

VICTORIAN INSTITUTE OF TEACHING

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 096

REGISTERED TEACHER: Peter Barry CHAPPELL

DAY 1 - 21 January 2010

PANEL MEMBERS: Susan Halliday, Chairperson
Anne Sarros, Registered Teacher
Michael Kimberley, Panel Member

ATTENDANCE: The teacher attended the Formal Hearing and was self-represented

Gail Hubble Counsel Assisting, with Kim Magnussen, Instructing Solicitor on behalf of the Victorian Institute of Teaching

DAY 2 - 18 May 2012

PANEL MEMBERS: Susan Halliday, Chairperson
Anne Sarros, Registered Teacher
Kevin Pope, Registered Teacher

ATTENDANCE: The teacher attended the Formal Hearing and was self-represented.

Geoff Coates, Counsel Assisting the Victorian Institute of Teaching

DATES OF HEARING: 21 January 2010 and 18 May 2012

DATE OF DECISION: 10 September 2012

FINDINGS AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 10 September 2012 the Panel found the teacher guilty of serious misconduct and unfit to teach and cancelled the teacher's registration.

REASONS

BACKGROUND

The teacher had been a registered teacher with the Victorian Institute of Teaching (the Institute) from 31 December 2002 until 1 September 2009 when the teacher's registration was suspended for non-payment of fees under s.2.6.21(2) of the *Education and Training Reform Act 2006* (the Act). The fees remain outstanding and therefore the suspension has continued to the present time.

By letter dated 11 January 2006 the employer notified the Institute that it had taken action in relation to criminal convictions imposed upon the teacher on 12 October 2005 for 10 counts of breaching an intervention order and 1 count of entering a place in a manner likely to cause a breach of the peace.

The teacher was suspended without pay by the employer in November 2005 until his fixed term contract with the school concluded on 21 December 2005.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 10 September 2008 and the Committee decided to refer the matter to an investigation.

On 22 July 2009, the Committee considered the investigator's report and decided to refer the matter to a Formal Hearing.

The matter was set down for hearing on 21 January 2010.

A Notice of Formal Hearing dated 23 December 2009 was served upon the teacher by registered post on 12 January 2010.

An amended Notice of Formal Hearing dated 21 January 2010 was filed and served on 21 January 2010.

On 21 January 2010 the Formal Hearing Panel commenced to hear the matter with the teacher being self-represented. The only witness to give evidence to the Panel was the teacher. Having taken all of the evidence and heard closing submissions the Panel adjourned the matter in order to consider its decision. At that point some uncertainty emerged over whether the Panel had jurisdiction to continue with the matter given the disclosure by the teacher during his evidence, that his registration had been suspended due to the non-payment of registration fees.

The matter was referred back to the Disciplinary Proceedings Committee for further determination as to the disposition of the matter.

Further delay occurred as a result of changes in the legislation which came into effect on 1 January 2011, requiring the appointment of Hearing Panel members from a Governor in Council 'pool of approved persons' only. The pool of approved persons was not completed

until October 2011 and two of the three original Hearing Panel members were appointed to the pool of people eligible to sit on Hearing Panels. Mr Kevin Pope was then appointed to the Hearing Panel as the third person and was provided with all of the relevant materials prior to sitting for Day 2 of the Hearing.

The Panel concluded that it had jurisdiction to deal with the matter pursuant to section 2.6.47 of the Act which states that: *“The Institute may conduct or continue to conduct an inquiry into the conduct or activities of a person who was a registered teacher at the time of the conduct or activities but who has ceased to be a registered teacher, as if the person were a registered teacher”*. The Panel was satisfied that the teacher was registered at the time that the conduct the subject of the hearing was alleged to have occurred and the Panel therefore concluded that it could proceed to hear this matter.

A letter dated 27 April 2012 was sent to the teacher advising him of the resumption of the Formal Hearing on 18 May 2012. The teacher was also provided with a copy of the Notice of Formal Hearing dated 21 January 2010, copies of the exhibits tendered to the Panel on 21 January 2010 and a transcript of the Formal Hearing on 21 January 2010.

