



National College for
Teaching & Leadership

Mr Roger Brown: Professional conduct panel outcome

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

April 2015

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

Teacher:	Mr Roger Brown
Teacher ref no:	94/54627
Teacher date of birth:	20 June 1973
NCTL case ref no:	9637
Date of determination:	23 April 2015
Former employer:	Church Stretton School, Shropshire and Stourport High School, Worcestershire

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 20 to 23 April 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Roger Brown.

The panel members were Mr Mike Carter (teacher panellist – in the chair), Mr John Elliott (lay panellist) and Ms Nicole Jackson (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the National College was Ms Melinka Berridge of Kingsley Napley LLP solicitors.

Mr Brown was present and was represented by Ms Avril Bailey of the National Union of Teachers.

The hearing took place in public and was recorded.

B. Allegation

The panel considered the allegation set out in the Notice of Proceedings dated 6 November 2014.

It was alleged that Mr Roger Brown was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. In 2005 and 2006 he engaged in an inappropriate relationship with Girl B, a former pupil of Church Stretton School, Shropshire, in that he:

- (a) Invited Girl B to visit him at home;
 - (b) Kissed Girl B at his home;
 - (c) Engaged in sexual intercourse with Girl B, on more than one occasion;
2. Between 2008 and 2012, whilst working at the Stourport High School, Worcestershire he acted inappropriately towards Pupil A, a Sixth Form student in that he:
 - (a) Made flirtatious comments to her in person;
 - (b) Made flirtatious comments to her by text message;
 - (c) Made inappropriate physical contact with her;
 - (d) Encouraged her to meet him outside of school hours.
3. His conduct at paragraphs 1 and 2 was sexually motivated.

The alleged facts were not admitted.

C. Preliminary applications

The presenting officer made an application to admit additional documents consisting of extracts of an alleged Facebook conversation between Mr Brown and Girl B in 2008. After hearing representations from Ms Berridge and Ms Bailey, the chair announced the decision of the panel as follows:

The panel has considered the application to admit an additional document consisting of a record of an alleged Facebook conversation between Mr Brown and Girl B in 2008. This evidence was not served at least four weeks in advance of the hearing but a copy was served on Mr Brown and his representative on 14 April 2015. The panel is satisfied that the evidence is relevant. As to whether it is fair to admit the evidence, the panel has taken into account that both Mr Brown and Girl B will be giving evidence and can be questioned about the alleged Facebook exchange. In these circumstances, the panel is satisfied that no unfairness will be caused by the late service. Accordingly, the panel agrees to the admission of the evidence.

The panel agreed that the additional evidence should be included in the bundle at Section 6, with page numbers from 242 to 246.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list, with page numbers from 1 to 3

Section 2: Notice of proceedings and response, with page numbers from 4 to 16

Section 3: NCTL witness statements, with page numbers from 17 to 41

Section 4: NCTL documents, with page numbers from 42 to 169

Section 5: Teacher documents, with page numbers from 170 to 241

Section 6: Facebook conversation, with page numbers from 242 to 246

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

Witnesses

The panel heard oral evidence from the following witnesses called on behalf of the National College, namely:

- Girl B, former pupil of Church Stretton School
- Witness A, Principal at Stourport High School
- Mother of Pupil A
- Witness B, teacher of music at Stourport High School
- Witness C, former Head of Music at Stourport High School

The panel also heard oral evidence from the following witnesses called on behalf of Mr Brown, namely:

- Roger Brown
- Witness D

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has now carefully considered the case before us and have reached a decision.

The panel has read all the documents provided in the bundle in advance of the hearing.

Mr Brown was employed as Head of Music at Church Stretton School in Shropshire from 1995 to 2002. He was employed as Head of Music at Stourport High School Worcestershire from 1 September 2008 until 31 May 2012.

Girl B attended Church Stretton School between 1999 and 2004. During her time there, Mr Brown taught her approximately once a week in years 7, 8 and 9. In 2005, Girl B studied at Shrewsbury Sixth Form College. It is alleged that in 2005 there was email contact between Girl B and Mr Brown which resulted in Girl B visiting Mr Brown at his home for help with her music A Level coursework on a date in June 2005. She was aged 17 at that time. It is alleged that when she visited Mr Brown's home, Mr Brown gave her wine to drink and that they engaged in sexual intercourse. It is further alleged that between July 2005 and September 2006, Girl B met with Mr Brown several times for sexual intercourse at different locations.

