

DECISION AND REASONS OF THE FORMAL HEARING

NUMBER: 139

REGISTERED TEACHER: Sandya Damayanthi DE SILVA

PANEL MEMBERS: Terry Hayes, Chairperson
Anne Farrelly, Registered Teacher
Paul Wilhelm, Registered Teacher

ATTENDANCE: The teacher was assisted by Ms Lorraine Boesen, a registered teacher

Mr Rodney Hepburn, Counsel Assisting with Ms Jen Sheehan, Instructing Solicitor on behalf of the Victorian Institute of Teaching

DATES OF HEARING: 15, 18 and 19 March 2013

DATE OF DECISION: 24 May 2013

FINDINGS AND DETERMINATION:

Pursuant to section 2.6.46 of the *Education and Training Reform Act 2006*, on 24 May 2013 the Panel found the teacher guilty of serious incompetence and unfit to teach.

The Panel determined to cancel the registration of the teacher from 24 May 2013.

REASONS

BACKGROUND

The teacher was provisionally registered with the Institute on 23 January 2007 and was granted full registration on 30 January 2009.

By letter dated 15 July 2010, the employer notified the Institute that it had taken action in relation to the alleged serious incompetence and lack of fitness to teach of the teacher. The employer advised the teacher by letter dated 10 June 2010 that her employment had been terminated.

The matter was referred to the Disciplinary Proceedings Committee (the Committee) of the Institute on 19 January 2011 and the Committee decided to conduct an investigation.

On 25 July 2012, the Committee considered the Investigator's report and decided to refer the matter to a Formal Hearing.

A Notice of Formal Hearing dated 14 December 2012 was served upon the teacher by registered post on 24 December 2012.

THE ALLEGATIONS

The allegations of serious incompetence and/or lack of fitness to teach as set out in the Notice of Formal Hearing are:

Whilst employed as a registered teacher during 2009 at the school, you:

1. Failed to engage students in active learning in circumstances where:
 - (a) In May 2009, during Year 11 and 12 chemistry classes, you:
 - (i) failed to explain chemistry concepts including but not limited to the concepts 'polarity,' 'bonding of fructose molecules' and 'bonding structures';
 - (ii) failed to provide correct answers to student questions;
 - (iii) relied heavily on text book based explanations that students could not understand;
 - (iv) failed to use prescribed curriculum material including the Nelson text book;
 - (v) advised students who used the Nelson method that you would erase and draw over their work; and
 - (vi) failed to adequately prepare students for chemistry tests.
 - (b) In June 2009, during Year 9 science classes, you:
 - (i) failed to provide explanations to students upon request;
 - (ii) ignored questions from students; and
 - (iii) asked students to transcribe information from the board which they did not understand.

2. *Failed to demonstrate appropriate classroom management in circumstances where:*
 - (a) *In June 2009, during a Year 10 science class, disciplined students by locking them out of the classroom*
 - (b) *In July 2009, during a Year 9 period 6 science class, you:*
 - (i) *ran to the door and locked students in the class when the bell rang;*
 - (ii) *lined students up and stared at them saying nothing.*
 - (c) *In late August and September 2009, during Year 9 science classes, you:*
 - (i) *sent Year 9 students to Year 9 Co-ordinator, teacher 1 for trivial matters*
 - (ii) *threatened students you would 'rate' their behaviour adversely if they did not complete classroom tasks and activities;*
 - (iii) *threatened students who misbehaved you would file incident reports to the Year Level Co-ordinator and asked other students in the class what you should write in the reports regarding the misbehaving students;*
 - (iv) *charged students \$2 for lined paper and pens; and*
 - (v) *marked students absent if they were talking;*
3. *Failed to supervise students adequately and create a safe environment for students:*
 - (a) *In June 2009, during a Year 10 science class, you ignored student 1's request to turn some lights off in the classroom to reduce the whiteboard glare*
 - (b) *In July 2009, during a Year 9 science class, instructed students to drink out of dirty beakers.*
 - (c) *On 23 October 2009, during a Year 7 science class, failed to manage students who were observed chasing each other with lit candles.*
4. *Failed to treat students with courtesy and dignity in circumstances where:*
 - (a) *In May 2009, during a Year 11 chemistry class, you stated with words or words of similar effect to student 2 that she was 'slow' and locked her out the classroom.*
 - (b) *In June and July 2009, during Year 9 science classes, you:*
 - (i) *told student 3 with words or words of similar effect that you 'didn't understand her, and that she was the only student in the world that you didn't understand';*
 - (ii) *told student 4 that she wouldn't be able to get a boyfriend because she had no breasts; and*
 - (iii) *on 16 June 2009, told student 5 with words or words of similar effect that she was a 'fat whiner', 'a man', that you would 'love to see her swim because she would probably drown' and laughed at what she said in class.*
 - (c) *In September 2009, during Year 9 science class, you:*
 - (i) *drew a graph on the whiteboard for student 6 and called it 'student 6's popularity' and marked him -8 on the graph;*
5. *Violated your professional relationship with Year 9 students in circumstances where:*
 - (a) *On 5 June 2009, at the end of a Year 9 science class, you requested student 6 to stay back after class and when student 6 ignored your request, you:*

- (i) *pushed him in the chest and threatened to 'pull his ear and put him on the ground and sleep for 30 minutes'; and*
 - (ii) *locked him in a classroom for 15 minutes. Another teacher, teacher 2 opened the door, at your request.*

 - (b) *On 6 August 2009, during a Year 9 science class, you:*
 - (i) *stated with words or words of similar effect to students that 'teachers hated them';*
 - (ii) *stated with words or words of similar effect to students that they were 'bitches'; and*
 - (iii) *took pictures of students in the yard with your phone.*
6. *Failed to treat colleague, teacher 3, with courtesy and respect in circumstances where:*
- (a) *On 28 May 2009, teacher 3 was supervising an exam near your class and asked you if you could keep your class quiet:*
 - (i) *you responded in an angry manner towards teacher 3, stating with words or words of similar effect that she was rude for making the request; and*
 - (ii) *following the incident referred to above, you continued to behave in an angry manner towards teacher 3 in the school court yard.*

EVIDENCE

Witness 1 gave oral and written evidence under oath.

Witness 1 is a retired PE teacher. He taught for 36 years at the school where his three children were also educated. During that time he held a number of leadership positions below principal class.

Witness 1 said that during 2009 the school had a school population of 700 students mainly of European descent. He also said he thought there were some of Asian descent. Many were from rural areas and, although he considered students somewhat isolated and unfamiliar with other cultures, he did not consider them to be overtly racist. In his view they had been accepting of teachers from non-European backgrounds. Regarding any behaviour and discipline problems, he considered the students, given the large proportion with rural backgrounds, to be slightly better in their behaviour than students in other government schools.

Witness 1 informed the Panel that he had accompanied the teacher to a meeting with the Principal (30/11/09) as a proxy for the Australian Education Union (AEU) branch secretary. He had then acted for a brief period as a sort of liaison person between the teacher, as a non-active AEU member and the central AEU office to ensure the teacher was clear about possible scenarios proceeding from the meeting and the actions open to her. Witness 1 said he had been aware, prior to the meeting, that there had been some complaints about the teacher's teaching.

Witness 1 said that the Principal conducted the meeting fairly and in an unthreatening way, making clear he was going through a process expected of him. In response, the

teacher had argued her side of the story and 'begged to differ' with some of the emphases the Principal was giving to evidence. This evidence included that, despite ongoing extra support and strategies put in place, he believed there had, in his view, not been the required improvement in her teaching performance. The teacher had complained that those designated to support her had not given their total support.

Witness 1 said the school operated both buddy and mentoring systems and staff had been professionally in-serviced regarding their operations. He believed most staff were supportive of the mentoring system which focused on new graduates.

Regarding student behaviour and classroom management, witness 1 said all staff were expected to develop their own classroom management plans and new graduate/early career teachers had access to support for doing so. He said the school had clear procedures for discipline support involving level coordinators and members of the principal class to complement and support individual classroom management.

Witness 1 said that he and the teacher were located in staff rooms close to one another and although he did not know the teacher well, he believed they had a friendly collegiate relationship.

Witness 1 described Student 7, who was in the teacher's 9L accelerated learning class, as a 'very good student'. A letter from student 7's mother (30/11/09) complaining of the teacher's teaching addresses issues which form the basis of Allegation 1(b). Student 7's concerns with the teacher's teaching are also the basis of a letter (26/2/09) from parent 1.

Witness 2 gave oral and written evidence by affirmation.

Witness 2 is currently the Principal of school 1. In 2009 he was Principal of the school.

Witness 2 said he had not been a member of the selection panel which appointed the teacher and had first met her in January 2009. He said he had become aware of problems she was experiencing with her classes from informal conversations with her mentor (Assistant Principal, witness 3) and her buddy, and by way of a letter (26/2/09) to witness 3 from parent 1. In this letter he expressed concerns that had been relayed to him by another parent about difficulties her Year 9 daughter student 7 was having understanding the teacher's instructions due to her accent and the speed of her delivery. These facts were confirmed by his own daughter.

Witness 2 stated that he had then contacted the principals of school 2 and school 3 where the teacher had been employed on short term contracts in 2007 and 2008. Both principals had confirmed the concerns about the teacher's teaching that the school was experiencing with her. These were her failure to build positive relationships with students, her heavy reliance on a chalk and talk pedagogy, her difficulties with student management and the fact that students felt they were not learning anything in her classes.

Witness 2 said that, on the basis of this knowledge, he had met with the teacher (30/4/09) to discuss standards of performance expected of graduate teachers. At the meeting, he

said, the teacher was dismissive of the criticisms and informed him that she had had 22 years experience teaching Chemistry, but had not taught junior Science before. She complained of limited resources and facilities (access to data projectors being one), poor choice of texts, and a lack of guidance and support from her buddy and mentor. Witness 2 explained to the Panel the difference between a buddy and a mentor: a buddy being a fellow teacher who assists with practical matters related to the school environment and procedures; a mentor a more experienced teacher, usually with the same subject discipline, who advises on matters of professional practice. Witness 2 said he accepted some of the criticisms regarding facilities but not others (the choice of texts, witness 3's mentoring role) and advised the teacher to book the use of data projectors through the library.

Witness 2 stated that, on the basis of the meeting, a performance plan, based on the Professional Standards for Graduate Teachers, was developed for the teacher (7/5/09). The plan stated clear criteria and expected outcomes based on a Principles of Learning and Teaching (POLT) survey of her classes related to building relationships, teaching pedagogy and classroom management strategies. Witness 2 said he requested the teacher to develop lesson plans for her classes and to discuss them with teacher 5, the Year 12 Chemistry teacher. She was also required to observe teacher 5's classes and to undertake professional development in classroom management. Witness 2 said that at the conclusion of the meeting he was confident that his expectations were clearly understood by the teacher.

Witness 2 said that, subsequent to the development of the performance plan, he received a written complaint (15/5/09) from one of the teacher's Year 11 Chemistry students, student 2 (endorsed by student 8) in which student 2 stated, 'Since the beginning of this year in Chemistry I have not understood anything on any topics....It is very frustrating when the teacher moves on without me fully understanding the work. When one person understands it then she thinks everyone else does and moves on (Allegation 1(a), and 'I don't appreciate being called "slow" in front of my class and delibretly (sic) being locked out of the classroom.' (Allegation 4[a]).

As well, witness 2 said he also received written concerns from teacher 5 regarding the teacher's discipline knowledge, pedagogy and relationship with students based on her observations of the teacher in the latter's Year 11 Chemistry class and her own Year 12 Chemistry class. (These observations form the basis of Allegation 1[a] and are elaborated upon in teacher 5's evidence -see below).

Witness 2 said that, on the basis of these complaints, he met with the teacher (27/5/09) and then wrote to her (28/5/09) requesting her to respond formally to his concerns. In his letter he also drew attention to two other matters: one, her absences from a staff meeting and a Science KLA meeting; and two, her relationship with her colleagues based on incidents involving teacher 7 (a matter raised by the teacher herself) and teacher 3 (Allegation 6) where he requested her to 'be mindful of the presence of students as witnesses to ... discussions (with colleagues)'. He had spoken to both teachers about these incidents.

Witness 2 stated that, in her responses, the teacher was again dismissive of the observations and allegations, citing the inadequacy of the school's resources and

facilities, and the level of support she had received from witness 3 and teacher 5. She accused teacher 5 of professional jealousy because she believed she wanted to teach her Year 11 Chemistry class, an accusation witness 2 rejected absolutely. He believed teacher 5 simply wanted the best for the teacher and the students. However, at the teacher's request, Witness 2 agreed to appoint another mentor/support person, teacher 6, in whom the teacher expressed confidence.

At the meeting the teacher made reference to racial intolerance being a factor in her classroom interactions. Witness 2 said he rejected this: he thought that the teacher's accent may have initially been an issue regarding communication with some students (such as student 7) but as with teachers of other ethnic backgrounds, including Indian and Sri Lankan, the students were able to adjust.

Witness 2 stated that, in her letter, the teacher claimed 'the reasons mentioned in (witness 2's letter) are inadequate for making changes to my allotment (she had been removed from Year 11 Chemistry in June by witness 3, the Acting Principal) as all the accusations and allegations in the letter are false, inaccurate and without substance.' She stated that 'it is quite unfortunate that the school community does not have an established culture of learning environment that encourages students to become more effective learners.' She gave explanations for her absence from the two meetings and for her exchanges with teacher 3 and teacher 7. She implied that the school had employed her under false pretences, as she had believed that she would be teaching VCE Chemistry and Year 10 Science. She further stated that 'the school is 'in breach of contract as the school has changed the employment conditions'.

Witness 2 said that, despite the teacher's criticism, he felt at the time that the message about improvement was getting through. The teacher had concluded her letter by saying 'I am fully committed to continuous improvement and to serve the school in a professional manner'. Witness 2 said the school also provided the teacher with the opportunity to attend a professional development activity 'Behaviour Leadership: Management Discipline' which she undertook (4/6/09).

However, witness 2 continued, subsequently a pattern began to form showing that the advice about strategies to improve the teacher's teaching performance were not being acted upon and that, despite the advice and support being provided, 'nothing was being taken on board'. Witness 2 itemised several incidents and occurrences which led him to form this opinion. These included written complaints from student 9 (Allegations 1 [a]); an incident with student 6 (Year 9) involving him being verbally threatened and locked in a Science room (Allegation 5 [a]); a written complaint from student 1 about the teacher refusing to turn off lights to prevent glare on the board (Allegation 3 [a]); a letter from student 5's mother (16/6/09) complaining that the teacher had called her daughter a 'fat whiner', a 'man' and mocked her swimming ability (Allegation 4 [b] [iii]) and complaints from students stating the teacher had made them drink out of dirty beakers (Allegation 3 [b]). Witness 2 said that one feature of these complaints was that they came from all year levels at which the teacher taught.