THE ALLEGATIONS

The allegations arise from a notification made pursuant to section 27 of the original *Victorian Institute of Teaching Act 2001*, by the employer dated 11 January 2006 of its intention to take action against the teacher for serious misconduct and/or lack of fitness to teach in respect of a conviction for various criminal offences.

THE HEARING

The Panel considered how best to conclude the matter given the delay which had occurred. The teacher consistently submitted that the original Panel ought to complete the matter relying on the evidence he had previously given on 21 January 2010. He confirmed with the Panel at the recommencement of the hearing on 18 May 2012 that this remained his absolute position. He told the Panel specifically that he did not wish to go over the matters in respect of which he had already given evidence.

The Panel noted that Section 2.6.49 of the Act allows a degree of flexibility as to how it conducts Hearings within the confines of natural justice and the proper consideration of the matter. The Panel was satisfied that the transcript of evidence provided a fair and satisfactory basis for it to continue on the basis requested by the teacher.

Having regard to the passage of time, the Panel determined that the Hearing should allow the teacher to give evidence as to his current situation and to make further submissions in regard to the matters before the Hearing Panel.

THE EVIDENCE

The Panel had the evidence given by the teacher on 21 January 2010 before it. At the commencement of Day 2 of the Hearing, the Panel confirmed with the teacher that he had had an opportunity to read the transcript of evidence from Day 1 of the Hearing, that he had given under oath and that he was satisfied that it was a fair account of the circumstances of his conduct up to that point.

The Panel told the teacher that while the evidence and other submissions had been completed at the time the Panel last met, the Panel had concluded that it was appropriate for him to attend Day 2 of the Hearing to bring the Panel up to date with his current situation and to inform the Panel about what he had been doing since appearing on Day 1 of the Hearing.

At the commencement of Day 2 the Panel also indicated to the teacher that while it could make a decision about the nature of conduct based on the events which had previously been provided, if the Panel was to move to a point where it needed to consider his fitness to teach then it must do so on the basis of his current circumstances.

The teacher told the Panel he was willing to proceed with the Hearing on that basis.

The Panel informed the teacher that while some of the matters on which he would be addressing the Panel were in the nature of submissions, some would be matters of evidence which should be given under oath. The teacher took the oath at the beginning of Day 2 of the Hearing.

The Panel noted that some of the offences referred to in the original notification had been the subject of appeal. The Panel was provided with a table prepared by Institute staff detailing the various charges and their outcomes as of August 2012. Council Assisting told the Panel that the table was compiled from the relevant Court records.

The teacher was provided with a copy of the table prior to the commencement of Day 2 of the Hearing. The teacher told the Panel that he had examined the document and had no disagreement with what was recorded in the table. He said that he had no reason to doubt that the Institute had correctly transcribed the information from the Court records and that he thought it looked correct having examined it.

The Panel identifies this table as Exhibit A (2) and attaches it as an Appendix to its determination and reasons.

The following exhibits were accepted by the Panel on Day 1 of the Hearing:

- A (1) Summary of Charges
- B (1) Charge Sheets

The following exhibits were accepted by the Panel on Day 2 of the Hearing:

- A (2) Summary of Charges and Outcomes to 2012
- B (2) Set of eleven Character References

Further material supplied by way of submission from the teacher

Written Submission of the teacher (undated) received at the Institute on 27 June 2012
Copy Intervention order made 10 August 2006
Copy Intervention order made 13 February 2007
Counselling Report of the Counsellor 21 June 2012
Curriculum Vitae of the teacher dated 29 May 2012

DISCUSSION OF THE EVIDENCE

The Panel considered that the teacher had ample time to prepare and present any information that he considered relevant to his matter. The teacher also had time to organise any witnesses he wished to call. It was noted that at the end of Day 1 the teacher reflected that he would have liked to call two character witnesses. The teacher had time to organise character witnesses for Day 2, but he did not call any.

