

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr David Jamieson

Teacher date of birth:

TA Case ref no: 9321

Date of Determination: 21 May 2013

Former Employer: Chorlton High School, Manchester

A. Introduction

A Professional Conduct Panel (“the Panel”) of National College for Teaching and Leadership (“the National College”) convened on 20 & 21 May 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3HH to consider the case of Mr David Jamieson.

The Panel members were Mr Peter Cooper (Teacher Panellist– in the Chair), Mr John Elliott (Lay Panellist) and Miss Mahfia Choudhury (Lay Panellist).

The Legal Adviser to the Panel was Stephen Murfitt of Blake Laphorn Solicitors.

The Presenting Officer for National College for Teaching and Leadership was Ms Louisa Atkin of Browne Jacobson Solicitors.

Mr David Jamieson was present and was represented by Mr John Easton.

The hearing meeting took place in private and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 15 February 2013.

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

1. Whilst employed at Chorlton High School, Manchester Mr Jamieson engaged in inappropriate behaviour involving a 16 year old former student of the School, Student A;
 - a. including that on 5 April 2011, Mr Jamieson took Student A to a music concert, and;
 - i. allowed her to consume alcohol;

- ii. failed to return Student A home until approximately 3 am the following morning;
- b. despite having previously received warnings and/or advice from the School's Senior Leadership Team about Mr Jamieson's conduct and the contact he had with her;
- c. despite being aware that she was a vulnerable individual.

Mr Jamieson admitted the truth of particulars of the allegation at 1ai and 1a ii, but denied the allegations at 1b and 1c. Mr Jamieson admitted that he was guilty of unacceptable professional conduct, and conduct which may bring the profession into disrepute in relation to those allegations that he accepted.

C. Preliminary Applications

Request for and/or Consideration of Private Hearing

Mr Easton applied for the hearing to be heard in private.

The Panel announced its decision in public and gave reasons for that decision as follows:

We have considered the application by David Jamieson that this hearing should be in private. We have carefully considered all of the arguments advanced by David Jamieson for the hearing to be in private.

The Presenting Officer does not oppose the application made by David Jamieson.

We have considered the advice of the Legal Adviser.

We have been referred to Paragraph 4.56 of our Procedures which provide as follows:

'A Professional Conduct Panel may exclude the public from the hearing or part of a hearing where:

- *It appears necessary in the interests of justice;*
- *The teacher makes a request that the hearing should be in private and the Panel does not consider it to be contrary to the public interest; or*
- *It is necessary to protect the interests of children or vulnerable witnesses.*

We take into account that the National College is the Regulator for the Teaching Professional and that transparency is an important aspect for these proceedings.

We are satisfied that the public interest can be met by our decision being made public.

David Jamieson does need to understand that our decision will have to be given in public and will include details of the allegation as set out in the Notice of Proceedings and any defence and mitigation he may place before us.

Accordingly we have decided to proceed in private.

Submission of Late/Additional Documents

The Panel on the joint application of both parties received a written statement from Witness A, a statement from Witness B and a letter from Dr C. The additional documents were added to the Panel's hearing bundle.

D. Summary of Evidence

Documents

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

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|-----------|---|-----------------|
| Section 1 | Anonymised Pupil List | Pages 2 |
| Section 2 | Notice of Proceedings & Response | Pages 4 - 10 |
| Section 3 | National College for Teaching & Leadership Statements | Pages 12 – 16c |
| Section 4 | National College for Teaching & Leadership Documents | Pages 18 - 334 |
| Section 5 | Teacher's Documents | Pages 337 - 421 |

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

Witness A gave evidence in accordance with her written statement at pages 16a to 16c of the hearing bundle. Witness A said that Mr Jamieson had disregarded school policy and advice as to his relationship with Student A. Mr Jamieson's medical position was a substantial part of his case, and Witness A accepted she had not received advice as to how medical evidence should be dealt with in a school disciplinary hearing.

Witness A stated that Mr Jamieson gave inconsistent explanations for his conduct, and drew attention to different examples at various times during the procedures

conducted by the school. There was no suggestion or allegation of sexual impropriety on the part of Mr Jamieson. The medical reports had not been authenticated.

