



National College for
Teaching & Leadership

Ms Elizabeth Nunnington: Professional conduct panel outcome

**Panel decision and reasons on behalf of the
Secretary of State for Education**

March 2015

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	4
Documents	4
Witnesses	5
E. Decision and reasons	5
Panel's recommendation to the Secretary of State	7
Decision and reasons on behalf of the Secretary of State	9

Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Ms Elizabeth Nunnington

Teacher ref no: 1168884

Teacher date of birth: 2 February 1991

NCTL Case ref no: 12264

Date of Determination: 26 March 2015

Former employer: Pirton School

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 26 March 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Ms Elizabeth Nunnington.

The panel members were Mr John Pemberton (Teacher Panellist – in the Chair), Mr Martin Pilkington (Lay Panellist) and Ms Mary Speakman (Teacher Panellist).

The legal adviser to the panel was Mrs Fiona Walker of Eversheds LLP Solicitors.

The presenting officer for the National College was Fiona Butler of Browne Jacobson Solicitors.

Ms Elizabeth Nunnington was not present and was not represented.

The meeting took place in private.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 17 February 2015.

It was alleged that Ms Elizabeth Nunnington was guilty of unacceptable professional conduct, in that whilst employed at Pirton School, Pirton between September 2013 and July 2014, she:

1. Maintained that she was a qualified teacher when in fact she had failed the literacy test and was unqualified throughout her employment at Pirton School;
2. As a result of maintaining that she was a qualified teacher, she obtained financial gain as she received remuneration on a qualified teacher payscale;
3. And in so doing 1 and 2 above, she acted dishonestly.

Ms Nunnington admits the facts of the allegations and admits that those facts amount to unacceptable professional conduct.

C. Preliminary applications

The panel considered the issue of jurisdiction as a preliminary matter given that Ms Nunnington had not qualified as a teacher. The panel received legal advice and was advised that the panel did have jurisdiction given the provisions of the Education Act 2011 (s.141A) which provides that the Act and Regulations apply to Ms Nunnington, “ a person who is employed or engaged to carry out teaching work”.

The panel also considered the Notice of Proceedings dated 17 February 2015 and noted there was no allegation of bringing the profession into disrepute, albeit the previous letter of 3 November 2014 and Statement of Agreed Facts included an allegation of disrepute. The procedures provide at Paragraph 4.12 that the Notice of Proceedings must specify the specific allegations against the teacher. On the basis that the Notice did not contain an allegation of disrepute, the panel do not take that into account as part of the allegations against Ms Nunnington and considered an allegation of unacceptable professional conduct only.

D. Summary of evidence

Documents

In advance of the meeting, the panel received a bundle of documents which included:

Section 1 : Chronology

Section 2 : Notice of Referral, Response and Notice of Meeting

Section 3: Statement of Agreed Facts and Presenting Officer Representations

Section 4: National College for Teaching and Leadership Documents

Section 5: Teacher Documents

The panel members confirmed that they had read all of the documents in advance of the meeting.

Witnesses

The panel did not hear any oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the meeting.

Ms Nunnington applied to Pirton School for the role of teacher and was appointed by the School from 1 September 2013. She took her literacy test on 11 September 2013. She failed the test but e-mailed the Headteacher at the School on 26 September 2013 (Page 56 of the bundle) confirming that she had passed. Over the next few months, despite repeatedly being asked, she did not produce her teaching certificate or written confirmation of her results which were required. During the period 1 October 2013 up to her resignation, Ms Nunnington was employed and paid by the School on the qualified teacher scale. Prior to 1 October 2013, she was paid by the School as an unqualified teacher. However, it was confirmed to the School in June 2014 by Serco and the University of Roehampton that Ms Nunnington had failed the literacy test.

Ms Nunnington resigned from her post on 11 July 2014 and the School accepted her resignation.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

You are guilty of unacceptable professional conduct in that whilst employed at Pirton School, Pirton between September 2013 and July 2014, you

1. Maintained that you were a qualified teacher when in fact you had failed the literacy test and were unqualified throughout your employment at Pirton School;

The facts of this allegation are admitted by Ms Nunnington.

The panel noted the written evidence from the Headteacher and the e-mail communications from Ms Nunnington between September 2013 and July 2014 in which she confirmed that she had passed the literacy test and was simply having difficulties getting hold of the certificate and necessary written confirmation.

The panel has also had sight of the Candidate Test Result Form which clearly shows that Ms Nunnington had failed the test (Page 66 of the bundle).

The panel therefore find the particulars of this allegation to have been proved.

2. As a result of maintaining that you were a qualified teacher, you obtained financial gain as you received remuneration on a qualified teacher payscale;

The facts of this allegation are admitted by Ms Nunnington.

It was confirmed by the Headteacher in her written statement that Ms Nunnington was paid as a qualified teacher by the School from 1 October 2013, on the basis that she had passed her literacy test.