At the close of Day 1 of the Hearing there was deliberation as to whether the Panel had jurisdiction to proceed given the additional information that emerged about the 'suspension' status of the teacher's registration (due to non-payment of registration fees to the Victorian Institute of Teaching). Due to family circumstances the teacher was not positioned to progress the matter for a set period of time. Additionally, following legislative changes affecting sitting Hearing Panel members, and receipt of independent legal advice regarding the new own motion power, it was indicated that the Panel did have jurisdiction to continue with the matter pursuant to section 2.6.47 of the Act if the Panel was satisfied that the teacher was registered at the time of the conduct of concern.

The teacher was steadfast in his view that the matter should be completed by the original Panel, rather than take the opportunity to commence a fresh Hearing. The original Panel was re-constituted with only one new Panel member. The teacher informed the re-constituted Panel that the evidence as presented on Day 1 of the Hearing should stand. The Panel is not bound by the rules of evidence. The Panel Chairperson opened Day 2 of the Hearing by requesting that the teacher confirm his position on the evidence previously given on Day 1. The teacher confirmed his position. The Panel then extended the opportunity to the teacher to detail what he had been engaged in professionally and personally since January 2010.

The Panel viewed exhibit A (2) - Summary of Charges and Outcomes through to May 2012, prepared by the Institute. The teacher indicated that he believed it was accurate.

The Panel viewed exhibit B (2) – Set of eleven Character References. The teacher was given the opportunity to explain the origins of the references and provide information about the circumstances in which they were written and how he knew the referees.

The Panel noted that 'misconduct' is defined in the *Education and Training Reform Act 2006*; to include (a) conduct of the teacher appearing in connection with the practice of teaching that is of a lesser standard than a member of the public or members of the teaching profession are entitled to expect from a reasonably proficient teacher;.....".

Given 'serious misconduct' is not defined in the Act, the Panel was in agreement that serious misconduct refers to a substantial departure from accepted standards for a teacher. The Panel were also in agreement that substantial departure may be directly or indirectly related to the immediate practice of teaching as well as the broader role and expectations of a teacher. Further the Panel were in agreement that it can relate quite explicitly to the personal conduct of a teacher, and the broader implications and ramifications of such conduct. Teachers hold privileged positions of trust and respect within our communities. Model citizenship, sound judgement, respect for the rights of others, integrity, and professional and personal insight are inherent requirements of the breadth and depth of the role of a teacher. Mindful of the Victorian Institute of Teaching Code of Conduct, the Panel's deliberation around what equates to 'accepted standards' for a teacher was deemed to fall short of the mark if contextually character, temperament, trustworthiness, credibility, social responsibility and ethics were not considered when making an assessment about whether a teacher had engaged in 'serious misconduct'.

It is the view of the Panel that the teacher positioned himself to generally argue that 'accepted standards' covered what happens in the classroom. He failed to the satisfaction of the Panel to identify and show any comprehensive understanding of the direct and indirect links between his personal conduct and decision making in his private life, and the role of a teacher in a school community.

On Day 1 the teacher was asked by Counsel Assisting if he recalled telling the investigator that his personal behaviour including the breaches of the Intervention Orders and his terms of imprisonment did not have any relevance to his fitness to teach. The teacher confirmed that he did recall doing so. Counsel Assisting then read the quote *"I don't [think] they're relevant to my fitness to being a teacher at all"* and asked the teacher if that was still his view. The teacher replied *"mostly"* and added *"what the charges and things that took place were not in the public eye. People don't know what happened or don't know that I've been in gaol. We'll I don't think that has any bearing on my teaching. Obviously I am trying to put that in context of when you say I'm in the public spotlight and I've got to be aware of my conduct in the public spotlight. If people aren't aware that these things have happened, then they're not going to judge me. If they are aware then they're going to judge me. Well they might say I don't want him teaching my child. If they don't know then I don't think they would be objecting to me teaching. When I'm teaching there hasn't been any problems in my conduct or ability as a teacher. So this is like my private life and I think we are more concerned about my professional life"*.

When asked if what you do in your personal life impacts upon the qualities needed of a teacher, the teacher indicated that it can, and he agreed that the criminal record was public. The teacher went on to explain that it was only a problem if people knew. He indicated that his criminal conduct took place in Country Town A. In the end he moved 50 kilometres away to Country Town B, which in his view did much to solve the problem in relation to going back to teaching the teacher stated *"I don't think that I could teach in Country Town A again, even if I was given the opportunity.... I would be too worried about what the parents are saying about me behind my back.... I wouldn't seek employment there as I just wouldn't be happy in my profession. Whereas I know I could do the job in Country Town B or anywhere else without any problems; without any of the repercussions from this happening"*.

