

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 057

REGISTERED TEACHER: Suzanne ROCHE

PANEL MEMBERS: Susan Halliday, Chairperson
Terry Hayes, Registered Teacher
Anne Farrelly, Panel Member

ATTENDANCE: The teacher did not attend the Formal Hearing

Counsel Assisting: Ms A Sheehan, with Ms A Haslam
solicitor instructing

DATE OF HEARING: 3 September, 24 October and 27 November 2007

DETERMINATION UNDER SECTION 2.6.46(2):

On 4 January 2008 the Panel decided to cancel the registration of the teacher.

REASONS

BACKGROUND

The teacher has been a registered teacher with the Victorian Institute of Teaching (the Institute) since 31 December 2002.

By letter dated 27 July 2004, the employer notified the Institute that it had taken action in relation to the alleged serious misconduct and/or lack of fitness to teach of the teacher. The teacher resigned from the employer as of 19 June 2004.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) on 1 December 2004 and the Committee decided to refer the matter to a formal hearing. The Institute arranged for an investigation of the allegations, and on 9 August 2006 the Committee confirmed its decision to refer the matter to a formal hearing.

A Notice of Formal Hearing dated 27 July 2007 was served upon the registered teacher by registered post on 1 August 2007.

On 12 September 2007, the Institute received a written statement from the teacher advising that she no longer wished to be registered as a teacher with the Institute.

On 12 September 2007, the Committee decided that the teacher was to be treated as registered for the purposes of this inquiry under section 2.6.42 of the *Education and Training Reform Act* (the Act) 2006.

DOCUMENTS CONSIDERED

The Panel was provided with the following documentary evidence:

1. Notice of Formal Hearing dated 27 July 2007
2. Witness statement of the principal, dated 7 March 2006 (8 pages) **001 - 008**
 - o 1 – File note, dated 14 August 2002 (1 Page) **009**
 - o 2 – File note, dated 22 October 2003 (1 Page) **010**
 - o 3 – File note, dated 23 October 2003 (1 Page) **011**
 - o 4 – File note, dated 24 October 2003 (2 Pages) **012 - 013**
 - o 5 – File note, dated 25 October 2003 (1 Page) **014**
 - o 6 – File note, dated 26 October 2003 (2 Pages) **015 - 016**
 - o 7 – Record of Telephone calls made from the school (5 pages) **017 - 021**
 - o 8 – Student 1 attendance records (1 page) **022**
 - o 9 – File note, dated 28 October 2003 (3 Pages) **023 - 025**
 - o 10– File note, dated 29 October 2003 (2 Pages) **026 - 027**
 - o 11– File note, dated 4 November 2003 (8 Pages) **028 - 035**
 - o 12– Handwritten Essays, undated (6 Pages) **036 - 041**

- 13– Handwritten Essays and Reference Material, undated (17 Pages) **042 – 058**
 - 14– Letter the principal to the teacher, dated 3 December 2003 (2 Pages) **059 - 060**
 - 15 –Letter the teacher’s legal representative to the principal, dated 10 December 2003 (12 Pages) **061 - 072**
 - 16 –Record of Interview with witness 1, dated 16 December 2003 (4 Pages) **073 - 076**
 - 17 –Record of Interview, dated 22 December 2003 (5 Pages) **077 - 081**
 - 18 –Letter the principal to the employer, dated 23 January 2004 (5 Pages) **082 - 086**
 - 19 –Letter the principal to the teacher, dated 27 January 2004 (1 Page) **087**
- 3. Witness statement of student 1, dated 4 July 2006 (5 pages) 088 - 092**
- 1 – Photograph, undated (1 page) **093**
 - 2 – Photograph, undated (1 page) **094**
 - 3 – Photograph, undated (1 page) **094**
 - 4 – Photograph, undated (1 page) **095**
 - 5 – Photograph, undated (1 page) **096**
 - 6 – Receipt, dated 16 October 2005 (1 page) **097**
 - 7 – Receipt, dated 16 October 2005 (1 page) **097**
 - 8 – Year 12 Graduation Certificate (1 page) **098**
 - 9 – Photographs, undated (1 page) **099**
 - 10 – Photograph, undated (1 page) **100**
 - 11 – Photograph, undated (1 page) **101**
- 4. Witness statement of student 2, dated 4 July 2006 (1 page) 102**
- 5. Unsigned Witness statement of witness 1, undated (6 pages) 103 - 108**
- 6. Witness statement of teacher 1, dated 7 April 2006 (1 page) 109**
- 7. Witness statement of teacher 2, dated 8 March 2006 (2 pages) 110 - 111**
- 8. Material released from Victoria Police pursuant to a Freedom of Information request**
- File Note, Victoria Police Officer 1, dated 10 February 2004 (2 pages) **112 - 113**
 - File Note, Victoria Police Officer 2, dated 10 February 2004 (1 page) **114**
 - Unsigned Witness Statement, dated 8 February 2004 (2 pages) **115 –116**
 - Letter Victoria Police Officer 1, dated,12 March 2004 (1 page) **117**
 - Victoria Police Case Book Entry enclosing summary report (7 pages) **118 - 124**
 - Victoria Police SOCAU Case Book Entry enclosing summary report (5 pages) **125 - 129**
 - Victoria Police SOCAU Case Book Entry enclosing summary report (3 pages) **130 - 132**
 - Victoria Police Officer 3 File notes, various dates (11 pages) **133 - 143**
 - Victoria Police Officer 4 File notes, various dates (2 pages) **144 - 145**
 - Victoria Police Officer 5 File notes, various dates (4 pages) **146 - 149**
 - Victoria Police Officer 2 File notes, various dates (3 pages) **150 - 152**

The following exhibits were tendered at the hearing:

- A** Australia Post Registered Post Receipt dated 1 August 2007 identifying receipt of Notice of Hearing by Teacher
- B** Registration details of the teacher from the Institute's internal database
- C** Venue 1's Reservations' records provided in response to subpoena
- D** Telstra Corporation Limited letter to Victorian Institute of Teaching dated 20 August 2007 providing material in response to subpoena
- E** Institute document entitled 'Summary of Telephone Contact'
- F** Statement of witness 1 dated 8 August 2007
- G** Copy photographs being pages 95, 96 and 100
- H** Copy photographs being pages 93, 94, 99 and 101
- I** Statement of the principal dated 7 March 2006
- J** Case notes of teacher 2.
- K** Handwritten notes from conversation with the teacher on 28 March 2002
- L** Teacher's handwritten notes dated 3 April 2002
- M** Handwritten notes dated 1 April 2002
- N** Handwritten notes dated 2002
- O** Teacher's handwritten notes dated 6 November 2003
- P** Handwritten notes dated 14 November 2003
- Q** Telstra Corporation Limited letter to Teacher dated 23 October 2003
- R** Document entitled 'Record of discussion' dated 24 December 2003 at 11:30am
- S** Notice of Cancellation of Registration from the teacher received on 12 September 2007
- T** Letter from the Victorian Institute of Teaching to the teacher dated 14 September 2007
- U** Letter from the teacher to the Victorian Institute of Teaching dated 19 September 2007

- V** Letter from the Victorian Institute of Teaching dated 24 September 2007
- W** Witness statement of student 1, dated 4 July 2006 and attachments
- X** Witness statement of student 2, dated 4 July 2006
- Y** Witness statement of teacher 1, dated 7 April 2006

THE ALLEGATIONS

Allegation 1

Whilst employed as a registered teacher at the school, during 2002 and 2003, the teacher:

1. Failed to develop and maintain a professional relationship by engaging in an inappropriate relationship(s) with a student or students of the school.
 - a. Engaged in a sexual relationship with student 1, a Year 12 student in 2002 that continued into 2003.
 - i. Had sexual intercourse with student 1 at her home, including, but not limited to:
 - 1) On or around 23 March 2002.
 - ii. On or around 12 March 2002, drove student 1 home from venue 2, put her hand on student 1's leg, hugged him and kissed him on the lips.
 - iii. On or around the specific date in June 2002, had sexual intercourse with student 1 in a room at venue 1.
 - b. Engaged in inappropriate contact of a personal nature with student 1 in 2002 that continued into 2003.
 - i. Pressured student 1 to continue a sexual relationship with her, including by offering to buy him gifts, give him money and/or take him on holiday.
 - ii. Allowed student 1 to spend the night at her home, including but not limited to:
 - 1) On or around 23 March 2002
 - 2) In or around April 2002, the night before she attended a Teachers' camp
 - 3) On or around the specific date in June 2002
 - 4) In or around November 2002, after the Year 12 College Formal.

- iii. Invited student 1 to her home, including on or around:
 - 1) 12 March 2002
 - 2) 20 March 2002
 - 3) 23 March 2002
 - 4) 24 March 2002
 - 5) In or around late October 2003 when she assisted student 1 to complete an application form.

- iv. Sent notes and cards containing messages of a romantic nature to student 1 in 2002 and 2003, including notes containing words to the effect of, 'I love you baby.'

- v. Attended hotels and restaurants with student 1 in 2002, including:
 - 1) Venue 3
 - 2) Venue 4
 - 3) Venue 5
 - 4) Venue 6
 - 5) Venue 7
 - 6) Venue 1
 - 7) Venue 2

- vi. Accompanied student 1 on drives on weekends and after school hours in 2002, including to:
 - 1) Location 1
 - 2) Location 2
 - 3) Location 3
 - 4) Location 4

- vii. Bought gifts for student 1 in 2002, including:
 - 1) An earring
 - 2) Clothing
 - 3) Shoes
 - 4) Men's fragrance
 - 5) An item of jewellery for his eighteenth birthday in June 2002

- viii. Paid for items of a personal nature for student 1 in 2002, including:
 - 1) Items for his car
 - 2) His driver's licence
 - 3) Mobile telephone bills
 - 4) A ticket for the Year 12 College Formal

- ix. Telephoned student 1 via his mobile telephone number regarding non-school matters in 2002, including:
 - 1) At approximately 11.30pm on or around 23 March 2002
 - 2) Approximately 100 times from the school between 11 June and 20 December 2002

- x. Sent text messages to student 1 via his mobile telephone number regarding non-school matters in 2002.
 - xi. On or around 13 March 2002, invited student 1 to have lunch with her at venue 8.
 - xii. In or around August 2002, for a period lasting approximately one week, visited student 1 at his home on more than one occasion and without his parent's knowledge, while he was recovering from an injury.
 - xiii. In or around November 2002, after the Year 12 College Formal, collected student 1 from venue 9 and drove him to her home.
 - xiv. In or around November 2002, spent a weekend with student 1 at a motel in location 4.
 - xv. In or around December 2002, placed a cross (representing a kiss) in the right hand, bottom corner of student 1's Graduation Certificate.
- c. Allowed inappropriate physical contact between herself and another teacher and students in 2002.
- i. On or around early the specific date in June 2002, engaged in acts of a sexual nature with student 2, a Year 12 student in a room at venue 1.
 - ii. On or around early the specific date in June 2002, allowed student 2 to engage in a sexual act with another teacher of the school in a room at venue 1.

Allegation 2

2. Failed to adequately protect and care for the welfare of a student or students of the school in 2002.
- a. Allowed student 1 to drive her car whilst he was unlicensed, including:
 - i. On or around 23 March 2002.
 - b. Allowed student 1 to drive her car after he had been drinking alcohol.
 - c. Allowed student 1 to drink alcohol at her home, without the knowledge of his parent or the school, including:
 - i. Occasions when he was under the age of 18.
 - ii. On or around the specific date in June 2002.
 - iii. In or around August 2002.
 - d. On or around the specific date in June 2002, allowed students 1 and 2 to drink alcohol in her presence, in a room at venue 1.

- e. Provided alcohol to student 1 at her home, without the knowledge of his parent or the school, including:
 - i. In or around August 2002
- f. Provided alcohol to student 1 while he was at work.

Allegation 3

3. Failed to maintain objectivity in her relationship by displaying bias or preferences in her interaction with student 1 in 2002.
 - a. Completed a Year 12 subject 1 essay for student 1.
 - b. In or around May 2002, completed a Year 12 subject 2 essay for student 1.
 - c. Marked student 1 as absent from the school, when no written authorisation was received.

THE EVIDENCE

The Panel heard evidence under oath or affirmation from the following witnesses:

- Witness 1
- The principal
- Student 1
- Student 2
- Teacher 1

The Panel made an Order pursuant to section 2.6.45(d) and (e) of the *Education and Training Reform Act 2006* (the Act) that the hearing be closed to the public while the evidence of the two student witnesses, student 1 and student 2, was taken. The Order was made due to the intimate, sensitive and personal nature of the evidence. The Panel ordered that anything that may identify the two witnesses, including their names, and the name of the school, could not be published or broadcast. In making the Order the Panel acknowledged that the two students were giving a significant amount of evidence in relation to their final year as students, at which time they were 17. The Panel viewed the circumstances as moving well beyond embarrassment and deemed the partial closing of proceedings and the suppression of the students' names as pertinent and necessary given the ages of the witnesses and their vulnerability.

The teacher did not attend the hearing and was not represented.

Witness 1 (The name of the witness is to be withheld at all times to protect the identity of student 1 who is related to this witness).

The Panel heard evidence under affirmation from witness 1. She stated that her statement inclusive of 31 paragraphs, dated 8 August 2007, was true and accurate.

Witness 1 was married to the brother of student 1 in 2005 and is currently the sister-in-law of student 1. In 2002 and 2003 she was the girlfriend of student 1's brother.

Witness 1 stated that student 1's birthday was in June. She said that he came to Australia in 1996 from overseas and spoke no English. She said that in 2000 when she met her current husband, student 1 was a shy quiet 15 year old boy, interested in TV and a ball sport. She stated that student 1 trusted her, and they became very close friends. She said when one of his parents became unwell she was the one that student 1 could talk to.

The witness stated that she went to student 1's Parent & Teacher interviews in 2001, as one of his parents was in hospital, his other parent didn't speak English, and his brother (her boyfriend at the time) was either working or with the parent in hospital. Student 1 was in some trouble in Yr 11 and asked her to go to Parent & Teacher interviews, otherwise he may not be permitted to continue onto Yr 12. The witness promised the teachers that she'd look after student 1 and it was agreed that he could do Yr 12 in 2002. The witness stated that the first time she met the teacher was at that Yr 11 interview. She said that it was a professional Parent & Teacher interview.

The witness stated that on leaving the interview room (after it was agreed that student 1 could continue on and do Yr 12) student 1 pointed out the teacher, who had been in the interview. Student 1 then told the witness that next year the teacher would be his girlfriend. Witness 1 stated that she thought he was joking and told him that it would be impossible. Student 1 didn't mention the teacher again for a while. He entered Yr 12, and it was a difficult time for him as it was just after one of his parents had passed away.

Witness 1 stated that a few weeks after student 1 had started Yr 12, he told her that he was in a relationship with the teacher. Witness 1 said that she didn't really believe what she was told. She did however recall student 1 telling her that he was in a sexual relationship with the teacher not long after starting Yr 12 and that he was prepared to prove it to her by arranging a meeting between them. The witness then met the teacher at venue 3 at the end of March in 2002. Three people attended the venue 3 gathering - student 1, the teacher and witness 1. Witness 1 stated that she didn't tell anyone about the occasion, as she still didn't really believe that the teacher and student 1 were together. In the presence of student 1, witness 1 asked the teacher whether the relationship was serious. She said she asked the teacher what her intentions were, and also told her she can't stay with student 1 forever, and that he could be her son's age. Student 1 was 17 at the time. Witness 1 stated that the teacher said that she had no intention of staying with student 1, and that she had no problem with him having girlfriends apart from herself, but that she just wanted to spend some time with him, and see him now and then.

Witness 1 said that she believed that student 1's friend from school, namely student 2 who was also in Yr 12, knew about the meeting. She also stated that student 1 had indicated to her that his relationship with the teacher was, in his view, for the duration of Yr 12 only. Witness 1 indicated that student 1 regularly disappeared at weekends during 2002. She stated that as student 1's friend and confidante she kept the relationship hidden from student 1's parent and brother (her boyfriend at the time).

The witness stated that she and the teacher met a few times in 2002, after the Parent & Teacher interview in 2001. Then in May 2002, the teacher went to the house of witness 1, when witness 1 was sick and needed to hand in an essay she was doing. Student 1 had said to witness 1 that it was a good time for her to get to know the teacher and he then arranged for the teacher to come over and proof read the essay. Witness 1 said the teacher wasn't embarrassed, that she had a coffee, and proof read the essay, staying for about an hour. Witness 1 said that they became friends after that, and met a few times at venue 3. She said that they talked on the phone regularly and that the teacher asked her to go to lunch with her a few times.

Witness 1 said that most things discussed with the teacher were in relation to student 1 and that a lot of what was discussed during phone conversations related to relationship fights that the teacher and student 1 had. Witness 1 stated that student 1 was apparently jealous of the teacher as people at school were saying that the teacher had relationships with other students also.

Witness 1 indicated that she was close to the situation, as student 1 talked to her about what was going on and didn't hide his relationship with the teacher from her. She was also staying at the same house as student 1 a couple of nights a week in 2002 and 2003, and knew his movements.

Witness 1 stated that the student was viewed as a bit of a trouble maker at school in Yr 10 and Yr 11, but still asked if he could go out and was still very much dependent on his family. She said that from what she saw as soon as he started 'going out' with the teacher in Yr 12 he thought that he was grown up and could do whatever he wanted, and be in total control of himself. She said things changed and student 1 wouldn't ask for permission to go out, and wouldn't tell his parent or brother where he was going, or when he was coming home. Witness 1 said that he became very independent and that his independence was in her view largely due to the fact that he always had money, which was supplied by the teacher. Witness 1 stated that in Yr 12 student 1 stopped listening to his family.

Witness 1 said that prior to 2002 she had not seen student 1 drinking alcohol; however from the beginning of Yr 12 when he was 17 and going out with the teacher, he began to drink regularly – if not daily. She stated that she witnessed the teacher provide and pay for the alcohol for student 1 in 2002 when he was 17. Witness 1 stated that she also saw this happen later in 2002 when student 1 was 18, and was still attending the school where the teacher taught.

The witness stated that the teacher gave student 1 an item of jewellery for his 18th birthday in June 2002. Witness 1 stated that before the 18th birthday student 1 had told her that he was getting an item of jewellery from the teacher. The birthday gift was one that the teacher had had especially made for student 1. Witness 1 stated that she knew this because she was aware that student 1 had asked for an item of jewellery with his 'initial' on it. Student 1 had also told witness 1 that if the teacher had the item of jewellery especially made for him, then it showed that she really loved him. Student 1 received the item of jewellery with his 'initial' on his 18th birthday. Witness 1 saw it, and noting that it was 18 carat gold thought it must have been expensive. Witness 1 later

asked the teacher how much the item of jewellery cost and the answer was \$1170. The teacher also told witness 1 that she had had the item of jewellery made for student 1. Witness 1 said that student 1 wore the item of jewellery for quite some time (several years), however the item of jewellery was stolen in a recent robbery at student 1's house.

Witness 1 stated that the teacher was constantly giving student 1 money. She said that she asked the teacher not to give him money several times, but he always had money in 2002. The teacher also paid for driving lessons for student 1 in 2002. Prior to student 1 turning 18 and prior to him having his licence the teacher allowed student 1 to drive her car. Witness 1 indicated that it happened often, and she said that she had personally observed this to be the case, as student 1 would drive himself home from the teacher's house, and drive himself home from school, and park the car across the road from his home. Witness 1 added that she had the understanding that the teacher would cover for student 1 when he left school, in school hours during 2002, in her car.

