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Reason to Issue 520 Notice of Decision Bar

Working With Children Check Operations

Part A - INFORMATION

WWCC/APP number: APP0113398

Initials: ARH

Relevant Records (if more than 3 add additional row)

Offence	Specify trigger, PT, s15(3), employment notification	Date	Court outcome date/investigation date
Sexual Misconduct	Workplace Record	2004-2010	Sustained

PART B - ACTION TAKEN

Date	Action taken	Response
09/09/2013	Initial phone call made to applicant and section 16 letter sent	The applicant provided a Statutory Declaration and references
29/10/2013	Telephone call from ASB, principal of School School to advise that he was intending to provide a reference however wanted to draw attention to the finding of sexual misconduct that was made in relation to the applicant whilst employed there	
01/05/2014	Telephone call to applicant to advise him of the additional information provided by his previous employers Knox Grammar and School 2 School 2 in relation to concerns they held about him whilst employed there, which will be used to inform the risk assessment	
19/06/2014	Section 19 notice issued to applicant	The applicant provided 3 additional references and a further Statutory Declaration.

Any other action taken and response from applicant

The applicant was issued with a section 19 notice on 19/06/2014. In response to this he provided 3 additional references, a further Statutory Declaration and a letter from his solicitor.

The letter from the applicant's solicitor (tab 1) is to request an extension in the time allowance to provide additional information in response to the section 19 notice. The letter goes on to provide reasons as to why the applicant did not appeal the finding made by School 1 in August 2010, namely the suicide of his wife on the same day the findings were conveyed to the applicant, which resulted in a 'state of shock and depression, exacerbated by the diagnosis of his father's illness some four months later and subsequent death'. The letter also states 'It is significant to point out that in relation to our client's history there has been no evidence presented of sexual involvement nor has any additional evidence been presented since 2010, when our client was not prevented from working with children'. The letter makes reference to the ongoing tutoring relationship that the applicant has with the sibling of the child at the centre of the grooming concerns whilst at Knox Grammar School 'which in itself suggests a history of appropriate professional relationships'. The

letter also asserts that the mother of the child is in fact an employer rather than a friend, as was indicated on the reference provided by the mother. The letter goes on to detail the additional references provided by the applicant in response to the section 19 notice and advises that the applicant is prepared to provide references from parents of ex-students 'who would be prepared to speak of the benevolent interest he took in their children'. The letter concludes 'In the light of the above material it is our opinion that our client should be allowed to work with children'.

One reference is from **REDACTED** (tab 2) who was the Headmaster of **School 2** during the period of the applicant's employment. Mr **REDA** writes that he knew the applicant for 7 years and was 'Not aware of any reports'. He also writes 'I only have had contact with [the applicant] for the years of employment at **School 2** 2001-2007 and have received no complaints'. He also writes that 'He followed all directions given to him in regard to his work'. In response to the question 'To your knowledge, has the applicant ever demonstrated inappropriate behaviour or abuse towards children?' he responds 'Not whilst at **School 2**'. On verification of the reference, Mr **REDA** reaffirms this position and advised that he had 'no memory of anything being reported to your (the OCG/CCYP) office'. He also reaffirmed that he was unaware of any reported incident in relation to the applicant. He advised that he left in 2010 and the applicant left in 2007. He stated that at the time the applicant was head of English and he was Headmaster. He advised that there may have been a possibility that something was reported to the school board and not him, but this would be unlikely. The contact number provided by the author of the reference was a private mobile number.

It should be noted that in information provided by **School 2** in response to a request for information under Section 24(2) of the *Child Protection (Working with Children) Regulations 2013* as part of the risk assessment process, **School 2** provided information in relation to concerns regarding the applicant's conduct. These included issues pertaining to the selective taking of photographs at sporting events and handing out lollies to students. The response from **School 2** also includes a minute from the Business Manager to the then Headmaster, **REDACTED** (the author of the above reference) in which the concerns are referenced and after enquiries made, it was deemed that the behaviour was not reportable conduct but was 'outside of best professional practice for teachers'. It was also recommended that Mr **REDA** interview and counsels the applicant on these matters, which should be followed by a formal letter of caution. However as indicated, the author of the reference appears not to have any recollection of these matters.