On Day 1 he stated that he had learned that there were consequences for unlawful actions. In his written submission the teacher also admitted that his behaviour was unacceptable. He gave evidence that he had reflected upon what had led to his incarceration on the first occasion, and the second occasion.

The teacher's criminal record lists numerous convictions. He confirmed on Day 1 that having left gaol, which he said was a horrendous experience, he committed further offences. He indicated that he believed that he was acting in a morally right way. For these proven offences he was placed under a Community Based Order. He also told the Panel on Day 1 that he knew that he should not act illegally or breach his Intervention Orders while under the Community Based Order. However the teacher did so and this conduct resulted in a second gaol term.

The teacher gave evidence that he clearly understood that there were consequences if you broke the law, but that didn't mean that he agreed with the law. The teacher had Intervention Orders taken out against him by his former partner - the mother of his child. After becoming involved with a second partner (and according to the teacher taking on the role of step-father of her child for a period of time) the teacher had Intervention Orders taken out against him by his second partner and a member of her family. The teacher's criminal convictions span breaches of Intervention Orders that relate to both former partners.

Giving evidence the teacher stated that he did believe in right and wrong. However he added "*I don't necessarily agree with the law ... Just because they are giving out Intervention Orders, it doesn't mean it's right, and in country towns.... they give them out like lollies*".

The evidence provided on several occasions showed that the extent of the teacher's notion of fixing or remedying things, with respect to fitness to teach and returning to the teaching profession, was largely centred on him having moved to another country town, and people being unaware of his criminal record. He added that his personal view was that he would not pose a threat to a school community. He also noted that he missed the interaction with children. The teacher indicated that he enjoyed teaching, and emphasised that he would be an asset to a school due to his gender given the need for male role models at primary school level. The teacher did articulate in his written submission that he understood that "*the general public must have faith that teachers are trustworthy, responsible citizens of excellent character.*" He went on to say in writing that "*my previous behaviour did not live up to that standard which is cause for deep regret*".

The issues specific to the criminal conduct of this teacher are neither removed nor remote from the 'accepted standards' that relate to teaching and the role that teachers play in our schools and our communities. The Panel deemed the criminal conduct, and its repeated nature, to be directly connected with the professional standing and broad set of responsibilities of a teacher. Of further concern was the teacher's seemingly simplistic way of viewing his criminal conduct, and his profession, as divorced or generally separate. The extent of the disconnect reflected in the teacher's approach and the evidence he gave, unnerved the Panel greatly.

There was very limited evidence of any professional reflection about the linkages with his criminal offences comprising for example, multiple Intervention Order breaches, a breach of a suspended sentence order, stalking, resisting police, assault police, threat to kill, entering a private place without lawful excuse and failing to leave premises on request. The limited

reflection that was evident was related to how he might cope personally, and protect himself by not having to be held accountable or being in an uncomfortable position due to a lack of knowledge about his criminal conduct. The reflection was all about himself, rather than emergent concerns, impact, and ramifications in a school community for the actual students, parents, teacher colleagues, and in turn the reputation of the school. When giving evidence the teacher also showed that he had never realistically considered how he might manage any fallout associated with his past conduct (be it with students, parents, teachers, the education community or the local community at large). The teacher's point of reference when challenged about this was to state that if there were any issues or concerns about him or his past conduct, that he'd have the principal of the school deal with them.

The Panel raised with the teacher that since he had been teaching in 2005, much had changed. As contemporary educators the Panel was clear that currently teachers on a regular basis deal with different forms of bullying and stalking (a form of bullying), heightened levels of privacy and child protection, engage in good citizenship and community programs, support 'police in schools' initiatives, and have to provide measured and objective support to children and parents involved in family disputes, as well as deal with parents and the practicalities of Intervention Orders, as part of the teaching and inherent pastoral role. When providing evidence the teacher demonstrated that he had not turned his head to any such things in a realistic way and had not identified the links with his criminal conduct. He gave no evidence to show that he had in any way mapped or strategised such things. The teacher simply noted several times that he just wanted to get back into teaching, that he was a good teacher and that he believed that he had something rare and important to offer as a male educator.