Pupil A attended Stourport High School between years 9 to 13. In years 10 to 13 she was taught music by Mr Brown. Pupil A was aged 17 when she started year 13 in September 2011. It is alleged that Pupil A felt uncomfortable because Mr Brown had begun to make comments about her appearance. She reported her concerns to her mother, but initially felt that she could handle the situation herself. Pupil A did not want to report his conduct out of concern that this could negatively impact on her studies. However, it is alleged that Pupil A was compelled to say something when she felt that the situation had got out of control. This was on 30 March 2012, when it is alleged that Mr Brown encouraged Pupil A to meet with him for a drink outside of school hours. Witness A, the Principal of Stourport High School, was informed the same day and contacted Mr Brown on the mobile phone number the texts had been sent from. On 4 April 2012, the Principal met with Pupil A and her parents. Pupil A brought her mobile phone to this meeting and the text messages that Pupil A said were sent by Mr Brown were reviewed. Following an investigation meeting, a disciplinary hearing was held on 30 May 2012 which resulted in Mr Brown's dismissal.

It is alleged that, in 2012, Girl B learnt from a friend who taught at Stourport High School that Mr Brown had been dismissed due to his alleged inappropriate conduct towards a female pupil. In October 2012, Girl B reported her own experiences to the police. No charges were brought. In February 2014, Witness A informed Girl B that Mr Brown was being investigated by the National College. On 25 February 2014, Girl B reported the details of her alleged relationship with Mr Brown to the National College.

Findings of fact

1. In 2005 and 2006 he engaged in an inappropriate relationship with Girl B, a former pupil of Church Stretton School, Shropshire, in that he:

(a) Invited Girl B to visit him at home;

Mr Brown provides private music tuition. Girl B had asked Mr Brown for assistance with her music A Level coursework and he invited her to his home for a lesson in June 2005. Mr Brown said that Girl B visited on one occasion. Although the facts of this particular are proved, the panel is not satisfied that, in isolation, the invitation comprised an inappropriate relationship.

Accordingly, the panel find the facts of 1(a) not proved.

(b) Kissed Girl B at his home;

The panel has taken this allegation to relate to the visit to Mr Brown's home in June 2005. There are conflicting accounts between Girl B and Mr Brown. The panel concluded, on the balance of probabilities, that the evidence of Girl B alone was not sufficient to find the facts of this limb proved.

Accordingly, the panel find the facts of 1(b) not proved.

(c) Engaged in sexual intercourse with Girl B, on more than one occasion;

Mr Brown denied that he had sexual intercourse with Girl B. However, the panel is satisfied that the Facebook exchanges between 19 and 26 June 2008 evidence a past sexual relationship two years previously. For example:

- 'No tickets available for Mr B [the then boyfriend of Girl B]... he will have to wait...its better if you come alone so that we can at least have a drink and talk.'
- 'Is Mr B trustworthy- does he know know ...x'
- When Girl B challenged him about whether a concert was taking place or not, Mr Brown replied, '...do you want to spend some time with me ?x'; '... I want to see you more than just a short play through and I wanted to catch up, remember the good times and enjoy. Do you want to come?X'
- 'I get the impression you are not interested any more ?'
- When Girl B challenged him again about whether a concert was taking place or not, saying 'presuming the 'concert' is a ploy to get me to meet you, and also you

seem pretty adamant that I should come by myself...’, Mr Brown replied ‘time for you to be clear... do you want to continue with last time we met?’

- When Girl B asked ‘... is there a concert going on really ?’, Mr Brown replied ‘...I am sorry I bigged it up but I wanted to see you – now we both know how you feel about it then let me know.. There is a cellist around the corner who I could ask. I would prefer you come for the fun of it !. Let me know if you change your mind.’
- ‘I need your help – but I won’t manage it if you don’t want to stay for a drink and chat etc, or have (Mr B) there. I had hoped you would want to for giggles: the impish look is there? I thought wrong. Or I misjudged your wishes – sorry. It seems you have made your mind up and it is set in stone so lets leave it for now. I apologise for getting it wrong. If you change your mind about me then I will be glad.’
- Girl B said ‘So you don’t need me next weds then to play cello? I don’t mind chatting, I don’t mind drinking, but that will be all on weds. Please respect this otherwise I’ll be gone. Yes or no?’
- ‘I’ll think about it. Prevention is probably best right ? Probably no, unless you change your mind. I’m sorry but I thought you were still 2 years back in the thinking.’

Mr Brown gave a number of conflicting explanations for the Facebook exchanges outlined above. One explanation was that they related to a chance meeting at a pub in Shrewsbury in the winter of 2005/6. Another was that he was ‘interested in finding out more about Girl B because of previous suggestive and provocative texts she had sent him, including a picture message’. Mr Brown said that he ‘wanted to know if she was still suggesting the same thing as she was previously suggesting. I had been thinking about it. It had been playing on my mind’. The panel finds none of Mr Brown’s explanations to be persuasive or plausible.

