

**General Teaching Council for Scotland
Fitness to Teach Panel**

**Full Hearing
1 August 2012**

Name of Respondent: Mr Derek McGlone
Registration Category: Secondary – Music

**Presenting Officer:
For Respondent:** Mr Niall McLean
Not Represented

Convener: Mr John Kilpatrick
Legal Assessor: Mr David Preston

Notice and attendance

The Panel was satisfied that notice of the hearing had been served on the Respondent in accordance with the Fitness to Teach and Appeals Rules.

The Respondent attended the hearing.

Niall McLean attended the hearing as the General Teaching Council for Scotland's Presenting Officer.

Complaint

The complaint against the Respondent considered at the hearing was as follows:

1. Between 9 June 2008 and 12 June 2008 you were absent from your post at Calderhead High School, Shotts, and you made, and continued for a period thereafter to make, false declarations about a road traffic accident being the cause of your unauthorised absence.
2. On 19 April 2010 you were absent from your post at Calderhead High School, Shotts and you made false declarations regarding the circumstances surrounding your absence at the time.
3. Between 1 April 2011 and 31 May 2011 you posted abusive and threatening comments about members of staff at Calderhead High School, Shotts on the social networking site, Facebook.

The Respondent admitted the allegations contained in the complaints in full. Accordingly the Panel found the complaints to be proved.

Findings on fitness to teach

The Panel determined that the Respondent's conduct falls short of the standards expected of a registered teacher and that his fitness to teach is therefore impaired.

The Panel reached this determination for the following reasons:

1. The Panel was mindful of its obligations to consider the Respondent's fitness to teach and any impairment thereof with reference to the Indicative Outcomes Guidelines and the Code of Professionalism and Conduct 2008 ("the Code") to which it was referred by the Presenting Officer.

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2. The Respondent's behaviour in regard to Complaints 1 and 2 was dishonest and showed a lack of integrity. The Panel further considered that the dishonesty was compounded by the Respondent having maintained a deception in relation to the alleged road accident for a period of approximately seventeen months. The Respondent's repeated conduct of a similar nature in misrepresenting reasons for his absence in April 2010 demonstrated a lack of appreciation of the gravity of his conduct.
3. The Panel accepted the submissions of the Presenting Officer that the Respondent's actions were in clear breach of Article 1.5 of the Code insofar as his dishonesty and inaccuracy in his dealings with his colleagues and his employer. The Respondent was unable to explain to the Panel any reason for embarking on the course of conduct referred to in Complaint 1. This conduct extended over a protracted period during which the Respondent had numerous opportunities to rectify the position.
4. In regard to Complaint 2 the Panel accepted the submissions of the Presenting Officer that the Respondent's actions were in clear breach of Article 1.5 of the Code. The Panel did accept that this may have been contributed to by the pressure he felt having been under disciplinary investigation during that time.
5. In relation to Complaint 3, the language and nature of the comments published on Facebook in the circumstances described were considered by the Panel to demonstrate a lack of awareness of the boundaries to be maintained by a registered teacher as described in Article 1.2 of the Code. The Panel accepted the Respondent's explanation that this had occurred while under the influence of alcohol but did not accept that this would diminish or excuse the seriousness of his actions. They also accepted that the comments had been posted over a comparatively short period and that he had attempted to remove them some four hours later. The comments were in fact seen by his former colleagues, the nature of which was sufficiently serious for them to contact the police despite the Respondent's statements that he had no intention to offend or frighten them. The Panel considered the comments to be of a malicious and disrespectful nature in contravention of Articles 4.2 and 4.3 of the Code.
6. The Panel considered that the Respondent's behaviour in all three Complaints fell short of the standards to be expected of a registered teacher as provided in the Code. In particular the Panel considered that the Respondent failed to maintain an awareness of his position as a role model. The Panel did recognise that there was no suggestion that pupils were directly involved or were aware of the circumstances. The Panel considered that his actions did fall short of Article 1.6 of the Code. Further his behaviour in relation to Complaint 3 fell short of Article 4.3. Although not specifically named, the individuals concerned were readily identifiable from the comments, despite the Respondent's stated intention not to threaten or cause offence.

Disposal

7. The Panel considered that making no order or removing the Respondent's name from the Register would be disproportionate to the seriousness of the complaints. In the whole circumstances of the case, and in view of the representations made by the Presenting Officer and the Respondent, the Panel considered that the appropriate outcome in this case is that a reprimand be recorded in the Register against the Respondent's name for a period of twelve (12) months from the date of expiry of the appeal period specified in the Rules.
8. In applying this outcome to this case, the Panel was mindful of the Indicative Outcomes Guidelines to which it had been referred. In particular the Panel was satisfied that by deceiving his colleagues and his employer as to the reasons for his absences on two occasions, and in

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maintaining a deception for a period of seventeen months, the Respondent had demonstrated an abuse of trust in his position as a promoted and experienced teacher.

9. The Respondent had shown remorse for his actions and had expressed his regret that he had acted in an inappropriate fashion. It was also noted that he had cooperated with the GTCS investigations and procedure and had admitted his acceptance of the complaints at an early stage. The consequences of his actions in relation to Complaint 3 were considered to be serious although the Panel accepted that they had not been intended by him.
10. The Respondent had referred to his standing and ability as a teacher which was borne out by statements made by his former colleagues in statements included within the papers provided to the Panel.
11. The Panel also considered the admitted actions of the Respondent in the context of the Code and found that it fell short of the behaviour to be expected of a registered teacher.
12. The Panel gave due consideration to the period of time for which the reprimand should apply and took the view that a period of twelve (12) months was proportionate in all the circumstances of this case. The Panel believed that this reflects the gravity of the complaints and will serve to preserve public confidence in the teaching profession and maintain the standards to be expected of teachers in Scotland.
13. The Panel considered that there were no conditions which could effectively be imposed on the Respondent.

Protection of Vulnerable Groups (Scotland) Act 2007

In the whole circumstances of this case and in view of the lack of any involvement of pupils or young persons, the Panel decided not to exercise its discretion to make a referral under section 8 of the Protection of Vulnerable Groups (Scotland) Act 2007.

Appeal

The Respondent will receive written notice of this decision within 14 days and has the right to lodge an appeal with the Appeals Board within 28 days where he can show that there are grounds to ask for the decision to be reviewed in terms of the Fitness to Teach Panel having either:

- a) failed to act in accordance with the Fitness to Teach and Appeals Rules; or
- b) made an error in law or in fact,

that has had a significant impact on the decision made.

(Signed)

Convener.....

Legal Assessor.....