



National College for
Teaching & Leadership

Mr Marshall Maylin: Professional conduct panel outcome

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

June 2015

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

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| Teacher: | Mr Marshall Maylin |
| Teacher ref no: | 9356868 |
| Teacher date of birth: | 1 September 1964 |
| NCTL case ref no: | 10975 |
| Date of determination: | 16 June 2015 |
| Former employer: | Bedfordshire East Multi Academy Trust (formerly Samuel Whitbread Upper School) |

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 15 and 16 June 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Marshall Maylin.

The panel members were Peter Cooper (teacher panellist – in the chair), Jean Carter (lay panellist) and Martin Pilkington (lay panellist).

The legal adviser to the panel was Mr Robin Havard of Blake Morgan LLP solicitors.

The presenting officer for the National College was Christopher Geering of Counsel, instructed by Nabarro.

Mr Marshall Maylin was present and was represented by Mr Simon Harding of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 10 October 2014.

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

Whilst employed as a teacher at Samuel Whitbread Upper School (“the School”) between 1 September 2005 and 14 December 2012:

1. He altered Statement(s) of Fitness for Work for Social Security or Statutory Sick Pay (“Sickness Statement”) dated:
 - a. 12 March 2012
 - b. 22 March 2012
 - c. 28 March 2012
 - d. 25 May 2012
2. By his actions set out at 1 above he:
 - a. Increased the number of weeks for which the Sickness Statement(s) were issued
 - b. Gave a false impression to his employers and/or the School about his ability to attend work
 - c. Received additional Statutory Sick Pay
3. On 12 March 2012, he sent an email to the School which falsely stated he had been issued with a 2 week medical note.
4. On 22 March 2012, he sent an email to the School which falsely stated that he had been issued with a 4 week medical note and/or may require or had had an operation.
5. On 15 April 2012, he sent an email to the School which falsely stated that he had to have a second operation.
6. On 29 April 2012, he sent an email to the School which falsely stated he had an operation scheduled for 10 May 2012.
7. On 25 May 2012, he sent an email to the School which falsely implied he was unable to return to work for medical reasons for a further 10 weeks.

8. His actions as set out at 1 and/or 2 and/or 3 and/or 4 and/or 5 and/or 6 and/or 7 above were dishonest in that he deliberately submitted information to the School which he knew was false.
9. In relation to his actions set out at 1 and 2 above, on 28 August 2012, he was cautioned by Bedfordshire Police for making/supplying articles for use in frauds, in the period 12 March to 25 May 2012, contrary to The Fraud Act 2006 (Section 7).

Mr Maylin admitted the particulars of the allegation save for particular 8. Mr Maylin also accepted that such conduct that had been admitted amounted to unacceptable professional conduct and was conduct which may bring the profession into disrepute.

C. Preliminary applications

Admission of documents

Mr Maylin had prepared a statement and wished to introduce it at the outset of the hearing. The presenting officer did not object and the panel agreed to the statement being submitted.

D. Summary of evidence

Documents

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

- Section 1: Chronology, page number 2
- Section 2: Notice of Referral and Response and Notice of Proceedings, with page numbers from 4 to 16
- Section 3: Statement of Agreed Facts, with page numbers from 18 to 27
- Section 4: Witness statements, with page numbers from 29 to 36
- Section 5: NCTL documents, with page numbers from 38 to 201
- Section 6: Teacher documents, with page numbers from 203 to 368

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 by the presenting officer:

Witness A – practice manager

Witness B – school principal of the Samuel Whitbread Academy

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 hearing.

Brief summary

Samuel Whitbread Academy is a large school of 1,750 students, 135 teachers and 100 support staff. The Upper School takes children at the age of 13 years, and the school has a focus on engineering.

Mr Maylin joined the school in September 2005 as a product design engineer teacher and taught classes in small groups.

In March, April and May 2012, it is alleged that Mr Maylin forged documents to include changing the content of Statements of Fitness to Work completed by his General Practitioner and sending communications to his school which contained information regarding his health which he knew to be untrue.