The panel is satisfied that these Facebook exchanges, read together with the evidence of Girl B, prove on the balance of probabilities, that sexual intercourse took place with Girl B on more than one occasion in 2005 and 2006. The panel finds that the purpose of these Facebook exchanges, initiated by Mr Brown, was to resume the sexual relationship that had existed some two years earlier.

The panel is further satisfied that this was an inappropriate relationship with Girl B. The sexual relationship arose as a result of a teacher/pupil relationship. Mr Brown was in a position of trust and, although Girl B was a former pupil at the time, she said that she ‘still looked at Roger Brown as my teacher’. He abused that position of trust by engaging in a sexual relationship with her.

Accordingly, the panel find the facts of 1(c) proved.

2. Between 2008 and 2012, whilst working at the Stourport High School, Worcestershire he acted inappropriately towards Pupil A, a Sixth Form student in that he:

(a) Made flirtatious comments to her in person;

The panel applied the ordinary meaning of ‘flirtatious’ as ‘behave as though sexually attracted to someone, but playfully rather than with serious intentions’. The panel has carefully considered the notes taken at the initial meeting with Pupil A and her parents on 4 April 2012 and the document subsequently prepared by Mother A at Pupil A’s dictation. Mr Brown denied making some of the comments alleged and said that some were misinterpreted or taken out of context. He admitted that he was ‘overfamiliar’ in some of his comments, which he had intended to be complimentary. He admitted, for example, that he may have said to Pupil A that she ‘illuminate[d] the room when she walk[ed] into it’. Mr Brown denied that any of the comments that he admitted making were flirtatious. In cross-examination, Mr Brown was questioned about each comment in the document that had been prepared by Mother A. The panel did not find his answers to be credible or convincing. For example, it was alleged Mr Brown had said that Pupil A had ‘piercing eyes’ and was ‘stunning’. His response was that he had ‘probably said, “don’t look at me in that piercing way” and “that was a stunning answer” ’.

On the balance of probabilities, the panel is persuaded by the account given by Pupil A, although this was hearsay evidence. Mr Brown, himself, describes Pupil A as a truthful and honest pupil. The panel also heard evidence from Witness B, an NQT in her first year who was being mentored by Mr Brown. She did not hear every alleged comment, but those that she did hear, supported Pupil A’s account. Witness B recalled a number of occasions when Mr Brown would make comments to her about Pupil A’s appearance in the presence of Pupil A, such as ‘how lovely she looks in her dress’ and ‘how she always looks lovely and elegant’. These comments made Witness B feel uncomfortable. In evidence to the panel, Mr Brown described Pupil A as ‘a lovely female pupil’. Taking all of this into account, the panel is satisfied that Mr Brown made flirtatious comments to Pupil A in person and that, in doing so, he acted inappropriately.

Accordingly, the panel finds the facts of 2(a) proved.

(b) Made flirtatious comments to her by text message;

Mr Brown accepted in cross-examination that a teacher texting a pupil is ‘inappropriate and unprofessional’ even where the pupil initiates the texting. He admitted that some of the texts that he sent to Pupil A were ‘overfamiliar’ and ‘over friendly’, but he denied that they were flirtatious. He said that the text messages seen by the panel were selective and taken out of context. Whilst he said that texting pupils was acceptable in other educational organisations, he also accepted that at Stourport School this was unacceptable. Witness A said that the school had a bank of mobile phones available for

appropriate communication with pupils and parents. The panel has carefully reviewed the records of the text messages presented, including the following:

- ‘Great lesson today...! I feel like were on to a winner ! Fantastic taste in film music and such amazing enthusiasm ! See you Monday’
- ‘Hey ! I’m still in the zone ! Great work’
- ‘We’re going to have a mini celebration tomorrow ! x’
- ‘Be sure. Come on [Pupil A]. It’ll be fun x’
- ‘Just doing some work at school ! That’s what you say x’

The panel noted that a number of the text messages ended with an ‘x’. The panel is satisfied that some of the text messages sent by Mr Brown to Pupil A were flirtatious in tone and content and that Mr Brown’s actions in this regard were inappropriate.

The panel finds the facts of 2(b) proved.