Witness B gave evidence in accordance with his statement at pages 12-16 of the bundle. Witness B explained the relevant School policies applicable to boundaries with pupils and the occasions and means by which such policies were drawn to the attention of the staff. Witness B suggested it was clear that the policies applied to former pupils under the age of 18. In October 2009 Mr Jamieson was captured on school video leaving the school with two female pupils at 5.45 pm. Witness B asked his deputy, Individual G, to explain the need to Mr Jamieson for him to follow the policies and accept advice as to his future dealings with pupils.

Witness B stated Student A was a pupil with significant emotional difficulties and that information was known to senior members of the staff. Witness B said that Mr Jamieson was never subject to a formal warning or a management instruction, but he did receive advice as to Student A, and Witness B gave evidence as to those occasions. The closing statement before the school disciplinary panel was drafted by Witness B and Witness A. Mr Jamieson did not teach Student A.

Witness E gave evidence in accordance with her statement at pages 345-352 of the hearing bundle. Witness E drew to the Panel's attention a number of written records in relation to the school's disciplinary process which were inaccurate. She told the Panel that the school failed to take into account Mr Jamieson's medical position or make reasonable adjustments. Witness E gave a number of examples when Mr Jamieson acted out of character as a consequence of his medical position. Witness E accepted she did not have medical knowledge.

Mrs Jamieson gave evidence in accordance with her written statement at pages 419-254 of the hearing bundle. Mrs Jamieson was the wife of Mr Jamieson and confirmed that her husband talked about his pupils including Student A. She was aware that Student A was a former pupil of the school and that her husband was, with Student A's parents consent, providing additional tutoring. Mrs Jamieson trusted her husband and his concerns as to Student A were completely professional.

Mrs Jamieson stated that her husband wanted to go to a concert with his friend as part of a process of rehabilitation to return to school from leave for indisposition. Mrs Jamieson was unable to go when the friend dropped out. The invitation to Student A was with parental consent and the subsequent events were evidence of her husband's health difficulties. Mrs Jamieson gave a number of examples of behaviour on the part of her husband which clearly demonstrated his poor health. Mr Jamieson's personality and actions were as a consequence of his medical position.

Mrs Jamieson accepted that some decision making on the 5 April 2011 was as a consequence of the exercise of judgement on the part of Mr Jamieson. However, there were a number of out of character judgements and Mrs Jamieson gave examples. The marriage was of ten years duration and Mrs Jamieson suggested she was well placed to make observations on her husband.

Mr Jamieson gave evidence in accordance with his written statement at pages 337 to 344. Mr Jamieson recalled the occasion in November 2009 when he had remained in school with two pupils, including Student A, until 5.45pm. He had lost track of time and only realised the time when telephoned by his wife. Mr Jamieson accepted that he was seen by Individual G and Individual H on the 3rd November when a 'quick chat' took place. Mr Jamieson accepted the advice recorded in the note at page 148 of the bundle, but denied there was a further conversation as recorded in the note as to the possible attachment by Student A towards Mr Jamieson. He accepted that a number of further discussions had taken place with his line manager when advice was offered.

Mr Jamieson had given his personal mobile number and personal email address to Student A and explained he had received confirming advice to do so from his then line manager. Mr Jamieson was aware of similar procedures in another school where a member of his family was a senior member of staff.

Mr Jamieson met Student A's parents to offer to assist with additional tutoring. They were very pleased and the arrangements were put in place between October 2010 and January 2011. Mr Jamieson remained in contact with Student A after January 2011, and the offer to take her to the concert in April 2011 was a spur of the moment decision. He accepted that he made proper judgements that evening particularly with regard to not drinking and driving which was ingrained into various members of his family. Mr Jamieson gave examples of his out of character actions at the time. He had invited a friend and when the friend was unable to come it was vitally important as part of his recovery that he attended the concert. Mr Jamieson accepted that he had acted inappropriately and in breach of the school policies.

Mr Jamieson was aware of some of the difficulties of Student A and with hindsight he was seeing a reflection of some of his earlier problems. Mr Jamieson denied that he had sufficient information to know that Student A was vulnerable, and much of his information about her was much later in time.

Mr Jamieson gave details of his present occupation and said he had enjoyed teaching. He said that he saw his GP and Consultant on an agreed basis. He thought he had considerable support.

Mr Easton and the Presenting Officer made closing submissions.

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.