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:

Whilst employed as a teacher at Samuel Whitbread Upper School (“the School”) between 1 September 2005 and 14 December 2012:

- 1. You altered Statement(s) of Fitness for Work for Social Security or Statutory Sick Pay (“Sickness Statement”) dated:**
 - a. 12 March 2012**

This Sickness Statement was issued by the doctor for 1 week but Mr Maylin admitted, and the panel finds, that he altered it to 2 weeks.

b. 22 March 2012

This Sickness Statement was issued by the doctor for 2 weeks but Mr Maylin admitted, and the panel finds, that he altered it to 4 weeks.

c. 28 March 2012

This Sickness Statement was issued by the doctor for 1 week but Mr Maylin admitted, and the panel finds, that he altered it to 12 weeks.

d. 25 May 2012

This Sickness Statement (pages 52 to 53) was issued by the doctor for 1 week but Mr Maylin admitted, and the panel finds, that he altered it to 22 weeks.

2. By his actions set out at 1 above he:

a. Increased the number of weeks for which the Sickness Statement(s) were issued

This particular was admitted by Mr Maylin. Furthermore, as a consequence of its findings in respect of particular 1, the panel finds this particular proved.

b. Gave a false impression to his employers and/or the School about his ability to attend work

This particular was admitted by Mr Maylin. Furthermore, the panel accepted the evidence of Witness B and found that Mr Maylin's employers and the school were led to believe by the forged Sickness Certificates that Mr Maylin had been signed off sick for the periods stipulated falsely by him in those Certificates.

Consequently, the panel finds this particular proved.

c. Received additional Statutory Sick Pay

This was admitted by Mr Maylin. As a consequence of Mr Maylin altering the Sickness Certificates so that they suggested that he had been signed off for longer periods than those stipulated by the doctor, the panel was satisfied that this would have had the result of Mr Maylin receiving additional Statutory Sick Pay to which he was not entitled.

Consequently, the panel finds this particular proved.

3. On 12 March 2012, he sent an email to the School which falsely stated he had been issued with a 2 week medical note

This particular was admitted by Mr Maylin. The panel was satisfied that the email (page 47) contained false information in that the Sickness Certificate with which he had been issued for 1 week had been changed by Mr Maylin to 2 weeks.

Consequently, the panel finds this particular proved.

4. On 22 March 2012, he sent an email to the School which falsely stated that he had been issued with a 4 week medical note and/or may require or had had an operation

This particular was admitted by Mr Maylin. The panel was satisfied that the email (page 48) contained false information in that the Sickness Certificate with which he had been issued for 1 week had been changed by Mr Maylin to 4 weeks. The panel was also satisfied that, at the time he wrote the email, Mr Maylin had not been told that he may require a "...small operation".

The panel finds this particular proved.

5. On 15 April 2012, he sent an email to the School which falsely stated that he had to have a second operation

This particular was admitted by Mr Maylin. The panel was satisfied that the email (page 49) contained false information. The panel found that Mr Maylin's statement in the email to the school that he was to undergo a second operation on 25 April 2012 was not true.

Consequently, the panel finds this particular proved.

6. On 29 April 2012, he sent an email to the School which falsely stated he had an operation scheduled for 10 May 2012

This particular was admitted by Mr Maylin. The panel was satisfied that the email (page 50) contained false information. The panel found that Mr Maylin's statement in the email to the school that he was to undergo an operation on 10 May 2012 was not true.

Therefore, the panel finds this particular proved.

7. On 25 May 2012, he sent an email to the School which falsely implied he was unable to return to work for medical reasons for a further 10 weeks

This particular was admitted by Mr Maylin. Furthermore, by reference to the Sickness Certificate (pages 52 to 53), the evidence of Witness A (paragraph 4d/page 30), and the findings of the panel at particular 1d above, the Certificate was for only 1, as opposed to 10, weeks. It was therefore false to imply in the email of 25 May 2012 (page 51) that he was unable to return to work for a further 10 weeks for medical reasons.

Consequently, the panel finds this particular proved.

8. His actions as set out at 1 and/or 2 and/or 3 and/or 4 and/or 5 and/or 6 and/or 7 above were dishonest in that he deliberately submitted information to the School which he knew was false

It was the judgement of the panel that, by the standards of reasonable and honest people, the forging of Sickness Certificates so as to increase the period Mr Maylin was entitled to remain off work was dishonest. By those standards, it was also dishonest to send emails to the School which contained false information both in terms of the periods he had been signed off work and in respect of purported future medical treatment.