Witness 2 said that, as a consequence of these complaints, and after seeking advice from the employer, he established (23/7/09) a monitoring and support group for the teacher,

the members of which were witness 4 (Assistant Principal and Science teacher), teacher 8 (Leading Teacher with responsibility for Performance and Development), and teacher 6. The brief provided to the group set out the Professional Standards expected of a graduate teacher, the details of support required for the teacher and the areas to be addressed. The monitoring and support period was to be of eight weeks duration from 28/7/09 to 18/9/09. Witness 2 said that the teacher was dismissive of the appointment of teacher 8 because she was an English teacher, and was also critical of him as an observer because he had no Science expertise. Witness 2 said that, in the one full lesson observation he made in November, what he noted was more of what was not happening, that is some kids were not on task - several were playing computer games - and not being checked because of it.

Witness 2 said that at the end of the eight week monitoring period, and from the weekly reports he received, he felt that not a lot of progress had been made, though matters improved in the teacher's classroom when someone else was present. The reports indicated that some effort had been made to improve lesson preparation but witness 2 said he got the impression from the teacher that, after travelling a long distance from school to home, her first priority was studying for a leadership course.

Witness 2 said that, at the end of the monitoring period, the teacher requested an extension of support to which he agreed, on the advice of the employer. He said he did so with some scepticism, given that the fundamentals of building relationships, pedagogy and student management were still not being addressed in her classes. He stated despite this he remained optimistic that the teacher would take on the advice of the support group and act on it.

Witness 2 said, however, that this monitoring period extension was characterised by further student and parent complaints, as well as a complaints about safety concerns from the laboratory technician, witness 7. He said there had been no discernible change in the teacher's behaviour and her response had involved a good deal of 'blame shifting'. She accused teacher 1, the Year 9 Level Coordinator, of influencing students against her, an accusation witness 2 said he considered 'fanciful'. He had to remind the teacher that it was her responsibility to follow up with teacher 1 any student discipline incident reports, and not vice versa; and that these procedures were spelt out clearly in the Staff Handbook which she had received at the beginning of the school year. Witness 2 said that the teacher also repeated her belief that neither teacher 8 nor himself were qualified to comment on her teaching as they were not Science trained. This he felt revealed a basic misunderstanding on the teacher's part: it was her pedagogy, not her discipline knowledge, that was the issue.

Witness 2 said that, again at the teacher's request, he established a second monitoring period (10-20 November), and at the end of that the teacher said that she had still not been given enough time to apply what she had learnt. Witness 2 said her comments left him perplexed and at a loss as to what he might do next to provide further support after three months of intensive support when there had been so little response to recommended strategies to bring about the required improvements.

Under cross examination, witness 2 made comments about the following matters.

One: There had been concern expressed about the teacher's teaching in first term but it was of a more informal and anecdotal nature. He always expected new teachers to have a bit of a 'settling in' period where they might encounter problems.

Two: There had been no formal complaints about the teacher's teaching before the letter from parent 1. He thought the letter fairly rambling and the reference to being able to speak in fluent German a 'strange analogy', but the gist of the letter was fairly clear: that is that students were finding it hard to understand the teacher's communication, which was not necessarily to do with her accent. He was not sure at what point he informed the teacher about the letter. He said he was not aware that parent 1's children had invited the teacher to attend their scout dancing festival later in the year.

Three: The operation of the leadership school involved a group of Year 9 students being absent from the school for a period of ten weeks. The teacher would have been informed that students were not assessed for that period of time so there was no need for students to catch up with the work taught while they were away. Witness 2 said, because of problems with fires near the camp, it was an unsettled period for that particular group as their attendance at it was delayed. It would have been a reasonable expectation that students work at school while waiting to attend the camp and to do a modified assessment of that work when they returned from the camp. Witness 2 said he did not believe all of student 3's absences from the teacher's class could be accounted for by her attendance at the camp; he believed she absented herself from some lessons because she thought she was getting nothing from them. He later said that, while student 3 could be forthright and opinionated, she could also be rude, especially if she became exasperated.

Four: There was an attendance requirement on Year 11 Chemistry classes. He was also aware of the differences between the teacher and teacher 5 over the merits of the Nelson textbook but that had had no bearings on his request to teacher 5 to act as an unofficial support person for the teacher. She was the appropriate support person because she was the Year 12 Chemistry teacher.

Five: The performance and development plan for the teacher was based on an employer assessment pro forma but was developed as a plan of action in an interview with the teacher (30/4/09). The interview and the subsequent plan identified areas such as poor preparation, student management and teaching strategies. The pro forma assumed a twelve month assessment cycle; however, because it was developed as an action plan, after consultation with the employer, it took on more urgency. The catalyst for developing such an action plan had been the letter from parent 1, as well as anecdotal evidence from the teacher's mentor and buddy.

Six: He was aware of the reason why the teacher had had the 'unprofessional' exchange with teacher 7: that is because he persistently borrowed her keys which she would have needed to unlock her Science classrooms.

Seven: During the monitoring periods, the teacher was required to attend meetings, and other teachers' classes for observation, in her preparation time. She was also requested to

respond formally within three days, as determined by the employer, to letters related to unsatisfactory performance, though he allowed a week for a response.

Eight: He did not believe there was a request to delay the monitoring period after the teacher's bereavement period related to her father's death; and given the lateness of the year it would not have been possible. Earlier he had stated he had not been aware of problems in the teacher's personal life which she said impacted on her teaching.

Nine: While it would be educationally sound to explain to students how VELS progression points worked such an activity needed to be undertaken with considerable tact. Individual students' names should not be used, and teachers would need to have developed a positive relationship with students to ensure that what was being said was not misconstrued. Both factors were lacking in the teacher's activity, and he could understand why student 6 might have felt humiliated.

Ten: Teacher 1's response to an incident report from the teacher, which stated emphatically 'This is not a coordinator's job!', would have been addressed to him or an Assistant Principal. It was not a response to the teacher.

In response to questions from the Panel, witness 2 agreed that 'exasperation' would be a good word to describe the reaction of experienced staff, such as witness 3, teacher 1, teacher 5, teacher 8 and witness 4, all of whom had endeavoured to assist and support the teacher. He stated, however, that their exasperation did not compromise the professionalism with which they continued to offer that support. He said he believed they finally came to feel that their efforts were not being met with sufficient seriousness by the teacher. Of witness 3, in particular, witness 2 rejected the teacher's criticisms of her 'failure' as a mentor. He described witness 3 as probably the best teacher in the school who took all her duties very seriously. Despite her heavy duties as Assistant Principal she had worked diligently as a mentor with many teachers over a number of years. He said she was the kind of mentor who would 'go the extra mile' for teachers requiring support.

Witness 2 also characterized the student population at the school as, in the main, 'an orderly and responsible group of kids who were there to work and to get an education', though he said their work ethic could be better. He said, on the whole, they were very tolerant and 'compliant' and would 'accept whatever was dished up'. He said that the examples of ineffective teaching, situations, occurrences and incidents being described in the hearing were simply 'not good enough', suggesting that the students deserved better. He added that, as with any group of students, there were those who would 'muck up' if teachers did not make the effort to engage them in learning.

Witness 2 concluded that, on the evidence of the teacher's attitude to teaching at the school, he did not believe that she had the capacity to develop the necessary abilities to become a competent teacher. She lacked empathy for students and, with staff, her attitude bordered on arrogance. Her perception of her knowledge of her subject made her disdainful of people who were not science trained offering an opinion on pedagogy, which was the crux of the matter.

Witness 3 gave oral and written evidence by affirmation.

Witness 3 informed the Panel that she was the Assistant Principal at the school. She had held this position for six years and had been a teacher for 30 years, 18 of them at the school, where she taught Mathematics and Science, and, in 2009, Year 12 Biology. In that period she had been a year level coordinator at several levels, Transition and Middle School Coordinator, and Science Domain leader.

Witness 3 said she was on the selection panel that appointed the teacher and had volunteered to mentor her. As a mentor she would have discussed with the teacher different students and their learning needs, classroom management strategies and, as a fellow Maths and Science teacher, provided her with teaching resources. She said the mentoring would have occurred on a needs basis, rather than to a schedule, but she could not recall the number of time she initiated a meeting with the teacher, or the latter with her. Witness 3 said the mentoring program was supplemented by a buddy program and an introductory induction program where new staff were familiarised with the school operations and provided with a copy of the Staff Handbook.

Witness 3 said that, from early on in the term, students from the teacher's Year 11 Chemistry and one of her Year 9 Science classes started to come to see her to express their frustrations about the teacher's teaching. On one occasion at least half the Chemistry class came, including student 10 whom she knew from her Year 12 Biology class. He was a high achiever with clear tertiary ambitions, as was the case with most of the others. A common complaint was that the teacher was writing notes on the board but was not explaining the chemistry concepts to them. Several students said they were seeking assistance for another Chemistry teacher at the school. She said she had advised the students to return to class and to attempt to negotiate any difficulties with the teacher. Witness 3 recalled that two of the Year 9 students were student 3 (academically oriented and determined to do well) and student 7 (a solid worker but average student). Their concerns, which they articulated very clearly, were the work was not being clearly explained and, when questions, were asked no satisfactory answers were given.

Witness 3 said that when she raised these matters with the teacher she was not very receptive to her advice: she basically denied that she was having problems with her teaching delivery or student management. Witness 3 said, on the basis of incident reports about behaviour that coordinators had been receiving from the teacher, she felt the need to impress on the teacher the importance of teachers developing their own strategies to change students' behaviour, a key strategy being to build positive relationships with the students. The complementary role of level coordinators as a secondary step in discipline procedures was clearly outlined in the Staff Handbook. Witness 3 said that, as the term progressed, she was particularly concerned about the escalating student management problems, especially in the teacher's Science classrooms, where safety issues were paramount.

Witness 3 said that she did not think the teacher's accent was an issue in the problems she was experiencing. She was not the first teacher from an ethnic background the school had employed and, over time, students had become used to working with such teachers (and their accents).

Witness 3 said that, in meetings with the teacher, it was she more than the teacher who initiated discussions about difficult students, and teaching and management strategies for dealing with them. She said she thought that the teacher really believed that things were going well, despite evidence to the contrary. In response to questioning from the Panel, witness 3 said there may have been an element of 'saving face' in the teacher's perception but, in its induction program, the school stressed the need for new teachers to be open about difficulties they were experiencing with students.

Witness 3 said that she was Acting Principal from 1-15 June and during that time several matters arose which raised further concerns about the teacher's approach to teaching and student management.

The first matter she recalled was an incident involving the teacher locking Year 9 student, student 6, in a Science classroom over recess, requiring another teacher, teacher 2, to unlock the door to let him out. Witness 3 described student 6 as a quite boisterous, 'in your face' student, who could be quite loud and silly around his friends but who was also genuine in owning up to doing wrong, with no guarantee, however, that he would not do the same wrong again. Witness 3 said, however, that no matter what kind of misbehaviour a student might engage in, there is no justification for locking a student in a room as a punishment because of the safety implications.

The second matter was a written complaint from student 3's mother, after student 3 had seen witness 3 a number of times. Student 3's mother said student 3 had become distressed about falling behind in Science because she could not understand the teacher and her questions were not being answered.

The third was a letter from student 5's mother to Assistant Principal, witness 4 alleging that the teacher had made personally derogatory comments to student 5 about her swimming prowess, after she had received a school athletics medal, saying that student 5 was 'fat' and she would probably sink or drown.

The fourth was complaints received from students and parents that the Year 10 Science curriculum had not been fully covered and concerns about the content of the mid-year exam. Witness 3 said she wrote to the teacher asking for the exam paper and her outline of the lessons covered during the semester. She said that, based on the students' responses to some questions she asked, she believed that work was being examined which had not been taught. She said she could not recall the teacher's response to this issue.

Under cross examination, witness 3 explained how the Science curriculum was developed, administered and implemented. She said that in the Science Department in 2009, the coordinator was a laboratory technician who had no role in curriculum development or assessment. Each member of staff was provided with an overview of the curriculum and a course outline for each year level so that each staff member was basically on the same page when it came to which topics had to be taught at which particular level. All staff were provided with documentation regarding topic outlines and main concepts and had ready access to resources (texts, practical materials, DVDs, data projectors, the infonet, worksheets, etc.) to enable them to teach each topic as they saw

fit. The Year 10 Science exam would have been developed by teachers teaching at that level (there was a strong emphasis on teachers working in teams) and would have been similar in content, with some minor variations, for all students.

Witness 3 later said that, while the Science laboratories were a 'bit shabby', there were ample resources available to deliver a 7-12 Science curriculum and laboratory technicians to assist in the preparation of materials. As well, she said the Science Department had moved to implementing the VELS Science curriculum in 2006, purchasing new class sets to assist teachers in doing so.

Regarding the use of different textbooks, witness 3 said she believed it was appropriate for a teacher to draw on different resources and to make judgments about which resources (including which textbook) might be best suited for explaining a particular topic or concept. She added, however, that if students were required to purchase a particular textbook (such as the Year 11 Nelson text) it was important for it to be used, not necessarily exclusively, and for students to feel that they were getting value for their money.

Witness 3 also rejected the teacher's criticisms of the school's collegiality and staff morale, teacher 5's capabilities as a teacher, and her own role as a mentor. She said the school had a staff of 50, many of whom had remained at the college over many years. The only time she could recall staff morale being low in 2009 was when a staff member died. She said teacher 5 was a highly regarded member of staff who had built great relationships with students and parents. Witness 3 challenged the teacher's claim about herself that, as a mentor, she was 'neither accessible or available' to discuss issues, and cited her own ongoing history as a mentor to new graduates in the school as evidence of her commitment to the role and its importance.

Witness 3 said that, at the end of Semester 1 and after a very 'difficult conversation' with the teacher, she removed her from teaching Year 11 Chemistry. The explanation she gave was that the students remained really unhappy with the teacher's teaching and the school needed to support the students. Prior to that she had become aware that some Year 11 students had stopped attending the teacher's Chemistry class and several were thinking of dropping the subject, even though they needed it for tertiary entrance requirement. Witness 3 said that the teacher was deeply unhappy about the decision to change her allotment.

Witness 3 also said that, at the beginning of Semester 2, witness 2 had asked her to relinquish her role as the teacher's mentor to which she agreed. She said it was obvious that the teacher had no confidence in her and, therefore, there was no point continuing. As well, witness 2 had made a decision to establish a monitoring and support group, one of whose members was the teacher's chosen support person/mentor, teacher 6. Witness 3 said she had not been aware of difficulties in the teacher's personal life, other than her father's death. Regarding the latter, she said the teacher did not say that it had had an impact on her teaching.