The teacher gave evidence that he was a moral person who believed in moral obligations and in turn due to his experiences, views and how he wished to approach his future life, he had the word INTEGRITY tattooed on his person. He noted that he reflected on it regularly and that he had not committed crimes for commercial gain or personal satisfaction, rather he had acted given that he was wronged by former partners, the Family Court and the justice system. He added that these things did not prevent him from being a worthwhile force in education and the broader community.

The Panel noted that integrity is core to the Victorian Institute of Teaching Code of Conduct. When defining integrity conceptually Panel members went to honesty, truthfulness, veracity, honour, being principled, transparency, ethical behaviour, uprightness, decency, morality, genuineness, authenticity, legitimacy and accuracy. The Panel was not of the view that the way the teacher envisaged re-entry to the profession, (i.e. it would be fine away from Country Town A because people don't know about his criminal record and hence any impact associated with his criminal conduct is diminished or cast aside due to people being unaware) was not the way to demonstrate integrity.

The Panel noted Justice Kellam in *Parr v Nurses Board of Victoria*; "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 that might reasonably be expected of a registered nurse. Departure from such standards must be blameworthy and deserving of more than passing censure".

It is the Panel's view that the teacher's criminal conduct is very relevant to the role of a teacher. His conduct was far from trivial; it was repeated and deleterious. It was blameworthy and deserving of more than passing censure. It was conduct that was repeated by choice, despite many police warnings and being incarcerated. Yet the teacher did not refrain. From his own admissions he focussed on what he wanted, and in turn what he wanted to do. It is conduct that is greatly frowned upon by the community. It is conduct that unfortunately schools and teachers often deal with as part of their educational and inherent pastoral roles as they manage the fallout from dysfunctional home environments and the ramifications of adults who fail to respect the laws established to protect the rights of children and their appointed carers.

The teacher provided some explanations for his criminal conduct detailing the breakdown of his personal relationships, and the difficulties he believed he faced within his local community due to police he considered to be bias, and unreasonable former partners. The teacher also voiced his concerns about injustices he believed that he had suffered, including in his view the denial of his rights as a parent through the legal system. He indicated that he believed that he had endured excessive hardship for any wrongs that he may have committed.

The teacher did not unpack and reflect upon the impact of his behaviour on his child, his step child, either of his former partners or their extended families, the education community or the teaching profession in a way that was relevant and insightful given that he wished to re-establish his credibility and demonstrate an informed, improved character worthy of a teaching licence. The teacher did give evidence that being in gaol was hard on his own family.

The teacher informed the Panel about what he had been doing since exiting gaol and over more recent times. He stated that he had started a personal training business in 2008 which he gave up in 2009. He then worked as a waiter and in a plumbing supply business through to 2010. The teacher stated that his mother became ill and he left work to look after her. His mother died in November 2011. The teacher said that he had been unemployed for about 14 months. The teacher said that he had taken the opportunity to travel. When asked how he had supported himself after giving up work and how he had funded his travel, the teacher stated that he had lived on an inheritance from his grandmother.

The teacher said that he had looked for work. He informed the Panel that when he got to the stage where it looked like he was going to get a job, he believed that his criminal record stood in the way of the job being offered to him at the end point. The teacher provided as a specific example an experience he said that he had had with the railways in Victoria. He told the Panel he believed that he did not get the job with the railways after his interviews, because of his criminal record. He added that generally he didn't think he would be able to gain employment because of his criminal record, so he really needed to be registered and resume teaching in order to earn a living. The Panel was informed by the teacher that he wanted to return to teach primary school as soon as possible. He said that he had on one occasion, looked at the Institute website to find out about Casual Relief Teaching. When informing the Panel about what he had been doing of late the teacher stated that he had not had anything to do with education since the Department had taken action against him in November 2005. He said that he had not undertaken any research into current curriculum or the nature of primary school programs that were currently run. He said that he had not done any related educational professional reading, or any teacher professional development despite planning to return to teaching. The teacher told the Panel that he considered that he would just go back into the classroom. He informed

the Panel that he viewed teaching like riding a bike – he'd just get back on, and it'd come back to him.