(c) Made inappropriate physical contact with her;

Pupil A is recorded as saying that ‘Mr Brown had hugged her on three occasions, once asking could he have a hug and then hanging on, making her feel uncomfortable’. Mr Brown admitted that he had hugged Pupil A and other pupils on a number of occasions after successful concerts, but he asserted that this was in front of others and was a celebratory gesture. Mr Brown also admitted that there was one occasion when he had hugged Pupil A for too long, making her feel uncomfortable. Mr Brown accepted that Pupil A was not hypersensitive to hugging and that there was no reason for her to complain about physical contact if she did not believe it to be inappropriate.

The panel finds the facts of 2(c) proved.

(d) Encouraged her to meet him outside of school hours.

The notes taken at the initial meeting with Pupil A and her parents on 4 April 2012 refer to Mr Brown persistently asking Pupil A, verbally and by text, to meet him outside of school. The records of text messages confirm this account. On 5 December 2011, Mr Brown sent a text ‘I have your gloves here, what house no. Are you and I’ll drop them off asap’. On 30 March 2012, the last day of term, when school was finishing at 12.30, Mr Brown sent four texts between 11.32 and 13.38. The first text read ‘No ! Post box ! It’s a great idea [Pupil A] ! Come on !!! I’ll be waiting..’. The next text appears to the panel to be an attempt to provide Pupil A with an excuse for meeting Mr Brown, ‘Just doing some work at school ! That’s what you say x’. The next text reads ‘Be sure. Come on [Pupil A] It’ll be fun x’. The last text reads ‘OK [Pupil A], good to see you’re putting music before alcoholic beverage ! you know how much I wear my heart on my sleeve so you’ll understand I’m disappointed as usual but can we go for a drink after Easter? I have to

impart much information to you and show off your presented c/w. Let me know if you have got this x'.

The panel regarded Mr Brown's explanation that he proposed meeting Pupil A by the post box outside of school in order to give Pupil A her coursework to be absurd.

The panel is satisfied that in encouraging Pupil A to meet him outside of school, Mr Brown's actions were inappropriate.

The panel finds the facts of 2(d) proved.

3. His conduct at paragraphs 1 and 2 was sexually motivated.

In determining whether the facts found proved in paragraphs 1(c) and 2(a), (b), (c) and (d) were sexually motivated, the panel considered whether the actions of Mr Brown were for the purpose of gratifying his sexual needs or desires. The panel considered the position in relation to Girl B and Pupil A separately.

In relation to paragraph 1(c), Mr Brown's conduct in engaging in sexual intercourse with Girl B on more than one occasion was clearly for his sexual gratification.

In relation to paragraphs 2(a), (b), (c) and (d), Mr Brown denied that he found Pupil A to be physically attractive. However, the panel noted Mr Brown's own description of Pupil A as 'pretty' and 'lovely'. In addition, Witness C described Mr Brown's demeanour when in the presence of Pupil A. She said that he blushed and his eyes 'sparkled' when in Pupil A's presence. The panel has also noted the escalation from flirtatious comments and texts from Mr Brown to Pupil A to encouraging her to meet him outside of school and socialising with him. Mr Brown persisted in this behaviour over a period of months. The panel is satisfied that the actions of Mr Brown were for the purpose of establishing a personal and sexual relationship with Pupil A and were, therefore, sexually motivated.

Accordingly, the panel finds the facts of 3 proved in relation to the conduct in 1(c) and 2(a) to (d).

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

The panel is satisfied that in relation to the facts found proved in 1(c) and 2(a) to (d) Mr Brown's actions amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel is satisfied that Mr Brown's actions towards both Girl B and Pupil A amount to misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The conduct would likely have a negative impact on Mr Brown's status as a teacher and potentially damage the public's perception of him, thereby bringing the profession into disrepute.

In making this judgment, the panel drew on its own experience of the teaching profession and the personal and professional conduct elements of the Teachers' Standards. The panel also had regard to the GTCE Code of Conduct and Practice for Registered Teachers – effective from November 2004 – which was in force at the time of the proven facts involving Girl B.

Mr Brown breached the personal and professional conduct elements of the Teachers' Standards in that he failed to uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by failing to:

- treat pupils with dignity, building relationships rooted in mutual respect and at all times observe proper boundaries appropriate to a teacher's professional position
- have regard to the need to safeguard pupil's well-being

In relation to his actions towards Pupil A, he also failed to have proper and professional regard for the ethos, policies and practices of Stourport High School.

In relation to Pupil A, in addition to sending flirtatious texts and encouraging her to socialise with him, when his use of the office to teach Pupil A was under scrutiny he sent a text message to Pupil A which reads 'I need your help. Can you say that most of our lessons have been in the classroom and not in the office please ? Is that OK ?'. The panel consider this to be a wholly inappropriate attempt to involve Pupil A in concealing the true position. This was another example of failing to observe proper boundaries.

