considered the documents in the bundle.

Ms Hibberd acted dishonestly and membership of the teaching profession is not compatible with pretending to have a terminal illness and maintaining this deception over a period of time. That represents a very serious departure from the conduct expected of a teacher and constitutes evidence of a deep seated attitude that leads to harmful behaviour and is an abuse of the trust that an employer has the right to expect.

Ms Hibberd has not provided us with any mitigation or other evidence that we can consider.

In view of the nature of the allegations and that they did not, apparently, seriously or directly affect pupils we recommend that Ms Hibberd should be given the opportunity to apply to set aside the order but not before 5 years have elapsed. That will allow

Ms Hibberd to demonstrate that she has had treatment for any condition that may have led to this behaviour or otherwise that there has been a sustained period of good conduct.

Secretary of State's Decision and Reasons

I have given careful consideration to this case and to the recommendation of the panel both in respect of the sanction and the review period applying to that sanction.

This was a case of sustained and deliberate dishonesty including the production of false letters and fictional participants. The panel's findings of facts are clear and it is evident that the facts amount to unacceptable professional conduct.

I have therefore considered carefully the recommendation made by the panel and, for reasons relating to the serious dishonesty shown in this case, I support their view that a prohibition order is appropriate, proportionate and in the public interest.

I turn next to the issue of review. The panel indicate that the 5 year period will allow Ms Hibberd the opportunity either to address any underlying issues, or to evidence sustained good conduct. I therefore also support the recommendation relating to a review period of five years.

This means that Ms Nicola Hibberd 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 18 June 2017, 5 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 Nicola Hibberd remains barred from teaching indefinitely.

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

Ms Nicola Hibberd 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: 12 June 2012