In conclusion, witness 3 said she believed, in her dealings with the teacher's, her receptivity to advice was very low and she showed an incapacity to try different strategies

to address the very serious issues she was facing in her teaching and student management. As to the teacher's ability to change in the future, witness 3 felt she was unable to comment.

Witness 4 gave oral and written evidence by affirmation.

Witness 4 informed the Panel he is now a casual teacher, having taken early retirement at the end of 2009 after teaching for 32 years. He was an Assistant Principal at the school between 2005 and 2009 and had served in a variety of leadership roles previously. In 2008 he taught two Year 8 Science classes.

Witness 4 said that in July 2009 he had been asked by the Principal witness 2 to lead a monitoring and support group for the teacher with teacher 6 and teacher 8 as members. Prior to that, in his role as Assistant Principal, he had been aware of complaints made by students and parents about the teacher's teaching and behaviour. The stepfather of Year 9 student, student 11, who had been suspended a number of times over his time at the school, had claimed the teacher 'assaulted' his son when she physically prevented him from leaving a Science classroom. Witness 4 said that up to seven or eight students at a time would leave the teacher's junior Science classes to complain to him about not being able to understand her instructions or explanations, or because she had treated them unfairly or disrespectfully. He said he had vague recollections of student 6 being locked in a classroom. He considered student 6 to be average in terms of management issues and not a major cause of disruption. He considered student 3 to be a good student, polite and well behaved.

Witness 4 said that he personally observed several of the teacher's classes where he noted a range of teaching styles being attempted and he did not see the classroom management issues that other members of the support group reported. He suspected that his status as an Assistant Principal may have had a positive effect on student behaviour. Nevertheless he continued to receive complaints from students and parents over the course of the monitoring and support period, including a confrontation with a very angry parent.

Witness 4 said that, while the teacher, in meetings, was receptive, if a little defensive, to suggestions about strategies for dealing with difficult students there was a question as to how much of what was being suggested was actually being put into practice. He said that issues to do with adequate, even over compensatory, lesson preparation and the need to give clear instructions remained a fairly constant concern throughout the monitoring period. Witness 4 said that, consequently he believed that the areas of concern addressed at the beginning of the monitoring period – relationships with students, the level at which the curriculum was being pitched to a range of students, and student management – all areas that are fundamental to teaching – still needed improvement. Witness 4 said that, while some issues might have been resolved at a particular time, he felt that, over the whole support period, the teacher did not 'move forward a long way.'

Witness 4 rejected the teacher's objection to teacher 8 being a member of the support group because she was not Science trained: teacher 8 was present because of her

expertise on general teaching practices. Similarly, witness 4 said, he found the teacher's complaint that teacher 1 prejudiced students against her really hard to believe as it would not have been in her interest to be dealing with a stream of discipline problems. If anything, he said, teacher 1 was perceived as being too tough on students.

Witness 4 said he found the teacher's criticism of the school's collegiality, staff morale and lack of resources for the Science Department really surprising. He thought the school worked well, both in its buddy and mentor programs, as well as in its daily operational procedures designed to ensure transparency and that all staff were supported. He considered the Science Department to be well equipped with the support of efficient technicians and well defined processes for ordering equipment for classes.

Witness 4 said, in his experience working with graduate teachers, it was a developmental process for all of them in getting on top of teaching and learning strategies and developing effective student management. They had usually admitted such, but this had not been the case with the teacher. He also thought that, like many mature age graduate teachers, she had expectations of young people that were not immediately met. He characterised this as seeing them as 'vessels to be filled up with knowledge' but he said, if positive relationships were not built with students, they would not take on whatever it was teachers were trying to do. He said, that given the time and resources put into supporting the teacher to develop the skills necessary to be a continuing teacher, he thought it unlikely that 'she could get there.' He added the caveat that he was making that judgment on what he had seen of her performance four years ago.

Student 6 gave oral and written evidence under oath.

Student 6 informed the Panel that he was in the teacher's Year 9 Science class in 2009. He said that on 5 June she had told him to stay back after class. He thinks it was probably for being loud or for talking. In response to questioning from the teacher's representative, he said he did not think he had been making sexist comments about girls in the class, even though he and a few girls were always picking on one another. He said that, when the bell went, he attempted to leave and the teacher stepped in front of him at the door and pushed him on the chest, causing him to take a step back. At the same time, the teacher said to him she 'could put him out for five minutes and if he hadn't come round by then they would not be calling an ambulance', or words to that effect. She then put him in Room 1 (and student 11 in another room) and locked him in where he remained for 20-25 minutes. Student 6 said 'if I could have legged it I would have' but he could not get out of either of the doors to the room, even though he tried them, as both were locked. (Student 11, he said, had managed to find an exit from his room). He was eventually released by teacher 2, who unlocked one of the doors with some assistance from him. Student 6 said he was pretty shocked by the way he was spoken to and treated, and remembered writing an incident report at the time for, he thinks, witness 3.

Student 6 described a class in Term 3 or early term 4 when the teacher had drawn a graph, with a scale of -10 to +10, on the board and called it 'student 6's popularity'. When he was working the teacher had put a dot point at +6, but when he had finished his work and was sitting back waiting to be told what to do next she put a dot at -8. She had also asked other students where he fitted on the graph. He said he had felt pretty

humiliated to be singled out. Another time the teacher had put up a graph indicating his (and a couple of other students) education level as being at Year 7 which left him feeling 'pretty disappointed'.

Student 6 said that he also heard the teacher threaten to give student 12 a bad mark in Science if he did not behave himself, and tell students if they forgot to bring pen and paper they owed \$2 for a pen and \$1 for paper. He did not know if anyone gave the teacher money.

Student 6 admitted that he was the kind of student who 'would test the boundaries' and be 'a bit of a trouble to put up with' but he did settle down and pass Year 12. He said he thought his progress in Year 9 Science was not too bad, even though he never really liked the subject. He said he tried to get most things done and sat with pretty good kids who helped him. He described the teacher's teaching style as pretty 'laid back, chill', by which he meant 'she pretty much let students do what they wanted'. Sometimes she would explain things (He said had had no problem with understanding the teacher because of her accent); sometimes she would ignore students; and there were occasions where she just sat at her desk working on her laptop or doing paper work. He said 'his learning was never forced', but both teacher and students should work together at learning. He said a bit of encouragement from the teacher would have helped.

Student 6 said the student behaviour in the teacher's class was pretty chaotic but probably no more so than the other classes he was in. Students were loud, threw things at the bin, and moved around a bit. He said at first the teacher used a discipline process that involved warnings before a student was sent to the Assistant Principal or the Year 9 Level Coordinator (teacher 1) but, after a few weeks, there were no warnings. Students were just sent out straight away which led to arguments with the teacher because no one really wanted to front up to witness 3 or teacher 1 for their behaviour.

Teacher 3 gave oral and written evidence under oath.

Teacher 3 informed the Panel that she taught History, English and Drama at the school in 2009-2010. She had been appointed at the same time as the teacher. She now teaches at school 4.

Teacher 3 said that on 28 May she had been supervising a Year 11 VCE student assessment exam (SAC) in a classroom which adjoined a staffroom in which the teacher was located. At one point during the supervision she had asked students in the corridor to be quiet. She had also popped her head into the staffroom and politely, even apologetically, asked the teacher if she could keep her voice down as it was distracting her students' concentration. Teacher 3 said she had made a similar request to staff in that room on previous occasions.

Teacher 3 said that, after the class she was walking through the grassed courtyard area at recess when the teacher accosted her from behind and accused her of being rude to her. Teacher 3 said that the teacher did not shout at her but was obviously very angry, saying she would never forgive her and that she could not believe that a young teacher could make such requests of a more experienced teacher. Teacher 3 said the exchange was very

obvious to students in the yard, several of whom asked her if she was okay. She said when she went to her staffroom she burst into tears and was advised to make a written incident report to the Assistant Principal, witness 3. There was no subsequent suggestion of a meeting between her and the teacher.

Teacher 3 said she had had little to do with the teacher, apart from shared induction sessions conducted by witness 3, and had thought of her as 'poised lady' whom she held in 'high esteem'. Teacher 3 said that, subsequent to the exchange, she felt intimidated by the teacher, who did not speak to her for the rest of the year. She said she felt that the teacher may have been angry about things that were going on in her own life.

Teacher 3 described to the Panel the school's induction and mentoring programs, and the level of collegial support she received throughout the year. She said that, judged on a comparison with her new school, some staff might have felt the school to offer less collegiate support than they expected, but she found the level of support very good and was impressed by the 'wonderful' way in which a very experienced staff worked with one another and with students. She said the induction program included about four meetings of all staff who were new to the school with witness 3 where they were encouraged to speak about whatever issues concerned them. She said she had no trouble speaking about the difficulties she was having with her Year 7 and 10 classes but could not recall if the teacher spoke about any difficulties she might have been having. She said that new staff were encouraged to seek collegial support outside the official mentoring provision, which she did so freely both in terms of resources and advice about student management. While the course outline documents she received were brief she was impressed by both staff's willingness to share their resources with her and the freedom she was allowed to develop her own, which she did even though the school's technology for doing so was a bit 'lacklustre'. All new staff, she said, were encouraged to 'go for it.'

Teacher 5 gave oral and written evidence by affirmation.

Teacher 5 informed the Panel that she had taught at the school for eight years in the area of Science and Mathematics. In 2009 she was an Acting Leading Teacher with responsibility for the school's daily organisation and timetabling, as well as teaching Year 10 Science and VCE Year 12 Chemistry. She has a PhD in Chemistry and was also a Victorian Curriculum and Assessment Authority (VCAA) VCE Chemistry assessor. Teacher 5 stated that at no time was she appointed the teacher's official mentor or buddy. Early in the year (possibly even at the end of 2008) she had performed a minor induction role when she provided the teacher with relevant resources, including the Nelson textbook and the Heinemann practical manuals for her Year 11 Chemistry class.

Teacher 5 said she had been approached to work with the teacher by Assistant Principal, witness 3 after the latter had been approached by student 10, one of the most conscientious students in Year 11 and now doing Science at university, with concerns about the quality of the teaching he was receiving from the teacher. On the basis of student 10's concerns witness 3 had shown her his workbook and teacher 5 had recognised that she and the teacher had very different teaching styles. She did more practical experiments and allowed for student group work and presentations, whereas the teacher's style was very teacher-centred and textbook reliant. Teacher 5 said that

subsequently she had been asked by witness 3 to assist the teacher to develop lesson plans that were more appropriate for the range of students at the school. Prior to that request, teacher 5 said she had also been approached by a few Year 11 students, whom she had known from her Year 7 home group, also expressing their concerns about the teacher's teaching. Teacher 5 said that of sixteen members of the Year 11 Chemistry class she considered seven of them to be above average academically, and several turned out to be good Year 12 Chemistry students.

Teacher 5 said that, while observing the teacher teaching concepts of ionic bonding and polarity theory, she came to the conclusion that the teacher was very textbook reliant (except for the school prescribed one) and unable to explain chemical concepts in a student-centred way. She said the teacher copied directly from a textbook onto the board and then, when asked to explain concepts, simply read from the textbook, repeating what was already on the board. Teacher 5 said that, while the teacher's chemical knowledge may have been correct, it was not presented in ways that were accessible to the students who required a process of mental modelling to better understand the concepts. Similarly, when the teacher observed her Year 12 Chemistry class, she was asked by two bright students to help them understand the topic being taught, bonding of fructose molecules. While the teacher was not there to teach, teacher 5 believed students had a right to ask a senior Chemistry teacher in the room to assist them. Teacher 5 said that the explanation the teacher gave simply confused the students. She also believed that a diagram the teacher had drawn on the board in her Year 11 class to explain bonding was inaccurate.

Teacher 5 said she recognised that it was appropriate for teachers to use a range of textbooks but she believed that the text prescribed by the Science Department should have been treated as the primary resource. Not only had the student been required to purchase it, it was a reference text for the students from which they could work independently. She believed that the teacher's dismissive attitude to the Nelson text simply confused the students as they started to doubt the truth of its explanations.

Teacher 5 said that, on the basis of a test result the teacher showed her, which a large number of students had failed, she concluded that the students had not understood the basics of numerical chemistry and she doubted if they were going to have done the appropriate work to enable them to pass Unit 1 Chemistry.

Teacher 5 said that, after two classroom observations, she made the following suggestions to the teacher about resources to vary her teaching: make use of the school data projectors, which were readily accessible, for presenting work; provide more practical experiments and activities; use the Science Department's videos and DVDs which presented topics in humorous and student-centred ways; upload resources on to the school infonet for students to access independently; and utilise the numerous worksheets available. Teacher 5 said that the teacher did not act on her advice, apart from using model sets to demonstrate covalent bonding. Even then, she said, she believed the activity had not been contextualised with clear instructions and the students were confused about what exactly they had to do. Teacher 5 said she did not provide the teacher with written feedback on her teaching, and after Semester 1 had little professional contact with her.

Teacher 5 said she saw little attempt by the teacher to establish positive relationships or engage in positive interactions with students and, in fact, she saw her engaging in actions which would have had the opposite effect. These included laughing at students when they asked for an explanation, which mocked their inability to understand concepts, erasing and scribbling over chemical bonding diagrams students had drawn in their workbooks, and laughing at their attempts to draw the diagrams. Teacher 5 said that the teacher told her that she was unable to help some students because they were not 'likeable' and had put up barriers to stop her helping them. She said the teacher was critical of the casual atmosphere she allowed in her class, especially when students were making presentations, and of the social banter (of the 'how was your weekend?' kind) she engaged in with students. Teacher 5 said such criticisms failed to recognise that these kinds of interactions were important in succeeding with students.

When asked by the Panel about whether she thought the teacher was either unable or unwilling to form positive relationships with students teacher 5 thought it was more the latter, though she conceded the teacher made more of an effort with brighter students.

Teacher 5 said that her direct observations of the teacher's teaching were complemented by informal conversations she had with her former Year 7 home group students, as well as others she knew through her daughter who was in the Year 11 cohort. She said students complained to her that they were learning nothing, would not be able to pass the end of semester exams and were thinking of dropping Chemistry even though they would need it for tertiary entrance requirements. Teacher 5 said that she made it clear that students should make such complaints to the relevant school personnel not to her. Similarly when the Year 11 students came to the library, where she was teaching her Year 10 class, she took a list of those who came, informed the Principal and told the students they should return to class. She said that when students asked her if they attended her lunchtime tutoring classes on the Year 11 exam were they also expected to attend the teacher's class she said yes. She also said she privately sympathised with their belief that they should not have to attend both and had informed the Principal of such.