Witness 1 stated that student 1 got his licence in 2002 after turning 18. Witness 1 said that the teacher continued to let student 1 drive her car, including after he lost his licence for three months, for speeding. He lost his licence not long after turning 18, having been caught near the city.

Witness 1 stated that most of the phone calls between herself and the teacher were short, and that sometimes they talked every second day. Phone calls were usually about fights between the couple (ie student 1 and the teacher) and as she recalled it was mostly the teacher who would ring her. These calls were made, according to witness 1, by the teacher from work, mostly on her lunchbreaks. Witness 1 said that when they met in person they talked about other things, in addition to the fights between the teacher and student 1.

Witness 1 stated that student 1 continued to disappear on the weekends during 2002. She stated that he continued to be open with her however, about being at the teacher's home, or with the teacher somewhere else. Witness 1 stated that she continued to cover for student 1 and lie to his brother and parent, and that she couldn't tell them what was happening. She stated that if the brother or parent of student 1 rang him when he was out, that he wouldn't answer their calls, but if she rang, student 1 would answer the calls. So witness 1 did the calling to check up on student 1. The parent and brother were aware that student 1 would talk to her and therefore got her to call. Witness 1 stated that she knew and became familiar with the sound on the end of the line when student 1 was in the teacher's house – so she also knew from this sound when student 1 was at the teacher's house. Witness 1 stated that she would ring student 1, talk to him and knowing he was with the teacher, tell the parent and brother that student 1 was okay and with his friends. Witness 1 said that she lied to the parent and brother for quite a while.

Witness 1 identified people in several photographs presented as evidence during the Hearing. She identified both the teacher and student 1 several times, including in a photo from the Yr 12 Graduation in 2002, where they were photographed together. She also identified a photo taken of student 1 that she considered was possibly taken in

the house of the teacher. Witness 1 stated that student 1 had acquired the photo and that she was aware that he had hidden it for quite a while, as evidence of the relationship. Witness 1 said she thought that student 1 got the photo from the teacher's house as it was the exact photo that she herself had seen pinned to the teacher's fridge, when witness 1 went inside the teacher's house in 2003 to get some application forms signed after student 1 was involved in an incident at a party in August 2002.

Witness 1 also identified photographs of the teacher with another teacher. She identified the other teacher as teacher 1. Witness 1 stated that teacher 1 worked at the same school. Witness 1 stated that she met teacher 1 when she was involved with interviews to do with her own brother. Witness 1 explained that her own brother had serious issues at home and at school, and that she spoke to the teacher about the problems. She stated that the teacher helped her get her brother transferred to the school attended by student 1 – the same school that the teacher and teacher 1 taught at.

In identifying teacher 1, witness 1 added that teacher 1 was like the teacher, in that she went out with a Yr 12 student in 2002, and was involved in a sexual relationship with the Yr 12 student. She identified the student that teacher 1 was involved in a relationship with, as a close friend of student 1 who did Yr 12 in 2002 at the same school. Witness 1 said that this student, student 2, had been bought a car by teacher 1. Witness 1 said that student 2 knew all about student 1 and the teacher. Witness 1 also stated that the teacher had told her that teacher 1 was involved in a relationship with student 2, and that it was a sexual relationship. Student 1 had also told witness 1 that student 2 and teacher 1 were involved in a sexual relationship. Witness 1 stated that it was considered a casual relationship and that they were not in love, from what she understood.

Witness 1 stated that student 1 had told her that at his 18th birthday party in a room at venue 1, teacher 1, the teacher, student 1, student 2 and other male friends of the boys (whom the witness named) had been celebrating together.

After the 18th birthday event, student 1 told witness 1 that the room had been booked at venue 1 and that the teacher wanted the room for just the two of them. Witness 1 said that student 1 also told her that the teacher was upset that the others were there. Witness 1 said that student 1 had said that they all got drunk, and the teacher went home as she didn't like the situation. Witness 1 stated that she believed that student 1 had also told her that the other boys had sex with teacher 1. Witness 1 thought that student 1 may have had sex with teacher 1 on that night also, but couldn't be sure.

The witness recalled that student 1 had asked her not to say anything to the teacher about what had happened at venue 1 as he thought she'd get jealous and upset. Student 1 turned 18 in June 2002 and after the party in the venue 1 room, witness 1 stated that she did discuss the gathering with the teacher also. Witness 1 said that she did mention several boys having sex with teacher 1 and the teacher didn't seem to believe what she was told. Witness 1 stated that the teacher did tell her something about her paying for the room at venue 1 and that the room cost \$500. Witness 1 stated that the teacher also told her that she had wanted the room for herself and student 1.

Witness 1 stated that she had independently seen other relevant photos (not presented at the Hearing) that showed the teacher and student 1 together. She said that the photos were taken by the teacher when she and student 1 went to location 4 for a few days in 2002. The photos were of student 1 in bed when they were away and had shared a hotel room. She stated that student 1 was in his underwear in bed in the photos. Witness 1 said that both student 1 and the teacher had talked to her about the trip, and the photos that she saw.

Student 1 was involved in an incident at a party in August 2002. Witness 1 said that she knew that student 1 was with the teacher during the day, because student 1 told her he was. She knew that the teacher was taking him to the party, but not going with him. She spoke to the teacher and told her not to let student 1 drink alcohol during the day because he was going to a party that night and he'd drink alcohol there. Witness 1 said the teacher agreed, and also said that she wouldn't let student 1 drive her car. The teacher said that she would take student 1 to the party and pick him up. Witness 1 said the teacher took him to the party, where he got into a fight. Witness 1 got a call from friends of student 1 at 3.00 am saying he was in hospital. The brother of student 1 and witness 1 arrived at the hospital soon after. Student 1 asked witness 1 to call the teacher, which she did, and the teacher said that she wanted to see him. Witness 1 told the teacher not to come to the hospital as student 1's brother and parent were there and it would cause trouble. Witness 1 stated that the teacher promised not to see him, but then went to the hospital at 6.00 am in the morning with flowers.

When student 1 got home from hospital, he asked witness 1 to arrange for the teacher to come to his home to see him. It was at this stage that the brother of student 1 found out what was going on between the teacher and student 1, but his parent didn't know. The teacher came to the house and witness 1 covered for student 1 saying that the teacher was her friend from college who'd heard about the incident. The parent of student 1 was suspicious when the teacher arrived with a big bunch of flowers, card and chocolates.

Witness 1 stated that the teacher visited daily. Student 1's parent started to become suspicious that someone was coming into the house and one day came home early from work, at 8.00 pm rather than 9.00 pm and found them there. Witness 1 said she believed that the teacher had just helped student 1 shower then the teacher took off when the parent came home. Witness 1 then admitted to lying to the parent and brother, and then told them that the teacher was student 1's girlfriend and a teacher from school where student 1 was doing Yr 12. At the time student 1's parent didn't think it was a sexual relationship, and witness 1 decided not to inform the parent.

Witness 1 said that given student 1 didn't go to school all of the time, and he was in trouble for not studying, she convinced her boyfriend and student 1's parent to let things go until student 1 finished Yr 12, in the hope that student 1 would get through Yr 12.

Witness 1 went to the teacher's house when the application forms related to the incident needed to be completed. It was on this occasion that she went inside the teacher's house. The other time the witness went to the teacher's house was in mid

2003, when she and her boyfriend went looking for student 1 there. On this occasion she did not enter the house.

Witness 1 stated that on the last day of school in 2002 she told student 1 not to cause trouble on muck up day. She said that he promised not to, as long as he could stay at the teacher's place for the later part of the day and the night, and that witness 1 would not tell anyone. Witness 1 stated that the teacher had said that she'd pick student 1 up from where ever they were after the muck up party, and that she would make sure that he was safe. Witness 1 indicated that there had been heightened concern after the incident at the party. Witness 1 also stated that student 1 was drinking a lot in Yr 12, and that she was worried about his drinking and him being out, given the trouble he could get into.

Witness 1 stated that she knew that student 1 told the teacher that he couldn't afford to buy new clothes for his Yr 12 Graduation, and that he wasn't going to go. Witness 1 said that student 1 had lied to the teacher about this. She said that the teacher bought student 1 a full set of new clothes and perfume and earrings to wear to the Graduation. She stated that student 1 stayed with the teacher the night of the Yr 12 Graduation.

The witness stated that the teacher and herself continued to be friendly between August and December 2002. She said that student 1 had told her that the teacher liked her. She stated that the teacher bought her earrings for her birthday in 2002. She said that they met for coffee and the teacher had helped her with problems with her own brother for whom she was the guardian.

Evidence before the Panel from Telstra showed that there were calls from the teacher's home phone to the two mobile phones owned by witness 1. Telstra documents showed 41 calls were made from 11 May 2002 through to 17 December 2002. Then there was a break and 8 calls were made in two days in March 2003. Additionally, Telstra records show that from 1 April 2002 through to 21 October 2003 there were 24 SMS text messages and 10 voice messages to the mobile phones owned by witness 1, sent from the teacher's mobile phone. Witness 1 said this information coincided with when she recalled receiving calls and text messages from the teacher.

Witness 1 stated that the relationship continued on into early 2003 and that she continued to cover for student 1 who was away most weekends. The parent and brother had from the beginning of 2003 thought that contact had ceased between student 1 and the teacher. Witness 1 however, knew this was not the case.

Witness 1 stated that she herself was then led to believe that there was a break in contact between student 1 and the teacher for about three months – this was still in the first half of 2003 through to mid 2003. Witness 1 said that she found out that this was not the case just after student 1's 19th birthday. Witness 1 said that the teacher and student 1 had purposefully made her believe that they weren't together anymore. This happened with the teacher saying that as long as witness 1 would stay her friend, she would stay away from student 1. Witness 1 said that the teacher added that she still wanted to know what was happening in student 1's life and that he was okay. Witness 1 said that she believed this at the time, and told the teacher that she'd stay friends with

her, but that the relationship with student 1 had to end. The teacher and student 1 appeared to go along with this, but witness 1 stated that it turned out that they were lying. Witness 1 said that in 2003 the teacher would call and ask how student 1 was to keep it looking like they weren't together, but she found out later that in reality they were still together. Witness 1 said that this action was taken by the teacher to try and keep her from finding out the truth about them still being together. Witness 1 said that it was for at least three months that she believed that they weren't together, when they actually were.

Witness 1 stated that in 2003 student 1 became involved with a girlfriend, his own age. But then she found out that student 1 was still seeing the teacher, at the same time. Witness 1 stated that she told student 1 that he had to make up his mind between the two. She recalled student 1 being really upset with her for insisting that he make a decision. So she told student 1 that she'd tell his new young girlfriend if he didn't act. She stated that student 1 tried to convince her he was finished with the teacher and offered her the principal's home phone number (which she believed he got from the teacher) saying she could give the number to his young girlfriend and get her to ring the school principal, if witness 1 didn't believe him. Witness 1 stated that she wouldn't be doing that but she would tell his younger girlfriend that student 1 was in the relationship with the teacher. Witness 1 said that she then did so, and student 1 and the younger girlfriend had a fight. Witness 1 stated it was then and as a result of the fight that she believed that a call was made to the principal's home phone number anonymously, telling the principal that there was a sexual relationship between student 1 and the teacher.

The Panel saw evidence from the telephone records that such a call was made on 25th March 2003. Witness 1 said that the timeframe was about right.

At times in mid 2003 when witness 1 called student 1, witness 1 stated that she again recognised the sounds from the teacher's house in the background. The sounds were hard to describe but were a particular background echo. Witness 1 and her boyfriend, once they had become very suspicious that the teacher and student 1 were seeing each other again, decided to find out. When student 1 said he was going to the cinema in his brother's car, witness 1 and student 1's brother travelled to the teacher's house. They found the teacher's car parked on the road, not in her yard behind the roller-door. They rang her house but no-one answered the phone, and no-one answered when they knocked on the door. Witness 1 said that student 1 and the teacher were pretending that they weren't there, but they must have known that they were outside. Witness 1 said that the brother of student 1 went to look behind the roller-door, climbing up on the fence. He saw his own car parked behind the roller door in the yard. Witness 1 said that they then sent a text message to student 1 and said that he had to come home. He did and there was a huge family fight. The brother of student 1 told the parent everything including confirming that it was a sexual relationship between student 1 and the teacher in 2002 and 2003. Student 1's parent was very upset and wanted to go to the police and to the school – but the school was closed. Then student 1 promised he wouldn't see the teacher anymore. Witness 1 stated that in the end the brother of student 1 did go to the school. He reported the matter to a senior male, but not the principal as she was female. The senior male asked him some questions, but witness 1

recalled from the brother's account that the senior male didn't seem to believe him about what was going on between the teacher and student 1 in 2002 and 2003.

Witness 1 said that she told the teacher that student 1's brother had gone to the school and reported her. Witness 1 said that she believed that someone had spoken to the teacher already, as she seemed to know. Witness 1 said that she told the teacher that if she stayed away from student 1, the family would not go back to the school. Witness 1 stated that the teacher was grateful, but she was worried about the evidence of the relationship. There was the item of jewellery – but the teacher said that she thought anyone could have bought that. There were also cards that the teacher had sent to student 1. There were Valentine's Day cards, get well cards and birthday cards. Witness 1 stated that the teacher was concerned about this evidence and it being used by student 1 or his brother. Witness 1 stated that the teacher said that if she was reported she'd deny it all anyway. But the teacher was still worried about the cards because she had signed them. The teacher asked witness 1 to get the cards for her, which witness 1 agreed to do. Witness 1 said that the teacher was actually more worried about student 1 using the cards as evidence to prove the relationship. Witness 1 said that the teacher told her that student 1 threatened her with the cards, both as evidence of the relationship, and sometimes as a form of blackmail. Witness 1 stated that student 1 had tried hiding the cards from her when she told him that he didn't need them. Witness 1 explained a plan that was then agreed to by the teacher and herself, and that the plan was put in place. The teacher found out from student 1 where the cards were hidden, and then the teacher would tell witness 1 and witness 1 would take the cards from the hiding spot, and give them back to the teacher. Witness 1 reported to the Panel that this is what happened. Having found out that the cards were hidden in student 1's wardrobe she took them and gave them back to the teacher at venue 3.

Witness 1 stated that in June 2003 at the time of student 1's 19th birthday she didn't think that they were together, and that the relationship had finally ceased. Then student 1 received expensive presents, namely perfume and a \$400 voucher from a Shopping Centre. When witness 1 asked student 1 about the gifts he said that they had come from the teacher. Witness 1 said that she also asked the teacher about the presents, and the teacher said that they were from her. At the time the teacher told witness 1 that she missed student 1, but for the good of the family she would stay away from him. Witness 1 reflected on the conversation and said the teacher was lying at this stage when she said this (as she found out later) because the teacher and student 1 were still seeing each other from March to June 2003, despite having told witness 1 that they were not.

Witness 1 stated that she remained friends with the teacher through to October 2003, and that there were numerous phone calls between them. However from March to late June 2003 she did believe that student 1 and the teacher weren't together. Witness 1 said that around October 2003 student 1 seemed to want the teacher out of his life but was unable to do so as she continued to contact him, and he was angry about it. Prior to this time witness 1 said that in 2002 and 2003 when she knew the relationship was on, the teacher talked to her on the phone about fights she had with student 1. In these calls witness 1 stated that the teacher expressed concern about student 1's drinking and that he was jealous and abusive. She also recalled the teacher saying that student 1 broke the back window of her house, which she reported to the insurance company

and police as an attempted break-in (and the police then took fingerprints from the window). Witness 1 said that the teacher also called when student 1 had been on the roof of her house attempting to gain access, because they had had a fight, and the teacher had locked him out. Witness 1 said that student 1 had admitted to her that he was jealous as he believed that the teacher was having a relationship with another student, and that he also admitted to witness 1 that he did try to get into the house after the fight.

Witness 1 said student 1 and the teacher were having regular relationship problems. They were on and off every week – every weekend there was a fight and then the next day they were back together. Student 1 accused the teacher of having relationships with her brother-in-law and another student. Student 1 was causing trouble. Witness 1 said that she heard that after the teacher had kicked him out, he broke the back door of her house. The teacher called witness 1 at 6.00 am once saying that student 1 had cut her off at the garage when she was leaving for work and tried to strangle her. The neighbours apparently saw this and called the police. The police came and the teacher said that she told them that she didn't know who it was.

Witness 1 said that when she had talked to student 1 in 2003, he was very upset and angry because of the age difference between himself and the teacher, and what he felt he was missing out on in life because he was with the teacher and not people his own age. Student 1 told witness 1 that he wanted to break up with the teacher, but he couldn't and he really thought that she had put a spell on him. He talked about killing her when he was upset. Witness 1 told student 1 that she was going to report everything and went to speak with the teacher at school at lunchtime on 22 October 2003. While she was there the teacher and student 1 spoke on the mobile – the phone was on loud speaker and witness 1 said that she heard the entire conversation. Witness 1 said that the teacher apologised, told student 1 that she loved him and begged student 1 to take her back. When witness 1 got home student 1 said he didn't feel better, and was angry. In the end student 1 sat next to witness 1, also in the presence of his brother, and witness 1 called the principal on the afternoon of 22 October 2003. They talked about everything that had happened. Witness 1 stated that she told the principal that student 1 wanted to finish the relationship, but was upset and angry at the teacher's constant attempts to call him. She also told the principal that the teacher could be in danger as student 1 had threatened violence.

Witness 1 stated that she had not seen the teacher since then. Witness 1 said that she received a call from the principal on 25 October 2003. The principal said that the teacher wanted nothing further to do with student 1. Witness 1 said that over the next few days student 1 was very agitated about how things were proceeding, so she rang the principal on behalf of student 1 and indicated that student 1 felt like he had been badly hurt, and that he believed that he could not find any peace until something was done about the teacher. The principal said that she was still in the process of following things up. Witness 1 stated that she attended an interview on 16 December 2003 with the principal and an officer of the employer to answer questions about the relationship.

Witness 1 indicated that since the end of 2003 student 1 had continued to see the teacher. She added that student 1 had issues with drink driving and that the teacher

could help him with solicitors. She stated that she knew that student 1 recently went interstate with the teacher and that he'd seen her a few times. Student 1 had also recently told witness 1 where the teacher now worked (in the city of Melbourne) given that she wasn't teaching any more.

Witness 1 confirmed that it was in March 2002 that student 1 told her that he had a sexual relationship with the teacher. Witness 1 said that she also knew for sure that there was sexual activity between the two as there was a discussion between the teacher and herself, where the teacher raised, from a medical perspective, what happened to student 1 after he had had sex. Witness 1 stated that this conversation took place in 2002. Witness 1 stated that she knew student 1's friends at school knew about the relationship between student 1 and the teacher in 2002 as they talked to her about the relationship. Witness 1 stated that student 1's friends were also at the house when the teacher visited student 1 in the afternoons, after the incident at the party in August 2002.

Witness 1 stated that she was not as close to student 1 as she had been. She added that the relationship was not as good as it had been because student 1 didn't trust her because she had told his brother things about student 1's situation.

Witness 2 - the principal

The Panel heard evidence under oath from the principal. Having joined the employer in 1972, the principal became an assistant principal in 1990. She was appointed principal in 2000 and retired in June 2005. The principal confirmed that her signed statement, inclusive of 38 paragraphs, dated 7 March 2006, was true and correct.

The 2002 School Year.

Reflecting on her personal experiences with the teacher, the principal stated that she knew the teacher to be a conscientious staff member and an excellent teacher, as well as someone who participated in most school activities. The principal stated that the teacher was a strong disciplinarian. In 2002 the teacher was one of three VCE Co-ordinators. The principal stated that on 12 March 2002 the teacher, after consultation with the Careers Teacher, took student 1 to an employment agency office.