The teacher stated that he had attended counselling since 2008. He gave evidence on Day 1 of the hearing that he was doing counselling because he wanted to do it and added *“because it makes me feel better about myself. It gives me strategies to make things better”*. He noted that he tried to see himself as a positive member of the community and gave being involved with the tennis club as a specific example.

The Panel reviewed the report received from the Counsellor. When asked about what reflection and personal remedial work he had been doing in relation to his past conduct, the teacher was a little more contrite on Day 2 than he had been on Day 1 and acknowledged that he had made some mistakes and would do some things differently if he had his time over. The teacher remained of the view that he had been treated unfairly by the legal system but noted that he had done counselling to try and get his life back together. He indicated that he had spent regular time attending sessions with a Counsellor from 2008 to 2010, but attended less frequently now.

The Counsellor reported that the teacher having attended counselling had made progress developing skills in Mindfulness, Mediation and Acceptance. There were no references to, or links made with the professional responsibilities of a teacher in the report, however the Counsellor did write that she understood from the teacher that he knew to remove himself from possible conflict situations. The Counsellor stated that the teacher had been prescribed and completed a course of anti-depressant medication and that she considered that his stress and anxiety levels had decreased.

The teacher also said that he had also done some volunteer work with a community agency in his region. The community agency which works to promote prisoners and ex-prisoners rights was of interest to him given his own experiences. He stated ‘I sit with them to help get funds for prisoners’. The teacher did not initiate his involvement with the agency. He got involved when his Counsellor, who was a founding member, suggested that he do so.

In relation to fitness to teach the Panel noted Counsel Assisting stated on Day 1 that *“in order to determine whether the teacher is fit to teach it is appropriate to consider the situation now, not the situation back when the conduct occurred, although obviously inferences can be drawn from the conduct and from the evidence given about attitudes and views in relation to the conduct. But the appropriate time for determining fitness to teach is the time of the hearing.*

And it is true that the conduct in question did occur some years ago at this point in time. But they were serious offences, and they occurred over a period of time, we're not talking about an isolated event, were not talking about a one-off event we're talking about conduct that did repeat itself over a period of time and some of which was very serious in nature”.

The Panel acknowledges that fitness to teach is about the teacher's character, reputation and conduct arising from his criminal offences. Further his aptitude, emotional and psychological state of mind, professional and personal insights, levels of accountability and responsibility, remorse, and his willingness to engage in personal and professional remedial action, and

rebuild his credibility and reputation in the community are all relevant when assessing fitness to teach.

The onus to demonstrate fitness rests with the teacher. The teacher was informed by the Panel that the assessment in relation to fitness to teach would be based on his current circumstances. The assessment of fitness was progressed reflecting on the specifics and the unique circumstances of the case accompanied by the contemporary information provided by the teacher.

The Panel was unanimous in its view that the teacher was not fit to teach. The Panel considered it would not be fulfilling the duty bestowed upon it if it determined otherwise. As experienced educators all Panel members were concerned that the teacher had done insufficient to present in a manner that satisfied the Panel that he was fit to teach. The Panel having interacted at length with the teacher considered that he did not present as someone who was currently equipped to teach.

When the teacher was asked by the Panel whether there were current Intervention Order/s in place in relation to himself, he was unable to answer the question. In the end he said that he actually did not know. While it is acknowledged that the teacher provided the relevant information after the day's proceedings, the provision of an answer sat to one side of what was then deemed to be of key importance by the Panel. The teacher did not know whether there were Intervention Orders currently in place. The documentation confirmed that there were Intervention Orders in place for two parties. The Panel noted that the teacher was appearing before it having had a significant amount of time to prepare and demonstrate that he was fit to teach. Having an understanding of your legal obligations goes to character and is core to fitness. The Panel considered it unsatisfactory for a range reasons, that the teacher was unaware of the status of his Intervention Orders.