When asked to comment on the student population in general at the school teacher 5 said it had its share of difficult and challenging students, but less so than she had experienced at school 2. However she believed they could be worked with, and the school's implementation of a restorative practices approach to student management was an indication of this. She said, as a former Year 7 Coordinator, she was aware of the kinds of problems students might bring to school from their home backgrounds and it was important to understand such to be able to teach them effectively.

In regards to student 3, whose complaints form the basis of Allegation 4(b), she thought her a delightful student determined to do well. She said that when student 3 thought she might need some chemical knowledge for her tertiary entrance, even though she was not doing Year 12 Chemistry, she borrowed a textbook and worked through it on her own initiative.

Regarding staff collegiality and support teacher 5 said she thought the school's induction and mentoring programs had worked well, and student teachers found the school

welcoming and helpful. Her own experience of working in the Science Department was that staff worked closely together sharing resources and materials.

Regarding the teacher's criticism that the Science Department was reluctant to embrace curriculum reform she stated that, when she was Science Coordinator in 2006, the Department had moved quickly to update the Science curriculum to VELS as required, purchasing class sets of a new Science textbook to assist them in doing that. As well, the department had implemented the Harvard Teaching for Understanding pedagogy model to supplement its VELS teaching.

Witness 5 gave oral and written evidence by affirmation.

Witness 5 informed the Panel that he was the Principal of school 3. He provided evidence relating to the teacher's performance at the school between June and December 2008.

Witness 5 said that the teacher did not seem to form good relationships with students and was particularly adversarial with many of them, resulting in complaints from both students and parents. The complaints were often about the way the teacher spoke to students, and the way she failed to engage with them, often refusing to respond to students' questions, saying they were not relevant to the task. There was little evidence of practical work done to engage and motivate students to learn. Witness 5 characterised the teacher's teaching as very traditional with notes copied from the board supplemented by questions from the textbook.

Regarding student management, witness 5 said the teacher had very definite opinions about classroom practices which could be summed up as teaching the five who wanted to learn and avoiding the twenty who did not. This led to significant student management issues and one level coordinator complained that the teacher refused to engage in restorative practices which was the school's preferred student management process. Witness 5 said that, on one occasion, after investigating a confrontation between the teacher and a very difficult Year 9 female student, he had to counsel the teacher about using appropriate student management strategies and avoiding physical encounters with students.

Witness 5 said that, in the two interviews he had with the teacher, she refuted all allegations and saw no problems with her level of competency. Instead she often claimed that parents, students and teachers were lying and that many complaints were racially motivated. She accused the school of providing inadequate resources and support to complete her VIT registration, even though the panel had signed off on her registration.

Witness 5 said he had rejected the teacher's responses. He thought she had received a high level of support and professional assistance from experienced staff above and beyond what a new teacher might expect. He believed the problem was that, while the teacher seemed receptive to feedback, and showed a willingness to become more effective, her intentions did not come to fruition in the classes themselves, even though he thought she seemed well prepared for class. He did not believe her lesson preparation was the root cause of her problems. Regarding the teacher's VIT registration, witness 5 said he believed that the panel dealing with the whole question of VIT registration in the

school was dealing with issues which 'sat separate to' the ones he was seeing with her teaching and student management.

Witness 5 said that, despite some professional differences he believed that, on the whole, the teacher had good rapport with other members of staff.

Witness 5 said that positions in Maths-Science may have been available in the school at the end of 2008 but he would not have re-employed the teacher.

Witness 6 gave oral and written evidence under oath.

Witness 6 informed the Panel that she was Principal of school 2, and was the Junior School Principal at the school where the teacher was employed from July to December 2007 on a six month contract. At the beginning of her contract she was given a staff handbook, a brief induction and provided with an experienced staff member, who also worked with pre-service teachers, as a buddy.

Witness 6 said it became apparent early on, within a week even, that there were issues with the teacher's teaching from the number of complaints from parents and students, including a class petition from a group of Year 7 students. These included not helping students with their class work, a teaching style which involved writing work on the board with limited explanation or instruction, instructions that were inconsistent and not specific, showing disrespect to students, and behaviour management with her classes.

Witness 6 said the school felt obliged to give the teacher, as a first year out teacher, as much assistance as necessary. She said that, as a consequence, following a meeting in early August, the Principal set up a series of support strategies to aid the teacher. These included setting up reciprocal classroom visits with experienced staff of her own choosing, extra support from year level coordinators, and funding to allow the teacher to complete as much external professional development as she wished for the remainder of her contract.

Witness 6 said, as well as this support, the school employed early on in Semester 2, teacher 9, a lecturer and highly experienced Maths teacher, to support the teacher with her teaching. Teacher 9 worked a total of 38 hours over a six week period, one on one, in an attempt to support the teacher with her teaching. Witness 6's recollection on teacher 9's feedback at the end of the six week period was that, while he was present in the classroom, the teacher showed some improvement but, from discussion with her students, it seemed she reverted back to her previous style of teaching when he was not there. He believed he had done all he could with her, but could not see her making any significant improvements.

Witness 6 said that, at the end of the year, the school was not happy with the teacher's performance and, had it been possible, they would not have renewed her contract. Nor would they have recommended her to other schools.

Witness 6 said she was not aware of the teacher informing anyone in the school that she was having difficulties in her personal life.

Student 10 gave oral and written evidence by affirmation.

Student 10 informed the Panel that he is currently doing 3rd Year Science, majoring in Electrical Systems at University.

Student 10 stated that in Semester 1 2009 he was in the teacher's Year 11 Chemistry class of eighteen students. He said that he was one of a group of students who approached Assistant Principal, witness 3 to express their concerns about the teacher's teaching. They had previously raised their concerns with the teacher but felt they were not being addressed with the seriousness they believed they deserved, even though they were able, conscientious students whom they thought the teacher favoured. Their basic problem was that they felt their chances of getting a good ENTER score was being jeopardised at an early stage of their two year VCE studies.

Student 10 said he was not sure how much Chemistry the teacher knew. The problem, however, was with her inadequate explanation of concepts. She would write directly from a textbook on to the board and then, when asked for explanations, would simply read from the textbook. He said the teacher would instruct them to draw diagrams for the bonding structures of molecules without explaining the bonding structures required. She would then scribble over the workbooks of students who drew bonding diagrams using lines instead of the dots she used, without adequately explaining why one was correct and the other not. She also told them that the Nelson textbook which they had been required to buy, was wrong and outdated, and to instead use the photocopies she provided of the Heinemann text.

Student 10 said that the one practical experiment he could recall doing, on modelling molecules, was also unsatisfactory. It was not presented as a structured activity: the class was simply given the materials and basically told 'there you go'. He could not recall doing a practical experiment on materials testing or a pre-test at beginning of the semester to ascertain their level of Chemistry knowledge. Nor could he recall being given structured worksheets from which to work.

Student 10 said that, when they were using their workbook in class and giving answers to questions, the teacher would sometimes respond to a student who gave an incorrect answer by laughing at them or shaking her head, in ways that he said he would have found humiliating. He said one student became so annoyed with the teacher's responses to her that she eventually dropped Chemistry.

Student 10 said that, after the interview with witness 3 which occurred late in the semester, he and several other students spent Chemistry periods in the library because they felt there was more benefit in studying from the textbook, while being assisted by one of the brighter students, student 13, and teacher 5 who, while teaching her Year 10 class in the library, would occasionally answer a question for the group. Although nothing was formally said they were led to understand that they would not be penalised for their non-attendance at the teacher's classes. Student 10 said he also relied heavily for assistance from his sister who was studying second year Chemistry at university.

Student 10 said that, while the town was a 'white community', he did not believe there was any overbearing racism amongst the students. When asked by the Panel if he had heard any derogatory racist remarks directed at the teacher he said he could not say it did not happen, but, if it did happen, he doubted that it was a 'real attack but more a certain level of ignorance'. That said, he reiterated that he did not believe there was any particular animus towards teachers of non-Anglo-European backgrounds, citing the support for his Year 12 Physics teacher who was of Indian-Balinese descent as an example. While some students may initially have had problems with teachers' accents, on the whole they quickly adapted.

Teacher 6 gave oral and written evidence by affirmation.

Teacher 6 informed the Panel that she was a Mathematics and Science teacher at the school where she had worked for six years, having taught for 27 years.

Teacher 6 said that in July 2009 she was requested by the Principal witness 2 to be a member of monitoring and support group for the teacher. She had also become the teacher's mentor, replacing witness 3. Prior to that, she had informally supported the teacher with resources, units of work and teaching ideas. She stated that as a fellow teacher who also had difficult students she felt sympathetic toward the teacher. She had not been aware of the teacher's classroom practices and, while she had given her units of work, she could not recall them developing any together. Before the formation of the support group she had been aware that the teacher was having problems with her teaching, but was not aware of the specifics of these difficulties.

Teacher 6 said that the support group's brief was broad: it was to look at issues of classroom management, discipline, students' responses to the teacher's teaching and the materials the teacher was using. She had felt some doubt as to whether the support group would be able to assist the teacher with all of the areas covered in the brief, given its comprehensiveness. Teacher 6 said she thought she played a lesser role on the support group than did Witness 4 and teacher 8 because their teaching allotments allowed them to directly observe more of the teacher's classes. She did not agree with the teacher's objection to teacher 8's role on the group because she was not a Science teacher: she believed teacher 8 was in a good position to make an assessment of class processes. She assumed both Witness 4 and teacher 8 would have suggested strategies to the teacher to improve her teaching because of their direct observations. She could not be sure if strategies which covered all areas of performance were offered, nor could she be sure if the teacher acted on the feedback given her.

Teacher 6 commented on the school student population, both generally and on individual students who figured in some of the allegations. Of the student population she said many of them came from poor socio-economic backgrounds where education was not highly valued. She did not think of them, on the whole, as racially intolerant. She said while they could be challenging, incredibly challenging students of the kind who could 'make your life a living hell' were few and far between. She believed it important for teachers to work at accommodating all levels of student ability, and that establishing a relationship with students was an advantage in achieving this. She believed that if

students were not very academic but were well behaved and tried hard they would sit quietly and not learn if a teacher did not engage them.

Teacher 6 described student 6 as 'lively, quite clever, naughty' and student 3 as 'delightful and hard working'.

Teacher 6 said she believed the teacher's problems stemmed from unrealistic expectations of students and about how they should behave. She stated the teacher could not understand why they did not do as she wanted. Teacher 6 said that the teacher gave the impression that she 'should have authority as a teacher and students should do as they were told as a result.'

Teacher 6 also believed that the teacher created problems for herself by not doing enough careful pre-planning, especially for Science classes, and recalled her saying that her long driving time to and from school made such preparation impossible, an excuse teacher 6 said was not acceptable.

Teacher 6 said that, at the culmination of the second monitoring period, she did not believe there had been sufficient improvement in the teacher's establishing rapport with students, or with other teachers. She said that, even though it was a difficult matter to assess, that on the whole she believed that the teacher had been given 'a fair go' to improve her performance as a teacher at the school. There had been strong collegial support and good resource provision to deliver a Science curriculum, even though the Science laboratories were a bit outdated. She did wonder however why, given when the teacher's problems were identified 'early in the year, a support group structure had not been put in place earlier than July'.

Teacher 6 said she had not been made aware of any problems in the teacher's personal life, and, when the teacher's father has died, she only became aware of it after the teacher returned from the funeral in Sri Lanka.

Witness 7 made a statutory declaration but was unable to attend the hearing.

Witness 7 is a laboratory technician at the school, a position she has held for 26 years. Witness 7 said, from her position in the Science preparation room, she was able to observe the teacher's classes. Witness 7 said, although she did not record the incidents she observed, what she considered to be unsafe student conduct and inadequate student supervision occurring on a regular basis. Students were often yelling and screaming, running in and out of the classroom and throwing paper, including during practical classes. On one occasion the gas taps had been left on after the teacher had taken a form assembly in the room, a potentially dangerous situation. Witness 7 said she found the teacher pleasant and polite, but also frustrating to work with because of her inconsistent attitude to the preparation she required for practical classes.

Student 3 gave written evidence in relation to Allegation 4 but was unable to attend the hearing.

Student 3 was a student in one of the teacher's Year 9 Science classes. She stated that she had always enjoyed Science but came to dislike it because of the teacher's teaching style. She found it difficult to understand her teaching and did not receive assistance when requested. The teacher had once upset her by saying to her that 'she didn't understand' and that she 'was the only person in the world that she did not understand.'

Student 3 stated that she did not think that the teacher was a fair teacher: she had written on her progress report that she needed to improve in areas such as homework and meeting assignment deadlines but she did not get any homework or assignments at that time because she had been on a leadership camp. At the same time, even though she had been absent on the camp, the teacher had expected her to complete tests on the classwork undertaken during that time.

Student 3 said that she observed the teacher humiliate two other students, student 4 and student 5. She had told student 4 that she would be unable to get a boyfriend because of her lack of breasts and had called student 5 a 'man' and a 'fat whinger,' and had mocked her swimming achievements and ability.

Student 3's complaints in a letter to the school administration (22/6/09) were supported by her mother who added that 'the students have had trouble understanding the teacher's accent since the beginning of the year.'

Witness 8 gave oral and written evidence by affirmation.

Witness 8 informed the Panel he was a teacher at school 5. He taught at school 3 in 2008. He was a member of the panel which appointed the teacher to the college and signed off (as the Principal's delegate) on the process of awarding the teacher's full registration as a graduate teacher.

Witness 8 said that the teacher had been appointed just before the beginning of the school year but he could not remember if the panel had called for references. If it did, he did not see them. Witness 8 said that there were some 'teething problems' in the teacher's adjustment to the culture of the college. As with teachers of Sri Lankan background he had worked with in the past, the students had had to get used to the teacher's teaching style, but she had had to make adjustments as well. He acknowledged that a level coordinator had complained that the teacher had, on one occasion, refused to engage in the restorative practices discipline process at the college.

Witness 8 said he had never directly observed the teacher's teaching, though he may have dropped in on her classes. Early in the year, he and the Acting Principal had facilitated a number of support meetings with her to address concerns raised by students and parents, and he had found her receptive to constructive feedback and willing to undertake professional development to improve her teaching. This was in spite of the fact that in a letter to the Principal (30/8/08) the teacher stated that 'school 3 so far has failed to provide me with adequate support structures needed for a graduate teacher.' He did not know when the support meetings ceased.

Witness 8 stated that his own direct involvement with the teacher ceased in the middle of the year when he relinquished the role of Acting Assistant Principal. Under cross examination he acknowledged that the fact that the administration was still receiving complaints in August from students and parents about her teaching suggested that, while she may have been receptive to feedback in meetings, this did not necessarily translate into an improvement in her teaching. He also conceded that the teacher's formal response (30/8/08) to the allegations contained in a letter from the Principal, where she refuted all of them as being 'false, inaccurate and without substance', indicated someone who was probably not receptive to feedback.