On 27 March 2002 the principal stated that the teacher phoned her at home requesting an interview on 28 March – the next day. They met and the teacher appeared anxious, wanting to know what she could do about an anonymous note that she had found in her home letterbox. The principal recalled the note saying that there was a sexual relationship between the teacher and student 1, and that the writer of the note would make this public unless there was a payment of \$60,000. The principal said that at the time the teacher, as she recalled, denied any wrong doing. The principal stated that she believed her. The principal had no notes in relation to this discussion.

The principal contacted an officer of the employer about the matter and noted that they were unsure who had written the letter. The police were also contacted and they advised that the matter should be followed up. When this was discussed with the

teacher she was reluctant to engage in any follow up that involved police. The principal indicated that as far as she understood the teacher's decision was influenced by her feeling that she may have acted unwisely, by taking student 1 to the employment agency office appointment on 12 March 2002, and further by picking student 1 up and driving him to her home after he had rung her and insisted that he needed to talk to her on 20 March 2002. In addition she indicated that the teacher had allowed student 1 to enter her house, and to drive himself to his own home, in her car on 23 March 2002. The teacher indicated that to follow up the letter may put her reputation on the line, given these things had happened. The principal indicated that she had accepted what the teacher said and left the decision with her. The principal did not follow up on any of these specific matters at the time.

The principal stated that the teacher reported to her that student 1 had visited her home without invitation on 3 April 2002. The principal said that the teacher said that she did not allow student 1 to enter her home, but spoke to him through the security door. The principal gave evidence that the teacher also told her that she spoke to student 1 about who might have been responsible for the blackmail letter. The Panel viewed as evidence a copy of the teacher's related notes dated 3 April 2002, which were in the handwriting of the teacher according to the principal.

The principal stated that the teacher reiterated on 4 April 2002 that she wanted no further action taken, and that this had been the advice of her solicitor.

Given what she had been told by the teacher, the principal stated that in Term 2 she had interviewed student 1 and told him that his behaviour towards the teacher had been inappropriate, as he had visited the teacher's house without permission. The principal then told student 1 that he would only be allowed to remain at school under certain conditions. These included having no further contact with the teacher, and that teacher 3 (another VCE Co-ordinator at the school) would become his VCE Co-ordinator instead of the teacher. The principal said that she also told student 1 that he should have no further contact with the teacher. The principal stated that she met with the three VCE Co-ordinators and discussed how student 1 should be dealt with. The principal stated that in the interview with student 1 that she didn't specifically ask for student 1's version of events as far as she recalled, and she did not recall him offering his own version of events either.

The principal stated that she met with the teacher around the same time and stated that she should not have any contact with student 1. The principal also offered the teacher counselling support as she was concerned about her welfare. The principal said that the teacher did not avail herself of the offer. No further discussion or specific school support was offered to student 1.

The principal stated that in August 2002 the teacher informed her that student 1 had been involved in an incident at a party, involving students from school. The principal said that she would have expected a co-ordinator to let her know if such things happened. She agreed that it was true that the teacher did not teach student 1, and that the teacher was no longer the VCE Co-ordinator with whom student 1 should have contact. The principal's notes indicated that information had come to the teacher about

student 1 via a relation of the person having the party. The principal indicated that she was in receipt of no further information in relation to the matter in the 2002 school year and it didn't concern her that it was the teacher who had the information, or that it was the teacher who passed on the information.

The 2003 School Year.

The principal stated that in Term 1 of 2003 she received an anonymous phone call and the female caller alleged that there was a sexual relationship between the teacher and student 1. She said that she was surprised to get the call at home as she had an unlisted number. The principal stated that she thought that there might be a connection between the anonymous call and the 2002 blackmail note that the teacher had raised with her.

On 25 March 2003 the teacher played the principal an anonymous phone message that she had received. The principal said it may have been the same person she had received her call from, due to a similar voice. The message talked about the teacher having a sexual relationship with a student. The principal stated that she asked the teacher if she wanted to contact the police and the teacher rejected the idea and said that she didn't want anything done. The principal said that she was concerned for the teacher, but left the decision with the teacher as to whether or not to involve the police. At this stage the principal did not take any further action in relation to the matter.

The principal took long service leave in Term 2 of 2003. She briefed the assistant principal prior to leaving. When the principal returned in Term 3 the assistant principal stated that student 1's brother had visited the school and told him that there was a relationship between student 1 and the teacher. The principal stated that she understood that an appointment was made with the brother for him to bring proof, but the brother of student 1 did not attend. The principal did not believe that there were any notes taken by the assistant principal at the time. There was no follow up in Term 2 by the assistant principal on behalf of the school that the principal knew of. The principal did not engage in any further follow up herself on her return in Term 3 after hearing the assistant principal's account of what had happened. The principal stated that nothing else emerged or was brought to her attention in Term 3 of 2003.

The principal said that she received a phone call in Term 4 on 22 October 2003, from a woman who said she was the sister-in-law of student 1. She told the principal several things including that the teacher kept calling student 1 from school, that student 1 wanted to cease the relationship he had with the teacher and that the teacher had been to the home of student 1. The brother of student 1 then spoke to the principal and also said several things including that he had seen the teacher and student 1 together, that student 1 had been told to stop the relationship many times, that another teacher, namely teacher 1 was also having an affair with a student. The brother of student 1 told the principal that he had also approached the school about these matters and spoke to the assistant principal, but nothing had been done. The brother of student 1 added that student 1 was present and listening to the phone conversation that they were having with the principal, at the time.

On 23 October 2003 the principal said she received a call from student 1 who sounded angry. He also said that he was angry that the teacher had called him at 6.45 am that morning and five or six times the day before. Student 1 told the principal that the teacher used to pick him up from work, that he had been to the teacher's house a few weeks ago, and he said that he wanted the teacher to stop harassing him, that the teacher had ruined his life, that he wanted nothing more to do with her and that the teacher should be sacked. The principal talked to the assistant principal, on 24 October and asked that he set up another appointment with the brother of student 1.

On 24 October 2003 the principal spoke with the teacher who agreed that the sister-in-law of student 1 had visited her at school. The principal stated that the teacher indicated that she was not concerned about her own welfare at the time. The principal said that the teacher told her that student 1 had phoned her in the previous week asking her to go for coffee but she declined, and that student 1 had come to her house early in the morning of 23 October 2003 and banged on her window, then he went away when she told him to. The teacher told the principal that this was the first time for more than a year as far as she was aware that student 1 had been to her house. She denied ever picking student 1 up from work and she denied ever being in the home of student 1. She agreed that she had helped student 1 fill out application papers, but the teacher said that she did so at school, and she denied that the sister-in-law of student 1 had ever been inside her house. The principal indicated that the teacher also denied making a call to student 1 at 6.45 am that day and that the teacher said that student 1 had been phoning her over the last month saying that he wanted a relationship. The principal stated that the teacher said that there was not, and never had been a relationship, rather student 1 was infatuated with her. The principal stated that she said to the teacher that she had conflicting information, and that she had discussed the matter with the assistant principal, and then asked the teacher for her telephone records. The principal recalled that the teacher had said firmly that she had not been making calls to student 1.

The principal recalled that the teacher was still rejecting offers of help via counselling or the police at this stage, but they were offered. The principal said that she believed that the teacher wanted the matter to fade away and that she did not want any further investigation. It was agreed that the teacher would not have any contact with student 1 and that the principal would ring the sister-in-law of student 1 and say the teacher wanted nothing to do with student 1.

On 24 October 2003 and 25 October 2003 the teacher reported to the principal that she received a total of 4 calls where there was no message, and that she had tracked the calls to the place where student 1 worked. The principal stated that she had told the teacher to report to her any calls that she received from student 1.

The principal interviewed the teacher on 27 October 2003, and indicated that she had accessed the schools phone records which showed that there had been many phone calls made to student 1's mobile and to his sister-in-law. The principal did not show the teacher the list. The principal indicated to the Panel that previously the teacher had denied making the calls, but then altered her story and said that she had made many calls. The principal indicated that a review of the calls showed that some of the calls were made when the teacher was timetabled to teach, but most were made in the

morning or late afternoon. The principal stated that the teacher then admitted at this later stage to making many calls, and said that she did so to pacify student 1, and that she did not wish to trouble the principal with the matter and believed that she could solve the problem herself. There was no additional explanation given as to why the teacher hadn't told the principal about the calls a few days earlier on 24 October 2003.

The principal requested that the teacher write a full account of what had transpired and she agreed to do so. The principal received this document on 6 November 2003 – it was handwritten. The Panel viewed the document as evidence, and noted the teacher's handwriting. In that document the teacher stated that student 1 started ringing her at work during the later part of Term 3 of 2003.

The Panel saw evidence of the school's phone records starting from 11 June 2002 through to 20 December 2002. A total of 100 calls were made to student 1's mobile, and 26 calls were made to his sister-in-law's mobile. The Panel saw evidence of the school's phone records starting 24 January 2003 through to 3 November 2003. A total of 44 calls were made to student 1's mobile, and 18 calls were made to his sister-in-law's mobile.

The principal stated that she also checked the attendance records of student 1 for 2002, given that there had been accusations by his family that the teacher had falsified his attendance records, but this area of concern wasn't followed up by herself or anyone else in the end.

The principal stated that she received a phone call on 28 October 2003 from a female saying that she was the cousin of student 1. The cousin, who gave her name, talked about the relationship between student 1 and the teacher. The cousin said that she had met the teacher and gave a description of her, and then spoke about much that was similar to what student 1's sister-in-law had detailed.

On 29 October 2003 the principal had another conversation with the sister-in-law of student 1. The sister-in-law told the principal that she had been friends with the teacher, that they met for coffee and had gone to venue 3, that she had been given earrings for her birthday by the teacher, and that she had been to the teacher's house with student 1 when the application forms needed to be completed. During this conversation the principal asked that the sister-in-law tell student 1 that she was following up on things.

On 4 November 2003 the principal interviewed student 1. During the interview student 1 showed the principal several text messages that he had received from the teacher including 'U call me' and 'I tried to call you back but your phone is switched off' and 'U are ignoring ME'. The principal told the panel that she asked for the number attached to the messages and she confirmed that it was the teacher's mobile number.

The principal's seven pages of notes from her interview with student 1 say that student 1 reported that he had not been calling the teacher, but rather that he had been receiving calls, including prank calls recently; that at the start of 2003 he was at the teacher's house nearly every day, and that at times during the year she would get upset and cry if he went out with his friends, and that she had continued to call him when he

went to location 5 about a month prior; that the last time he was in the teacher's house was two weeks prior to get the application forms completed and that they were there for about an hour and a half.

During the same interview student 1 told the principal that he had been to the teacher's house in 2002 many times, that he had driven the teacher's car a lot of times including after school and on weekends. He told the principal that they went to location 4 and spent the night in a hotel, as well as trips to the location 1, location 3 and location 2. Student 1 named several hotels and restaurants that he and the teacher had been to while in the relationship. He stated that on his 18th Birthday in June 2002 he and his friends were at the teacher's house and that teacher 1 was there also with student 2. He said that an apartment at venue 1 was booked and that teacher 1, student 2 and two other male friends went to venue 1 and that he and the teacher arrived later. The Principal stated that at this stage Student 1 was ready, if not keen to supply information, and while it was a long interview he was responsive to her questions.

In the interview student 1 also told the principal that the teacher did his Yr 12 homework in 2002 for subject 1, subject 2 and subject 3. He said that the teacher had the questions before he got them, and that she would help him write the homework down.

Student 1 told the principal in the interview that he had the teacher's new phone number because she gave it to him. He said that they had broken up again, and that he was starting his life over, but that he expected the teacher would wait a while, then call him again. Student 1 described this as the pattern of behaviour that he had experienced and it was like being pulled down all the time. He told the principal that he couldn't get the teacher out of his head, but he wanted her out of his head, yet even passing the school reminded him of her. The principal's notes show that student 1 stated that people in the school knew about the relationship, and he provided some examples of people who had discussed the teacher with him. Student 1 also named another student he alleged the teacher had had a relationship with in 2000.

Student 1 told the principal that the relationship started when he went for an interview with an employment agency early in 2002. He said that the teacher asked him if he drove, and as he didn't, she offered to drive him to the interview and to pick him up around the corner from his home for the 4.30 pm interview. Student 1 said that the teacher then said let's go for coffee and they went to a bar at venue 2. Student 1 told the principal that the teacher dropped him at his home at 8.00 pm, and when they got there she put her hand on his knee and kissed him. Student 1 said that he was shocked. Student 1 said that the next day the teacher gave him her address and phone number.

Student 1 stated to the principal during the interview that after the funeral of a friend's father, he went to the teacher's house in 2002. They also went to venue 1 several times before his 18th birthday in June 2002, and then went on his birthday with student 2 and teacher 1, and other male friends. He stated that the two teachers used himself and student 2, and said that he had photos of student 2 and teacher 1 interstate.

Student 1 told the principal that the sexual relationship between himself and the teacher started the second time he went to her house, not long after the employment agency interview. Then the school holidays started and the teacher received the blackmail letter in late March 2002.

Student 1 told the principal that the teacher got jealous at the Yr 12 Graduation when he danced with another girl. He also told the principal that for his 19th birthday the teacher gave him a photo of himself and the teacher together at the Yr 12 Graduation. After the Graduation, student 1 stated that teacher 1 dropped several students including himself and student 2 at a friend's place, and then 30 of them went to S Road, but no teachers went. Student 1 stated that the teacher picked him up later and that he spent the night at her house.

Student 1 told the principal that the teacher would send him cards with "love you baby" in them. At the interview he said he thought his brother might have the cards, but he didn't know for sure.

Student 1 told the principal that he got her home phone number (a silent number) from the teacher's phone directory. He told the principal that he asked could he have it and the teacher said yes, and that the teacher saw him enter it into his mobile phone.

Student 1 told the principal that he caught out the teacher lying to him. He said that after he had had his first interview with the principal, the teacher called him and said that they had to say the same things. Student 1 said that the teacher told him not to say that they had had sex, as she would lose her job, rather the teacher said he should say that she was helping him out with his homework. Student 1 stated that the teacher did do his homework and that one of his other teachers had challenged him about the homework and said 'this is not your essay.' Student 1 said that he told that teacher that his sister-in-law had helped him. Student 1 stated that he had notes in the teacher's handwriting.

Student 1 told the principal that the teacher had been inside his home after he was involved in the incident at the party and that she used to come around about 5.00 pm. He said that one day his parent came home early and found the teacher there. Student 1 named other people who were at the house at times when the teacher visited his home.

On 14 November 2003, the principal said that she received an anonymous call from a female stating that she wished to report the unprofessional behaviour of the teacher and teacher 1, but that she was unwilling to give her name as she was known to the two teachers. The caller said that everything the teacher would say would be absolute fabrication, and that there had been an on-going sexual relationship between the teacher and student 1 since mid 2002, and further that student 1 had text messages from the teacher, and that the teacher did student 1's homework. The caller also made allegations that teacher 1 was in a sexual relationship with student 2, and had been since mid 2002, and that teacher 1 gave student 2 money and that student 2 still went to teacher 1's house, accompanied by another student from another school. The principal was also told that student 2 and teacher 1 travelled interstate together, and that the principal should check who paid for tickets and look at the receipts, as teacher

1 paid for student 2. The caller said that she was told this information in a nightclub 3 months prior by two other students, both of whom said that they had also had sex with teacher 1. The caller stated that the behaviour of the teacher and teacher 1 was accelerating and that they needed to be stopped. The caller said that she was not a relative, nor a friend of the boys, but that she knew them all and was concerned about the good of the profession. The principal said that she did not recognise the caller's voice.

The principal stated that on 26 November 2003 student 1 handed her two pieces of work that he said the teacher had done for him, one for subject 1 and one for subject 2. The principal said that they were in the teacher's handwriting. The principal then obtained copies of the essays handed in by student 1 for subject 1. The subject 1 teacher had the original copy of the essay handed in by student 1 and she said that she was surprised by the quality of the essay and had grave doubts as to whether the essay had been done by student 1, and was embarrassed that she hadn't followed the matter up.

In relation to the subject 2 essay the principal asked the subject 2 teacher if he had the original piece of work from the student and related handouts. There was an A given for the essay handed in by student 1, but the principal didn't ask the teacher if he was surprised by the quality. The Panel saw the evidence and the essays for both subject 1 and subject 2 that were handed in by student 1. The essays were the same as two other pieces of handwritten work that were in the handwriting of the teacher. The principal confirmed that it was the handwriting of the teacher. The principal stated that it was unacceptable for the teacher to do an essay, word for word for student 1, and that it was unacceptable for student 1 to hand it in as his own work.

The principal stated that she gave the teacher a letter of complaint on 3 December 2003 and asked her to respond. The teacher gave the principal a response, including a Statutory Declaration on 10 December 2003. The Panel viewed as evidence the response and the Statutory Declaration signed by the teacher.

The principal continued her investigation and interviewed the sister-in-law of student 1 on 16 December 2003 in the company of an officer of the employer. The Panel viewed the four pages of notes from the interview as evidence. The interview notes detailed student 1's sister-in-law stating that all the calls she'd received from the school number were from the teacher, except for one which came from teacher 1 who was present at student 1's 18th birthday, and was involved sexually with student 2.

The notes from this interview also detailed the sister-in-law's account of going to the school on 22 October 2003 and the discussions she had with the teacher, and the resultant phone discussion between the teacher and student 1. The sister-in-law also named someone she considered may have made the recent anonymous phone call to the principal.

The interview notes describe the teacher visiting the sister-in-law at her home several times, including to help with editing her essay early in 2002, and that this occasion was organised by student 1. The notes also detailed that the teacher had visited the home of

student 1 many times, especially after the incident at the party, and show that the sister-in-law named student 1's friends who were present at his home when the teacher visited. The sister-in-law described to the principal how she explained the presence of the teacher at the house of student 1 to student 1's parent, saying that the teacher was her own friend. She detailed in the interview how student 1's parent was suspicious and came home early from work, and saw the teacher leave. She also said that another friend of student 1 had told her father that the teacher was at the house, and that she was a teacher from school, and then the father told student 1's parent.

The notes from the interview detailed the sister-in-law talking about her friendship with the teacher and how they met for coffee and drinks, and together talked about student 1. During the interview the sister-in-law detailed the gifts and money given to student 1 by the teacher, including paying for his driver's licence, his Yr 12 Graduation clothes, and an item of jewellery with his 'initial' that she had personally seen.

Among other things the interview notes detailed the fights between student 1 and the teacher and the related phone calls with descriptions of what had happened during and after the fights, and how these details had been discussed by the teacher with the sister-in-law during the phone calls made by the teacher.

The sister-in-law also provided other details during the interview, including specific comments from a medical perspective that had emerged at the instigation of the teacher when she was talking to the sister-in-law about what happened to student 1 after he had had sex. These details were provided to the sister-in-law by the teacher in 2002. During the interview with the principal the sister-in-law said that she had seen student 1 and the teacher kissing, and had seen the teacher sitting in student 1's lap. The sister-in-law also stated that the teacher had told her that she was in a sexual relationship with student 1. Included in the interview notes was the sister-in-law's account of the weekend student 1 and the teacher spent at location 4, and the fact that she had discussed the trip with student 1 and the teacher on their return, and that she had seen the photographs taken while they were away together.

Also included in the notes from the interview with the principal was some commentary regarding the blackmail letter which the sister-in-law stated that the teacher had also told her about. The sister-in-law said that student 1 had indicated to her that he believed it had come from another friend of his, and that student 1 and the friend who was responsible for the letter had had a fight over the matter, and had only resumed communication a year later.

