

**VICTORIAN INSTITUTE OF TEACHING**  
DECISION AND REASONS OF THE FORMAL HEARING

**NUMBER:** 097

**REGISTERED TEACHER:** Tara Kate SUTTON

**PANEL MEMBERS:** Jane O'Shannessy, Chairperson  
Terry Hayes, Registered Teacher  
Alina Jonas, Panel Member

**ATTENDANCE:** The teacher attended the Formal Hearing and was self-represented  
Ms Simone Bingham, Counsel Assisting with Ms K Galanos, instructing

**DATE OF HEARING:** 24 February 2010

**DETERMINATION UNDER SECTION 2.6.46(2) OF THE *EDUCATION AND TRAINING REFORM ACT 2006*:**

On 4 March 2010 the Panel decided to cancel the registration of the teacher from 4 March 2010.

# REASONS

## BACKGROUND

The teacher has been a registered teacher with the Victorian Institute of Teaching (the Institute) since 11 February 2004.

By letter dated 28 April 2008, the employer notified the Institute that it had taken action regarding the conduct and fitness of a registered teacher, the teacher. The employer advised that the teacher's employment had been terminated following advice that the teacher had been charged with indictable offences.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 19 November 2008 and the Committee decided to refer the matter to an investigation.

In December 2008, the Institute requested information in relation to these offences from the Magistrates' Court and Victoria Police.

On 19 June 2009 the teacher's registration with the Institute expired, as she did not renew her registration.

On 22 July 2009, the Committee decided to continue with the inquiry and referred the matter to a formal hearing.

A Notice of Formal Hearing dated 11 January 2010 was served upon the teacher by registered post on 13 January 2010.

### **The Panel accepted the following exhibits:**

- A.** Hearing Book
- B.** Medical Report of the teacher's medical practitioner dated 22 February 2010
- C.** TAC Medical Certificate regarding the teacher dated 9 February 2010

## THE ALLEGATIONS

The allegations set out in the Notice of Formal Hearing are:  
Whilst registered as a teacher in Victoria, the teacher:

- (a) On 26 June 2008, appeared in a Magistrates' Court charged with the following:
  - i. One charge of attempting to traffic a drug of dependence. Without conviction, the teacher was fined \$500 with a stay to 24 July 2008 and placed on a Community Based Order for 12 months. The teacher was also

required to attend a Community Corrections Centre by 30 June 2008 to undergo assessment and treatment of alcohol/ drug addiction or to submit to medical/ psychological/psychiatric assessment and treatment as directed by the Regional Manager.

- ii. One charge of cultivating narcotic plant- Cannabis. Without conviction the teacher was placed on a Community Based Order. The teacher was also required to attend a Community Corrections Centre by 30 June 2008 to undergo assessment and treatment of alcohol/ drug addiction or to submit to medical/ psychological/psychiatric assessment and treatment as directed by the Regional Manager.
- iii. One charge of possessing a drug of dependence. Without conviction, the teacher was fined \$300 with a stay to 24 July 2008 as part of an aggregate order.
- iv. One charge of using Cannabis. Without conviction, the teacher was fined \$300 with a stay to 24 July 2008 as part of an aggregate order.

The Panel heard evidence under oath or affirmation from the following witness on behalf of the teacher:

- Witness 1

## **THE EVIDENCE**

The teacher gave evidence by affirmation.

The teacher informed the Panel that she had not taught since 2006 and was currently living on a disability pension and receiving rehabilitation following a severe car accident in 2006. The teacher's teacher registration expired in 2009. She told the panel that it had not been by choice but by mistake. At the time when she was due to renew her registration she had been involved in a series of house moves and had simply forgotten to renew. She had not been teaching at the time nor at the time of the offences.

The teacher said she had taught English, SOSE and Media at two Secondary Colleges. She said she had left teaching for a variety of professional and personal reasons including:

- that she did not think the principal had been supportive of new staff in implementing the Victorian Essential Learning Standards.
- she had been diagnosed with depression after the suicide of a Year 8 student.
- was questioning her sexuality
- she was suffering ongoing pain from injuries sustained in the car accident where her neck and back were broken and her breast crushed.

