



National College for
Teaching & Leadership

Mr Mark Hill: Professional conduct panel outcome

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

September 2015

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

Teacher: Mr Mark Hill

Teacher ref number: 0646334

Teacher date of birth: 24 April 1971

NCTL case reference: 12768

Date of determination: 1 September 2015

Former employer: Westlands School, Kent

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 1 September 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Mark Hill.

The panel members were Mrs Alison Walsh (teacher panellist – in the chair), Mr Colin Parker (teacher panellist) and Mrs Susan Netherton (lay panellist).

The legal adviser to the panel was Mr Thomas Whitfield of Eversheds LLP solicitors.

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

Mr Hill was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Proceedings dated 18 June 2015.

It was alleged that Mr Mark Hill was guilty of having been convicted of a relevant offence, in that at Maidstone Magistrates' Court, on 15 September 2014, he was convicted of theft by an employee on 1 April 2014 to 23 July 2014 contrary to section 1 of the Theft Act 1968. He was sentenced at Maidstone Crown Court, on 10 November 2014 to eight months' imprisonment and ordered to pay a victim surcharge of £100.

No response had been received to the Notice of Proceedings and so it was taken that Mr Hill did not admit the facts of the allegations nor that they amounted to conviction of a relevant offence.

C. Preliminary applications

The panel considered an application by the presenting officer for the hearing to proceed in the absence of Mr Hill.

The panel was satisfied that National College had complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, and that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel went on to consider whether to exercise its discretion under Paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel understood that its discretion to commence a hearing in the absence of the teacher had to be exercised with the utmost care and caution, and that its discretion was a severely constrained one.

In making its decision, the panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC 1.

The panel noted that Notices of Proceedings had been sent to two postal addresses. The first was an address which was held on the police national computer, alongside the record of Mr Hill's conviction in September 2014. A search agent engaged to locate Mr Hill indicated that information pointed to this address as recently as March 2015, but noted that a neighbour indicated that Mr Hill was no longer residing at that address. The second address to which a Notice of Proceedings was sent was that provided by the Prison Service. Search agents had attempted, but were unable, to locate Mr Hill's parents to contact him via them. The panel saw evidence that the National College had also attempted to contact Mr Hill by email, sent to an address obtained by search agents, but that no response was received. The panel noted that it had no evidence that former

colleagues of Mr Hill had been contacted to ascertain whether they had any information on Mr Hill's whereabouts, but also noted that there was nothing to suggest that they would be able to provide such information, particularly given that since Mr Hill left the school, he was believed to have served four months in prison.

The panel had regard to the requirement that it was only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There was however no indication that an adjournment might result in the teacher attending the hearing.

The panel had regard to the extent of the disadvantage to Mr Hill in him not being able to give his account of events, having regard to the nature of the evidence against him. In particular, the panel noted that the allegation was that Mr Hill had been convicted of a relevant offence. The panel noted that if it was to proceed, it would not have the discretion to look behind the alleged conviction – its discretion would be limited to the question as to whether the conviction was for a relevant offence and, if so, whether it was appropriate to recommend a prohibition order. Although the panel's remit was narrower than in most cases relating to allegations of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, the panel was mindful nonetheless that in Mr Hill's absence it would not hear submissions as to whether the offence was a relevant offence, or whether Mr Hill wished to advance any grounds of mitigation, or indeed whether Mr Hill wished to challenge whether there had in fact been a conviction.

The panel had regard to the seriousness of this case, and the potential consequences for the teacher and accepted that fairness to the teacher was of prime importance. However, it considered that in light of the National College's steps to identify and verify Mr Hill's postal and email addresses and the public interest in the hearing proceeding within a reasonable time, on balance the hearing should continue.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 1 to 3;

Section 2: Notice of Proceedings and service documentation – pages 4 to 16; and

Section 3: National College for Teaching and Leadership Documents – pages 17 to 25.

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

In addition, the panel agreed to accept the following:

Further documents relating to service of the Notice of Proceedings – given pages 26 to 36.

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 hearing.

Whilst employed as an assistant head at Westlands School, Mr Mark Hill helped to organise trips to Paris and the school ski trip. On 15 September 2014, following a guilty plea, Mr Hill was convicted in Maidstone Magistrates' Court of theft, relating to those school trips. Following committal to Maidstone Crown Court for sentencing, Mr Hill was sentenced, on 10 November 2014, to eight months' imprisonment. The allegation relates to this conviction.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mr Mark Hill proven, for these reasons:

At Maidstone Magistrates' Court, on 15 September 2014, he was convicted of theft by an employee on 1 April 2014 to 23 July 2014 contrary to section 1 of the Theft Act 1968. He was sentenced at Maidstone Crown Court, on 10 November 2014 to eight months' imprisonment and ordered to pay a victim surcharge of £100.

The panel has considered a police national computer printout dated 26 November 2014, which records a conviction dated 15 September 2014, under section 1 of the Theft Act 1968, relating to acts between 1 April 2014 and 23 July 2014. The printout also records the sentence of 8 months' imprisonment and a victim surcharge of £100. In addition, the panel considered a certificate of conviction dated 15 April 2015, recording a conviction on 15 September 2014 in the Central Kent Magistrates' Court of theft by an employee, which led to a sentence of 8 months' imprisonment and an order that Mr Hill pay a £100 victim surcharge, in Maidstone Crown Court, on 10 November 2014. The panel also had the benefit of the sentencing remarks of His Honour Judge Statman dated 10 November 2014, recording the sentence of eight months' imprisonment.