In addition, the sister-in-law claimed in the interview with the principal that she had received a message the day of the interview from student 2 that had apparently come from teacher 1. She said that teacher 1 was passing on a message from the teacher that student 1 *'didn't have to go through with this'* and *'that he could have anything he wants.'*

The interview notes show that the sister-in-law told the principal that the teacher taught student 1 how to drive and that he drove her car a number of times, and that he used to park it near his house. The notes detail that the sister-in-law also said that originally

student 1 had been proud of the teacher, but his friends had started calling her a name , and then he started to pull away from the teacher a bit, and his attitude seemed to change. The sister-in-law said that student 1 was happy in the early part of the relationship with the teacher in 2002 and that if student 1 didn't see the teacher for a day that he would be sad.

Finally it is recorded in the interview notes that the sister-in-law stated that the teacher covered up a number of absences for student 1 in Yr 12 and that he would not have passed due to lack of attendance, but the teacher fixed it up for him. The sister-in-law signed a Statutory Declaration in relation to the information she provided in this interview, which the principal said went for several hours.

Further to receiving the principal's evidence the Panel also read a five page Record of Interview compiled by the principal after another interview she had with the teacher on 22 December 2003. The principal stated that the teacher was keen to present her case, and answer each allegation, and emphasise her innocence. The principal stated that the teacher was somewhat stressed at the time, because she felt that she was being questioned about her professionalism. The principal said that the teacher was given every opportunity to answer the questions posed and she was supported by a welfare services person from the union. The principal said that all in attendance at the interview wanted to make sure that the teacher was able to present her side of the story.

The principal had a follow-up meeting with the teacher on 24 December 2003, where she indicated that the investigation would continue, and would be conducted by officers from the employer. The principal stated that the teacher was not happy with this option and stated that it had not been previously canvassed with her. Later in the interview the teacher collapsed and first aid was applied. The interview stopped and support for the teacher was provided.

The principal stated that she informed the teacher by letter dated 27 January 2004, that as a result of her preliminary investigation she would be referring the matter to the employer. The principal stated that the teacher did not return to the school in 2004 and sent a letter of resignation effective 19 July 2004.

In receiving evidence from the principal the Panel read the two page response from the teacher's solicitor dated 10 December 2003 and the attached nine page Statutory Declaration signed by the teacher and witnessed by a Partner of the teacher's legal representative.

The principal said that she personally started to have significant doubts about the teacher's side of events when she interviewed the sister-in-law of student 1. The principal stated that she had not heard anything about any other relationships with students that the teacher was involved in.

The principal stated that the teacher and teacher 1 were close friends, and that it was common knowledge that they were close. She stated that the two teachers socialised on the weekends.

The attendance records of student 1 during 2002 were not scrutinised by the principal. She stated partly because attendance records are not always 100% accurate and partly because at the time she had the evidence of the phone calls made from the school. The principal stated that she didn't see much point in investigating the claim that the teacher had falsified the attendance records.

The principal stated that the teacher was a leading teacher and was very experienced. She stated that she would have known that out of school contact with students should be professional contact and that relationships with students were inappropriate.

The principal agreed that when reflecting on the early months of 2002, that there now seems that there was already a relationship in train between student 1 and the teacher, prior to her talking to student 1 in April 2002 about his inappropriate behaviour in relation to the teacher. She indicated that at the time she believed the teacher and supported her, and counselled the student for behaving inappropriately telling him not to have contact with the teacher. The principal stated that she didn't recall the student being distressed at the time however, and she noted that he didn't express any concern or any anger from what she could remember. The principal stated that it was at a later stage that student 1 expressed anger and said that he felt like he had been used by the teacher.

Witness 3 - student 1 (The name of this student and any other identifying names, characteristics or circumstance are to be withheld at all times).

The Panel heard evidence under oath from student 1. He stated that he was born in 1984 and that he was currently unemployed. He confirmed that his statement, inclusive of 23 paragraphs, dated 4 July 2006 was true and correct. Student 1 said that he was a student at the school from 2000 to 2002. He did Yr 12 in 2002.

Having confirmed that his statement was true and correct student 1 identified the persons and contents in several photos attached to his statement. Student 1 stated that:

- Photo at page 93 –was a photo of the teacher and her sister. Student 1 said that the teacher gave him the photo.
- Photo One at page 94 –was a photo of the teacher in 2003 when she brought alcoholic drinks to his workplace.
- Photo Two at page 94 –was taken at the same time as Photo One at page 94. It was of the teacher in 2003 when she brought alcoholic drinks to his workplace. However, in Photo Two, the teacher had covered her head.
- Photo at page 95 –was a photo of the item of jewellery that the teacher had given him for his 18th birthday in June 2002, when he was in Yr 12. Student 1 stated that the Investigator from the Victorian Institute of Teaching had taken this photo. Student 1 stated that in 2007 there was a robbery at his home and lots of things, including the item of jewellery he was given for his 18th birthday, were stolen. There is a note accompanying the photo that documents that the

Investigator sighted the item of jewellery on student 1 in 2006, and that the photo is of the same item of jewellery. The note is signed and dated by the Investigator.

- Photo at page 96 –was a photo of himself and the teacher standing together at the Yr 12 Graduation (also referred to as the Yr 12 Formal by student 1). Student 1 identified the teacher as being in a white dress and himself by the colour of his shirt and tie. Student 1 stated that the teacher had paid for most of his clothes for the Yr 12 Formal.
- Photo at page 97 –was a photo of his airplane boarding pass for 16 October 2005. Student 1 stated that the teacher took him for a holiday to location 6. Also in the photo was the luggage ticket, for the same flight on the same date, with the identifying name of the teacher.
- Photo at page 98 – it was student 1's Yr 12 completion certificate from the school. Generated by the school, the certificate dated 2002 was signed by the principal and the teacher. The teacher had signed off as the Team Leader on the certificate. Student 1 spoke to an ink cross at the far bottom left hand corner of the certificate, which was visible in the photo. He stated that the teacher told him that it represented a kiss, and that she had put the cross on the certificate. Student 1 stated that his was the only certificate with such a mark.
- Photo One, at page 99 – was a photo of the teacher, and teacher 1 and the brother-in-law of the teacher, and two others he didn't know. Student 1 stated that the photo could have been taken at the teacher's birthday dinner. Student 1 stated that he wasn't at the dinner but the teacher gave him the photo, which was dated in October 2003.
- Photo Two, at page 99 – was a photo of the teacher, and teacher 1, and the brother-in-law and sister of the teacher, and two others on the left that he didn't know. Student 1 stated that it could have been taken at the teacher's birthday dinner. Student 1 stated that he wasn't at the function, but the teacher gave him the photo, which was dated in October 2003. Both photos at page 99 were taken on the same evening.
- Photo at page 100 – was a photo of the teacher and himself together, she was on the right and had her head on his shoulder. Student 1 stated the photo was taken of them in either 2002 or 2003.
- Photo at page 101 – was a photo of himself sitting on a couch at the teacher's house in suburb A in 2002. The photo was dated by the camera when taken and the date read 21 May 2002. Describing the house student 1 said that it was a two bedroom house, with a bathroom and toilet together, and a kitchen and sitting or living room all in one. He said that there was no garage, although it looked like there was one, but it was just a roller door in the fence. He stated that you could look over the fence and see what was parked in the teacher's yard. Student 1 stated that the house was in suburb A.

Student 1 stated that in Yr 11 he was interviewed by the teacher and two other teachers about doing Yr 12. He said that the school was keen for him to leave after Yr 11, but his sister-in-law (witness 1) supported him and attended a Parent & Teacher interview with him. At the end of the interview it was decided that he would remain at school and do Yr 12 in 2002. At the end of the interview student 1 stated that the teacher who was a VCE Co-ordinator, said that she really liked him, and she'd see him next year. Student 1 stated that he thought that this was a funny thing for the teacher to say, as the teacher was normally strict all of the time. But he said that at the time he did not think about what the teacher had said too much, although he did know that the teacher had been involved in a relationship with another previous Yr 12 student that he knew.

Student 1 stated that he began Yr 12 in 2002, a week late, due to the death of one of his parents.

Student 1 stated that early in 2002 the teacher referred him to the school Careers Counsellor to talk about his future and an apprenticeship. An appointment was organised with an employment agency by the Careers Counsellor and the teacher said that she'd help by taking student 1 to the appointment. The teacher arranged to pick student 1 up close to home, but around the corner, around 4pm. Student 1 recalled it to be possibly the second week of March, in 2002. Student 1 said that at the time he thought it was strange that the teacher attended the appointment with him.

Student 1 stated that after the appointment the teacher suggested that they go for a drink, and they went to a hotel in venue 2. The teacher drank wine and student 1 drank soft drink. Student 1 stated that he thought it was strange that the teacher would take him there. He said that he was 17 at the time, and that he didn't drink alcohol or smoke due to his sports training. He stated that the conversation was about general life, but he recalled being confused.

Student 1 informed the Panel that when the teacher drove him home, she parked her car across the road in a side street with parking bays. He stated that he remembered the day as he didn't know what was happening. He said that as he was about to leave the teacher's car she put her hand on his leg, hugged him and gave him a full kiss on the lips. Student 1 stated that he couldn't believe that this had happened, and that he was lost.

Student 1 indicated that he told friends including student 2, and student 3 but he didn't recall telling any family members. Student 1 stated that he was best friends with student 2, and had been so for about 10 years, and that he told student 2 everything. He stated that he was also close to student 3 and also told him things. He stated that after what had happened in the car he felt like he needed to talk to someone.

At school on the day after the employment agency interview, student 1 recalled that the teacher asked him to lunch at venue 8 on the next Sunday. He stated that at the same time the teacher gave him her home phone number and address and he put the numbers into his phone. He stated that for some reason he didn't go for lunch on Sunday with the teacher.

Student 1 stated that he and the teacher were talking regularly in March 2002, and he had also given her his phone numbers.

Student 1 stated that on a Saturday night near the end of March 2002, the teacher called him at 11.30pm. At the time he was at the beach with his friend student 3. The teacher had said that she had been at a party, and then she asked student 1 to come to her house. Student 3 drove student 1 to the teacher's house. Student 1 said in his statement that while it was the second time that he had been to the teacher's house, this visit was the first occasion that he had sex with the teacher. He said that when student 3 dropped him off the teacher was standing outside having a drink, waiting for him. On entering the house student 1 stated that the teacher gave him alcohol, put her arms around him and started touching him and kissing him. Student 1 stated that they had sex within an hour of him being in the house. Student 1 stated that they had sex on the couch that was in the photo at page 101 and that they were engaged in sexual activity for a couple of hours. Student 1 stated that the teacher was his first sexual partner. He said that staying out really late was not normal for him and that the teacher took him home later that night. Student 1 said that the sexual relationship with the teacher that started on this evening, continued on and off into 2006.

Student 1 stated that after this evening the teacher wanted to see him all the time at school and after school. He said the teacher would have students leave a room, or knock on a door and have him pulled out of the room in order to see him. The teacher was doing this pretty much daily, and she also manufactured excuses to get him to her office. Student 1 said that usually when she'd pull him out of class, she'd take him into the next room if there was no one teaching there. There were chats in corridors and sometimes chats in her office. There was also kissing and cuddling at school when there was no one around. Student 1 also stated that the teacher performed oral sex on him at school in normal school hours. He stated that there was regular physical interaction between the teacher and himself at school in 2002, as well as after school.

Student 1 stated that teacher 1 knew what was going on between himself and the teacher before the middle of the 2002 year. He said he knew that teacher 1 knew because of the time that they all went to the funeral of a friend's father and then back to the teacher's house. Student 1 went in the teacher's car. He stated that teacher 1 and student 2 went in teacher 1's car. He said that after the funeral all four went back to the teacher's house. He said that teacher 1 and student 2 were together, and at that time teacher 1 saw the teacher kissing him. Student 2 also saw this, but he already knew about the sexual relationship.

Student 1 stated that it wasn't unusual for student 2 and teacher 1 to be together, and that they were quite friendly. He indicated that he didn't want to talk about their relationship in detail, but stated that there was a relationship, and it was not a teacher and student relationship. Student 1 then stated that when the four of them were out together, it was the same as two couples out socialising.

Student 1 stated that the teacher did all of his school work in 2002. He talked to the two examples the Panel had before it as evidence, and then stated that he was talking about a lot more than just the subject 1 and subject 2 essays. He said that his Yr 12 exercise

books were all clean and empty. He stated that there was nothing in them because the teacher did all the work and essays on her paper, which he then copied and handed in. Student 1 stated several times that he did no work, and had no need to do any work in Yr 12 as the teacher did it all. He also stated that teacher 1 knew this was happening because it was discussed amongst themselves when they were together.

Student 1 said that his subject 1 teacher had become angry with him and said that the work that he had handed in wasn't his own, and that he must have got it from someone in class. Student 1 said he got angry with the subject 1 teacher and said he didn't get it from anyone in class, which was true because the teacher had done it for him. Student 1 stated that he also gave the essays the teacher had written out for him, to a few other Yr 12 students, and that they also used them to do their work. He added that he had recently talked to a friend who still had some copies of the work done by the teacher.

Student 1 said that he was out of uniform almost every day, but the uniform rules were not applied to himself by the teacher, who was in charge of sending people home if they had two consecutive days out of uniform. He added that the teacher covered up his absences and he didn't have to bring notes. He stated that he'd come to school at 11.00 am or midday and the teacher had cleared the absences. He stated that the lateness and his absences were not recorded. He said he had seen his attendance records and he knew that they didn't reflect all of his lateness and his absences. Student 1 stated that he knew he was away more than the records said. Student 1 said that the teacher was in charge of the attendance records and in charge of uniform passes, and he got special treatment. Student 1 stated that it couldn't have been anyone else as the teacher looked after those things.

Student 1 said that once the sexual relationship had started he was engaging in some sort of sexual activity with the teacher regularly - nearly every day - either at school or when she picked him up after school and they went to the house of the teacher.

Student 1 said that the teacher let him drive her car. Student 1 said that the teacher let him drive without a licence. A lot of the time he stated that she encouraged him to drive and said things like, 'it's good for you'. Student 1 said that when he drove he didn't use L plates or P plates, and he couldn't remember if he'd actually qualified for his L plates when he was driving. He stated that him driving would appear like a fully licensed person driving with no plates – but he wasn't.

Student 1 said he'd drive himself home to his place, unlicensed and that he'd go back that night or the next day in the car to the teacher's house, or take her car to and from school. Student 1 said that he was spending a lot of time at the teacher's house in Yr 12 and that there were periods where he was there pretty much everyday. Student 1 stated that sometimes they'd go to a restaurant then to her house, or sometimes straight to the teacher's house.

Student 1 stated that when they had both been drinking, that the teacher encouraged him to drive, rather than drive herself. On reflection student 1 thought that this was probably to safeguard the teacher from being caught driving over the limit. He said that

being 'random breath tested' by the police, wasn't an issue because they don't ask for your licence, and when you have no 'plates' on and are under the limit; they let you go.

Student 1 stated that the teacher would sometimes drop him off and pick him up from his part time workplace both in 2002 when he was at school and the next year.

Student 1 stated that it was accurate that the teacher introduced him to alcohol. He stated that he started to drink more and more. He said that this was while he was still at school and 17. Student 1 said that he'd get to the point where he didn't know what had happened the night before because of the amount of alcohol he had consumed. He stated that he got pretty drunk and it happened often. He said that he'd stay at the teacher's house on some of those nights.

Student 1 stated that he drank alcohol at the hotel and in restaurants with the teacher, and that it was alcohol that the teacher had bought for him, including while he was under age. He stated that he turned 18 in June 2002 while in Yr 12.

Student 1 stated that the teacher brought alcohol to his workplace in 2003 (ref - Photos One and Two at page 94).

Student 1 stated that the teacher applied a lot of pressure on him to stay in a regular relationship with herself, and that when he wouldn't do what the teacher wanted, or if he couldn't make a time to meet, or if he couldn't come over, that the teacher would get annoyed with him. Student 1 stated that the amount of pressure to stay in the relationship and have regular contact was on-going, and it did really cause him concern in 2003.

Student 1 stated that it was hard sometimes, and that it was as if the teacher had brainwashed him. Student 1 stated that the teacher was making it out as a full time relationship; and that she wanted that. Student 1 stated that the teacher offered to buy him things if he'd do as she wanted. He indicated that she tried to bribe him to get him to stay in the relationship. He stated that she bought him lots of things over the years, such as clothes, perfume and jewellery and also paid his phone bills.

After he had left school student 1 recalled the teacher asking what he wanted for his birthday. He said items for his car - \$3220. Student 1 stated that he had bought his car off student 2 and that student 2 had this car because it had been bought for him by teacher 1.

Student 1 was involved in an incident at a party while in Yr 12. He was injured and was away from school for some weeks. He indicated that the teacher didn't go to parties with him, but she would drop him off. Student 1 asked his sister-in-law to let the teacher know, and that the request wasn't about letting school know, it was about letting the teacher who he was in a relationship with know what had happened. Student 1 stated that the teacher visited him at his own home after he was injured and during these visits they engaged in sexual activity. According to student 1 his parent knew something was going on at this time. His brother wanted the relationship to be

over, as he could see that student 1 was changing and the relationship had created family tension. Student 1 said he wasn't doing any work at school at the time.

Student 1 said that what happened to him had happened to other students. He said he knew the teacher had had relationships with students in the past, and gave as an example his friend who was a year older. Student 1 stated that the teacher had helped his friend to get into the armed forces. His friend had told him that while he was a student at the same school, that he had been involved with the teacher. Student 1 asked the teacher about the relationship and student 1 stated that after a while the teacher admitted it.

Student 1 stated that the teacher knew that his friends knew about the relationship he had with her because those friends dropped him off at her place. Also friends saw her visiting him at his home.

Student 1 stated that when he went on a trip with the teacher to location 4 they stayed in the same hotel room and had sex. He stated that the teacher told him 'don't tell anyone as she might lose her job and end up in jail'. Student 1 felt he couldn't say anything anyway as the teacher had power and could kick students out of school, and did do so. Student 1 said that the teacher did say to him that she could kick him out of school, but she was sort of making a joke out of it – but student 1 said that it wasn't really a joke, and he knew that she could do so.

Student 1 said that after school finished, but while the relationship continued, the teacher also took him to interstate and paid for a tourist activity and bought him clothing for about \$1,500.

Student 1 turned 18 in June 2002 while doing Yr 12. He said that a celebration was held for his 18th birthday at the teacher's house. He was there with friends, namely student 2, student 3 and another male friend. Student 1 stated that teacher 1 was there also. He said teacher 1 drove herself, student 2, student 3 and another friend to the teacher's house. The teacher and teacher 1 had bought alcohol and they were all drinking, and listening to music.

Later teacher 1, student 2, student 3 and the other male friend went to venue 1. Student 1 and the teacher remained at the teacher's house for a while. One of the teachers (student 1 was not sure which one) had booked a room over the phone at the hotel. He said that none of the students could have booked the room at the hotel because they did not have any credit cards.

Approximately two hours after teacher 1, student 2 and the other two boys left, student 1 and the teacher arrived at the hotel. The others were very drunk. Student 1 recalled that the boys had torn stockings on their legs and also had bath robes on. Student 2 opened the door to let the teacher and student 1 in. Teacher 1 was lying on the bed as he recalled and she was covered with the bed covers. Student 1 stated that the students said that they'd had a spa, and there was water all over the room.

Student 1 and the teacher didn't stay the night according to student 1. He stated that they returned to the teacher's house. Student 1 said that he didn't have sex with the teacher while they were at the hotel, but that they had had sex before they left to go to venue 1, which is why they arrived later.

Student 1 said that his three male friends who went to venue 1 told him that they had had sex in the room with teacher 1. Student 1 said photos had been taken in the hotel room, but a female friend of one of the boys had thrown them out. Student 1 said that everybody there was drunk, and he thinks he might have turned around and seen teacher 1 and student 2 having sex.