The applicant also provided a reference from **REDACTED** (tab 3), current deputy principal of **REDACTED**. Mr **REDACT** writes 'When I was a Head of Year (Yearmaster) at Knox Grammar School there was, I believe, an investigation into alleged grooming behaviour of a student in my year group. The matter was dealt with at the time by the Headmaster, Peter Crawley'. He continues 'I was not privy to the outcome of the investigation but I know [the applicant] moved to another position, a promotional position at **School 2**'. He describes the applicant as 'a dedicated and passionate teacher. He does get close to his students which obviously has led to alleged 'grooming' allegations which implies something more manipulative behind his actions and his motivations. I am of the opinion the motives are not manipulative or sinister but he certainly needs to be aware of perceptions of others and ensure he adheres to boundaries'. He also writes 'I have not witnessed any abuse at all. I have however witnessed care and concern for his students which has given rise to 'grooming' perceptions and where appropriate boundaries may have been better followed so not to give grounds for the perceptions of some'. On verification, the author of the reference advised that he was a head of year while the applicant was an English teacher but he did not report to him. Mr **REDACT** advised that the applicant accompanied him and a group of children on a school trip, which is when the applicant met the boy who was at the centre of the grooming concerns.

The applicant also provided a further reference from his current employer, **REDACTED** (tab 4) of the **REDACTED**. Mr **REDACTED** states that he has known the applicant for 4 years and writes that the applicant 'has been an exceptional teacher with all his students since

been employed. He is honest, reasonable, trustworthy & has displayed professionalism towards the students. He has observed professional boundaries. This is based on very close supervision by me'. He continues, '[the applicant] has been teaching English on a one to one contact with all the students. The quality of contact has been purely professional & ethical at all times. I have supervised and observed [the applicant's] behaviours'. He also reports that 'He responds & actions my directions at all times. I supervise all my teachers closely'. He then writes 'From my close supervision I have never seen nor heard of any inappropriate behaviour or abuse towards children'. In conclusion he describes the applicant as a 'good responsible employee, he is up front on matters relating to students, very professional teacher'.

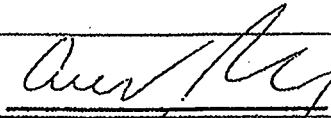
The applicant has provided a second Statutory Declaration dated 08/07/2014 (tab 5) in which he details the references he has provided and states 'Collectively these references present a picture of someone who has acted appropriately with students under his care'. He refers to children who were reportedly at the centre of grooming concerns at his previous places of employment and reports that the mother of one of the children 'has not only spoken for the propriety of my work with [the child] when he was 16 and subsequently, and can confirm that nothing of any sexual nature passed between us but is also currently employing me to work with her daughter and recommended me to work with her niece'. In referring to this same student he writes 'one of the things that parents expect is an increased commitment from the teaching staff...I saw it as my role to extend help where possible if requested...It appears that my desire to assist students is being misinterpreted as something unhealthy. I argue that it derives from a motivation to assist where I can'. The applicant refers to the high volume of students with whom he has worked and siblings of students with whom he subsequently worked 'which reinforces the idea that my relationships, over a long term are conducted in a proper fashion. I believe that I am a person of good character and there is no likelihood of any repetition of the conduct which triggered the initial assessment and there has been no proven negative impact on any student in my care, nor is there likely to be in the future'. He also refers to past students whom have later written to him to thank him for the quality of his teaching and the impact he has had on their lives.

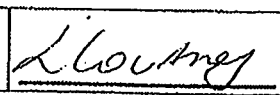
The applicant has stated that he has been advised by his solicitor not to provide references from parents of children whom he has tutored as 'She feels that there is a predisposition on the part of your office to make negative assumptions about references from parents that would not foster my submission'. No inferences have been drawn from this.

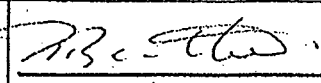
PART C -- BASIS FOR DECISION BAR PROPOSAL


A sustained finding of sexual misconduct in relation to the applicant was made by School 1. The applicant engaged in certain behaviours with male students at 3 different places of employment over a 10 year period. When viewed collectively, the repetitious nature of the behaviour indicates a pattern, much of which aligns with the Ombudsman description of grooming behaviour.

Given the considerable period of time over which the persistent and concerning behaviour occurred, the information provided by the applicant does not mitigate the concerns. For this reason it is recommended that the matter proceed to Decision Bar.

Risk Assessor's signature

05/08/2014

Team Leader's signature

7/8/2014 103

	Date 10/8/14
Manager's signature	
	Date 1/1

	Date 1/1
Legal Officer's signature	
D. Ravnichow	Date 13/8/14