On the basis of these documents, the panel found the facts of this allegation proven.

Findings as to conviction of a relevant offence

The panel is satisfied that the conduct of Mr Hill in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Hill is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school ...

The panel noted that Mr Hill's actions were relevant to working in an education setting, in that the theft was from a school by which Mr Hill was then employed in a senior leadership role.

The panel did not however consider that Mr Hill's actions had a potential impact on the safety or security of pupils or members of the public.

The panel has taken account of how the teaching profession is viewed by others and the influence that teachers may have on pupils, parents and others in the community. The panel considered that Mr Hill's behaviour in committing the offence was such that it would be likely to affect public confidence in the teaching profession if he were allowed to continue teaching.

The panel has noted that Mr Hill's behaviour has ultimately led to him receiving a sentence of imprisonment which is indicative of the seriousness of the offence committed.

This is a case of an offence involving serious theft, which the Advice states is likely to be considered a relevant offence.

The panel has taken into account the sentencing remarks of His Honour Judge Statman, in which it was noted that Mr Hill was, at the time of the offence, a highly respected teacher, well liked, prepared to encourage the young people at the school, doing extra classes and going the extra mile for them. The panel also noted the remarks of His Honour Judge Statman as to domestic issues and difficulties which led to Mr Hill becoming laden with debt.

Although the panel finds the evidence of Mr Hill's difficulties and teaching proficiency to be of note, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to the teacher's ongoing suitability to teach.

In the circumstances, the panel finds that the conviction is of a relevant offence.

Panel's recommendation to the Secretary of State

Given the panel's finding of a conviction of a relevant offence, 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 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 notes that Mr Hill was in a senior leadership role, a position which carries a significant level of trust. Mr Hill abused that trust by stealing in excess of £6,000, relating to school trips. The panel considers that public confidence in the profession could be seriously weakened if such conduct were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also considered that a strong public interest consideration was present in declaring proper standards of conduct in the profession. Abuse of trust, resulting in the theft of over £6,000 of funds that should have been used for the education of students, is conduct that is clearly far outside that which should be tolerated.

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 Mr Hill.

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 Mr Hill. The panel took further account of the Advice, 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;
- abuse of position or trust ... ; and
- the commission of a serious criminal offence

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.

The panel did not have the benefit of any evidence from Mr Hill, but took into account the information available to it from the sentencing remarks of His Honour Judge Statman.

This was not a case where the teacher's actions, giving rise to the conviction, were not deliberate.

There was no indication that Mr Hill was acting under duress, but the panel did note that in his sentencing remarks, His Honour Judge Statman referred to domestic issues and difficulties which led to Mr Hill becoming laden with debt.

On the evidence before it, Mr Hill appears to have been of previous good character, as reinforced by the sentencing remarks.

It is recorded by His Honour Judge Statman that, at the time of the offence, Mr Hill was a highly respected teacher, well liked, prepared to encourage the young people at the school, doing extra classes and going the extra mile for them. The panel has not however had the benefit of any statements from former colleagues of Mr Hill as to his character.

Taking into account all of the circumstances, the panel is of the view that prohibition is both proportionate and appropriate. In reaching that conclusion, the panel has decided that the public interest considerations outweigh the interests of Mr Hill. His abuse of the trust that was placed in him by the school that employed him, in a senior leadership role, 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 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 Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these is serious cases of theft. Mr Hill has been convicted of theft from an employer, of a sum in excess of £6,000, on occasions between 1 April 2014 and 23 July 2014. This conviction led to a sentence of eight months' imprisonment. In these circumstances, the Advice indicates that a panel should consider recommending that there be no provision for the teacher to apply for a prohibition order to be set aside after any period of time.

The panel has gone on to consider whether, notwithstanding this, there were any circumstances which could point to a review period being appropriate. The panel noted that Mr Hill pleaded guilty in the Magistrates' Court and that according to the sentencing remarks he had by that point in time repaid half of the money in question. However, there was nothing else to suggest to the panel that Mr Hill had shown any insight into his actions, nor any remorse. There was no evidence before the panel that suggested that Mr Hill had changed, or was likely to change in the future, such that his misconduct would not be repeated in future.

In these circumstances, the panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

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 has found the facts proved and has determined that those facts amount to a conviction of a relevant offence.

Mr Hill has been convicted of theft by an employee contrary to section 1 of the Theft Act 1968. The circumstances involved the theft of over £6,000 that had been collected in connection with school trips. The matter was considered serious enough by the judge for Mr Hill to be given an 8 month custodial sentence.

In balancing the interests of the public with those of the teacher the panel has noted that Mr Hill's actions were deliberate and he was not acting under duress. The panel has found a number of public interest considerations to be relevant, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the circumstances I agree with the recommendation that prohibition is both appropriate and proportionate in this case.

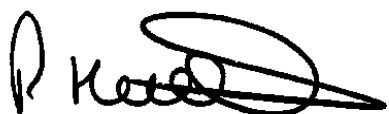
The panel has gone on to consider whether it would be appropriate to allow a period of time after which Mr Hill would be allowed to apply to have the order set aside. There was nothing to suggest to the panel that Mr Hill had shown any insight into his actions, nor any remorse. There was no evidence before the panel that suggested that Mr Hill had changed, or was likely to change in the future, such that his misconduct would not be repeated in future. Therefore I agree with the recommendation that the order should be without the opportunity to apply to have it set aside.

This means that Mr Mark Hill 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 allegation found proved against him, I have decided that Mr Mark Hill 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 Mark Hill 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.

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

Decision maker: Paul Heathcote

Date: 2 September 2015

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