The teacher gave student 1 many cards and notes while they were together. Student 1 said that his sister-in-law told him that she gave the cards and notes back to the teacher. The cards reflected some romance according to student 1, but student 1 couldn't remember their exact content, and what the teacher had written to him.

Student 1's sister-in-law told him that the teacher had phoned her, and that they did meet up, and according to student 1 this contributed to the tension between himself and the teacher.

Student 1 said his relationship with the teacher continued on and off for four years and finally came to an end in 2006. The relationship had a negative impact on student 1 and his family, according to student 1. He said that he became a different person, and that the teacher had made him do stupid things, and that she was triple his age. Student 1 told the Panel that he couldn't understand how the teacher had kept him away from his family and friends. He noted that his relationship with his brother wasn't good throughout this period, due to what was happening.

Student 1 stated that the teacher told him not to say anything to the Investigator from the Institute. He said that she called him when she was sent letters about the investigation from the Institute. Student 1 said that the teacher 'acted really nice' to him at this time, and took him interstate. He thought the teacher took him interstate to make him happy, so that he wouldn't say anything about the relationship. The teacher specifically told student 1 not to say anything about her. He also thought she was recording the conversations he had with her.

Student 1 stated that after he had met with the Investigator, there was contact between himself and the teacher. He said that they met up at venue 10 and the teacher told him that she'd pay his car off and give him \$20,000 or \$30,000. Student 1 thought that she was recording him at the time and trying to collect information to make it look like he was blackmailing her. He stated that he'd asked her to move her bag and if he could look inside her bag, but she wouldn't do either. Student 1 thought that the teacher's plan was to record their conversation at the point in time where he actually asked for what it was that she had previously offered him. He stated that he thought that she would then use that recorded information to show that he was doing the wrong thing and asking her for money and things. He stated that the teacher acted weirdly, as one day she'd offer him things and then the next day she'd act as if she knew nothing about what she had offered the day before.

Student 1 said that he went to the Police and discussed what had happened. He said that at that stage he did not want to press charges.

Student 1 said that both the teacher and teacher 1 had put pressure on him not to talk about the relationship. He said that both teachers were saying that they didn't want to get into trouble.

Student 1 said that he couldn't recall being told by the principal that an alternative VCE Co-ordinator would deal with him after March 2002, when the teacher had received the blackmail letter. Student 1 stated that the teacher rather than the other VCE Co-ordinator continued to deal with him throughout 2002. Student 1 said that there was sufficient information in 2002, in his view, for the principal to look into what was happening with the teacher and take some action, but he felt that the principal just didn't want to look into it.

Witness 4 - student 2

The Panel heard evidence under affirmation from student 2, who stated that he was born in 1984. Student 2 confirmed that his signed statement, inclusive of 5 paragraphs, dated 4 July 2006, was true and correct. Student 2 stated that he had attended the school from 1997 to 2002 and did Yr 12 in 2002.

Student 2 said he knew who the teacher was and that she had taught him subject 1 in 2001 when he was in Yr 11. He added that the teacher was a VCE Co-ordinator.

Student 2 stated that he also knew who teacher 1 was and that she had taught him subject 4 in 2001 in Yr 11 and in 2002 when he was in Yr 12.

Student 2 stated that he recalled his close friend student 1, telling him that the teacher had taken him to an employment agency appointment, and that afterwards they had gone to the pub and that the teacher had kissed him. Student 2 said that a little later in the month (ie March) student 1 told him that he was in a sexual relationship with the teacher.

Student 2 recalled being with the teacher and student 1 while they were out together on a number of occasions during 2002 while they were in Yr 12. He made specific reference to meals at hotels and restaurants, including venue 4 and venue 5 and also stated that he'd seen the teacher and student 1 together at the teacher's house a couple of times, including after the funeral of a friend's father. Student 2 stated that teacher 1 was also present on these occasions and they all drank alcohol.

Student 2 stated that on the night of student 1's 18th birthday they'd planned to have a good time. He stated that teacher 1 picked him and student 1 up, as well as student 3 and another male friend. Student 2 stated that they went to the bottle shop in suburb A and purchased alcohol.

Having arrived at the teacher's house, student 2 stated that people sat around and drank alcohol while listening to music. Student 2 indicated that during this earlier part

of the evening the teacher and teacher 1 were on the computer. He said that teacher 1 suggested she book an apartment at venue 1. Student 2 stated that they then organised the hotel room at venue 1, but he wasn't sure how they had done it; he just knew it was happening. Student 2 stated that it wasn't long after that teacher 1 left for venue 1 with him, student 3 and their other male friend. Student 2 said everyone was drinking alcohol before they left the teacher's house and continued to do so once they had arrived in the room that had been booked at venue 1.

Student 2 stated that the teacher and student 1 had stayed behind for a while, at the teacher's house, but joined them a couple of hours later. He stated that the teacher and student 1 didn't stay until the morning when the others left.

Student 2 said he and teacher 1, as well as student 3 and his other male friend spent the night at venue 1. He said that during the evening they were in and out of the spa, on and off of the beds, out on the balcony, watching TV, moving about the hotel corridors, including going downstairs to the pool, and that they continued to drink alcohol throughout the night. Student 2 stated that there were two beds in the room.

Student 2 said that he couldn't say for sure if he had, or hadn't had sex with the teacher on the night at the venue 1. He stated that on another occasion he recalled being invited into a room by the teacher when she and student 1 were in the bedroom together. He stated that he felt awkward on that occasion, as they were in a relationship, and that he definitely didn't have sex with the teacher on that night. Student 2 said he couldn't definitely say whether he had or hadn't had sex on other occasions with the teacher, when at her house, indicating that he drank heavily sometimes and therefore couldn't remember well, or exactly, everything that happened.

Student 2 said that there were no other teachers present at the venue 1 room in June 2002, only the teacher and teacher 1. Student 2 said that he did have sex with teacher 1 on the evening at venue 1. Student 2 also stated that he believed that the teacher was probably present in the hotel room when he had sex with teacher 1, but couldn't be absolutely sure.

Student 2 stated that student 3 and his other male friend did not have sex with the teacher as far as he knew. Student 2 stated that student 3 and his other male friend did have sex with teacher 1, as he recalled, but he was unsure if it was in front of the teacher.

Student 2 stated that he found out about the sexual relationship between student 1 and the teacher early in 2002 when they were in Year 12. Student 2 stated that he and student 1 were close, and that after student 1's parent died he was having a tough time. He said that the relationship with the teacher was like the next phase of student's 1 life.

Student 2 stated that he did do some classes with student 1 in 2002. He believed that the teacher would knock, and ask student 1 to leave the class room, although he couldn't recall any specific times or examples now. Student 2 said he was told by

student 1 that he had engaged in sexual activity with the teacher at school, and recalled a specific example.

Student 2 said that the teacher discussed her relationship with student 1, with him. He said that the teacher asked questions about whether or not student 1 was genuine in his feelings for her, and that she wanted to know from student 2 if there were other girls in student 1's life. Student 2 also said that the teacher would ask him about student 1's thoughts about her, and question him about the other things going on in student 1's life as well.

Student 2 said that when student 1 and the teacher drifted apart she indicated to him, that she was worried about student 1. Student 2 said student 1 had told him that the teacher had offered him everything to keep things together. Student 2 said that he thought that the teacher was trying to keep student 1 for herself, and that's why she was offering him lots of things. Student 2 said that he had directly heard the teacher offer student 1 things, like going on a holiday, and that he thought these offerings were probably about trying to keep him with her.

Student 2 said that he didn't tell many people that he was having a sexual relationship with teacher 1. He said that more people knew about student 1 and his relationship with the teacher, than knew about his relationship with teacher 1.

Student 2 said that the teacher knew about him and teacher 2 before the 18th birthday gathering in 2002. Student 2 also indicated that teacher 2 knew about student 1 and the teacher before the 18th birthday gathering in 2002.

Student 2 said that the teacher and teacher 1 were instructed not to talk to each other when the investigation by the Institute was underway, but he knew that they talked to each other about it and that he'd heard them.

Student 2 said that he knew that the mini-bar had been emptied on the night at venue 1. He stated that teacher 1 had told him so and also that there had been a big charge for the mini-bar. He said that it had been a point of conversation after the event and everyone remembered it well, as it had been something that people had found funny. Student 2 stated that everyone had a lot to drink and that there was other alcohol in addition to what was in the room, as well as what had been consumed before they went to venue 1.

Student 2 said that he stayed the night at the venue 1 apartment, but he couldn't recall how he got home the next day, but maybe teacher 1 drove him home. He did recall walking around outside the hotel room that evening, and going down to the pool in bath robes. He couldn't recall if he was accompanied by either student 1 or the teacher when he went down to the pool.

Witness 5 – teacher 1

Teacher 1 was summonsed to appear before the Panel, at the request of the Panel. Teacher 1 took the affirmation and stated that she had been a teacher since 1987 and at

the school since the late 1990's. Teacher 1 identified that it was her signature on the witness statement dated 7 April 2006 and that she made the statement. Teacher 1 stated that she wished to make no alterations or additions to her statement, having read through it on the day of the Hearing. She stated that it was a true and correct statement.

Teacher 1 stated that from 1998 through to 2002 she knew the teacher and that they had had a collegiate relationship. Teacher 1 stated that their relationship changed to a friendship when she started to share an office with the teacher in 2002. Teacher 1 stated that she and the teacher would see each other daily at school and also outside of school from 2002 onwards after they started to share an office. Often they had lunch hours together. Teacher 1 stated that she and the teacher would on occasions go out for dinner as normal friends. Teacher 1 stated that the friendship became quite close. Teacher 1 stated that the friendship is still close now, but not as close as it was when the teacher worked in the same environment, because they don't see each other every day.

When asked, soon after taking the witness stand, if she knew about the Institute proceedings through the teacher, and whether she had discussed the proceedings with the teacher, teacher 1 stated '*not that I recall.*' Teacher 1 added that it was a sensitive area and not one that they had delved into as far as she recalled.

Teacher 2 indicated that she shared celebrations with the teacher, for example she went to the 50th birthday of the teacher and other birthday functions. Teacher 1 said that the teacher had travelled to her own home town to celebrate her own 40th birthday and that the teacher also went to the funeral of her parent.

Photos at page 99

When asked to identify the people in the two photos teacher 1 said they were taken, as she recalled, at the teacher's 50th birthday function. She stated that the photo was of a man who was the teacher's brother-in-law, a blonde woman who was the teacher, other friends of the teacher and that she herself was in the photo. Teacher 1 confirmed that it was the venue where the 50th for the teacher was held noting the date on the photo - in October 2003 - seemed correct.

Teacher 1 said that she and the teacher would go out to dinner monthly and talk about family, work and things that were going on at the time in 2002. She stated that when they went out in 2003 they would talk about much the same things. Teacher 1 said that she would see the teacher about as regularly outside of school in 2003 as she had in 2002. She said that she also saw the teacher regularly in 2004, however the nature of things altered according to teacher 2, after the teacher left the school as they usually went for a walk around an oval and then went for breakfast in suburb B. Teacher 1 stated that they did that sort of thing fortnightly from 2004 on. Teacher 1 said that they remained quite close after the teacher left the school. Teacher 1 stated that she and the teacher didn't ever talk about why the teacher had left the school – "*not that I recall*".

Teacher 1 stated that she didn't recall anything memorable about the teacher's mobile phone usage in 2002 or 2003. Teacher 1 said that her personal need as a teacher to phone students' home numbers wouldn't be frequent, and the most she could ever

recall would be a few calls if there was a particular issue at school – although it depended on the student. The most teacher 1 could recall would be if there had been an issue and then calling the student’s home on the day and a subsequent call possibly the next day, and then a follow up call a week later. Teacher 1 said that normally a teacher wouldn’t call a student at home.

In relation to calling students on their mobiles teacher 1 stated that generally she wouldn’t do so, but then again she might possibly do so on the odd occasion if a student was late for something in particular. In normal school life it was not the usual practice for teachers to ring students on their mobile phones according to teacher 1.

Teacher 1 said that she was aware that there were some rumours about the teacher and student 1, but didn’t remember how she heard them. When asked what the rumours were about by the Panel, and what she had heard, teacher 1 stated “*just that there had been something with the teacher and student 1*”. When asked, teacher 1 said that she *couldn’t recall* raising the rumours with the teacher or discussing them with her. Teacher 1 stated that she possibly would not recall if she had discussed them with the teacher either, as it was a while ago. When asked if the teacher had any discussion with her about student 1, teacher 1 said “*not that I can remember.*”

Teacher 1 stated that she knew student 1 and student 2. She said that she knew student 2 as he was in a junior school class she took, and that she also taught him in Yr 11 and Yr 12. Teacher 1 stated that student 2 was a satisfactory student, and that academically he didn’t do brilliantly. She stated that academically she tended to remember the really good students, and that she didn’t recall him being startling. Teacher 1 stated that she and student 2 had a good friendship and that they got on well. Teacher 1 noted that he wasn’t a model student for other teachers, but “*we seemed to get on okay*”. Teacher 1 said that she had good ‘friendships’ with lots of students and defined friendship as taking an interest in a student’s life, and spending time to find out what interested the student, and then using such information in the classroom, and also as a behaviour management tool. Teacher 1 said she didn’t change much in the classroom from what she was like outside of school and the use of the word friendship covered how she interacted and got on with lots of her students.

Teacher 1 said she recalled that student 2 was interested in a ball sport, and that was all that she recalled. Teacher 1 said that she couldn’t recall the last time she saw student 2. Teacher 1 stated that she couldn’t recall seeing student 2 since he had left school, except for the Yr 12 Formal Dinner/Graduation, which was just after Yr 12 finished.

Teacher 1 was asked how many times she had been to venue 1 as a residential guest. Teacher 1 stated that she didn’t recall being a guest at venue 1. She stated that it was possible she would recall if she had been there as a guest, but also possible that she wouldn’t recall being there. Teacher 1 stated that she had stayed in other hotels, and when asked where the other hotels were, teacher 1 stated “*I don’t know where.*” When asked why she stayed in hotels teacher 1 stated that the circumstances surrounding her stays in hotels usually amounted to pre-arranged times, given that she had a friend that she met on a casual basis, with whom she’d have dinner and then stay in a hotel in the city somewhere. When asked again if she recalled staying at venue 1, teacher 1 stated “*I*

could have.” Teacher 1 stated that she met her friend on a casual basis, about once a month. When asked about what was spent on such occasions teacher 1 stated “*I’m not quite sure*” and that she didn’t know what was spent on the hotel room. Teacher 1 then stated that she’d use her credit card, and pay whatever it cost, and that sometimes she would pay and sometimes her casual friend would pay. Teacher 1 said that she could have stayed at venue 1 on one such occasion, but she *couldn’t recall*.

Teacher 1 stated that she didn’t know where she was on the specific date in June 2002, and that the date was of no significance to her. When told that it was a Saturday night, teacher 1 stated that she still had no idea where she was on that night. Teacher 1 was shown the subpoenaed documentation from venue 1 (Exhibit C) showing that she had paid for accommodation on the evening of the specific date in June 2002 and had also paid for a mini-bar bill at checkout on the following day in June 2002, on her VISA card. The amount paid by teacher 1 was \$559.26.

Teacher 1 said that it was her residential address on the documentation, although there was a minor spelling mistake. Teacher 1 indicated that it must be an account she paid given what the document said, and there was no reason for her to think otherwise. But she could not recall what the occasion was on the specific date in June 2002.

Teacher 1 stated that she had never seen the teacher with student 1 outside of school. Teacher 1 stated that she had never seen student 1 at the teacher’s house. She stated that she had however been to the teacher’s home in suburb A, and estimated that she had been there around fifteen times. Teacher 1 couldn’t recall if she had or hadn’t been at the teacher’s house in 2002, the year that they started sharing an office at the school. When asked again, teacher 1 stated that maybe in 2002 she went to the teacher’s house four or five times. She stated that she and the teacher tended to go out to dinner. When asked if she had ever seen the teacher and student 1 out at dinner, teacher 1 stated “*not that I recall.*” Teacher 1 again stated that she could not recall ever seeing the teacher and student 1 together outside of school.

When asked to view the photo at page 101, teacher 1 stated that it was a photo of student 1. Teacher 1 went on to say that she didn’t recognise the surrounding furniture and didn’t believe it was the teacher’s house. She stated that she didn’t recall the painting in the photo, and that she believed the walls were a different colour, and the sofa and table were furniture that she didn’t recall. Teacher 1 stated that she thought the teacher had a brown couch, not a yellow one like the one in the photo, but when asked, teacher 2 couldn’t say what colour the couch was in 2002 and couldn’t say what painting the teacher had on her wall in 2002. Teacher 1 said that based on the colour of the couch, the painting and the wall colours she didn’t think it was the teacher’s house as she presently recalled it.

Teacher 1 said that she didn’t teach student 1, but that she did remember him as he was known to the school. Teacher 1 said that she recalled who student 1 was because he was often in the VCE office in 2002 for disciplinary matters, and that the VCE Co-ordinators would be dealing with such matters. She was there because she shared the office. Teacher 1 indicated that the teacher although she was a VCE Co-ordinator, did not discipline student 1, because the teacher was under an instruction not to deal with

student 1. Teacher 1 said that she didn't know why this was the case, and that while she recalled overhearing a conversation about this, she couldn't recall who said the teacher was not to deal with student 1. When asked if she knew about the reasons why the teacher was not to discipline student 1, teacher 1 stated that she didn't know. When asked, teacher 1 said that she was unaware of anything to do with blackmail, and that she overheard a conversation early in the Year 12 year – little of which she could recall, and she knew nothing else. Teacher 1 said that she didn't have any follow-up conversation with the teacher about this matter. Teacher 1 said she only knew student 1 because he was in the VCE office because of disciplinary issues and that she never had any contact with him personally outside of school.

Teacher 1 said that when she saw the teacher in passing with student 1, that there was nothing that she saw that made her believe that there was anything other than a normal teacher student relationship. Teacher 1 agreed that the teacher didn't teach student 1, and she also agreed that the teacher was not to be involved in disciplining student 1. When asked how she could comment on the interaction between student 1 and the teacher, and what contact she was actually talking about, teacher 1 said that the teacher and student 1 would see each other in corridors and in passing, and that her comments about a normal teacher student relationship were based on that. When asked, teacher 1 agreed that she was describing a relationship where the teacher and student 1 had basically nothing to do with each other. Teacher 1 added that she never witnessed anything to make her believe it was other than a normal student teacher relationship, and that she herself would say hello to students she didn't teach when passing them in the corridor.

Teacher 1 said that she never saw student 1 in the company of the teacher outside of school. When it was put to teacher 1 that she had had meals with the teacher, student 1 and student 2 outside of school, teacher 1 responded, *"not that I recall - no."* When asked could it possibly have occurred, teacher 1 responded *"not that I believe so."* Asked was it possible that the four of them were at a hotel together, teacher 1 said *"no."* When asked was it possible that the four of them could have been in a car together, teacher 1 stated *"not that I believe."* When asked could she say it didn't happen, teacher 1 stated *"it didn't happen as far as I recall."* When asked why she continued to qualify her statements with the words *not that I recall*, teacher 1 stated that it was because *"as far as I remember it never happened."* Teacher 1 was asked whether her answers meant that it was possible, but she couldn't remember if it happened. She replied that she had a problem with the word *possible*, and that *"in the world of possibilities anything is possible - could this building blow up? It's possible. I'm saying that I don't recall it."*

It was put to teacher 1 that the Panel had heard evidence that on the specific date in June 2002 she picked up student 1 and student 2 and that student 3 was already in her car. She proceeded to pick up a fourth male, and then drove them to the teacher's house in suburb A. When asked did she recall these events, teacher 1 said *"no"*.