The panel then considered whether Mr Maylin knew that, by those standards, his behaviour was dishonest.

In his evidence, both written and oral, Mr Maylin suggested to the panel that he had no real recollection of altering the Sickness Certificates or of sending the misleading emails. It was also suggested that, at the time he altered the Certificates and sent the emails, he did not know what he was doing.

The panel did not doubt that, at the material time, namely in the period covering March, April and May 2012, Mr Maylin was experiencing a number of difficulties in his professional and personal life. No doubt this caused considerable stress and anxiety.

The panel also took account of Mr Harding's submission that it was important to look at the medical evidence produced in July 2012 (pages 250 and 251), June 2013 (page 218) and November 2013 (page 216) which suggested that Mr Maylin was probably suffering from [redacted] throughout the material time.

However, the medical records throughout March to May 2012 make no mention of Mr Maylin suffering from mental illness, let alone an illness so severe that he would not have known what he was doing. Furthermore, whilst the later evidence suggests that Mr Maylin was suffering from [redacted], the report in July 2012 concludes by stating that Mr Maylin had "...no psychotic features..." (page 253).

No psychiatric evidence had been produced for the purposes of this hearing to support the assertion of Mr Maylin that he had no recollection of his actions nor that he would not have known what he was doing at the time he was altering Sickness Certificates or sending out emails including false information.

The panel was concerned that the conduct giving rise to these proceedings extended over a period of some 2 and a half months and that his actions, whether altering Certificates or sending out emails containing false information could not be described as isolated events.

During this time, Mr Maylin travelled to Russia to spend time with his girlfriend but he was unable to tell the panel whether it was for a matter of days or weeks. The panel did not

find this credible. However, Mr Maylin did say that the visit had "...really brought me back to life..." and that "...I came back a different person".

Notwithstanding that, having returned from Russia, Mr Maylin changed a Sickness Certificate dated 25 May 2012 from 1 week to 22 weeks and sent an email on 25 May 2012 to the School stating falsely that he was unable to return to work for a further 10 weeks.

For the reasons outlined above, the panel found on the balance of probabilities that, in March, April and May 2012, Mr Maylin did understand what he was doing. In altering the Sickness Certificates and in sending emails knowing that they contained false information, he knew he was acting dishonestly.

Consequently, the panel finds this particular proved.

9. In relation to his actions set out at 1 and 2 above, on 28 August 2012, he was cautioned by Bedfordshire Police for making/supplying articles for use in frauds, in the period 12 March to 25 May 2012, contrary to The Fraud Act 2006 (Section 7)

This particular was admitted by Mr Maylin. The panel also relied on the letter to the School from the police dated 30 August 2012 (pages 66 to 67) which confirmed that Mr Maylin had received a caution for an offence of "Make/Supply Articles for use in fraud". The acts to which this related were the forgeries of the Sickness Certificates to which particular 1 relates and which were admitted by Mr Maylin in an interview with the police and at this hearing.

The panel therefore finds this particular proved.

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

The panel finds that the facts found proved in respect of allegations 1 to 9 constituted "unacceptable professional conduct", in that such conduct was of a serious nature and fell significantly short of the standard of behaviour expected of a teacher. For the same reasons, the panel found that such conduct may bring the profession into disrepute.

In making this finding, the panel had found that Mr Maylin's conduct represented significant breaches of the Teachers' Standards.

Mr Maylin had failed to act with honesty and integrity. Indeed, the panel had found that Mr Maylin had acted dishonestly. Furthermore, the acts of dishonesty included the deliberate alteration of documents produced by a doctor and then providing false information to his school regarding his health. This was not a case of an isolated incident.

The course of behaviour had extended over a period of approximately 2 and a half months and related to a series of acts of deception.

In acting in this way, Mr Maylin had failed to uphold the proper standards expected of a teacher and had put at risk the reputation of the profession and the trust of the public in the profession.

Mr Maylin had failed to maintain a high standard of ethics and behaviour.