The Panel acknowledged that the teacher had not reoffended for a number of years and that he had endeavoured to grow his reputation and credibility by doing some volunteer work. However there was insufficient evidence to satisfy the Panel that enough personal progress had been made. The Panel did not necessarily think that the teacher would reoffend, however he did not evidence the state of mind and professional clarity that the Panel sought, in order to deem him to be of appropriate character, and hence fit to teach.

While the teacher presented a set of references, the Panel noted that the material was untested. In addition the Panel noted that the majority of references the teacher provided were written and dated over seven years ago in 2005. These generally spoke briefly to him being a good teacher. One reference dated 2012 according to the teacher had been written by a person who taught with him in 2002, who now attended the same gym. Two references in the form of Statutory Declarations dated 2012 talked about the sort of teacher the teacher was in 2002 and 2003 and had been written recently relying on the recall of a decade given that the teacher still had some contact with the referees. One short undated reference, reportedly written recently by the father of a friend, talked about the teacher being of good character over the last few years. The Panel noted that the value of the references was particularly limited given the circumstances. The lack of informed contemporary opinion was problematic.

The Panel carefully considered all of the material provided by the teacher, including his Curriculum Vitae which was forwarded in response to a request made by the Panel. In the end after extensive deliberation the Panel formed the view that the teacher had not demonstrated that he was fit to teach. The Panel contemplating in tandem the nature of his crimes and the essential underpins of a teacher, reached the conclusion that the teacher had a significant distance to travel if he wanted to rebuild his reputation and cement the character necessary to work with children. Moving out of town, staying away, or starting afresh was not the answer. It may provide a personal resolution that the teacher was happy with, but such antics fall well short of what is required to present as a person who had done sufficient remedial work to be deemed fit to teach. What is required is far more fundamental and developmental. To travel this path the teacher's emphasis needed to shift from being self-centric, to overwhelming inclusive of all others impacted / potentially impacted, and being fully cognisant of the bigger professional picture whilst showing appropriate levels remorse.

While stating for the record that the circumstances of the case are quite different, in making its decision the Panel did note the position of Her Honour Judge Harbison regarding fitness to teach and the severity of the determination, in the matter of *Davidson*.

The Panel was of the view that based on the material (and the significant lack of material) before it the teacher should not currently be working with young people in the role of a teacher, nor should he be in a position of authority and trust in an education system at this point in time. The Panel was convinced that this was a reasonable determination given that the teacher had not made the necessary links between his own criminal conduct and the work of a teacher. Be it an inability or a reluctance to comprehend and respond to the links and the big picture, or him failing to see how his criminal conduct impacts his professional life (both present and future) it all goes to fitness. The teacher talked about his conduct and his progress, in a manner quite separate (or in isolation) to the inherent work of a teacher and his view of teaching as a profession. The view of the Panel about lack of fitness was firmed up during these periods of discussion given that, in direct contrast, the two scenarios are intrinsically entwined.

The Panel does not accept that teaching is just like riding a bike, as suggested by the teacher. Further the Panel is very clear that return to work teachers need to do significant preparation. The teacher's attitude towards re-entry to his profession especially given the experiences and circumstances he has encountered since 2005 is naïve and professionally immature. The teacher evidenced that he had given no serious attention to his return other than to collect a salary. The intention of seeking Casual Relief work would ultimately mean he would walk straight into a classroom minus the vigour and scrutiny of the employment scenario and face a class.

It is accepted that the teacher may well have been very embarrassed about his past conduct, and that he has developed processes to help ensure that he risk assesses his public conduct and utilises better judgement in the face of his continued concerns about the justice system. But given his interest in demonstrating his fitness to teach the Panel considered the sum of his efforts to be sadly lacking and professionally naïve. The Panel drew fully upon the evidence to challenge whether the teacher currently possessed the qualities expected of a teacher, including evidence of appropriate remorse and contrition. The Panel deemed it essential that the standing of the teaching profession be protected and that the community's confidence in the teaching profession be respected and maintained.