It was put to teacher 1 that she, the teacher and the students had a number of drinks at the teacher's house, and then arrangements were made to book an apartment at venue 1. Teacher 1 was asked did she recall those events, and she said *"no"*.

It was put to teacher 1 that she went with student 2, student 3 and the other male to venue 1, leaving the teacher and student 1 at the teacher's house. When asked if she recalled this happening teacher 1 said "*no I don't.*"

It was put to teacher 1 that when the teacher and student 1 arrived at venue 1 later that night, that she was there in a state of undress with the other boys and that she engaged in sexual activity and a spa. When asked if she recalled this happening teacher 1 said "*no I don't.*"

It was put to teacher 1 that a considerable amount of alcohol was consumed on that night by the boys in her presence. When asked if she recalled this happening teacher 1 said "*no I don't.*"

When asked if she could give any explanation as to why those matters were said to have occurred on that night, the same night that the subpoenaed documentation from venue 1 showed that she paid for accommodation and mini-bar, teacher 1 responded "*no I can't.*"

Teacher 1 was asked whether she wanted to make any comments, given that the witnesses gave evidence about that specific night in June 2002, not knowing about the existence of the subpoenaed document from venue 1. Further it was put to teacher 1 that this was not a coincidence, and she was again asked for any explanation about how it could have been known that on this particular night that she was at venue 1. Teacher 1 stated that she could not give an explanation for the coincidence.

It was put to teacher 1 that she was lying and that there was evidence that she was there with the boys. Teacher 1 was asked to respond. Teacher 1 stated that she had no explanation, and that she could not recall it. "*I can't recall the evening of the specific date in June 2002 - I can't recall that night.*" When asked was she saying that it was possible that these events occurred, but that she couldn't recall what happened teacher 2 stated "*I don't recall that as happening.*"

It was then put to teacher 1 again that the expression that she had been repeatedly using i.e. *I don't recall* was guarded, and that in fact she was not saying *this did not occur* by using these words. It was then put to teacher 1 that by using the expression she was not making a definitive statement about these things not happening. Teacher 1 stated "*I am saying that I don't recall those things happening.*"

The venue 1 documentation stated that the bill for the mini-bar by itself was for \$163.42. Teacher 1 was asked what she might consume in a night at the mini-bar when staying at a hotel. She stated that it depended on the evening.

When asked what could be consumed for that amount of money teacher 1 replied "*more than a few alcoholic drinks, chocolate, chips, peanuts - whatever is in the mini-bar - I'm not quite sure.*" Teacher 1 agreed it was a very large mini bar-bill, and when questioned indicated that she didn't think that she'd had other mini-bar bills as large. Teacher 1 stated that she didn't know why this mini-bar bill was so large, and that she couldn't recall the evening.

The total bill from venue 1 paid for by teacher 1 on her VISA card was \$559.26. Teacher 1 agreed that it was a lot of money out of a teacher's salary. Teacher 1 said that she took home \$1,500 a fortnight. Teacher 1 was asked was she sure that she could not recall spending over a third of her fortnightly salary in one night. Teacher 1 said she could not recall it. When asked how regularly she'd do this, teacher 1 said not often, but she still couldn't remember it.

Teacher 1 was asked to view the photo on page 100. She stated that the two people in the photo were the teacher and student 1. When asked was she present when the photo was taken, teacher 1 stated that she didn't recall being there. When asked was what she saw in the photo a picture of a normal teacher student relationship, teacher 1 said "no". She described what she saw in the photo as student 1 and the teacher being obviously close to one another and happy. Teacher 1 stated that she didn't recall seeing the behaviour exhibited in the photo, or any other behaviour that didn't reflect a normal teacher student relationship, at any time.

Teacher 1 stated that student 1 and student 2 were "*good friends – quite thick as friends.*" She stated that she saw that level of close friendship at school, but not elsewhere. When specifically asked did she know if they socialised outside of school, teacher 1 said that they may have gone to sporting games together. When asked if she was at a game where they were together, teacher 1 said "yes". When asked if she was in any other social environment where student 1 and student 2 were together, outside of school, teacher 1 said "*not that I remember.*" Given an opportunity to reflect on her answer, teacher 1 said "*no – I don't think so.*"

Teacher 1 was asked had she attended the funeral of a student's father. Teacher 1 said now that it was mentioned, yes, she did remember the funeral. When asked, teacher 1 stated that she drove herself, student 2 and a female student to the funeral. When questioned about what happened after the funeral she stated that she dropped the female student off, and then she thought she went back to student 2's house, and dropped him off. When questioned about if it was possible that she and student 2 went to the teacher's house, teacher 1 said "no". When asked was she sure about that teacher 1 answered "*I don't recall that.*"

Teacher 1 said that student 1 was at the funeral, but she didn't know how he got there, or how he got home. When asked, teacher 1 stated that the teacher was at the funeral but she didn't know how she got there, or how she got home. Teacher 1 identified that the teacher drove a small car at the time and it could have been a hatchback.

It was put to teacher 1 that she and the teacher and student 1 and student 2 were together socially at the teacher's house, after the funeral. Teacher 1 stated "*I don't remember that happening.*" When asked if she could comment on why other evidence heard by the Panel conflicted with the answer she had just given, teacher 1 stated "*no I can't comment on that.*" When asked was she telling the truth, teacher 1 said "yes".

When asked specifically about her friendship with the teacher, teacher 1 said that other than family, she didn't see any one else, or other friends as regularly as the teacher. When asked about the nature and content of their conversations as close friends, and in

particular conversation about their sex lives, teacher 1 said that she did talk about her own sex life. She said that the teacher knew about teacher 1's casual friend that she met monthly, and that the teacher knew his name, but teacher 1 didn't believe that the teacher knew him personally. Teacher 1 said that during their conversations the teacher didn't talk about her sex life, and that she wasn't forthcoming about such things, *as far as she could recall*.

Teacher 1 said that she had never engaged in any sexual activity in front of the teacher. Teacher 1 said that she had not engaged in sexual activity in a hotel room when the teacher was present. Teacher 1 said that she had not engaged in sexual activity with a student personally and as far as she knew the teacher had not engaged in sexual activity with a student.

Teacher 1 said that the teacher had not told her that student 1 had driven her car. Teacher 1 said that she did not know if student 1 had driven the teacher's car, and it would come as a surprise to her if this had happened, as it wasn't normal behaviour. Teacher 1 said that as far as she could recall she hadn't let a student drive her own car, and that she hadn't taught a student to drive.

When asked why the Panel should believe her evidence, given that conflicting evidence had been provided on a number of matters, teacher 1 said she couldn't explain why, and that she couldn't explain why she'd been brought into things, and that it was up to the Panel to make a decision.

When asked if student 1 and student 2 were credible, teacher 1 said that she got on well with student 2, but student 1 used to interrupt her classes looking for student 2 and that she didn't get on particularly well with student 1. She added that student 1 was in the VCE Co-ordinator's office for disciplinary matters frequently, as was student 2 at times, but she didn't have run ins with student 2. Then teacher 1 explicitly stated that that was all she wanted to say in relation to whether the two students were credible.

When asked again was she ever in any situation where the teacher and student 1 were together, outside of school, teacher 1 said *not that she could remember*. When asked did that mean that she wasn't, teacher 1 stated that was correct.

It was put to teacher 1 that she refused to be involved in the investigation, when the investigation started. Teacher 1 agreed and said that it was simply because she didn't want to be involved, despite the teacher being a close friend, and that it was her own decision. Teacher 1 stated that she didn't believe that she knew anything. Teacher 1 said that at the time of the investigation that she believed that if she did a written statement, she wouldn't need to attend a Hearing. She stated that she talked to the assistant principal about the situation and decided to do a statement because she didn't want to be involved in a Hearing.

Teacher 1 said that she spoke to the teacher about the Institute's Hearing, only to the extent that she had told the teacher that she gave a statement at the time of the investigation. Then at a later stage teacher 1 said she told the teacher that she was now required to attend the Hearing. Teacher 1 said that during those two conversations the

teacher didn't seem concerned that she was attending the Hearing, and that the teacher didn't ask her to say certain things or not to say certain things. Teacher 1 said that there was no other discussion about the Hearing, and further that the teacher did not ask her to speak to the former students on her behalf.

It was put to teacher 1 that she and student 2, and the teacher and student 1 socialised together as two couples. Teacher 1 stated "*no - that didn't happen.*" When asked why people would say this did happen, teacher 1 said that "*I don't know there could be a few possibilities as to why things have been said.*", however teacher 1 did not elaborate.

It was put to teacher 1 that she hadn't suggested or provided any information in relation to student 1 and or student 2 disliking her, or wanting to 'get her', or anyone else wanting to 'get her'. She was then asked why people would make up the things that had been said during the hearing. Teacher 1 responded by saying "*I'm not sure.*"

When asked what she knew about the evidence before the Panel, teacher 1 stated that she had only seen her own statement. When asked if the teacher had shown her the material relevant to the Hearing, and if she knew anything about any of the written material before the Panel, teacher 2 said "*no*".

When teacher 1 was specifically asked did she know about, or had she seen the subpoenaed material from venue 1 with her own name on it, prior to the day of the Hearing (given that she didn't demonstrate any surprise at all when it was handed to her) teacher 1 stated that she didn't know about it. When it was put to teacher 1 that she had seen the material that was before the Panel, prior to giving evidence at the Hearing (ie. that it was possibly shown to her by the teacher who would have had it all as part of her volume of Hearing material) teacher 1 responded "*that's not the case.*"

Documents Written by the teacher

In mid December 2003, the teacher submitted an 8 page Statutory Declaration, declared on 10 December 2003, to the principal of the school. This document was accompanied by a 2 page covering letter from the teacher's legal representative. This letter was also dated 10 December 2003. The Panel viewed complete copies of both documents.

The covering letter stated that the teacher had been referred to the legal firm by the union "*to assist her in responding to a formal letter of complaint*" sent by the principal on 3 December 2003. The letter suggested that the principal in making an assessment about the matters raised in the letter of complaint have "*regard to the fact that the teacher is a senior teacher of 25 years standing with an impeccable record as a teacher, Welfare Coordinator and VCE Coordinator. There is nothing in her character which would indicate that she would act in a manner in which it is alleged she has or that she would say anything that is untrue.*"

The letter also stated that student 1 "*on the other hand has a deplorable record at the school. It is alleged that he sexually harassed a fellow employee while on work experience and in the following year sexually harassed another student. His interactions with teachers*

at the school have been confrontational. It is well known that his personal circumstances, with which the teacher has been sympathetic, are circumstances which are likely to result in an unstable, emotional state.”

The covering letter also states *“The teacher has responded openly and candidly”* to the letter of complaint in her Statutory Declaration and that *“by making a Statutory Declaration the teacher clearly indicates her commitment to telling the truth.”*

The Statutory Declaration contains the following information:

I the teacherteacher, do solemnly and sincerely declare that-

I have been a teacher in Victorian Secondary schools since 1977. I have been a VCE Coordinator at the school for 9 years.I was the Student Welfare Coordinator....Apart from my teaching qualifications I have been trained in family mediation.

As VCE Coordinator I am responsible for the overall welfare of students in Yr 11 and Yr 12 at theschool. It is often the case that students will come to me with an academic problem which clearly has student welfare issues associated with it. It is not always possible to gain the confidence of the student in question to the extent that I am able to refer the student to the Welfare Coordinator.

My dealings with student 1 occurred in 2001 when he was in Yr 11. Student 1 was often sent to me by his classroom teachers over disciplinary issues

At the beginning of 2002 student 1’s parent had died. Student 1 returned to school in about the second week of term. When student 1 came to my office to get his timetable he appeared to be withdrawn and depressed. In the past my experience with him was that he was confrontational and angry. It is not uncommon to observe similar behaviour amongst students. On these occasions, it is my practice to offer support including referring the student to Welfare staff.

In late February or early March student 1 came to my office which I share with other VCE staff members. He told me that he was not coping with Yr 12 and asked me how he could find an apprenticeship. I took student 1 to teacher 2, the Careers Advisor, who made an appointment for him with an employment agency in suburb C on Tuesday 12 March 2002. Student 1 told me that he had no means of transport to get to the appointment and asked me to take him. I was a bit surprised about this request and decided to speak to teacher 2 about it. Teacher 2 pointed out that by taking student 1 to the appointment I would at least ensure that he kept the appointment. On this basis I agreed to take him.

On the day in question I took student 1 to the appointment at 4.30pm, remained with him during the appointment and dropped him home at 5.45 pm. On this occasion, there was no discussion about the death of student 1’s parent. I note that student 1 alleges that I took him to venue 2 and when I dropped him home I put my hand on his knee and kissed him. I deny touching student 1 on the knee and kissing him.....I did not as student 1 alleges give him my address and phone number.

Later on the evening of 12 March 2002 student 1 rang me at home. I was surprised to receive the call and asked him how he had found my telephone number. Student 1 said that he found it in the telephone book. I instructed him not to call me again.

On Wednesday 20 March 2002 student 1 came to my office after school. Student 1 told me that he needed help with his subject 1 work. I told him to ask his teacher..... student 1 said that he could not find her. I then agreed to help him. I took him to a classroom opposite my office and helped him for about half an hour. Student 1 had been assigned an essay topic.....after some discussion student 1 mentioned his sister-in-lawas his essay topic. I then demonstrated to him how to write an essay.

As I was leavingstudent 1 started to talk to me about the illness and death of his parent. He told me that it helped him talking to me about his parent and asked whether we could continue talking. I told him that I was not the right person and that I would take him to the counselling staff. Student 1 had become emotional talking to me and appeared to be more distressed when I suggested that he speak with Welfare staff. He pleaded with me to talk to him after school that evening. I agreed. Student 1 told me to pick him up at M street.

At about 7 pm I picked him up in M street opposite his house. I took him to my house. In my own mind I believed that given the conversation that student 1 wanted to have with me, having the discussion in a public place would have been uncomfortable. During the time student 1 was at my house I adopted a counselling mode.....At about 9 pm I drove him home.....

.....Saturday 23 March 2002 student 1 rang me, unsolicited, on 2 or 3 occasions. It appeared from the tone of his voice that he was distressed and anxious. He told me that he wanted to talk to me more as it helped him and that he had no one else to talk to. I went out on the evening of 23 March 2002 with my sister and returned home about midnight. About 10 minutes later I heard a car horn tooting repeatedly outside my house.....I saw a car parked across the street as I appeared outside student 1 got out of the car and immediately the car sped off..... student 1 asked me if he could come inside. I refused. I told him to wait outside and I would call him a taxi. He said that he did not have any money for the cab fare. I told him to get a tramhe said that the trams had finished for the night. I then felt that I had no alternative but to take him home. I went into the house to get my bag and keys.....student 1 followed me in. I then took him home without further incident. I was angry and upset that he had come to my house. My tone with him was terse.....due to his delicate emotional state I did not believe that I could fully express my anger.

On Sunday 24 March 2002 student 1 called me at about midday. He said that he wanted to come to my place. I refused...student 1 repeated his request saying "just one more time." I again said no and concluded the phone call. Over the next few hours student 1 continued to telephone me and I kept refusing. Finally on the third or fourth call, and only in an attempt to stop him calling me I told him that I'd meet him at M street at 5.30pm.

At 5.30pm I met student 1 at M street and drove him to my place.....in the car I told him that he was becoming too dependent on me and that I was not in a position to offer him more support.....student 1 refused to accept what I was saying. At about 7pm I told him

that he had to go. He rang his friend student 3 and asked him to collect him.....he told me that student 3 would meet him at venue 11. I felt that I had no alternative but to drive student 1 to venue 11. As we left the house student 1 told me that he had seen some men who seemed to be hanging around, run off. I did not see them.

On Wednesday 27 March 2002at about 5.00 pm I found in my letterbox an unstamped envelope containing a blackmail letter.....it left me feeling very shattered and frightened.....I telephoned the principal) that night and requested an early appointment the following day.

On 28 March 2002 I spoke with the principal. The principal subsequently told me that she had spoken to student 1. The principal told me that student 1 had told her that he had not had a sexual relationship with me, that he was not involved with the blackmail letter but he knew the 2 boys who had sent the letter. The boys were past students.....No action was taken against student 1 or his 2 friends. Teacher 3, another VCE Coordinator was assigned to deal with student 1.

A few days later after the school holidays started, I was out the front of my house when I saw student 1 walking towards me.....I said 'you and your friends are blackmailing me, don't come any closer.' He said 'I knew something was wrong, I know who it is.' I said 'you better tell me'he named two former students.....

Student 1 continued at the school until all the VCE students left in late October 2002. During this period I had little to do with him. In November or December 2002 student 1 again started to telephone me both at home and at work and asked me to meet him for coffee or to go for a drink. I told student 1 in very clear terms that I would not meet him. I recall that on occasion student 1 would call me at work and ask me to call him straight back because he did not have much credit on his phone. He made threats to me along the lines of 'something's going down at school' – 'call me back or I'll call the principal and tell her shit' – 'call me back or there will be trouble'

Student 1's demeanour in these calls oscillated between anger and intimidation on the one hand and attempting to be ingratiating on the other. I did not want to call him back, however he did sound in the messages that he left for me, distressed and frantic.....student 1 appeared to be anxious about leaving school and his future. In the context of the upcoming first anniversary of the death of his parent, student 1 told me that I was the only person that he could talk to. If I tried to get off the telephone he would threaten to harm himself. On one occasion at night he told me that he was driving towards a bridge at high speed and that if I did hang up he would drive off the bridge. On another occasion he threatened to throw himself under a truck.

It was not then until about March or April 2003 that I heard further from student 1. Again he demanded that I see him. He threatened that if I did not speak to him or see him, he would cause trouble at work. I refused to give any ground and told him there would be no contact. At about this time I received a message on my answering machine 'I heard you're a subject 1 teacher, but you like acting like a slut at school. You like fucking student because you think you're good, but they only use you. I'd just like to know how it feels like sticking your old gross tongue up their arse holes. Do you think that you can lick them out of your

life, because you're used, you've been wasted and' I played this message to the principal.

I have also kept tape recordings of messages left for me by student 1

(1) Hi, can you please pick up the phone I want to talk to you, hello, bye (Friday 8.01 pm)

(2) Hi baby, I bought you some flowers, don't forget them, bring them in tomorrow morning, bye.

Oh , I'll talk to you soon (Friday 3.20 am)

(3) baby can you please call me when you get home, I really need to talk to you, we can go out for a drink or something, give me a call when you get home. Bye (Friday 6.46 pm)

(4) Hi baby can you please pick up the phone, can you please pick up the phone, hello, I know you're home, hello, hello (Friday 9.07 pm)

(5) Can you pick up the phone please, hello, hello (Friday 9.09 pm)

On the day of the phone call student 1 said that he had bought flowers, flowers were left at my house with a small card. The small card appeared to have student 1's signature on it, a hand written heart and the words WITH LOVE.....

On another occasion the principal told me that she had also received a call from an anonymous female caller making allegations against me.....

Late in Term 3, 2003 student 1 started to call me at school early in the day.....he would tell me to ring him back or there would be trouble at work. On one occasion he told me he had a car accident and to call him straight back. When I rang it was clear that the reference to the accident was simply an attempt on his part to have me call back. I immediately terminated the call. The threats made by student 1 frightened and intimidated me. Because of the threats I did call back.

...22 October 2003 I received a phone call at 6.30 am at home. I did not pick up.....I heard student 1 say 'hey can you pick up the phone please, hello , hello, a few minutes later the front door bell rang 5 or 6 times.....student 1 was at the door. I did not open the door but called 'go away'I told him that I did not want talk to him and he should go away. He left.