Regarding the teacher's VIT full registration, witness 8 recalled a 'rigorous discussion' with her at the end of the year in an hour long interview which he and her mentor conducted. In this interview she presented her portfolio. He could not recall, however, a lengthy discussion with the new Principal, witness 5, in which the latter was hesitant about granting the teacher her full VIT registration.

Witness 8 stated that he recognised that the teacher was taking on a 'tough gig' when she accepted the appointment at school 3 but, from his long experience in coaching roles, he believed he could recognise when a person was genuine in attempting to succeed. He considered her to be an 'enthusiastic and passionate teacher' but conceded that attempting does not always lead to success. He said he was aware of considerable empathy amongst staff for the teacher, and the efforts she was making.

Witness 9 provided written evidence to the hearing. She also represented the teacher at the hearing.

Witness 9 was the Mathematics Domain Leader at school 3 in 2008 where the teacher taught a full teaching load of Mathematics and Science classes. Witness 9 said that the teacher was a valued member of staff, who was well respected by students, staff and the wider school community. She said the teacher's classes were well prepared in accordance with VELS, the Principles of Learning and Teaching (POLT) and school policies. She was clear in her instructions, firm but fair in her classroom interactions and provided encouraging feedback to students who made good progress because of it. She wrote full reports, gave parent teacher interviews, participated fully in departmental and staff meetings, and undertook professional development. Witness 9 said she believed the teacher showed full and professional commitment to her teaching and provided very kind and consistent support to other members of staff throughout the year.

Witness 10 gave written evidence to the hearing.

Witness 10 taught at school 3 and shared an office with the teacher. She stated she observed the teacher to be very professional in her preparation. She was knowledgeable, appeared to be well organised and liaised effectively with the laboratory assistant to arrange materials and equipment for practical classes. She followed the curriculum the college had in place and completed assessment and reporting as required. Witness 10 said that the teacher occasionally sought her advice regarding the curriculum and she had assisted her with lesson plans and information about the general day to day operation of the college. She was an active member of the Science Department, attended meetings as

required and contributed to discussions related to curriculum and assessment and reporting policies.

Witness 10 stated that she had not been aware of any ongoing unresolved difficulties that the teacher had been experiencing and nor did it appear that she had difficulty in establishing effective relationships with most students. She stated that, as far as she knew students, were engaged in the teacher's classes and some of them were successful in a Science competition because of the support she provided.

Witness 10 stated that as the teacher was a graduate teacher she naturally needed some time to consolidate the various skills needed to manage difficult students, some of whom were intolerant of a person who was 'different' and whose accent was not one they had encountered on previous occasions.

Witness 11 provided written evidence to the hearing.

Witness 11 is the Head of Science at school 3 and was the teacher's mentor.

Witness 11 stated that the teacher taught Years 8 and 10 Science and Year 10 Maths in 2008. He stated that he always found her well prepared, gave clear instructions and was diligent in her assessment and reporting. She participated in both Science Department and general staff meetings.

Witness 11 stated that he and the staff found the teacher easy to get along with and she quickly developed good relationships with staff and students.

Witness 12 gave written evidence to the hearing.

Witness 12 is the Laboratory Technician at school 6 where the teacher taught Years 11 and 12 Chemistry and some junior Science classes in 2007.

Witness 12 said she found the teacher to be very diligent in her work practices. She was very good in the classroom, had good relationships with her students and would stay back and help them if needed. Witness 12 said that, from time to time, she would be in the teacher's classroom to help set up experiments and found that the classes would run smoothly and free of any incidents. Students knew exactly what they had to do and that health and safety were very important issues with which to start the lesson.

Witness 12 said she found the teacher a very nice person, caring and friendly and easy to get along with. She said the teacher always came to her in the laboratory to ask questions about the practical class that she was teaching and was well prepared.

Witness 12 stated that she found the teacher worked well with all the other teachers in the Science Department.

The Teacher

The teacher gave oral and written evidence under oath. Her written evidence was contained in a closing submission and a letter in response (15/2/12) to the Institute of Teaching's Notice of Formal Hearing. As well, the Panel considered statements made in the Investigator's interview and a series of written responses the teacher made to witness 2, Principal of the school, –witness 5, Principal of school 3 and a department of education Regional Director (28/1/10).

The teacher informed the Panel that she currently worked as a consultant and had her own registered business. She said she did not advertise on her website that she had a PhD qualification, but that she had been enrolled to undertake PhD study at two different institutions.

The teacher said her previous employment included lecturing and tutoring at the University of Melbourne and Latrobe University, teaching Information Systems at Kangan TAFE and tutoring VCE students in VCE Chemistry, Biology, Mathematics and English for nearly twenty five years.

The teacher stated that she had university degrees with majors in Chemistry and Biochemistry. Her methods in her teaching diploma from Tertiary Institution (2006) were Chemistry and Biology. She had received distinctions and high distinctions for her units in the diploma. She said she had a post-graduate course in education at University in 1997. Under cross examination, she qualified this and stated she chose not to complete this because, having failed the teaching practicum, she decided not to take up the option of repeating the practicum because of family reasons.

The teacher made clear that, although she had expressed interest in doing a Masters in Educational Leadership (and made a comment to that effect to the Principal Witness 2), she did not enrol in any educational course while teaching at the school.

The teacher said that, at the end of 2008, she had been offered positions at schools in Castlemaine, Caroline Springs and Williamstown. She chose the school, even though it involved a 190 kilometres round trip each day, because it was a seven year appointment with the opportunity to teach senior Chemistry.

The teacher said she initially found the school community a very lively one and students, staff and parents very welcoming. In her first weeks there she did professional development in–services in fire fighting, restorative practices (her third PD in this approach to student discipline) and restraining training, an in–service in how to deal with difficult students in extreme situations (relevant to Allegation 5 [a]).

The teacher made specific and detailed responses to each of the Allegations. She also made statements about a number of mitigating circumstances related to her personal life, the level of racial intolerance she experienced, the kinds of support she received at various schools, and the school's teaching and learning culture. She believed the Panel should take these factors into account when making its determination.

Allegation 1 (a): The teacher said that the observations made by teacher 5 of her teaching of the concepts 'polarity' and 'bonding structures' in her Year 11 Chemistry class were based on only two class visits. They did not take into account that she was teaching the concepts over a sequence of lessons. The 'glaring mistake' in the electrons diagram, which teacher 5 observed on the board, was a preliminary diagram showing the six electrons that are shared and which can be linked to the diagram. She said teacher 5 made no criticism of her classes at the time.

The teacher said that the first she had been made aware of student 10's frustrations with her teaching was at the hearing. She was adamant that his name had not been mentioned by witness 3 as one of the students who complained, or that he had raised his concerns directly with her. She said she considered student 10 to be a very intelligent, polite, honest and high achieving student who may have 'gone with the flow' with what was happening with the class towards the end of the semester. She was distressed that she 'did not know a kid was affected that badly by my teaching', and stated 'I wasn't happy with the way I was presenting things.'

The teacher said she did not attend teacher 5's class on 'bonding of fructose molecules' to teach students. She was there to observe teacher 5's teaching. However, when requested to assist a couple of students with understanding the concept she did so by drawing no more than a sketch of the molecule and telling them if they were still confused to seek clarification from their textbook or teacher 5.

The teacher said teacher 5 did not give any written feedback or considered discussion of these classes.

Allegation 1 (a) [iii]: The teacher said she used a range of teaching methods, including a diagnostic pre-test and a selection of support worksheets, to revise fundamental Chemistry concepts. In order to cover the content heavy requirements of Unit 1 VCE Chemistry she relied on textbooks to guide her explanations and to ensure that diagrams were correct.

The teacher said she brought with her to the school her e-resources and other materials she had gathered from her work with about fifteen schools (short term contracts, teaching rounds and observations), which cut down on her need for preparation at the school. She said, however, she was not always able to deliver what she wanted to deliver, and the facilities at the school made the use of some of her resources difficult. For example, she said she was not aware of data projector accessibility/availability until she had been teaching for three months and that meant she relied on drawing detailed diagrams with notes on the board. Even then, as she explained to witness 2 (and the Panel), she found it an 'inconvenience' not to have a data projector as a permanent fixture in the room itself. Similarly, she said the absence of the support of a lab technician for all practical classes impeded her delivery.

The teacher said she incorporated practical activities where appropriate and provided photocopies from several texts. Regarding practical experiments, she described, in some detail, the preparation and conduct (including the wearing of lab coats and glasses by the students) of a 'very well structured' practical class on materials bonding with her Year 11

Chemistry class which continued over four periods. She said the first of these was observed by teacher 5, whom she had discussed it with beforehand and who had said, in passing, that the class went very well. (Neither teacher 5 or Student 10 could recall such a class.)

Under cross examination the teacher stated that she had told witness 2 in their first lengthy interview to discuss her teaching (30/4/09) that the reasons she did not vary her teaching strategies and methods beyond a heavy reliance on chalk and talk and textbook copying was because of the school's poor facilities and resources.

Allegation 1 (a) [iv]: In the Investigator's interview the teacher said that she used the Heinemann textbook primarily in her Year 11 Chemistry class in preference to the school prescribed Nelson textbook because the former had three dimensional diagrams for explaining polarity and bonding, whereas the latter did not. She said she found the Nelson textbook a 'little bit outdated', even though she used it for some class exercises and homework. The Heinemann textbook was 'more modern and trendy'.

Allegation 1 (a) [v]: The teacher said that she did not scribble over the work of student 2 and student 14. She drew a correct sketch next to their diagrams because they had misunderstood.

Allegation 1 (a) [vi]: The teacher said that the result of the three tests she gave throughout the semester on topics – trends in the Periodic Table, molecule concepts and metallic and ionic compounds – showed that the students gained a range of marks from A+ to UG (ungraded). She said that her revision and preparation for the externally set exam at the end of Unit 1 was interrupted by students' inconsistent attendance in the final weeks, some of which had been condoned by the administration. She said that despite this she considered the students had performed well.

Allegation 1 (b) [i]: The teacher said that she always attempted to explain work but if several students were asking questions at the same time she was not able to respond to each one straight away. She also said that if the students were asking unrelated or racist questions, or causing distractions, she found it difficult to deal with the genuine requests.

She cited the example of student 15, whom she described as 'a good kid' with learning difficulties, who had to have work modified. She said she could not always give student 15 the instant attention she wanted.

Allegation 1 (b) [ii]: The teacher stated that she did not feel comfortable answering personal questions such as ones about her daughter's horse riding. She said she would also not answer questions which were inappropriate or had racist overtones such as 'Are you a curry muncher?' or 'Did you come on a boat?'

She also said if students asked questions which were of a research nature she would refer them to the internet or the textbook rather than answer them directly herself.

Allegation 1 (b) [iii]: The teacher said she asked students to transcribe information from the board as part of their learning experience and in the context of other learning

activities such as practical experiments, worksheets, projects, research assignments, model building and an excursion. In the Investigator's interview the teacher stated 'I cannot ever remember asking them to copy anything from the blackboard if they do not understand. I usually go through and explain but if it is related to, say, for example, a practical activity that would be done in a couple of years or something, I would ask them to just copy it, right. "This is the practical you're going to do next year, right. When you do you will understand these steps I give you now because we won't have enough time on that day to copy this.'"

In her closing submission the teacher argued that there may have been cultural factors which made it difficult for her to 'accurately gauge students' understanding by non verbal cues,' which is why she tried to establish the level of students' understanding by explicit questioning and diagnostic testing. The teacher also stated that there were students with specific learning disabilities in her classes who were not made known to her. When she became aware of them she developed alternative learning tasks. She stated that, despite her efforts, it was possible that some students still did not understand.

Allegation 2 (a): The teacher stated this related to an incident when a student was exited at the beginning of the lesson for pushing tables around the room while others in the class were trying to be seated. She said he would have been readmitted after a 'restorative discussion' once the class was settled; instead, as he said, he went to 'look for teacher 5 to complain as someone told me to go to her.' The teacher said when the student returned the classroom door had been shut and she refused to admit him until they had the discussion. She said when three other students were sent to take their bags out of the room, in accordance with school policy, all four students went to complain to witness 3.

In the Investigator's interview regarding this incident, the teacher said that 'I don't have the habit of locking the doors. There were some kids in the class...they just go and lock the door because there were other kids outside and just to tease the kids who were outside.'

Under cross examination the teacher rejected claims that she had been counselled at school 3 about locking or blocking doors, and did not know why a member of the monitoring group at the school made reference to her locking doors.

Allegations 2 (b) [i], [ii]: The teacher said it was school policy for students not to leave the classroom until they were dismissed by the teacher. She said her practice at the end of the class was to close the door and wait for the students to stand quietly behind their seats before dismissing them, as had been the expectation at school 2.

The teacher said of this particular lesson, in the Investigator's interview, that 'the reason why I ran to the door and...stopped them from leaving (was) because I had something to give them... I wanted them to collect the sheet... I was just blocking the door... I can't remember locking the door. I blocked the door and I said "Can you please stay one minute and take – collect this sheet – homework sheet"'. When asked by the Investigator, 'Did the students jump up to leave the room immediately the bell rang?' The teacher replied 'Yeah, that's what they do all the time... because they worry that they will miss their school bus', then she added, 'No, it's not normal...probably on that day. I don't

know. I can't remember but somehow I had to go near the door and ask them to wait for a while to collect the homework'.

The teacher said that, after discussions in the monitoring period, she began trying other, more productive, ways of finishing the class such as a reflective discussion, as was acknowledged in the minutes of the support group (11/8/09).

Allegation 3 (c) [i]: In the Investigator's interview, the teacher said that she did not send students to coordinators for trivial matters, such as not having a pen or falling off a chair, but only if they were highly disruptive. She said there were not many instances where she sent student to teacher 1, the Year 9 Level Coordinator, because she 'wasn't helpful at all'.

In her closing submission, the teacher said that the evidence of teacher 1's complaints of sending students to her for 'trivial' offences was based on the untested statements of the students who were sent to her. She said she had believed she was using the correct procedures for sending students to coordinators based on her experience at school 2. It was only in the monitoring period that it was pointed out to her that she needed to follow up references with the coordinator, and not vice versa.

The teacher said that the statement, 'This is not a coordinator's job!' which teacher 1 wrote on one of her incident reports, reflected the fact that the incident was a dangerous, not a trivial, one and needed to be dealt with by someone higher than teacher 1.

Under cross examination, the teacher said that she did know the student behaviour policies of the three schools she worked in school 2, school 3 and the school. She said that there was no clear cut policy at the school.