In relation to Girl B, he breached the GTCE Code of Conduct and Practice for Registered Teachers – effective from November 2004 – by bringing the reputation and standing of the profession into serious disrepute.

Panel's recommendation to the Secretary of State

The panel has very carefully considered all of the oral and written evidence presented, including that put forward in mitigation on behalf of Mr Brown.

The panel concluded that Mr Brown's behaviour was incompatible with being a teacher for the following reasons:

- Mr Brown's conduct represented a serious departure from the personal and professional conduct elements of the Teachers' Standards and, in relation to Girl B, a serious breach of the GTCE Code of Professional Conduct and Practice in force at the time.
- Mr Brown's actions in relation to Pupil A seriously affected her education and well-being. The notes of the Governors' disciplinary hearing on 30 May 2012 record that Mr Brown accepted that he 'may have harmed Pupil A's chances at exam and that she would probably only get a B rather than an A as in all her other subjects'. The panel heard from her mother that Pupil A had been predicted an

overall A grade in her music A Level, but that she only achieved a 'B' grade overall. Further, Pupil A's mother told the panel that her daughter had commented that Mr Brown's conduct had been a 'blight on her life' and the effects of his conduct were ongoing. Pupil A's mother believed her daughter's ability to form relationships had been adversely affected.

- As the panel has found, Mr Brown's actions in relation to both Girl B and Pupil A involved abuse of a position of trust.
- Mr Brown's actions in relation to both Girl B and Pupil A amounted to sexual misconduct. The panel has found that his actions were sexually motivated.

The panel considered the mitigation presented. The panel recognised that Mr Brown has a previous good history and positive character references have been presented on his behalf which demonstrate that he is a talented and effective teacher. The panel heard from Witness D that, by March 2012, Mr Brown was suffering from stress. The panel considered that Witness D was a credible witness. However, the stress was not apparent to Mr Brown's school colleagues. Despite the lack of medical evidence, the panel accepted that in March 2012 Mr Brown was suffering from stress and later received counselling. Because of conflicting evidence, the panel has been unable to determine when the stress began to affect Mr Brown's conduct and judgement. In the panel's opinion, such work-related or other stress does not excuse or mitigate the conduct found proved. Moreover, no evidence has been presented of stress being a factor in 2005 and 2006.

Mr Brown has continued to deny the allegations and has not accepted responsibility for his actions and their consequences. In the panel's opinion, Mr Brown has expressed remorse, but shown little insight. For example, he speaks of 'blurring of professional boundaries' rather than breaching them.

The panel's view is that a prohibition order is necessary in order to protect pupils and other members of the public (including former pupils), to maintain public confidence in the teaching profession and to declare and uphold proper standards of conduct.

The panel, therefore, recommends that a prohibition order should be imposed.

The panel considered whether to specify a period after which Mr Brown might apply to have the prohibition order set aside. The panel concluded that this was serious sexual misconduct as the conduct was sexually motivated and resulted in harm to a person and that Mr Brown had used his professional position to influence or exploit a person or persons (current and former pupils).

The panel, therefore, recommends that there should be no provision for Mr Brown to apply to have the prohibition order set aside.

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.

The panel has found a number of serious allegations proven in respect of Mr Brown's inappropriate relationships with Girl B and Pupil A and judged those facts to amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute. Those relationships involve inappropriate communications, inappropriate physical contact and in relation to Girl B, sexual intercourse. In respect of Pupil A the panel found proven that Mr Brown's actions were sexually motivated.

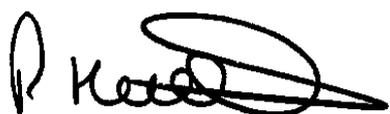
The panel has found Mr Brown's behaviour to be incompatible with being a teacher on a number of counts clearly set out in their recommendation. They have taken account of his previous good history and positive character references which demonstrate his effectiveness as a teacher. Mr Brown continued to deny the allegations and has not accepted responsibility for his actions. He has shown little insight albeit he has expressed remorse. In the circumstances I agree with the panel's recommendation that prohibition is an appropriate and proportionate sanction.

The panel has judged Mr Brown's behaviour to amount to serious sexual misconduct and having due regard to the Secretary of State's advice I agree with their recommendation that the order should be without the opportunity for Mr Brown to apply to have it set aside.

This means that Mr Roger Brown is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Roger Brown shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Roger Brown has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.



NAME OF DECISION MAKER: Paul Heathcote

Date: 27 April 2015

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