In making its assessment the Panel was very clear that the goal of the proceedings was not to punish the teacher again, but to protect the public interest and the reputation of the teaching profession.

FINDINGS

The Panel determined the conduct of the teacher to be serious misconduct and that the teacher should not be registered.

The Panel formed the unanimous view that the teacher was not fit to teach.

It is strongly suggested that if it is the intention of the teacher to seek registration at a later stage, that he undertake preparatory work with a registered psychologist who specialises in education matters.

On 10 September 2012, the Panel found the teacher guilty of serious misconduct and not fit to teach.

DETERMINATION

On 10 September 2012, the Panel determined to cancel the teacher’s registration.



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SUSAN HALLIDAY, CHAIRPERSON



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per:
ANNE SARROS, REGISTERED TEACHER



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per:
KEVIN POPE, REGISTERED TEACHER

Appendix

Exhibit A (2)

Date of Court Order	Date of Offence	Offence	Court Outcome
12 October 2005 Bairnsdale Magistrates' Court	20/09/05	Breach of Intervention Order	7 months imprisonment wholly suspended for 12 months
	23/09/05	Breach of Intervention Order	
	25/9/05	Breach of Intervention Order	
	29/9/05	Breach of Intervention Order	
	28/8/05	Breach of Intervention Order	
	28/8/05	Breach of Intervention Order	
	29/8/05	Breach of Intervention Order	
	12/8/05	Breach of Intervention Order	
	14/8/05	Breach of Intervention Order	
	14/08/05	Breach of Intervention Order	
9 February 2006 Bairnsdale Magistrates' Court	20/9/05	Breach of Intervention Order	On 12/10/05 the Court did order a suspended term of imprisonment wholly suspended for 12 months. It was ordered that the sentence be wholly restored for 7 months . Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under the sentence.

	15/12/05	Breach of Suspended Sentence Order	Proven
	9/12/05	Stalking	Convicted and sentenced to a term of imprisonment of 6 months as part of an aggregate sentence. Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under the sentence.
	15/12/05	Without lawful excuse enter a private place	Convicted and sentenced to a term of imprisonment of 6 months as part of an aggregate sentence. Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under the sentence.
	15/12/05	Refuse to leave a place after warning	Convicted and sentenced to a term of imprisonment of 6 months as part of an aggregate sentence. Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under

	9/12/05	Breach of Intervention Order	the sentence. Convicted and sentenced to a term of imprisonment of 6 months as part of an aggregate sentence. Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under the sentence.
	15/12/05	Breach of Intervention Order	Convicted and sentenced to a term of imprisonment of 6 months as part of an aggregate sentence. Order concurrent with other State sentences imposed on this day. 54 days already spent in custody reckoned as already served under the sentence.
7 September 2006 Bairnsdale Magistrates' Court	31/7/06	Breach of Intervention Order	Convicted and sentenced to a Community Based Order ('CBO') of 100 hours over 6 months.
21 November 2007 Bairnsdale Magistrates' Court	31/7/06	Breach of Intervention Order	With conviction, fined \$600.
	18/4/07	Failure to comply with CBO	Proven
18 April 2007 County Court Orders as per outcome of appeal of Bairnsdale Magistrates Court	21/10/06	Breach Intervention Order	Convicted and sentenced to a term of imprisonment of 12 months as part
	22/10/06	Resist Police	
	22/10/06	Resist Police	

<p>Order dated 28 February 2007</p>	<p>22/10/06 22/10/06 21/10/06 21/10/06</p>	<p>Resist Police Assault Police Make Threat to Kill Fail/Refuse to leave licensed premises on request</p>	<p>of an aggregate sentence. 6 months of the sentence fully suspended for an operational period of 2 years. Convicted & fined \$600, Statutory Costs of \$61.30</p>
<p>4 December 2008 County Court Orders as per outcome of appeal of La Trobe Valley Magistrates' Court Order dated 29 June 2007</p>	<p>2/9/06</p>	<p>Breach of Intervention Order</p>	<p>Convicted and sentenced to 28 days imprisonment. Effective total State term of imprisonment imposed is 28 days. 28 days already spent in custody reckoned as already served under the sentence and administratively deducted.</p>