Regarding the restorative practices method of student management she said she was not aware of it until the second semester at school 3. She said her teacher friends told her it worked with some students but not with everyone. She believed she had had some success with it at the school, citing the example of a Year 9 female student, who had initially been particularly hard to manage and often got into sexist slanging matches with student 6. She said, however, after she had adopted a restorative practices discipline approach with the student, by the end of the year they had become quite friendly, friendly enough for the student to 'give her a cuddle'.

Allegation 2 (c) [ii]: The teacher said the context of this incident was her explaining the coming end of semester report system where various behaviours would be rated in relation to the VELS Domain of Personal Learning. This VELS domain covered such capabilities as working cooperatively in groups and managing individual learning. In the Investigator's interview the teacher stated 'what I said was, "I wouldn't have anything good to say as far as your behaviour is concerned" in their school report at the end of the term if they did not behave very well. I did not relate their work to the behaviour. Work and behaviour are two different things'.

Allegation 2 (c) [iii]: The teacher said that this incident related to an ongoing situation where student 6 had been persistently making sexist comments, both to her and to

several of the Year 9 girls. She said the girls had been upset and she wrote down what the girls said student 6 had said to them. She said she explained this in her letter to the Principal (10/9/09) and followed up this ongoing problem in her support group meeting (26/10/09) where witness 4 agreed to talk to student 6 about it.

Allegation 2 (c) [iv]: The teacher said she was simply reporting to students what a presenter at a professional development activity told teachers they should do with students who persistently failed to bring writing material to class as she explained in the above letter to the Principal. At no time, she said, did she ever charge a student.

Allegation 2 (c) [v]: The teacher stated that the only evidence for this was the list from teacher 1 based on unchecked student statements. No evidence was presented that these were ever checked against recorded classroom absences in the school attendance rolls.

Allegation 3 (a): In her final submission the teacher explained that the natural lighting in the Science rooms was poor and judged that the lights were necessary for all students to see clearly. When the student asked for them to be turned off because of the glare on the board she was asked to move seats but refused. (There were only sixteen students in the class which made moving seats possible.) When she persisted in calling out about the lights the teacher offered to provide her with a note to take her work to the library. The student took the note but, instead, went to complain to witness 3.

In the Investigator's interview the teacher offered a similar explanation adding that, without the lights on, she had difficulty seeing the whiteboard herself. Of the student, in particular, she said 'She has the habit of complaining all the time. She's one of those students who would complain – complain. That's all she does.'

Allegation 3 (b): The teacher stated that the materials for the practical class on taste on regions of the tongue were clean and prepared by a laboratory technician. The students were provided with clean plastic cups and pipettes for measuring out the items they were required to taste–test. She believed remarks she had made about not eating or drinking in the Science classroom because of the chemical preparation and dissecting that occurred had been taken out of context by the students and applied to the beakers.

Allegation 3 (c): The teacher stated this incident occurred in only her second lesson with a Year 7 class that both the year level coordinator and Science coordinator warned her was very difficult. The candles were part of the equipment required for a practical experiment on conductivity involving heating water in cans. She said one student, who was later expelled for many incidents involving disruptive behaviour, was extremely destructive and disruptive. He and his friend were crushing the cans prepared by the lab technician and burning paper, as well as chasing other students with the lighted candles. He refused to stop his behaviour or leave, pulling the exit forms out of her hands. The teacher said she then sent some reliable students to the office for assistance in removing the student as she sat there 'watching helplessly'. Eventually witness 3 and another teacher came to remove the student from class.

Allegation 4 (a): The teacher said that the student regularly arrived late to class and was late on this occasion. Other students had closed, possibly locked, the door. She did not

recall using the word 'slow' but, if she did, she meant it to refer to the student's lateness, not her ability. She certainly did not mean it as an insult in the way the student perceived it.

Allegation 4 (b) [i]: The teacher said that she was explaining how synapses work to student 3 who, having missed a number of classes because of her attendance at the leadership school, seemed to have difficulty in understanding. The teacher said student 3 had asked her if she 'came on a boat'. She said she refused to answer such inappropriate questions but not questions about class work. She said she could not recall saying anything to student 3 about her lack of understanding.

In her oral evidence the teacher described student 3 as a conscientious, hardworking, ambitious student but did not find her 'particularly delightful to me'. She said she had given student 3, as a leadership school student, an assignment on light to complete in her own time and, because of her absence at the leadership school, a guide to study and a modified assessment exam on the rest of the course. She said she believed because student 3 only scored 15/30 on the exam, and was comparing herself with the higher achievements of other students, she took out her 'frustration' on her.

Allegation 4 (b) [ii], [iii]: The teacher denied making these comments. She said she did not know what the term 'whiner' meant, nor that student 5 was a swimmer. As with Allegation 2 (b) [iii], the teacher said that non-verbal cues such as smiling and laughing can be interpreted differently by students. She said, while some students might see these as positive signals in teachers they trust, the same behaviour could sometimes be interpreted as 'mocking' or 'laughing at students' if the student does not feel that trust. She also said that student 5 had been very helpful in the Science room, particularly after practical classes, with cleaning up and putting equipment away.

Allegation 4 (c) [i]: The teacher said this incident occurred in a homeroom pastoral care session when she was trying to demonstrate how a visual graph could be used to display how a student's performance in different behaviours varies over the course of a lesson with a continuous graph that moves up and down a scale from +10 to 10. It was not, she said, a graph about popularity. She said she informed witness 2 that it was a tool she intended to use in a future project for the students on brain functions and disorder. She said student 6 had volunteered to be graphed and labelled the graph himself.

The teacher said there had been no intention to humiliate student 6 although, under cross examination, she could not explain why she had felt obliged to apologise to witness 2 for 'humiliating' student 6.

Allegations 5 (a) [i], [ii]: The teacher offered four versions of this particular incident.

In her closing submission, the teacher stated that, during the class, student 6 had threatened to turn on the gas taps and to enter the prep room and interfere with chemicals. When asked what she could do to stop him she told him of the restraint training professional development she had recently undertaken where a manoeuvre to temporarily restrain a person had been demonstrated on a teacher. On hearing this student 6 had desisted. The teacher said that, at the end of the period, she asked student

6 to stay behind to discuss his behaviour. When he ignored her request, she stood in front of him and she put out her hand to stop him. She said student 6 walked rapidly into her hand.

The teacher said she took student 6 through the storeroom to the other Science room to avoid his friends, who were hanging around the classroom, and told him to reflect on his behaviour. She then went to the office for assistance. On the way she met teacher 2, who also taught student 6, and sought his assistance. (According to teacher 2's incident report (5/6/09), which the teacher described as 'true', he accompanied the teacher to the Science room where student 6, at his request, came over and assisted him to unlock the door from the inside). The teacher said that, from teacher 2's account of what he then did with student 6, and subsequently – that is, had a chat to student 6, told him to get some food, set up a room for an exam, etc – it would suggest that, despite student 6 feeling as if he had been in the room for about fifteen minutes, it was more likely to have been the few minutes(three minutes according to her statement in the Investigator's interview, possibly seven in her oral evidence) the teacher believed it to be.

In the Investigator's interview, the teacher stated that the incident involving student 6 walking into her hand and the occasion when he claimed she locked him in a classroom for fifteen minutes were separate occasions. The teacher denied that she locked the door: '...the room wasn't locked and he – if he wanted he could have escaped. If student 6 wanted to, you know, go and join his friends during the interval he could have done that.' The teacher stated that she needed teacher 2's assistance because 'student 6 was very difficult...and I didn't see any – any, you know, any harm in bringing a teacher who was a male in a difficult situation.'

In her oral evidence, the teacher said that she had given her keys to teacher 2 and asked him to go and speak to student 6.

Under cross examination, the teacher agreed that student 6 had been telling the truth about what she had said to him based on her restraint training, but that he himself had definitely unlocked the door from the inside. She also agreed that teacher 2, in his account, said that he had unlocked two doors, one to the Science corridor and, then, the Science room door, with some assistance from student 6 himself.

Allegations 5 (b) [i], [ii]: The teacher said that this incident referred to a discussion with students of 9C, a class given to her in second semester after her change of allotment, about their behaviour. She denied saying that teachers 'hated' them but did say, in the Investigator's interview, 'Teachers (including teacher 10) will not enjoy teaching in this class if you are this difficult.' She also said she did not call students 'bitches', but did describe their behaviour as 'bitchy'.

Allegation 5 (b) [iii]: The teacher said an incident occurred on yard duty when she was surrounded by girls from her 9C class and some Year 10 boys, whom she did not know, who encircled her in an intimidating manner. She said she took out her phone and said to the students she did not know that, if they persisted, she would take a photo to take to the office to identify them. She said she did not actually take any photos of students in the yard.

Allegation 6: The teacher said that this incident occurred when she was alone in her staffroom and just after she had given directions to a student teacher looking for her supervisor. She said teacher 3 had come into the room from an adjoining classroom and told her to be quiet because her students were doing a test. The teacher said she remained quiet for the remainder of the period.

In her final submission, the teacher said that a subsequent conversation took place in the corridor (in the Investigator's interview she said it took place in the courtyard as indicated by teacher 3). The teacher said she expressed her anger at being told to be quiet in her own workspace, in front of teacher 3's students, but said she did not raise her voice. She said it was obvious, from teacher 3's testimony, that other teachers became aware of the exchange when teacher 3 told them she was upset and they advised her to tell witness 3. The teacher said witness 3 had not suggested any further discussion with her but instead told teacher 3 to document the incident.

The teacher made several comments about the kinds of support she received at each of the last three schools in which she was employed. While she was grateful for the support she received from individual teachers she was critical of the structured support given to her at both school 3 and the school.

At school 2 she said she had been well supported by the Assistant Principal, the IT staff and Witness 6. She appreciated the extra support provided by the school in employing consultant teacher 9 to assist her, though she challenged the claim that the latter thought she was not making significant improvement.

She cited several teachers at school 3 who provided support, including the Acting Principal, Witness 8, the school chaplain, members of the Science staff and those assisting her with her VIT registration. She believed, with the change of administration in second semester, she received inadequate support which led her to respond to the new Principal, witness 5, that 'she needed a more supportive approach when it comes to handling allegations this spurious. School 3 had promised me so much support at the time I was appointed to the school' (30/8/08).

The teacher was very critical of the induction and mentoring processes at the school. She thought witness 3 'very cold' as a mentor and too busy with her Assistant Principal duties to be effective or helpful. She believed that the decision to appoint teacher 5 to support her (for a brief time) with her Chemistry teaching undermined her credibility with her students. She also believed that witness 2 did not allow her sufficient time to demonstrate that she had improved her teaching performance.

The teacher said she felt very pressured by the extra preparation, observations and meeting demands of the monitoring and support periods (as well as the demands to respond in writing to complaints and allegations), but also felt that she did her best to learn from them and to improve her performance. She cited several examples of where she modified her teaching on the basis of observing more experienced teachers, including witness 4's structuring the lesson into several sections, teacher 6 obtaining feedback from students on pain management, and teacher 11 'talking' Maths as she moved around the

classroom. She said she also learnt from teacher 12 and teacher 4 the importance of talking about everyday life with students, and started to feel more confident about talking about her childhood in Sri Lanka and swimming with elephants. She said 'I must say that I take time to develop relationships with students'.

Under cross examination the teacher said she did not know why complaints about lack of preparation and giving confusing instructions were fairly constant concerns throughout the monitoring periods. She thought the complaints were 'nit picking' and that maybe the support teachers thought she was a 'soft target'. She said, of teacher 8 as a member of the group, that while she appreciated some of her comments about teaching strategies she did not understand the 'true dynamics of running a Science class'. She said she also told witness 2 that, because he was not Science trained, he was not in a position to make judgments about her teaching.

The teacher said she did not believe that the fact that she used similar terminology to refute accusations as 'false, inaccurate and without substance', or that she had cut and pasted, in letters to witness 5 (30/8/08) and witness 2 indicated that she had not reflected on her teaching. She believed her teaching practices, which were being challenged and which she was defending, had basically remained the same from one school to the next. It was, she said, indicative of a rhetorical use of language; however, if she were responding to the accusations now, she would be more nuanced in her language. Instead of dismissing accusations outright as lacking substance she would admit to a 'little bit of substance'. She would then analyse the accusations more carefully to find out why the students said what they did. Even though she believed the accusations were full of inaccurate information, she did not believe the students were lying, but rather that they were giving a different version of what happened. She had, earlier in her evidence, cited student 15, who had complained of her having 'stabbed' a student with a whiteboard marker when what she had really done was tap the student on the shoulder and directed her attention to the board.

The teacher also rejected any implications that she was lying, or not telling the whole truth, when she informed both witness 5 and witness 2 that she had had no experience of teaching Junior Science. She refuted assertions that she was hair splitting when she said she made distinctions between Junior and Middle Junior Science, and between teaching particular topics and teaching a subject. She said she was attempting to distinguish between what she considered to be 'real teaching', that is effective teaching, as opposed to 'attempting to teach', and that 'teaching and trying to teach are two different things'. She said she did try teaching a Year 7 class at school 2 but not, to her mind, successfully. She also said she found the prospect of teaching 'little kids daunting...too frightening'. In response to a question from the Panel, attempting to clarify the distinctions she was making, she said she would only consider she had taught a class, or year level, if she had taught it effectively for the whole year, not simply for part of the year.

Under cross examinations, the teacher said she could not explain why the complaints made at previous schools about her teaching and treatment of students were similar to those being made at the school. In most instances, she rejected the complaints, or could not remember them. She said she would never send a student out of class without a reason and did not use words and phrases such as 'crazy', 'dumb', 'go and see doctor'

when talking to students. Nor did she push students or lock doors. She said could not remember the petition of complaints from Year 7 students at school 2.

In response to a specific complaint from students at school 2 about not treating students equally, the teacher said she did not treat students equally but she did treat them differently. She did not teach to a selective few – those academically competent students – but responded to different kinds of students with different levels of help. She added the provisos, as long as the students are not destructive and conscientiously making an effort. The teacher said she believed she was subject to racial intolerance at all three schools, and especially at the school, claims that she believed witness 2 and the Regional Director did not take seriously. She said she did not use this as an excuse to escape allegations, but it was a fact. She said she had been subject to racist (as well as sexist) comments and questions at least 20-30 times at the school, both in the classroom and in the school yard. She also believed that complaints made by students and parents about not being able to understand her because of her accent were racially motivated.

The teacher said that she had been going through a very difficult emotional time in her personal life while teaching at the school. Her marriage had broken up (and she had been harassed by her husband's new partner) and her son, having recently graduated, had moved out of home and gone to work in Sydney. She said she believed witness 3 knew of her emotional stress but confined her support to such perfunctory questions as 'Have you found your feet?' The teacher said her father died in October, after a long illness, and she believed witness 2 was too quick in resuming the second monitoring and supporting program immediately after her bereavement leave.