The teacher described to the Panel the circumstances, which led to her being charged with the offences. In 2006 she had entered a relationship with a man who was initially her main support and caregiver but later became abusive. He was also a marijuana user and the teacher admitted to smoking for pain relief. She also mentioned that during the

relationship she became pregnant but miscarried and, and she lost her employment as a receptionist in a real estate agency. After the break-up of this relationship the teacher began another relationship with a marijuana user. The offences took place when she was in her second relationship.

According to the teacher this partner experimented with lighting for growing marijuana in her bedroom even though she had objected to that and to his use of her telephone for dealing. She said she believed her house had been watched for a couple of weeks before she was charged. She said the trafficking charge had arisen because, even though friends had purchased drugs collectively, she had received hers free for taking the risk of buying it.

Regarding her use of prescribed medication, the teacher stated that she did 'not want to be a pill popper for the rest of my life.' As required by the court she had undertaken drug and alcohol counselling for a year with the Salvation Army and had continued counseling of her own volition at a Psychology Centre because of problems with depression. She had undertaken physiotherapy, relaxation techniques, and hydrotherapy and was considering a detoxification clinic as well. She realised she still had an issue with cannabis use, which she used on a social basis every weekend. She did so for pain relief even though she did not want this to continue. She added that her treating practitioners were aware of her use.

The teacher said she lived in pain and would love to live a normal life again. That included a return to teaching preferably with the support of an experienced teacher as mentor. Also, the teacher said that moving had been a real 'sea change' for her because it took her away from negative relationships and provided her with close family support.

When cross-examined by Counsel Assisting as to how she might respond to a child seeking advice about drug use the teacher said she would not say 'I've done that'. Rather she would speak to the child about the choices we make and the consequences of such choices. She said it was important to teach children what not to do and that she herself was an example of negative consequences.

The teacher provided the panel with a report from a general practitioner specialising in the management of substance abuse and related mental health disorders. The teacher's medical practitioner stated that he had been treating the teacher for almost eighteen months during which time the teacher had attended on a regular and reliable basis for the management of several conditions. The first were conditions related to her road accident, chronic neck pain and post traumatic stress for which the teacher was on regular medication and for which she received regular counselling. The second were gynaecological problems for which the teacher sees a specialist. The third related to substance abuse issues revolving around the teacher's cannabis use and persistent attempts to reduce and eventually cease her use of it. Her medical practitioner said that the teacher recognised the negative effects of cannabis on her mood and motivation and had made significant gains in reducing her intake and control of cravings. She had also made the difficult but vital step of distancing herself from contacts that continue to smoke.

The teacher's medical practitioner said he found the teacher to be a genuine and sincere patient with a strong sense of responsibility, honesty and fairness and he believed she would be a good role model for pupils. The teacher's medical practitioner stated that the teacher's treatments were currently stable and she was appropriately addressing each of the inputs, which she needed to have in her ongoing recovery. He considered her prognosis for further recovery as excellent and believed a return to regular and meaningful employment would be a stimulus to her recovery.

Witness 1 gave evidence by affirmation.

Witness 1 is the teacher's mother. She is employed at an independent school and had been so for the past eighteen years. She said the teacher had been a 'real ratbag' at school especially in Years 9 and 10. She was therefore surprised when the teacher expressed interest in becoming a teacher and especially her wanting to teach Years 9 and 10. She said that the teacher had then undertaken teacher training.

Witness 1 said she had gained new found respect for her daughter when she came to school after her accident, while still wearing the supporting braces, to talk to staff and fifty Year 3/4 students. She believed the teacher's performance showed she had a genuine gift for teaching.

## **DISCUSSION OF THE EVIDENCE**

The Panel noted that the teacher had pleaded guilty to the offences, no conviction had been recorded and that she had been cooperative and made full and frank admissions. The Panel observed the same forthrightness in the teacher's testimony and found her to be a truthful and credible witness who spoke openly and honestly about the circumstances of her offences, the steps she had taken towards rehabilitation, and her desire to return eventually to teaching. The Panel agreed with Counsel Assisting that the teacher had been 'incredibly candid' about her continuing drug use. The Panel felt that she had a good understanding of the responsibilities of a teacher as a role model for students and the discretion required when speaking to students about issues related to drug use.