Mr Jamieson was appointed a teacher of English/Media at Chorlton High School in Manchester in September 2006. He was dismissed from the school on the 4 November 2011 following a disciplinary hearing. It is alleged that he is guilty of unacceptable professional conduct/conduct which may bring the profession into disrepute. The particulars of the allegation relate to inappropriate behaviour

involving a 16 year old former student of the school referred to in our papers as Student A.

Findings of fact

Our findings of fact are as follows:

The Notice of Proceedings dated the 15 February 2013 makes an allegation of unacceptable professional conduct/conduct which may bring the profession into disrepute in that:

1. Whilst employed at Chorlton High School Manchester Mr Jamieson engaged in inappropriate behaviour involving a 16 year old former student of the school, Student A;
 - a). including that on 5 April 2011, Mr Jamieson took Student A to a music concert, and;
 - i allowed her to consume alcohol;
 - ii. failed to return Student A home until approximately 3am the following morning.
 - b). despite having previously received warnings and/or advice from the School's Senior Leadership Team about his conduct and the contact he had with her;
 - c). despite being aware that Student A was a vulnerable individual.

In the Notice of Proceedings Form returned by Mr Jamieson he admitted the truth of the particulars of the allegation at 1ai) and 1aii), but denied the particulars of the allegation at 1b and 1c. In answer to the Chair at the commencement of the hearing Mr Jamieson confirmed that this remained his position.

The Presenting Officer called to give oral evidence Witness D, Headteacher of Chorlton High School and Witness A of Management Support to Schools, One Education. Mr Jamieson gave oral evidence and called as witnesses Witness E and Witness B.

A feature of Mr Jamieson's case has been his mental health at the relevant time and its effect upon the allegations he now faces. At page 192 of our bundle there is a helpful timeline setting out some of the detail of events concerning his health between June 2009 and January 2011. There are within our bundle a number of medical reports; the most comprehensive being a report by Dr F, consultant psychiatrist and dated the 13 August 2012. Mr Jamieson urges upon us that in the absence of his medical condition the events of the 5 April 2011 would not have happened, and the decisions he made would not have been in issue. He gave evidence that on the relevant date he was suffering an episode of hypomania and suggests to us that such a position should mitigate the events of the 5 April 2011. Mr Easton has confirmed on his behalf that these matters are relevant to our

consideration of unacceptable professional conduct/conduct which may bring the profession into disrepute and our recommendation to the Secretary of State if we reach that stage.

We make the following findings of fact by reference to the particulars of the allegation.

1a. Took Student A to a music concert; allowed her to consume alcohol, and returned her home at approximately 3am.

Mr Jamieson admits that the facts of this allegation are true. The Panel have carefully considered the evidence of Witness D and the substantial hearsay evidence contained within our bundle. This evidence is in accordance with Mr Jamieson's acceptance of the facts and the Panel therefore find the particulars of 1a proved.

1b). despite having previously received warnings and/or advice from the school's Senior Leadership Team about your conduct and the contact you had with her.

The Panel are satisfied that Mr Jamieson was given no formal warning or management instrument as to his conduct towards Pupil A. However, the Panel is satisfied that Mr Jamieson was given advice as to his contact and conduct with Student A. In his oral evidence Mr Jamieson told of a number of informal discussions with other members of staff when he was given advice. It is clear from page 148 our bundle that a meeting took place on the 3rd November 2009 with Individual G and Individual H when they advised him as to the matters he should put in place in order to protect himself. Although Mr Jamieson disputed the second part of the written note he accepted in evidence that the part concerning the advice was correct.

The meeting with Individual G (Senior Deputy Headteacher) and Individual H took place in the Headteachers office and in the Panels view was a meeting which concerned safeguarding principles and practices which had an importance and relevance for Mr Jamieson's future conduct and contact with Student A.

The Panel find this allegation proved.

1c). despite being aware that she was a vulnerable individual.

The Panel have considered the evidence at page 175 which is Mr Jamieson's evidence in the school disciplinary procedures. It is clear to the Panel that in June 2010 Mr Jamieson was aware of a number of matters that concerned Student A. Mr Jamieson knew that she was someone with 'emotional issues' and a 'complex family life'. Student A was a pupil who had 'attended counselling sessions' and who had been the subject of a referral to '42nd Street to try to arrange some mentoring/counselling outside school'. Mr Jamieson confirmed in evidence that he was quite concerned about how Student A was going to cope on leaving school.