In conclusion, the teacher made a number of comments about how she would handle matters differently if she continued to teach. She said she now felt herself to be a confident single woman with more faith in her ability to function independently in the world after a particularly traumatic period in her personal and professional lives. She would not make the mistake of applying for a position that involved so much travelling time and she would apply for schools that were more academically oriented. She would be more strategic in dealing with difficult situations and had already undertaken further professional development on restorative practices and behaviour management to that effect. She would work on building positive and constructive relationships with students, by talking to them on a one to one basis even if 'the kid is a monster'. A 'student 6' would hold no fears for her. She said that although she was confident in her subject knowledge she believed she had 'quite a way to go when it comes to classroom teaching and I have a lot to learn from experienced teachers.' She said she would commit herself fully to a school's performance and development program and involve herself in team work. She would also work with the community to make sure it accepted a teacher from a different ethnic background.

DISCUSSION OF EVIDENCE

In relation to Allegation 1(a) [i] the Panel recognised that teachers do have professional differences of opinion as to how concepts may be taught, and that the teacher's explanations of her teaching of the concepts that teacher 5 observed seemed plausible.

That is that they were works in progress, including the contested diagram on the board, or rudimentary sketches rather than the finished products. However, it was clear that a group of conscientious able students, the ones who thought the teacher privileged them in her teaching at the expense of others, were so concerned and disheartened by what they saw as the haphazard nature of the teacher's teaching and its effect on their possible achievements, that they saw fit to complain to the Assistant Principal and then to withdraw from the teacher's class to undertake private study in the library. It was hardly a 'campaign', as the teacher originally alleged, to undermine her. Nor can their relatively successful results be attributed to her teaching; according to student 10 he believed his success was due to his sister's assistance, and other students may have benefited from the tuition teacher 5 offered.

In regard to Allegation 1(a) [iii] while the Panel recognised (as did staff who gave evidence) that the teacher had a right to use curriculum materials other than the school recommended Nelson textbook, it also believed that it was unwise of her to treat the latter in such a cavalier and aggressively dismissive way. It confused and upset the students who had purchased the text and, by implication, disparaged the credibility of her colleagues who had made a considered professional judgment about the text book's suitability.

The Panel also believed that the teacher's criticism of the casual atmosphere in teacher 5's classroom and the social banter teacher 5 engaged in with students encapsulated many of her problems. It demonstrated that she had failed to grasp the essential fact that made teacher 5, in the opinion of her colleagues, an exemplary teacher. That is, that she built positive relationships with her students by treating them as individuals.

Allegation 1(b): The Panel noted that these complaints regarding the teacher's teaching which were made to the Assistant Principal and the Principal by students in her junior science classes reflected complaints made by her senior Chemistry class. These included an inability to explain clearly or to answer questions related to the work, a heavy reliance on transcribing notes from the textbook on to the board, and very few practical experiments (In the case of the Chemistry class, it was a matter of not providing a comprehensible context for the practical class). As one student said, 'The textbook is the teacher.' The Panel also noted these complaints were received by the administration after a lengthy interview between the teacher and the Principal where they discussed the need for building positive relationships with students and for utilising varying teaching methods to cater for all levels of ability. The meeting was then followed by the development of a performance plan to assist in achieving those objectives. The teacher seemed receptive to the Principal's concerns, and in her formal response (29/5/09) to these she listed a range of teaching methods that she said she utilised. However, it was evident from the students' complaints that there was little evidence that what she understood and recognised in theory was translated into practical, effective actions.

Allegations 2 (a), (b) and (c): The Panel found some of the teacher's explanations of her actions which resulted in the particular allegations plausible. For example, Allegation 2 (c) [iv]: The teacher said she never charged any student \$2 for lined paper; she was simply relating a class management strategy recommended at a professional development session. However the Panel was concerned that the incidents on which the allegations

were based indicated a classroom atmospheric in which the teacher's interactions with students were characterised by altercations and contretemps which, in turn, raised questions about the effectiveness of her classroom management and, by implication, her ability to teach effectively. As shown by the evidence, her attempts to exercise authority and maintain discipline were constantly open to misinterpretation, challenge and complaint from students. While the Panel felt she had the right to use the school's discipline procedures to the fullest extent in seeking support, the Panel also felt the Year 9 coordinator teacher 1 had an equal right to distinguish between what she considered to be serious and trivial offences, and to complain that the teacher was not adequately addressing the discipline issues herself and following up on them (The latter was a requirement of the school's discipline procedures as outlined in the Staff Handbook with which the teacher admitted she had not familiarised herself). In other words, teacher 1 believed the teacher was making excessive demands on the kinds of support a Year Level coordinator might be expected to give a graduate teacher experiencing classroom management problems. This was an example, the Panel believed, of the kind of 'exasperation' witness 2 said many experienced staff felt because, despite the considerable level of support the teacher was receiving, there had been little discernible improvement in her teaching or classroom management. The Panel rejected totally the teacher's claim that teacher 1 was setting the students against her, just as it rejected any suggestion that teacher 5 was engaged in some kind of conspiracy with the Year 11 Chemistry students out of professional jealousy.

Allegation 3: The Panel believed that the teacher gave plausible explanations of her behaviour in the three incidents cited as evidence supporting this allegation. Regarding Allegation 3(a), the Panel felt the teacher was in her rights, rather than to turn off the lights, to ask the student to move to a seat where there was no glare on the board, which would have been possible in a class of sixteen.

Regarding 3 (b), The teacher made the point that she was not responsible for the preparation of the beakers, and that students were required to drink from plastic cups into which water from the beakers was poured. The Panel felt she was genuinely surprised by this allegation. Regarding Allegation 3 (c), the teacher admitted that this incident had occurred but she did not allow the behaviour to continue unchecked and had sought assistance to deal with the situation. However the fact that she sat there, in her own words, 'watching helplessly' at the enveloping chaos, while waiting for assistance to arrive, was a reminder to the Panel that the cumulative impression of the teacher's teaching was of a teacher floundering to establish a safe and productive learning environment informed by a consistent class management strategy, whatever her intentions might have been.

Allegation 4 (a): The Panel recognised that the facts were not in dispute but there were some differences of opinion as to what exactly was said and who locked the door. Again, the Panel believed that this was an instance where, if positive relationships had existed between the teacher and the students such misinterpretations of actions and language, and the subsequent altercations and complaints arising from them, might not have occurred.

The Panel thought similarly about Allegation 5 (b) [i] and [ii]. The students claimed the teacher said that ‘teachers hated them’; she claimed she said to the students that some teachers were having the same difficulties with them as she was. The students claimed that the teacher called them ‘bitches’; she said she described their behaviour as ‘bitchy’. Again the issue for the Panel was not so much trying to determine who said what, but that the teacher’s relationship with her students was constantly adversarial to such a degree that students, as well as complaining to their parents, beat a regular path to the relevant school authorities to complain about what they saw as unfair treatment.

Similarly, regarding Allegation 4 (c), the Panel was open to the suggestion that student 6 was in part a willing participant in the activity (e. g., volunteering for the exercise, writing his name on the graph) but the question was to what degree. It requires some tact and experience on the part of a teacher to ensure that a student does not at some point feel humiliated in such an activity if an adverse judgment is made about his popularity. It is also a likely invitation to class mayhem. Witness 2 was right in suggesting to the teacher that such an activity should deal with hypothetical students.

Allegation 5 (b) [iii]: The teacher denied that she took photos of students while on yard duty, but did threaten to do so only as a means of identifying students who were behaving in an intimidating manner towards her. The students claimed innocence and said the teacher would not give them a reason which led to an argument later in a Year 9 Science class. The Panel believed the evidence was inconclusive but again saw this as yet another example of a possibly tactless action by an inexperienced teacher which then led to an aggressive altercation in the classroom in which the incidents which are the basis of Allegations 5 (b) [i] and [ii] occurred. The yard duty incident also raised for the Panel, the question of what options are open to teachers on yard duty who do feel they are being intimidated by a group of students.

Allegation 4 (b): The Panel noted that student 3 was not available to be cross examined on her evidence but that all staff from the school who testified said she was an intelligent and ambitious student who could be assertive about what she saw as her rights. It was obvious to the Panel that her attendance at the leadership camp created confusions for the teacher as to what work student 3 had done or what work was expected of her; and that their relationship had been exacerbated by what student 3 saw as the teacher’s tardiness in responding to her queries.

However, of more concern to the Panel was student 3’s reporting of the language she said the teacher used to describe the physical attributes and capabilities of other students, despite differences of recall as to where the incidents occurred (Allegations 4 (b) [ii] and [iii]). The teacher says she never used such politically incorrect language, either in this context or anywhere else, but the Panel believed it strained credulity to think that student 3 was maliciously fabricating such descriptions or versions of them. They were simply too specific in their details.

Allegation 5 (a): The Panel found student 6 to be a credible witness, although they recognised that there was some truth in the teacher’s claim that the confident self-possessed young man giving evidence in the witness box was not the boisterous ‘in your face’ adolescent she confronted in her Year 9 Science class nearly four years earlier. The

Panel acknowledged there was some dispute regarding some facts in the incident. Student 6 said that the teacher pushed him in the chest and threatened that she could put him down and would not revive him. The teacher said that student 6 walked into her open hand and took as a threat what she told him she had learnt at self-defence in-service.

What was not in dispute, as far as the Panel was concerned, was that student 6 was locked in the Science room as a disciplinary measure. The Panel found the teacher's various attempts to explain this incident confusing to the point of obfuscation. Consequently, the Panel relied extensively on the incident report written by teacher 2 on the day of the incident (5/6/09), and accepted by the teacher as 'true'. Teacher 2's report provided a lucid and coherent sequence of events. He stated he was asked at recess by the teacher to accompany him to the Science room to speak to student 6. The teacher gave him her keys with which he unlocked both the door to the Science corridor and the classroom in which student 6 was sitting. He unlocked the classroom door with assistance from student 6. The Panel considered this form of disciplinary action to be totally inappropriate, because of the health and safety requirements it obviously contravened.

Allegation 6: The Panel found teacher 3 to be a highly credible witness who gave a comprehensive, detailed and fair-minded account of the incident, including a map that indicated the location of the exchange that, for the Panel, was the nub of the matter. That is that that the teacher's admonition occurred in front of students who were sufficiently concerned about teacher 3's reaction as to enquire about her well-being.

In contrast, the Panel found the teacher's accounts of the exchange, the location, the possible presence of a student audience, if not the actual incident in the staff room which provoked the exchange, sketchy, even contradictory. The pity is that the incident, and the teacher's subsequent frosty response to teacher 3, cost her teacher 3's good opinion of her as a 'poised lady' whom she held in 'high esteem'. However, the Panel also felt that the exchange was not representative of the teacher's relationship with staff in general (even staff of whom she had been critical in the course of the hearing) either at the school or at previous schools. The Panel believed that this matter could have been settled at the school level rather than becoming the matter for a VIT investigation and hearing of possible serious misconduct.

The Panel gave due consideration to the evidence provided by witness 4 and teacher 6 as experienced teachers involved in the two monitoring and support periods initiated by witness 2 while recognising that it did not relate directly to any specific allegation. They did, however, provide direct evidence of the teacher's ongoing teaching practice and some insight into the teacher's attitude to students. While recognising the extra demands such a process placed upon the teacher, the Panel was impressed by the professionalism with which it was conducted by all concerned (and, to give the teacher her due, the degree to which she cooperated). The observation sheets and records of the meetings showed that the panel was scrupulously even handed in its assessments, giving credit and praise where it was due and constructive in the criticisms it made regarding the need for improvement. In the light of this the judgments of teacher 6 and Witness 4 were sobering.

Teacher 6, who was sympathetic regarding some of the difficult students the teacher had in her junior classes, offered her considerable support throughout the year, first unofficially, then as a mentor and finally as a support group member. She came to the conclusion that the teacher did not respond to the school's expectations about her performance as a teacher because of inadequate preparation time (in part determined by the time she spent travelling) and her unrealistic expectations of the students in relation to her authority as a teacher.

Witness 4 expressed doubts as to whether the teacher would make it as a teacher stating that, while she seemed receptive to advice in discussion, there was not sufficient evidence of that advice being put into practice when she was required to perform without the presence of a support teacher, such as himself, in the room. He cited the differences in student behaviour between the observed and unobserved lessons sessions. This fact was confirmed by the observations of the experienced laboratory technician, witness 7, who feared for the level of safety in the teacher's junior Science classes because of student behaviour.

In relation to the monitoring and support group, the Panel believed that the teacher's objections to teacher 8 as a member of the group because she was not a Science teacher displayed a basic misunderstanding of what the support group members collectively were observing. The teacher's knowledge of her subject discipline was not in question; what was being scrutinised was her pedagogy and her classroom management, and teacher 8's expertise in these matters was the reason she was a member of the group.

The Panel also considered the evidence provided by staff from the secondary schools at which the teacher taught previously, school 6, school 2 and school 3. The Panel believed the evidence, and the extensive supporting documentation, provided by the principals of school 3 (Witness 5) and school 2 (Witness 6), demonstrated that the teacher had experienced similar problems with her teaching in those schools as she had at the school, even though they were schools where she said she had found the performance and development cultures to be more compatible with her teaching style. At both school 3 and school 2 she was the subject of many student and parental complaints, including a class petition, about her over-reliance on textbook learning, her inability to explain material or to give assistance when requested, her adversarial relationship with students and her erratic discipline procedures. All this occurred despite the considerable informal and formal support provided her, including at school 2 the employment of a special consultant to work with her on a one on one basis.

The Panel also felt that the evidence undermined the teacher's claims to witness 2 that she had not taught junior Science previously, though it recognised that there was some uncertainty in her evidence about whether she was talking about junior Science in general or certain topics, or making a distinction between teaching a subject or teaching it confidently and effectively.

The Panel recognised that the statements by both principals that they would not have re-employed the teacher at the end of her contracts, had they been in a position to do so were, in fact, de facto judgments on her teaching competence. The Panel acknowledges

that, while this is not relevant to the allegations, they are indicative of a longer term problem.

In contrast, the testimonials provided for the teacher by staff from previous schools in which the teacher was employed, were, on the whole, brief and couched in generalities with little to suggest any direct evidence of the teacher's teaching capabilities. The Panel found that witness 8's evidence was particularly lacking in this regard, even though he had been responsible for signing off on the teacher's 'graduation' from provisional to full registration. His written evidence was marked by a propensity for qualifications and modifiers; 'transition (was) not an easy one...some teething issues...had to make adjustments'. His oral evidence was more a character reference for the teacher rather than judgments based on any specific knowledge of her actual teaching.