On the afternoon of 22 October 2003 witness 1 came to the school.....and warned me that if I did not leave student 1 alone he would hurt me.....while there she received several calls.....she said that she was speaking to student 1she appeared agitatedthen student 1 hung up.

The nature and extent of my relationship with student 1was nothing more than a relationship between a teacher concerned for the welfare of a student who had experienced considerable personal difficulties. I always conducted myself with, what I believed were the best interests of student 1 in mind.....My error was inviting him to my place on 12 March 2002 and again on 24 March 2002 There was never an ulterior motive on my part.

On every occasion my calls to student 1 were made in response to messages he left me or in response to him ringing me and asking me to call back.....

... Stayed overnight in location 4 with student 1 categorically denied.....

I categorically deny sending cards to student 1 or for that matter making any contact with him other than by way of returning his phone calls.....

I have been shown two pieces of work by the principal which have my hand writing on them.....I have no recollection of assisting student 1 with this work. It seems equally likely that this is something I have done for another student and student 1 has acquired it.....I do not believe that in helping student 1 I did anything other than what I would have done for other students.

... My only contacts with student 1 outside of school are set out above.....I attended a function at venue 3 on 17 May 2003I did not see student 1 there.....I recall attending venue 4 2 months ago.....I did not see student 1 that night.....

I deny sending text messages to student 1's phone. The only explanation I can proffer.....is that student 1's friends sent the messages from my phone.....

Student 1 states that he came to my house 2 weeks agolate October 2003 with witness 1..... so that I could help fill out an application form.....I helped (witness 1) fill out a form in the conference room at the school. Student 1 did not come with her.

Apart from having student 1 in my car as described above, there were no other occasions when I had student 1 in my car.....

..... Venue 5, venue 6 and venue 6 I deny going to these establishments with student 1.....

.....it is alleged that on the specific date in June 2002 or 2003 ...teacher 2) booked a room at venue 1....and I went to that room with student 1 and subsequently returned to my place where student 1 went to sleep, and then subsequently took my car and drove home. I deny every aspect of this allegation.

.....it is alleged that teacher 1 and myself were using student 1 and a student, student 4,the inference that I have in some way pursued a relationship with students or former students is untrue..... I deny any allegation of a sexual relationship with student 1.

..... at the Yr 12 Formal 2002.....I deny behaving in a manner which would make it appear that I was in any way jealous of student 1 dancing with other girls. I deny taking student 1 home afterwards.....

I deny any allegation that I spoke to student 1 between the receipt of the blackmail letter and when the principal spoke to him.

I deny ever going to visit student 1 at his house.

Student 1 has made a number of allegations about the existence of photographs.....the one photo in question shows student 1 sitting on a yellow couch. My couch is covered in blue, yellow and white stripped material and is a different shape. The room where the photograph is taken is not my house.

And I acknowledge that this declaration is true and correct, and I make it in the belief that a person making a false declaration is liable to the penalties for perjury.

The Panel also viewed a document dated 22 December 2003, which was a record of interview between the principal and the teacher. This interview was also attended by a union representative and a senior officer from the employer. The record of interview commences with the teacher making a statement of clarification in regard to her Statutory Declaration of 10 December 2003. With specific references to text messages, the teacher stated that she had lost her mobile phone around 22 October 2003. The teacher produced a Telstra letter about the missing phone and a receipt for a new phone with the same number dated 7 November 2003. The teacher said that her old phone may have been used to send text messages to Student 1.

During the interview when asked why she picked student 1 up in M street instead of in front of his home, she stated that the street was very busy and it was safer to pick him up in M street.

In direct conflict with the content of her Statutory Declaration, the teacher stated that she had allowed student 1 to drive her car on a couple of occasions. The record of interview shows that she said that student 1 had shown her what she thought was a licence. She stated that she was not sure when student 1 had driven her car “it could have been to venue 11” – “it could have been to my place” but “on no other occasions” and that she couldn’t remember the times.

The teacher stated in her Statutory Declaration that she had little to do with student 1 from the end of March 2002 until student 1 started to call her again in November / December 2002. When questioned about phone calls she could have made to him during that period, the record of interview indicates the teacher stated in the interview that “I have acknowledged that I have made calls” and “it is possible that I made calls in August 2002”.

The record of interview shows that the teacher stated that she didn’t report the unwanted contact made by student 1 because she was frightened and intimidated by student 1 and that she “felt shame and embarrassment about the situation” with the principal. The teacher stated that student 1 threatened to harm himself and make trouble for her and that she feared that if she reported the situation he would carry out his threats.

In her Statutory Declaration the teacher said that there was contact in November/December 2002 and then again in March/April 2003. When asked in the interview whether there were any calls made in January and February 2003, the record of interview shows that the teacher answered that it was “possible that I made calls in January and February, it would have been in response to him trying to control and manipulate me.” The teacher then stated “he was trying to call me and make contact with me.”

The record of interview showed that the teacher could not give exact dates or determine exactly if the messages she had transcribed from her home message

machine, and quoted in her Statutory Declaration, related to 2002 or 2003, and whether they were consecutive or separated by weeks , or months etc.

Asked if she had made calls in May, June and July 2003, the record of interview indicates the teacher responded saying “I have acknowledged that I made calls, I didn’t keep dates. My calls were a response to trying to contain the situation.” Further she stated “ I may have made calls ... the dates in my original statement stand out to me ... I recall that the calls intensified in Term 3.”

The record of interview shows that when asked about the phone number that accompanied the text messages sent to student 1, the teacher agreed that it was her mobile number.

DISCUSSION OF EVIDENCE AND FINDINGS

The Panel noted that it was bound by the rules of natural justice, but not bound by the rules of evidence, and further that it was able to inform itself in any way it considered appropriate in order to make a determination in relation to the matter before it. Hence the Panel deemed it appropriate to subpoena teacher 1 to appear. The Panel also decided to subpoena student 1 to appear, given that he had failed to present himself on the first day of the Hearing as a witness for the Institute, as previously agreed. Student 2 agreed to attend as a witness for the Institute, after student 1 had received his subpoena.

The evidence before the Panel included the evidence heard orally from the five witnesses, the statements of the five witnesses, extensive interview and meeting notes taken by the principal, Telstra records provided pursuant to summons, venue 1 records provided pursuant to summons, and material included in the Notice of Formal Hearing dated 5 August 2007. This material included letters of explanation drafted by the teacher, inclusive of a Statutory Declaration signed by the teacher, which she gave to the principal, in 2003.

While the teacher did not attend the hearing, her handwritten and typed statements given to the principal, including a Statutory Declaration declared on 10 December 2003, were considered relevant evidence by the Panel. The answers provided by the teacher, recorded in a record of interview during a meeting she attended with the Principal and a senior officer of the Department after submitting her Statutory Declaration were also considered relevant evidence by the Panel. Hence this information was thoroughly scrutinised.

It appeared that the teacher’s Statutory Declaration was prepared following legal advice, and contains an acknowledgement that making a false declaration could amount to perjury. The Statutory Declaration was accompanied by a letter from the teacher’s lawyer.

The Panel considers the evidence of witness 1 to be clear, consistent and credible. Witness 1 was frank and open about her own involvement in the circumstances that

had transpired. She also discussed having personally viewed evidentiary photographs, cards, presents, and having witnessed intimate behaviour and conversation between student 1 and the teacher. Additionally witness 1 spoke openly about being the friend and confidant of student 1, and as a result not fully informing her boyfriend (now husband) and student 1's parent, of what she knew of the on-going sexual relationship between student 1 and the teacher in 2002 and 2003.

It was the view of the Panel that witness 1 had no reason to be untruthful and no reason to exaggerate information. She presented herself and her personal reflections on what had transpired in a mature, willing and considered manner. Whilst not cross-examined due to the absence of the teacher (and/or her representative) the oral evidence given by witness 1 was consistent with the information she provided to the principal on 22 October 2003 and 25 October 2003 and 29 October 2003. It was also consistent with the information contained in the notes taken by the principal. These notes were subsequently viewed by the Panel as evidence. The oral evidence of witness 1 also mirrored the information contained within her witness statement.

The Panel was of the view that witness 1 and her current husband clearly acted out of concern for student 1 in reporting the relationship to the school in 2003. However it was also noted that witness 1 spoke openly about doing what she could for the teacher, whom she considered to be her friend at the time, including locating and returning to the teacher, the romantic cards and notes that the teacher had given/sent to student 1 throughout 2002 and 2003. The return of this material was instigated and took place once the teacher's relationship with student 1 had been reported to the school in 2003 by student 1's brother. The Panel viewed witness 1 as an honest witness who was able to provide detailed first hand information from her observations of, and conversations with, the teacher and student 1.

The principal provided clear, consistent and credible evidence in the view of the Panel. The principal also provided detailed contemporaneous notes of relevant face to face, and telephone conversations. These extensive notes, taken during discussions and throughout her series of interviews with the teacher, student 1, witness 1 and student 1's brother, as well as notes from other related circumstance such as phone calls, were very consistent and expansive.

The principal also ensured that other material evidence such as the school telephone records were collated and examined, and indicated to the Panel that she gave the teacher full and extensive opportunities to respond to matters raised in 2002 and the specific allegations that emerged in 2003, as they arose. The principal also spoke to the copies of the essays submitted to the subject 1 and subject 2 teachers by student 1. Having followed up on the reports that the essays presented by student 1 were the original work of the teacher, and identical to the work that had been handwritten by the teacher, the principal also personally identified the relevant handwriting as being that of the teacher. The principal indicated that she was of the view that the teacher had written the essays and student 1 had then copied them out in full, and proceeded to hand them in as his own work. The principal noted that this was totally unacceptable. The Panel heard that the essays in question were marked and the related levels of credit were attributed to student 1 during his Yr 12 year.

The Panel considered the evidence of student 1 to be explicit, consistent and credible. Student 1 informed the Panel that he had entered into a sexual relationship with the teacher in March 2002 while in Yr 12 and that this relationship had continued into 2003. He talked about wanting to, and attempting to exit the relationship on several occasions in 2002 and 2003, and how difficult this had been due to the teacher's persistence and the on-going nature of her interaction given that she wanted to maintain a relationship with him. The Panel heard that the relationship was tumultuous, and that the relationship difficulties peaked in October 2003. It was at this time that the relationship was reported in full to the school by witness 1, the brother of student 1 and student 1 himself. The Panel heard that the brother of student 1 had attempted to make an earlier report of the relationship to the assistant principal, when the principal was on long service leave in Term 2 of 2002, but no follow up action was initiated. Student 1 also noted that after the difficulties between himself and the teacher arose in late 2003 an "on and off" casual relationship with the teacher did continue over several years, until recently. This was confirmed by witness 1.

Student 1 talked about doing very little work in Yr 12. He stated that his note books were largely empty due to the amount of homework that the teacher did for him. He also spoke about passing on the work prepared for him by the teacher to other students, and how other students also utilised it to complete their own essays.

Student 1 spoke about his sister-in-law and other students knowing full well about his relationship with the teacher. In particular teacher 2, student 2 and student 3 were aware of his relationship with the teacher and had observed them together. Student 1 talked about times when he and the teacher went out as a couple, and other times where as a couple they socialised with student 2 and teacher 1, who were also in a relationship.

Student 1 reflected on the entirety of his experiences with the teacher and indicated to the Panel through examples that he understood how these experiences had been, and continued to be, detrimental to him. He voiced a concern at not being able to match or manage the power imbalance in his relationship with the teacher and how in 2002 (while he was in Yr 12) when the teacher joked about having people kicked out of school, he knew deep down that she really could do so and it was disconcerting for him. He also spoke about the negative impact the teacher's hold over him or "spell" over him, had. Student 1 articulated what he believed that as a young man he had missed out on because of the relationship with the teacher while at school in 2002, and also in 2003. Having listened to student 1 describe the consequences of his relationship, the Panel formed the view that student 1 had spent quite some time reflecting and had developed a level of personal insight. The Panel noted the range of negative emotions that student 1 projected while giving evidence included anger, frustration, feeling like he lacked control of his own life, and a level of despondency. These emotions were intense when student 1 discussed the impact on his friendships and family relationships, his on-going efforts to try and break free from the relationship, and the wrong that had been done by the teacher.

The Panel considered the evidence of student 2 to be clear, generally consistent and credible. Student 2 was open, frank, definite and concise in the answers he gave.

Student 2 attended voluntarily and indicated to the Panel that he was willing to engage honestly. A close friend of student 1, student 2 did not offer his views, or a position on relationships between teachers and students per se, rather he answered questions about what had transpired between his friend and the teacher, with some insights into the impact on student 1. He also answered questions about the activities of the teacher and student 1 that simultaneously, and largely by default provided detailed information about his own sexual relationship with teacher 2 in 2002 while at the same school in Yr 12. Student 2 talked about himself and teacher 1 socialising and drinking alcohol with the teacher and his close friend student 1.

The Panel was of the considered view that the evidence of teacher 1, was guarded and in turn delivered cautiously. It appeared to the Panel to be rehearsed, and it was the view of the Panel that the evidence of teacher 1 lacked credibility. In addition the Panel formed the view that teacher 1 had probably had access to all of the material that was before the Panel, prior to the Hearing, including a copy of the subpoenaed document about herself. It was noted by the Panel that teacher 1 showed no surprise, and basically had no reaction to a copy of her Visa Card account for the specific dates in June 2002 from venue 1, with her name and address on it. This document, having been subpoenaed, was sent to the teacher as documentation relevant to the hearing. Teacher 1 was asked on several occasions about the level of interaction she had had with the teacher with specific reference to the Hearing, and also directly asked about her access to the material that was before the Panel, courtesy of the teacher. Teacher 1 denied any access to the Hearing material via the teacher or other sources, and also denied any discussion about the matters before the Panel with the teacher, despite the fact that they had remained good friends and continued to socialise. The Panel formed the view that teacher 1 was not telling the truth and that she was well prepared for the type of questions that she would be asked at the Hearing, and the type of material that would be presented to her. In coming to these conclusions the Panel was mindful of the fact that both student 1 and student 2 had indicated that the two teachers had talked to each other about the investigation and the Hearing, and had also talked about such things in the presence of student 1 and student 2, as well as directly to student 1 and student 2.

The Panel was of the considered view that this witness regularly utilised phraseology such as *“not that I can recall”* and *“possibly, possibly not”* in order to purposefully avoid the provision of explicit and definite answers, and specific recollections, when she was asked for them. In addition the commentary of teacher 1 was at times ambiguous, and further hard to believe with respect to her legitimately not being able to remember the hotels she stayed in, and how, when or why she’d spend such a significant amount of money on her credit card for a single night and a mini bar bill, in a hotel that she couldn’t remember ever utilising. The Panel noted that teacher 1 did make reference to her ‘not remembering’ not being associated with her being drunk or on drugs, but rather simply not remembering whether or not she had ever been at venue 1, and simply not remembering having paid such a significant amount on her credit card in 2002.

The teacher did not attend the Hearing, however there was documentation available to the Panel that had been compiled by the teacher during the investigations undertaken

by the school and the employer in 2003. This material, including information contained in the teacher's Statutory Declaration of 10 December 2003 (which was accompanied by a letter from her lawyer) often fell short of being credible given the apparent ambiguities in what had transpired and the relevant timeframes, as well as the consistent information presented by witnesses 1, 2, 3 and 4 that contradicted what the teacher claimed.

The teacher stated in her Statutory Declaration that she had very little to do with student 1 between April 2002 and November 2002. The evidence contained in the school telephone records from June 2002 (just after student 1 turned 18) through to 31 October 2002 showed that some 58 calls were made to student 1's mobile telephone number from the school. In particular a lot of calls were made in August 2002, the period of time around student 1's incident at the party. When challenged about what was contained in her Statutory Declaration, and specifically questioned about her contact with student 1 between March 2002 and November 2002 during a later interview where a record of interview was kept, the teacher said that "maybe" she made some calls in August 2002. It was noted that there were no dedicated phone lines at the school, and that the teacher indicated that friends of student 1 could have made calls to student 1's mobile phone using the school phone.

In addition, given that the teacher stated in her Statutory Declaration that she had no contact with student 1 outside of school and very little contact with him at school in 2002 (especially given that she was not his classroom teacher and had been told that she should not work with him as a VCE Coordinator from March 2002 onwards, after reporting the blackmail letter she had received) it is noted that between 10 June 2002 and 31 October 2002, the teacher also made contact with student 1's mobile phone on 78 separate days from her home phone. This is evidenced by the subpoenaed Telstra records. On most of these days one call was made to student 1, however on 6 September 2002 some six calls were made to student 1 by the teacher via her home phone. These calls were made in addition to those made from the school phone, for the same period.

The teacher stated in her Statutory Declaration, that after a lack of contact up to November 2002, she started to receive calls again from student 1. The teacher went on to state that there was again no contact between herself and student 1 from December 2002 through to April 2003. These statements are proven to be untruthful by the Telstra records. On 65 days between 1 December 2002 and 6 March 2003 at least one call was made from the teacher's home phone to student 1's mobile phone. Further, on many of these days multiple calls were made including on the 2, 19, 28 and 30 December 2002, as well as 3 and 4 January 2003.

The teacher indicated the need to get a silent number and inferred it was due to unwelcome and threatening contact made by student 1. However it is noted that the teacher requested a silent number in late 2003, not in 2002, and that her references in other documents indicated that she was frightened by, and concerned about the interaction initiated by student 1 over the phone and in person, from March 2002 onwards, over 18 months before she requested a silent number.

In August 2002 when student 1 was involved in an incident at a party, there was no reason for the teacher to have direct knowledge of the event or to be involved in any way, particularly as she had been instructed not to interact with student 1 at school in the capacity of VCE Coordinator. But it was the teacher who informed the principal of the incident soon after it had happened. The principal's notes also indicate that the teacher stated that she gained the information from a relative of the young person who was having the party, which appears to be untruthful.

The teacher stated that student 1 came to her office on 20 March 2002, as he needed help with a subject 1 essay. She says she took him to a classroom and helped him for half an hour with an essay. The documentary evidence shows that the essay was written out in its entirety by the teacher in her handwriting and copied word for word by student 1. In addition, the content talks to student 1's sister-in-law being the subject of his essay and includes commentary about her support for him after the incident at the party (an incident which took place in August 2002). Further the essay describes how student 1's sister-in-law rang his girlfriend to inform her about the incident and how the girlfriend then came to the hospital. This commentary is in fact the teacher writing about herself, given her relationship with student 1, and in its own way helps confirm the evidence of witness 1 and the principal in relation to what transpired when student 1 was taken to the hospital and the requests he made of his sister-in-law to contact the teacher. It is not possible that this essay could have been written in March 2002 as stated by the teacher, as the incident at the party took place in August 2002. Student 1 says that the teacher wrote the essay out in full, and once she'd completed it, he copied it word for word. The documentary evidence available to the Panel includes a complete copy of the essay written in the teacher's handwriting and an exact copy written in student 1's handwriting. The principal confirmed it was the teacher's handwriting, and that it was inappropriate for a teacher to do such a thing.

Further the Panel had available to it the documentary evidence relating to the subject 2 essay, where again a complete copy of the essay written in the teacher's handwriting was provided to student 1 and copied out by student 1 in his handwriting. This essay was submitted for marking and received an A with the comment *Excellent*. These marks were attributed to student 1 as part of his Yr 12 year.