The Panel are satisfied that given these facts Mr Jamieson was aware that Student A was a vulnerable pupil.

Accordingly we find this allegation proved.

1.You engaged in inappropriate behaviour involving a 16 year old former student of the school, Student A.

The Panel having found the about particulars to be proved are satisfied that the allegation is proved.

Findings as to Unacceptable Professional Conduct and Conduct that may bring the profession into disrepute.

The Panel considered very carefully the considerable medical evidence concerning Mr Jamieson placed before it. The Panel accept that in relation to the events of 5 April 2011 Mr Jamieson was presenting with features of hypomania. Dr F in her report at page 406 states that from at least March to April 2011 Mr Jamieson 'showed evidence of a change of presentation with features of hypomania'. The Panel are satisfied that Mr Jamieson's judgement was substantially impaired in relation to the events of the 5 April 2011. The Panel conclude that Mr Jamieson in relation to the events of the 5 April 2011 is not guilty of unacceptable professional conduct and conduct which may bring the profession into disrepute. If Mr Jamieson had not been subject to features of hypomania then clearly the conduct on the April 5 2011 would have been unacceptable professional conduct/conduct which may bring the profession into disrepute.

The Panel have carefully considered the events from when Student A became a former student to April 2011. The Panel have concluded that Mr Jamieson did not follow the relevant policy or accept the advice he had been given. Mr Jamieson gave Student A his personal email address and personal mobile number. He provided tutoring to Student A at her home address and did not inform or seek guidance from his employer prior to commencing these arrangements.

The Panel are satisfied that the conduct of David Jamieson in relation to the events from when Student A became a former student to April 2011 fell short of the standard expected of the profession and was conduct that may bring the profession into disrepute.

Accordingly we are satisfied that David Jamieson is guilty of Unacceptable Professional Conduct and conduct likely to bring the profession into disrepute.

Panel's Recommendation to the Secretary of State

Given the Panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute 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 we have to consider whether it is a proportionate measure, and if 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 a punitive effect.

We have considered the public interest and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

The Panel's findings against Mr Jamieson involve findings of inappropriate behaviour involving a 16 year old former student and therefore there is a public interest consideration for the protection of children. Furthermore the Panel considered there are public interest considerations in declaring proper standards of conduct in the profession, which were present in the conduct found against Mr Jamieson.

Notwithstanding the public interest considerations that were present, the Panel had to carefully consider whether or not it would be proportionate to impose a Prohibition Order. In forming that judgement the Panel took into account such mitigation that had been provided by Mr Jamieson. The Panel considered carefully the mitigation advanced by Mr Jamieson and in relation to matters of his mental health.

In carrying out the balancing exercise the Panel have decided that the interests of Mr Jamieson outweigh the public interests.

The Panel have concluded that the substantive conduct that they have found proved was out of character, and this is confirmed by the medical evidence that we have considered. Dr F mentions in her report at page 405 of our bundle that it is not uncommon for individuals who suffer from mania or hypomania to have impaired judgement.

In any event Mr Jamieson has a good history as a teacher. His conduct and contact with Student A clearly concerned child protection. However, the Panel have concluded that such conduct was the blurring of boundaries, and carried out with the consent of Student A's parents. Student A came to no harm, and the evidence suggests that she did well in her exams, possibly as a consequence of the assistance provided by Mr Jamieson. Mr Jamieson in the view of the Panel has shown insight into these matters and has expressed his deep remorse.

For all these reasons the Panel recommend to the Secretary of State that no Prohibition Order should be imposed.

Secretary of State's Decision and Reasons

I have given very careful consideration to this case and to the recommendation of the panel. The panel have found the facts proven in this case, but have only found that some of those facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. This is because there was medical evidence that supported Mr Jamieson in respect of some of his behaviour.

On the matters that the panel has found do amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. I have given careful consideration to the recommendation of the panel in respect of sanction. It is clear that Mr Jamieson's conduct did cross appropriate professional boundaries. However it is also clear that Mr Jamieson has shown both insight and remorse. His behaviour was not the most serious, although it was unacceptable.

I have had to consider whether it is in the public interest and proportionate to impose a prohibition order in this case. I support the recommendation of the panel that there should be no prohibition order in this case.

Name of decision maker: Alan Meyrick

Date: 22 May 2013