The Panel also considered a range of what the teacher claimed were mitigating circumstances which should be taken into account by the Panel when making its findings. These included her personal domestic situation, the psychological pressure of being constantly under 'surveillance' (including the requirement to respond formally to allegations and complaints), the racial intolerance she experienced at the school, the lack of collegial support to which a graduate teacher was entitled, the poor facilities and lack of resources which circumscribed her teaching ability, the school's reluctance to embrace mandated curriculum reform, the poor staff morale and the capabilities and motives of staff who criticized her, and the character and ability of the students who made complaints about her.

Before considering these issues the Panel made the following observations about the teacher's overall responses to the ongoing complaints and allegations about her teaching.

One: While the teacher seemed receptive to feedback in meetings with witness 2 and the support group, her written responses were dogmatic and absolutist in their rejection of the allegations as 'false, inaccurate and without substance'. The responses were full of generalities about her teaching methods and her curriculum knowledge, and interspersed with imperious pronouncements about poor staff morale, the school's impoverished learning and teaching culture, its failure to embrace curriculum reform and the capabilities and motives of experienced staff. Added to that was a naïveté about what a school might reasonably do to support a new teacher experiencing difficulties, such as her request that she be offered a half teaching, half preparation allotment.

Two: The teacher's letter to the Institute responding to the allegations, her closing submission and, to some degree, her oral evidence, were more conciliatory in tone and her response to the allegations less categorical in their rejection. She gave versions of the incidents that formed the basis of the allegations which showed some glimmer of awareness as to why they might have occurred in the first place, including the possibility that her own behaviour might have been a catalyst for their occurrence. She also admitted that she still had much to learn about teaching.

The teacher raised a number of causes for her performance such as racism, poor facilities and resources and lack of support. However, the Panel did not accept that these other factors contributed significantly to the performance issues.

Regarding racial intolerance, student 10 said there was certainly racism of the stereotypical kind the teacher cited (being called a 'curry muncher' and asked 'if she came on a boat') amongst the student population, but he did not believe that it was a major factor in the way students related to staff from non Anglo-European backgrounds. Citing the example of his VCE Physics teacher he implied that he did not think a teacher's accent was important to students' learning if they thought the teacher was competent.

Regarding the quality of the facilities and resources, all the school's teachers who gave evidence agreed that the rooms were a bit shabby and outdated but there were ample resources and technical support for teachers to deliver the Science curriculum. It required, however, a bit of initiative and pre-planning on the part of teachers to book data projectors and to liaise with the laboratory technicians to organise material for practical classes, initiative and pre-planning which the teacher displayed only infrequently.

Regarding the teacher's claims about staff morale and a lack of collegiality and support, all staff who gave evidence expressed surprise as it had not been their experience of the school. Teacher 3, as a new teacher, made clear that the collegial support, both informal and formal, had been crucial in helping her cope with difficult students and classes. When the teacher expressed her lack of confidence in witness 3 as a mentor, the administration accommodated her request to have teacher 6 as a replacement mentor. Teacher 6, herself, thought the school did a good job in supporting new teachers, and that the teacher in particular had been given extensive support throughout the year to enable her to improve her teaching. And, while the Panel recognised there was some tension between the teacher and teacher 5 regarding the teaching of senior Chemistry, teacher 5's reluctance to provide any more assistance than she was requested to do by the administration was understandable given the teacher's criticism of her teaching style and motives. Witness 2 made the comment that, at the end of the second monitoring period, he could not see what further support the school could have offered, given the level of support which had already been offered, and the Panel was inclined to agree.

The Panel also rejected the teacher's assertions that witness 3 fabricated complaints against her as a rationale for removing her from her senior Chemistry class. Student 10's level of concern about the quality of the teacher's teaching was obvious and a revelation to the teacher when he expressed it at the hearing. Nor did the Panel give any credence to the teacher's claims that teacher 5 or teacher 1 conspired with students against her. Such actions would have been totally counter-productive given the efforts the school was putting into supporting her.

Regarding the ability and honesty of the students who made complaints against the teacher, the Panel noted that the teachers who offered an opinion of such admitted that some students could be difficult but collectively they reinforced witness 2's general observation that, on the whole, the students at the school were a fairly tolerant and compliant bunch of kids who were there to work and to get an education. Most of them

would accept whatever was ‘dished up’ by teachers but they would ‘muck’ up if they were not engaged.

The Panel expressed sympathy for the difficult circumstances in the teacher’s personal life, but noted that she did not offer them as reasons for the similar kinds of difficulties she was having at her previous schools, nor is it possible for school administrations to take them into account if they do not know about them. The Panel believed that, when the administration became aware of the death of the teacher’s father, it acted appropriately although the teacher herself thought that the second monitoring period was begun too soon after her bereavement.

FINDINGS

The Panel found the following allegations proved:

Allegations 1(a) [iii], [iv], [v], and [vi] on the direct evidence provided by student 10 and teacher 5 with corroborating evidence from witness 3. The Panel found that the only curriculum material in question in Allegation 1(a) [iv] was the Nelson textbook.

Allegation 1 (b) on the basis of witness 2’s evidence.

Allegation 2 (c) [i], [ii] and [iii] on the basis of evidence provided by witness 2.

Allegation 3 (c) on the teacher’s own admission and witness 2’s evidence.

Allegation 4 (b) [i], [ii], and [iii] on student 3’s direct evidence with Allegation 4(b) [iii] supported by witness 2’s evidence.

Allegation 5 (a) [ii] on the basis of direct evidence provided by student 6 and supported by witness 2’s evidence. The Panel gave particular credence to the incident report (5/6/09) by teacher 2, included as supporting documentation by witness 2.

Allegation 6 (a) [i], [ii] on the basis of teacher 3’s direct evidence supported by witness 2’s evidence.

The Panel found that, in respect of Allegations 1(a) and (b) the teacher was guilty of serious incompetence.

In making its decision the Panel was mindful of:

(a) the decision in *Moran v Victorian Institute of Teaching* (2007) VCAT 1311 (31 July 2007) which Council Assisting suggested for the Panel’s consideration.

(b) the Victorian Teaching Profession Code of Conduct especially Principle 1.1: Teachers provide opportunities for all students to learn, and Principle 1.2: Teachers treat their students with courtesy and dignity.

(c) the evidence provided by witness 4 as convenor of the monitoring and support group, when he spoke of ‘areas that are fundamentals of teaching’.

The Panel believes that taken together they provide a matrix of criteria which assisted it to make its finding of serious incompetence.

The Moran decision made clear that a simple error of judgment or a simple negligent act is not sufficient to constitute serious incompetence. The decision also raised questions as to the degree to which a panel might consider evidence which does not relate directly to the specific allegations. The Panel took this into account when considering what weight it should give to the very lengthy and detailed evidence related to the teacher's teaching practices provided by the principals at her previous schools and the teachers on the monitoring and support group at the school. It believed that that evidence supported the direct evidence relating to the allegations which in and of itself enabled the Panel to make its finding of serious incompetence. However, the Panel believed that this supporting evidence gave more weight to its decision regarding the teacher's fitness to teach (see below).

Both Principle 1.1 and Principle 1.2 of the Code of Conduct articulate a range of criteria they believe teachers should exhibit in their interactions with students. These include knowing students well; respecting individual differences and catering for individual abilities; maintaining a safe and challenging learning environment; having high expectations of all students; communicating well and appropriately with students; working to create an environment which promotes mutual respect; modelling and engaging in respectful and impartial language; and using consequences commensurate with the offence when disciplining students.

Witness 4 listed three areas which he believed were 'fundamental to teaching': relationships with students, the level at which the curriculum was being pitched to a range of students, and student management.

The Panel found that in relation to Allegations 1(a) and (b) the teacher's teaching practice proved seriously deficient in meeting the standards implied in the Code of Conduct principles or addressing those areas 'fundamental to teaching' articulated by witness 4. Her behaviour was not a single negligent act or error of judgment, but occurred frequently and consistently in her teaching at the school over the period of the allegations (and beyond).

The Panel found that, while many of the behaviours cited in proven Allegations 2, 3, 4, and 5 were inappropriate and, in the case of Allegations 4 (b) [iii] and 5(a) [ii] were examples of misconduct, it did not believe that, taken as a whole, they constituted a finding of serious misconduct. What was absent from them for the Panel to make such a finding was the sense that the teacher's actions were symptomatic of a persistent deliberate wrongdoing. Instead the Panel believed they were indicative of another form of incompetence. They reflected an inability to develop and sustain a consistent classroom management strategy. As such the behaviours, the Panel believed, were a result of the teacher's inability to develop and nurture positive relationships with her students and her seriously incompetent teaching.

The Panel found that the teacher is currently unfit to teach.

In making this decision the Panel drew on the ruling in *Davidson v Victorian Institute of Teaching (2007) VCAT 920 (169 – (170))* and the factors it enumerated regarding conduct which demonstrated lack of fitness to teach: the ‘continuing and persistent nature’ of the conduct; an approach to teaching and children in a teacher’s care which is ‘profoundly and irretrievably flawed’; the effect of the teacher’s behaviour on the school community and the standing of the profession; the lack of evidence of any insight, candour, or corrective action on the part of the teacher.’

The Panel makes clear that this decision is not a judgment on the teacher’s character, but on her competence to teach effectively in a classroom as a ‘stand alone’ registered teacher, without an excessive amount of professional collegial support. Nor does the Panel believe that she lacked insight, was unable to reflect on her behaviour or had not taken corrective action to address her problems. As indicated above, her letter to the Institute and closing submission, as well as her oral evidence, showed some capacity for reflection on her own responsibility for some of the situations in which she found herself. The Panel also noted her claim that she had undertaken further professional development particularly in the area of discipline procedures that required a recognition of mutual teacher-student respect.

However, as several witnesses made clear, a willingness to improve did not result in actual improvement in delivering the curriculum. The teacher’s basic inability to establish positive teacher–student relationships, and to engage in productive teaching practices which engaged students across ability levels and furthered their learning, remained a constant across three schools over a two and half year period. The behaviours cited in Allegations 1 (a) and (b) were, in the Panel’s judgment, representative of the teacher’s limited teaching capabilities. They were not exceptions to the rule, as the evidence from previous schools and that of teachers involved in the monitoring and support group at the school, made clear.

What the Panel found conspicuously lacking from the teacher’s more recent insight, after a period of three years in which she might have reflected on her practice, was any deep sense that she had identified the nub of her problem, that is the need to establish those positive relationships with students which are central to effective teaching. In her response to the Institute’s Notice of Formal Hearing, the teacher made the following comment on how, with hindsight, she might handle matters differently: ‘I will be more strategic when it comes to dealing with difficult situations. I have followed three workshops on restorative practices and a number of workshops on behaviour management and I would practice what I have learnt from them. I would work at building positive and constructive relationships with all students, including the more difficult ones.’ It is the Panel’s belief that this insight gets the emphasis wrong. It is not a matter of doing any number of courses in discipline strategies and classroom management for dealing with difficult students but of understanding that the authority of the teacher depends fundamentally on establishing productive positive relationships with all students. Both witness 4 and teacher 6, after a considerable period of observing her practice, pointed to the teacher’s fatal flaw in failing to understand that fact when they spoke of the teacher seeing students as ‘vessels to be filled up with knowledge’ (witness 4) and her belief that she ‘should have authority as a teacher and students should do as they were told as a result’. (Teacher 6). Both made the point that, without establishing those positive relationships, they doubted whether anything productive could be

achieved with students. Very little in the teacher's evidence convinced the Panel that she had grasped this essential point, let alone thought through strategies which might enable her to build those relationships. It requires more than talking to students on a one-to-one basis even if 'the kid is a monster', though that is a start.

The Panel also found lacking in her recently expressed insight was any sense of contrition for the harm she might have done to the students in her care. The Panel believed that student 10's evidence in the witness box came as a revelation to the teacher and she was genuinely distressed that such a capable student found her ineffectual and possibly detrimental to his future success. However, the revelation did not translate into any recognition that this might have been true of all her students, including the ones she found difficult or the ones who complained. As witness 2 said, the majority of students at the school were fairly compliant and tolerant of whatever teachers 'dished up', but they deserved better than what the teacher was dishing up to them.

Nor, despite her gratitude to individual teachers, was there any deep and abiding recognition of the inordinate amount of patience, good will and professionalism expended by so many members of the profession to assist her. It was, as witness 5 said, a commitment 'above and beyond' what any teacher might have the right to expect. It reflected the altruism of a profession that has every right to believe that its members should be judged by rigorous standards and, if a member is found wanting, that appropriate action be taken for the good of the profession as a whole.

The Panel determined to cancel the teacher's registration. In taking such an extreme step the Panel was aware of the implications for the teacher's future livelihood though she informed the Panel that returning to teaching was an option for her, not a necessity. Nevertheless, the Panel believes it has a responsibility to balance that consideration against its responsibilities to future students and school communities, the reputation of the profession and the public interest.

The Panel chose this determination rather than other options open to it such as a suspension of registration for a period of time with conditions. Uppermost in the Panel's mind was the cumulative evidence in the teacher's teaching experience to date of how her good intentions, her theoretical understanding of teaching, the provision of mentoring and support, and the strategies she gleaned from professional development she undertook – all of which a suspension with conditions might involve – quickly broke down in practice, resulting in adversarial relationships with students, student disengagement because of her teaching style, complaints from parents, and excessive demands made on the support of her colleagues.

The Panel believes that the community and the profession in general have a right to expect a registered teacher not to create such problems that have the potential to bring the profession into disrepute. In the teacher's case, these problems occurred with consistent regularity over a considerable period of time while she was receiving a high level of support. And yet there was no/little discernible sign/s of improvement. The Panel did not believe that it could give a guarantee that the teacher's future conduct as a registered teacher would not bring about a repeat of these problems.

The Panel also recognised that a cancellation of registration does not permanently deny the teacher the right to continue to pursue a career in teaching. She could, if she wished, apply for re-registration. The Panel suggests however, that if she does, she will need to critically examine her beliefs about the authoritarian, hierarchical nature of the relationship between teacher and students. She would need to undergo a major shift in her understandings of the teacher as the singular 'authority', as implied in the testimony of both witness 4 and teacher 6. To do so she would be required to think rigorously about what it might mean to develop positive, mutually respectful relationships with students, and how she might demonstrate an ability to do this to the Institute's relevant registration authorities; to show that she has not only understood the fundamental importance of such relationships, but how she might go about developing and sustaining them.

DETERMINATION

The Panel determined to cancel the registration of the teacher from 24 May 2013.



TERRY HAYES, CHAIRPERSON



per:
ANNE FARRELLY, REGISTERED TEACHER



per:
PAUL WILHELM, REGISTERED TEACHER