The panel therefore find the allegation to have been proved.

3. And in so doing at 1 and 2 above, you acted dishonestly;

The facts of this allegation are admitted by Ms Nunnington.

The panel has also considered the content of the e-mails from Ms Nunnington, in particular those dated 26 September 2013, 19 December 2013 and 19 May 2014, in which she was clearly attempting to deceive the recipients of the e-mails at the School into believing that she had passed her literacy test. The panel find that Ms Nunnington acted dishonestly over a period of time. She had every opportunity to explain that she had failed the literacy test but she chose not to do this.

The panel therefore find the allegation to have been proved.

Findings as to unacceptable professional conduct

In considering the allegations that the panel has found proven, the panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the ‘guidance’.

The panel is satisfied that the conduct of Ms Nunnington in relation to the facts found proven involved breaches of the Teachers’ Standards. A teacher is expected to demonstrate consistently high standards of personal and professional conduct. The panel considers that by reference to Part Two of the Standards, Ms Nunnington is in breach of the following:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms Nunnington fell significantly short of the standards expected of the profession.

The panel has also considered whether Ms Nunnington’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Guidance and whilst we have found her behaviour to be dishonest, it falls short of “fraud or serious dishonesty” and we have therefore found none of the offences to be relevant.

The panel finds that Ms Nunnington acted dishonestly over a considerable period of time and her conduct fell significantly short of the standards expected of the profession. Accordingly, the panel is satisfied that Ms Nunnington is guilty of unacceptable professional conduct.

Panel’s recommendation to the Secretary of State

Given the panel’s findings in respect of unacceptable professional conduct, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel has considered the particular public interest considerations set out in the Teacher Misconduct – Prohibition of Teachers Advice and having done so has found a

number of them to be relevant in this case, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Ms Nunnington include: (1) she had been dishonest over a considerable period of time; and (2) she had dishonestly maintained that she was a qualified teacher. There is therefore a strong public interest consideration in declaring proper standards of conduct in the profession. The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Nunnington was not treated with the utmost seriousness.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Ms Nunnington.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Ms Nunnington. The panel took further account of the guidance, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. In light of the panel's findings, there was no evidence that Ms Nunnington's actions were not deliberate or that she was acting under any duress. The panel found that her actions were calculated and she fully intended the School to believe that she had passed her literacy test when she had in fact failed. The panel noted that Ms Nunnington has not put forward any submissions for the panel to consider to explain her behaviour, nor indeed to express any regret or remorse for her conduct.

The panel also noted that there was no evidence before it as to Ms Nunnington's character, from Ms Nunnington herself or otherwise.

The panel is of the view that prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Ms Nunnington and the maintenance and declaring of proper standards in the profession was a significant factor in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for them to decide to recommend that a review period of the order should be considered. The panel were mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period after 2 years. Whilst there was a finding of dishonesty, the panel felt that the dishonesty and conduct generally was at the less serious end of the spectrum and felt that Ms Nunnington should be afforded the opportunity to reflect on her conduct and be allowed the opportunity to apply for review after a 2 year period.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the findings and recommendations of the panel in this case. They have found the allegations proven and in doing so have judged that Ms Nunnington is guilty of unacceptable professional conduct.

Ms Nunnington has been dishonest in claiming she had QTS where in fact she had not passed the literacy test. In considering whether to recommend that a prohibition order would be an appropriate and proportionate sanction, the panel have properly balanced the public interest with the interests of Ms Nunnington. They have identified public interest considerations relevant to this case, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel found no evidence that Ms Nunnington's actions were not deliberate or that she was acting under any duress. They found her actions to be calculated and that she fully intended the School to believe that she had passed her literacy test when she had in fact failed. Ms Nunnington has not put forward any submissions for the panel to consider to explain her behaviour, nor indeed to express any regret or remorse for her conduct.

I agree that a prohibition order is an appropriate and proportionate sanction in this case.

The panel have gone on to consider whether to recommend a period after which Ms Nunnington can apply to have the order set aside. The panel are of the view that the dishonesty and conduct generally is at the less serious end of the spectrum and have recommended that she be afforded the opportunity to reflect on her conduct and be allowed the opportunity to apply for review after a 2 year period. I agree with their recommendation.

This means that Ms Elizabeth Nunnington is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 7 April 2017, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Elizabeth Nunnington remains prohibited from teaching indefinitely.

This Order takes effect from the date on which it is served on the teacher.

Ms Elizabeth Nunnington has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.

NAME OF DECISION MAKER: Paul Heathcote

A handwritten signature in black ink, appearing to read 'P Heathcote', with a large, sweeping flourish at the end.

Date: 27 March 2015

This decision is taken by the decision maker named above on behalf of the Secretary of State.