Witnesses 1, 3 and 4 gave generally consistent, credible first hand accounts of the teacher and student 1 being together in many situations, as well as accounts and intricate details about their sexual relationship. These witnesses spoke consistently and credibly about student 1 and the teacher meeting in public places, hotels, at student 1's home, and at the teacher's home, as well as photographs of their time together, cards and notes sent to student 1 by the teacher, student 1 driving the teacher's car on many occasions, and the car belonging to student 1's brother being in the teacher's yard behind a garage roller door. Evidence of the frequency of the contact between the teacher and witness 1 and student 1, is confirmed by both the Telstra records and the school telephone records.

The Panel noted that the teacher first reported her after hours contact with student 1 to the principal on 27 March 2002. Taken alone, that action could indicate that the after hours contact could fit within the bounds of a professional relationship and that the

teacher was facing an unwarranted blackmail threat. The action taken by the teacher on 3 April 2002 in again reporting to the principal that student 1 had been to her home without invitation is also consistent with the teacher projecting herself as an innocent victim. It is the view of the Panel that subsequent untruthful statements by the teacher were deliberate, made in an attempt to clear her name when the allegations about her inappropriate interaction with student 1 were formally raised by the principal, and to the detriment of the reputation and education of student 1.

The Panel is of the firm view that the teacher purposefully made a number of false statements in her Statutory Declaration including for example that on 20 March 2002 having been asked for essay writing help by student 1 she “demonstrated to him ... how to write an essay.” The evidence shows that the exercise was not a demonstration of essay writing, rather it amounted to writing the essay in question, in full for student 1. The teacher’s related denials in relation to writing the essay are blatantly false. Further given the available evidence the Panel is of the firm view that the teacher not only lied in her Statutory Declaration of December 2003, she also lied over an extended period of time, dating back to March 2002, when interacting with the principal about the extent of her contact with student 1, the nature of her contact with student 1, and her concerns about student 1. Indeed throughout 2002, a period that the teacher said was a time when her relationship with student 1 “was nothing more than a relationship between a teacher concerned for the welfare of a student who had experienced considerable personal difficulties”, the teacher was engaging in a selfish, exploitative, sexual and controlling venture, which the evidence shows will be to the long term detriment of student 1.

The Panel considered the evidence before it, mindful of the lessons from Dixon J’s judgement in *Briginshaw v Briginshaw* (1938) 60 CLR 336. Given that the determination and affects of a disciplinary hearing on a teacher’s reputation and livelihood can be significant, the Panel took on board the need for care and caution when considering the allegations and the evidence. In this case the relevance of *Briginshaw* required explicit consideration of the circumstantial evidence given that the teacher against whom the allegations had been made did not attend the hearing.

The Panel discussed the evidence mindful of Dixon J’s position that actual persuasion is not a process of mere mechanical comparison of probabilities. The Panel further noted -

“The truth is that, when the law requires the proof of any fact the tribunal must feel an actual persuasion of its occurrence or existence before it can be found. It cannot be found as a result of a mere mechanical comparison of probabilities independently of any belief in its reality. No doubt an opinion that a state of facts exists may be held according to indefinite gradations of certainty; and this has led to attempts to define exactly the certainty required by the law for various purposes. Fortunately, however, at common law no third standard of persuasion was definitely developed. Except upon criminal issues to be proved by the prosecution, it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a

particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal.”

The *Briginshaw* test does not extend the civil test of the balance of probabilities, but states that when applying the test the Panel must take into account *the gravity of the consequences flowing from a particular finding*. This statement of the law was reiterated by the High Court in ***Neat Holdings Pty Ltd v. Karajan Holdings Pty Ltd*** 110 ALR 449 where the Court noted:

“The ordinary standard of proof required to a party who bears the onus in civil litigation in this country is proof on the balance of probabilities. That remains so even where the matter to be proved involves criminal conduct or fraud. On the other hand, the strength of the evidence necessary to establish a fact or facts on the balance of probabilities may vary according to the nature of what it is sought to prove. Thus, authoritative statements have often been made to the effect that clear or cogent or strict proof is necessary ‘where so serious a matter as fraud is to be found’. Statements to that effect should not however, be understood as directed to the standard of proof. Rather, they should be understood as merely reflecting a conventional perception that members of our society do not ordinarily engage in fraudulent or criminal conduct and a judicial approach that a court should not lightly make a finding that, on the balance of probabilities, a party to civil litigation has been guilty of such conduct.”

The Panel while not bound by the rules of evidence, reached its decision based upon the facts it considered firmly established, not upon suspicion, speculation or conjecture. The Panel progressed at all times cognisant of the inter-relationship between the principles that underpin the rules of evidence and the requirement of natural justice, particularly given that the teacher was not present at the Hearing. Based on the available evidence (including registered post details that showed material had been collected, and signed for by the teacher personally) the Panel was confident that the teacher had received all of the material relevant to the Hearing, in a timely manner. Further the Panel was confident that at the time of the Hearing the teacher still resided and worked in Melbourne, and that all appropriate means by which to inform and involve the teacher in the Hearing, had been progressed and exhausted by the Institute. The Panel is of the view that the teacher could have attended the Hearing, but chose not to do so. That said the Panel was also aware that the teacher had been in receipt of legal advice, given the documentation she had submitted to the principal (when under investigation about the matters now before the Panel) was accompanied by a letter from her lawyer.

The Panel progressed mindful of the statement of Diplock LJ in ***R v. Deputy Industrial Injuries Commissioner; ex parte Moore*** (1965) 1QB 456 noting:

“These technical rules of evidence, however, form no part of the rules of natural justice. The requirement that a person exercising quasi judicial functions must base his decision on evidence means no more that it must be based upon material which tends logically to show the existence or non existence of facts relevant to the issue to be determined, or to show the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. It means that he must not spin a coin or consult an astrologer, that he

may take into account any material which, as a matter of reason, has some probative value in the sense mentioned above. If it is capable of having any probative value the weight to be attached to it is a matter for the person to whom Parliament has entrusted the responsibility of deciding the issue. ...”

Further the Panel noted **Minister for Immigration v. Pochi** 31 ALR 666 where Deane J discussed Diplock’s LJ’s judgement stating

“I respectfully agree with the conclusion of Diplock LJ that it is an ordinary requirement of natural justice that a person bound to act judicially ‘base his decision’ upon material which tends logically to show the existence or non existence of facts relevant to the issue to be determined. As has been mentioned, the requirements of natural justice may vary according to the nature of the enquiry ... and that conclusion may not be of universal validity in that it may not, for example, apply in respect of some domestic forums. It is however of general validity in the case of a statutory tribunal which is bound to act judicially. Indeed, that conclusion, upon analysis and for present purposes, does little more than place in a proper context of the essential duty of fairness of a statutory tribunal bound to act judicially, the well established principle of law that a decision of such a statutory tribunal must ordinarily be based on evidence which is reasonably capable of sustaining it.

The Panel was unanimous in its view that its findings were based on logically probative material and that the work of the Institute in preparing for the Hearing and that the proceedings themselves, pursued to the fullest extent possible the requirements of natural justice.

On the balance of probabilities and having considered all of the available evidence with specific reference to Allegation 1, the Panel is of the considered view that Allegation 1 and all of its stated particulars, excluding 1c(i), have been proven. It is also noted that the inappropriate sexual activity referred to in 1a(iii) is proven. However there is a variation of venue with respect to where sexual intercourse between the teacher and student 1 took place. The Panel is unanimous in its view that the teacher failed to develop and maintain a professional relationship with student 1 and student 2, by engaging in inappropriate relationships with these Year 12 students from the school where she taught and was a Yr 12 VCE Coordinator.

- With reference to 1a., it is the considered view of the Panel that it has been proven that the teacher failed to develop and maintain a professional relationship with student 1 as she engaged in an inappropriate relationship, which resulted in an on-going sexual relationship with student 1. Starting in 2002 in student 1’s Yr 12 year, the inappropriate relationship continued into 2003, and beyond.
- With reference to 1a(i) it is the considered view of the Panel that it has been proven that the teacher had sexual intercourse with student 1 at her home on/around 23 March 2002 and on many other occasions.
- With reference to 1a(ii) it is the considered view of the Panel that it has been proven that the teacher drove student 1 home from venue 2, put her hand on his leg and kissed him on the lips on/around 12 March 2002.

- With reference to 1a(iii) it is the considered view of the Panel that the teacher did have sexual intercourse with student 1 on the evening of the specific date in June 2002. However it was at her home in suburb A, prior to going to venue 1.
- With reference to 1b it is the considered view of the Panel that the teacher engaged in inappropriate contact of a personal nature with student 1 in 2002, that continued into 2003.
- With reference to 1b(i) it is the considered view of the Panel that the teacher pressured student 1 to continue a sexual relationship with her, including by offering to buy student 1 gifts, give him money and take him on a holiday.
- With reference to 1b(ii) it is the considered view of the Panel that the teacher allowed student 1 to spend the night at her home on many occasions, including 23 March 2002, in April 2002 the night before she attended a Teacher's camp, on the specific date in June 2002 and in November 2002 the night of the Yr 12 Graduation/school formal.
- With reference to 1b(iii) it is the considered view of the Panel that the teacher invited student 1 to her home on many occasions in 2002 and 2003, including 20, 23, 24, March 2002, the specific date in June 2002, and in October 2003 in order that student 1's application forms could be finalised.
- With reference to 1b(iv) it is the considered view of the Panel that the teacher sent student 1 cards and notes containing messages of a romantic nature in 2002 and 2003, including words to the effect of 'I love you baby.'
- With reference to 1b(v) it is the considered view of the Panel that the teacher attended hotels and restaurants with student 1 in 2002 including but not limited to venue 3, venue 4, venue 5, venue 6, venue 7, venue 1 and venue 2.
- With reference to 1b(vi) it is the considered view of the Panel that the teacher accompanied student 1 on weekend drives, and drives during and after-school hours to a range of places in 2002 including the location 1, location 2, location 3 and location 4.
- With reference to 1b(vii) it is the considered view of the Panel that the teacher bought gifts for student 1 in 2002 including, but not limited to, an earring, clothing, shoes, men's fragrance and an item of jewellery for his 18th birthday.
- With reference to 1b(viii) it is the considered view of the Panel that the teacher paid for items of a personal nature for student 1 including, but not limited to, items for his car, driving lessons and his driver's licence, his mobile phone bills and a ticket to the Yr 12 Graduation/school formal.
- With reference to 1b(ix) it is the considered view of the Panel that the teacher phoned student 1 via his mobile phone regarding non school matters in 2002 including on 23rd March 2002 at 11pm, and approximately 100 times from the school phone between June 2002 and 20 December 2002.
- With reference to 1b(x) it is the considered view of the Panel that the teacher sent text messages to student 1 via his mobile phone regarding non school matters in 2002.
- With reference to 1b(xi) it is the considered view of the Panel that the teacher on or around 13 March 2002 invited student 1 to have lunch with her at the venue 8.
- With reference to 1b(xii) it is the considered view of the Panel that the teacher in or around the month of August 2002, for a period of around a week, visited student 1 at his home on several occasions without his parent's knowledge, while he was recovering from an injury.

- With reference to 1b(xiii) it is the considered view of the Panel that the teacher, on the evening of the Yr 12 Graduation/school formal, collected student 1 from venue 9 and drove him to her home.
- With reference to 1b(xiv) it is the considered view of the Panel that the teacher spent a weekend with student 1 at a motel in location 4 in November 2002.
- With reference to 1b(xv) it is the considered view of the Panel that the teacher around the end of the 2002 school year placed a cross (representing a kiss) in the bottom right hand corner of student 1's Graduation Certificate.
- With reference to 1c it is the considered view of the Panel that the teacher allowed inappropriate contact between herself and another teacher and students in 2002.
- With reference to 1c(i) it is the considered view of the Panel that there is no evidence to substantiate that the teacher engaged in acts of a sexual nature with student 2 on or around the specific date in June 2002, at venue 1.
- With reference to 1c(ii) it is the considered view of the Panel that the teacher did allow student 2 to engage in a sexual act with another teacher, on or around the specific date in June 2002, at venue 1.

On the balance of probabilities and having considered all of the available evidence with specific reference to Allegation 2, the Panel is of the considered view that Allegation 2 and all of its stated particulars have been proven. The Panel was unanimous in its view that the teacher failed to adequately protect and care for the welfare of students of the school in 2002.

- With reference to 2a it is the considered view of the Panel that the teacher allowed student 1 to drive her car whilst he was unlicensed, including on or around 23 March 2002.
- With reference to 2b it is the considered view of the Panel that the teacher allowed student 1 to drive her car after he had been drinking alcohol.
- With reference to 2c it is the considered view of the Panel that on and around the specific date in June 2002 the teacher allowed student 1 to drink alcohol at her home, without the knowledge of his parent or the school, and on occasions when he was under the age of 18.
- With reference to 2d it is the considered view of the Panel that the teacher on or around the specific date in June 2002, allowed student 1 and student 2 to drink alcohol in her presence in a room at venue 1.
- With reference to 2e it is the considered view of the Panel that the teacher provided student 1 with alcohol at her home, without the knowledge of his parent or the school throughout 2002.
- With reference to 2f it is the considered view of the Panel that the teacher provided student 1 with alcohol while he was at work in 2002.

On the balance of probabilities and having considered all of the available evidence with specific reference to Allegation 3, the Panel is of the considered view that Allegation 3 and all of its stated particulars have been proven. The Panel was unanimous in its view that the teacher failed to maintain objectivity in her relationship by displaying bias or preferences in her interaction with student 1 in 2002. It is noted that while 3c is proven, it is also the view of the Panel that based on the evidence given, the teacher in addition to marking student 1 absent from the school when no written authorisation was

received, also falsified attendance records for student 1 in order to show greater levels of attendance than that for which student 1 presented in person.

- With reference to 3a it is the considered view of the Panel that the teacher completed a Yr 12 subject 1 essay for student 1.
- With reference to 2b it is the considered view of the Panel that the teacher in or around May 2002 completed a Yr 12 subject 2 essay for student 1.
- With reference to 3c it is the considered view of the Panel that the teacher marked student 1 absent from the school when no written authorisation was received.

Based on all of the available evidence and the balance of probabilities, the Panel has made the determination that the teacher engaged in serious misconduct, and did so knowingly over an extensive period of time. The Panel is of the view that the teacher progressed and participated in a sexual relationship with student 1, and did his Yr 12 work for him, with full knowledge that such behaviour was inappropriate. The Panel makes the finding that the teacher engaged in serious misconduct.

The Panel noted the comments of Kirby P, *Pillai v Messiter* (No 2) 1989 16 NSWLR 197, (at 201)

" The public needs to be protected from delinquents and wrong doers within professions. It also needs to be protected from seriously incompetent professional people who are ignorant of basic rules or indifferent as to rudimentary professional requirements. Such people should be removed from the register or from the relevant roll of practitioners, at least until they can demonstrate that their disqualifying imperfections have been removed."

Further, with explicit reference to its belief that the teacher not only departed but flouted the acceptable professional standards and ethics of the teaching profession, the Panel noted the comments of Gleeson CJ, Meagher JA, Handley JA, *Health Care Complaints Commission v Litchfield* [1997] 41 NSWLR 630

"The gravity of professional misconduct is not to be measured by reference to the worst cases, but by the extent to which it departs from proper standards. If this is not done there is a risk that the conduct of the delinquents in a profession will indirectly establish the standards applied by the Tribunal."

The Panel was adamant that the alleged inappropriate behaviour of the teacher was substantiated and in turn amounted to severe and inexcusable serious misconduct. The behaviour incorporated carefully orchestrated and manipulative self serving acts of a sexual and emotional nature. The extreme abuse of the inherent trust and power that was invested in the teacher as a professional by the education community, parents and most significantly students, is blatantly culpable and infinitely unforgivable.

The Panel determined that the teacher was not fit to teach. This determination was made by the Panel in the full knowledge of the professional consequences for the teacher, and mindful of the need to protect the public. The teacher did not take the

opportunity to present to the Hearing to explain her alleged behaviour, her personal and professional insights, or information as to why she should be considered fit to teach in the future. In addition the Panel noted that sexual behaviour between a teacher and a 17 year old student is potentially criminal in nature.

In addition this unsavoury and tragic case before the Panel evidenced complex on-going negative ramifications for student 1 both personally, and with respect to his family interactions and relationships. Whilst in a different statutory context, (*Nurses Act 1993 Vic*), the observations of Kellam J in relation to “unprofessional conduct of a serious nature” help explain the degree of seriousness that must be present for a determination of “serious misconduct” and “not fit to teach” to be justifiable. In this case the Panel was convinced beyond any doubt, that the blameworthy actions of the teacher and the significant departure from professional standards in an on-going and deleterious manner dictated the determination of ‘not fit to teach.’ The Panel also noted **Parr v Nurses Board of Victoria** VCAT (2 December 1998, cited with approval in **Domburg v Nurses Board of Victoria** [2000] VSC 369, per Ashley J., -

"In my view the question of whether or not a nurse has engaged in unprofessional conduct of a serious nature must depend on the facts of each case. Clearly such conduct would not be serious if it was trivial, or of momentary effect only at the time of the commission or omission by which the conduct was so defined. It must be a departure, in a substantial manner, from the standards which might be reasonably expected of a registered nurse. The departure from such standards must be blameworthy and deserving of more than passing censure".

The Panel also reflected on the position of Justice Harbison, Vice President & Mr Eccles, Member at [169] when addressing issues in relation to *Anthony Davidson v Victorian Institute of Teaching* (Occupation and Business Regulation) [2007] VCAT 920. The Panel noted -

'We take the view that a finding that a teacher is unfit to teach must carry with it a perception that the conduct complained of is of a continuing and persistent nature. It is conduct which throws doubt on how he would conduct himself in the future in the classroom. A teacher may commit a single act of serious misconduct, or a series of such acts, but those acts may be explicable in context and unlikely to recur. A determination that a teacher is unfit to teach appears to us to be a more severe penalty. It carries with it an assessment that that person should not be in a position of authority and trust with children, because his whole approach to teaching and to the children in his care is profoundly and irretrievably flawed. It would often involve consideration of criminal conduct.'

Finally in light of this commentary the Panel considered that the determination of unfit to teach was essential in the given circumstances of the teacher. The Panel's unanimous view that the teacher should not be in a position of authority and trust with students, because her approach to teaching (including it's inherent boundaries and responsibilities) and her approach to a vulnerable student in her care, were proven to be profoundly and irretrievably flawed, and ruinous in there impact, as well as amounting to prima facie criminal conduct. The Panel must cancel the teacher's

registration given the serious character flaw exhibited by her behaviour. The public (students) will be protected if the teacher can no longer continue to work as a teacher.

CONCLUSION

Those within the teaching profession are held in high regard by the community, and in turn teachers are the incumbents who fill the most trusted and privileged of positions. Hence it is not surprising that proven cases of sexual relationships with students, and the completing of work for students, is behaviour that can scar deeply the reputation of teachers and the education community. It is justifiable that those within the education community would find what has transpired in these particular circumstances both shocking and repugnant. That said the determinations of “serious misconduct” and “lack of fitness to teach” have been made not as punishment, but rather, as required, in the public interest.

As horrendous as the circumstances are in this case, it is important to gauge what, for the benefit of the education community and the young people within our schools, could have been done differently or earlier to have potentially lessened the negative impact upon students and the education community. The Panel is of the view that having examined the matter in extensive detail it is appropriate to note that the level of follow-up activity and proactive inquiry on the part of the school, given the available information in 2002 and 2003, fell well short of what the Panel would have considered reasonable and comprehensive.

The Panel found that the teacher engaged in serious misconduct and is not fit to teach. It is the determination of the Panel that the teacher’s registration be cancelled immediately, from the date of this decision.



SUSAN HALLIDAY, CHAIRPERSON



**per ,
TERRY HAYES, REGISTERED TEACHER**



**per ,
ANNE FARRELLY, REGISTERED TEACHER**