Panel's recommendation to the Secretary of State

The panel gave very serious consideration to the mitigation put forward by, and on behalf of, Mr Maylin in the knowledge that he is a person of previous good character. Furthermore, Witness B had confirmed that, up until the last year of his employment, Mr Maylin had been a satisfactory teacher who had produced good results.

The panel took account of the fact that Mr Maylin had admitted all allegations save for dishonesty. He had accepted that such conduct was serious and amounted to unacceptable professional conduct and conduct that might bring the profession into disrepute.

Whilst the panel had not accepted the basis on which Mr Maylin had denied the allegation of dishonesty, it was satisfied that he now understands the nature of his wrongdoing and that he had shown a level of insight, although the panel had concerns that there was a lack of recognition of the true extent of his misconduct. Mr Maylin had also expressed remorse and regret for his conduct.

There was no doubt that Mr Maylin had suffered significant hardship at both a personal and professional level. As stated above, although the panel did not accept Mr Maylin's evidence that he had no real recollection of his actions or that he did not know what he was doing when altering the Sickness Certificates and sending emails with false information, what was clear was that this conduct took place at a time of considerable stress and anxiety and that he was suffering from ill-health.

The panel had to weigh against such factors the seriousness of the allegations found proved and the significant consequences of such conduct.

The panel bore in mind its obligation to act in a way that protected the public interest. The panel had a responsibility to ensure that public confidence in the profession was maintained, and that proper standards of conduct were upheld.

Mr Maylin's actions represented a serious departure from the personal and professional conduct elements of the Teachers' Standards. Mr Maylin had been found to be dishonest. The panel had no doubt that his behaviour put at risk the reputation of the profession.

The panel concluded that, whilst it had sympathy for Mr Maylin's medical condition, the only proportionate and appropriate outcome was for it to recommend to the Secretary of State that a prohibition order should be imposed. Whilst it was accepted that such a sanction was likely to have a punitive effect, this was certainly not the intention of the panel in reaching its decision. Its decision was based purely on its regulatory responsibility to act in the public interest.

Taking account of the nature of the conduct on the part of Mr Maylin, and the circumstances in which the conduct took place, the panel had not been convinced by Mr Maylin that there was no risk of a repetition of this sort of behaviour particularly if Mr Maylin once again found himself in a position of increased pressure and stress.

The panel further considered whether to recommend that Mr Maylin should be able to apply for the prohibition order to be set aside after a specified period or whether there should be no such provision.

On balance, the panel recommends that, taking account of the nature and seriousness of the conduct giving rise to the allegations and for the reasons outlined above, Mr Maylin should only be permitted to apply for the prohibition order to be set aside after a period of 4 years has elapsed.

The panel believed that this length of time was sufficient to mark to the general public and the profession that such behaviour was wholly inappropriate. It may also be sufficient for Mr Maylin to demonstrate that, in those 4 years, whatever the pressures he faced, whether personal or professional, he had developed strategies which would ensure that he would not repeat the sort of conduct which had given rise to these proceedings.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case.

The panel have found all the allegations proven and have determined that the facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Mr Maylin has acted dishonestly in deliberately altering documents produced by a doctor and then providing false information to his school regarding his health. This happened on a number of occasions over a period of 2 and a half months.

In considering whether it would be appropriate and proportionate to recommend a prohibition order the panel have found public interest considerations to be relevant in this case namely, the maintenance of public confidence in the profession and upholding proper standards of conduct.

The panel have paid due regard to the mitigation offered by Mr Maylin but have nevertheless recommended that a prohibition order be imposed. I agree with their recommendation.

The panel have recommended that Mr Maylin be allowed to apply to have the order set aside after a minimum period of 4 years has elapsed. The panel believe that this length of time is sufficient to mark to the general public and the profession that such behaviour was wholly inappropriate. It may also be sufficient for Mr Maylin to demonstrate that he has developed strategies which would ensure that he would not repeat the sort of conduct which had given rise to these proceedings. I agree with this recommendation.

This means that Mr Marshall Maylin is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 24 June 2019, 4 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Marshall Maylin remains prohibited from teaching.

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

Mr Marshall Maylin 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

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

Date: 17 June 2015

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