The medical practitioner's report provided strong corroborating evidence of the considerable and continuing efforts the teacher had undertaken to address her problems, as well as providing a considered positive opinion of those elements in her character and disposition which the Panel also found admirable.

The sticking point for the Panel was the issue raised by the teacher's medical practitioner: 'As is often the case of arrests made in settings like hers, the real issue is her ongoing personal use of cannabis, as a potential teacher of school pupils. The teacher has had longstanding problems in reducing her cannabis intake, linked to high levels of craving and environments which precipitated and supported her use of the drug.' The Panel did not doubt that the teacher had made considerable progress: practically, psychologically and emotionally, in her steps towards full rehabilitation and recovery. The teacher's medical practitioner attested to this: 'Her treatment has revolved around these two factors

(craving and environments) with good results to date.’ However her own candid remarks about her continuing regular use of cannabis, even if only on social occasions, raised queries about the degree to which she remained dependent on it.

The Panel found witness 1’s testimonial for her daughter endearing. It gave credence to the teacher’s claim that relocating to live near her parents provided her with important emotional and psychological support in dealing with her rehabilitation.

## **FINDINGS AND DETERMINATION UNDER SECTION 2.6.46 OF THE ACT**

The Panel found that the allegations have been proved based on the documentary evidence presented to the Panel and by the admissions of the teacher.

An inquiry into a person’s fitness to teach is tested at the time of the Panel hearing and not at the time the offences occurred. The crux of the matter for the Panel, mindful of its responsibility to protect the public and the reputation of the teaching profession, was the distance travelled by the teacher in managing her drug dependence and in achieving a level of rehabilitation, which would allow her to fulfil her potential as a teacher. The Panel believes the teacher has still some way to go in achieving those goals. What is of significance in this case is the circumstances leading to the allegations, which is the continuing and persistent nature of her cannabis use.

The Panel also makes the following observations:

- that the offences related to the teacher’s personal life at a time when she was not employed as a teacher and at a time when a confluence of influences and events placed great stress on her emotional and physical well being;
- that the teacher has demonstrated by her evidence and actions over the last few years, remorse for her behaviour and poor life choices, a determination to recover from her experiences, a recognition of the responsibilities demanded of a teacher, and a desire to return to teaching for which she seems to have a genuine passion
- that the teacher has made serious efforts to improve her life choices.

The Panel considered the observation in *Davidson v Victorian Institute of Teaching [2007] VCAT 920* when making its finding.

*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.*

The teacher by her own admission remains addicted to cannabis which she uses on a regular basis. The Panel acknowledges that the teacher has controlled her use and that she continues to receive treatment for her addiction. However she is not an appropriate person to be registered as a teacher while she continues to use cannabis regularly. For

this reason the Panel finds that the teacher is unfit to teach, even though the Panel accepts that the teacher has been honest, shown insight and remorse for her behaviour.

When coming to this finding the Panel kept in mind that disciplinary proceedings are not meant to punish the teacher although this may be an unintended consequence (see *New South Wales Bar Association v Evatt* (1968) 117 CLR 177), and that the purpose of these proceedings is to protect students in Victorian schools.

A decision to cancel a teachers registration is very serious and requires great care (see *Victorian Lawyers RPA Ltd v Vodicka* (2000) VSC 272). However having found that the teacher is unfit to teach the Panel determined that her registration should be cancelled.

The Panel had concerns about the teacher's rehabilitation and recommended that before the teacher sought re-registration the teacher should:

- continue with her counselling and rehabilitation strategies;
- make a sustained and successful attempt to remain free from drugs;
- clearly understand the Victorian Teaching Profession Code of Ethics and Code of Conduct especially in relation to the teacher as a role model in the community.



**JANE O'SHANNESY, CHAIRPERSON**



**per:  
TERRY HAYES, REGISTERED TEACHER**



**per:  
ALINA JONAS, PANEL MEMBER**