



National College for
Teaching & Leadership

Mrs Elizabeth Jones 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

Teacher: Mrs Elizabeth Jones

Teacher ref no:

Teacher date of birth:

NCTL case ref no: 10412

Date of determination: 25 June 2015

Former employer: St Michael's Primary School Thorpe on the Hill, Lincoln

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened between 22 and 25 June 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mrs Elizabeth Jones.

The panel members were Mrs Jean Carter (lay panellist – in the chair), Mrs Gail Goodman (teacher panellist) and Mr Tony Woodward (teacher panellist).

The legal adviser to the panel was Mr Stephen Murfitt of Blake Morgan Solicitors.

The presenting officer for the National College was Mr Ben Bentley of Browne Jacobson Solicitors.

Mrs Jones was present and was represented by Mr Andrew Faux of counsel.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegation(s) set out in the Notice of Proceedings dated 13 August 2014 and which the panel allowed to be amended at the hearing.

It was alleged that Elizabeth Jones was guilty of unacceptable professional conduct in that whilst employed as a Headteacher at St Michael's Primary School, Thorpe on the Hill, between September 2000 and June 2012 she:

1. Behaved in an unprofessional manner within school, including that she:
 - a. Made inappropriate comments to and about staff on one occasion or more;
 - b. Shouted at staff and pupils without a reasonable justification for doing so on one occasion or more;
 - c. Made inappropriate comments about parents on one occasion or more;
 - d. Made inappropriate gestures at or about staff on one occasion or more;
 - e. Made comments intended to cause staff to believe that their jobs were under threat on one occasion or more;
 - f. Misled parents about the reasons for the departure of a colleague Witness D;
 - g. On 4 January 2012 she sent a letter to [Individual A] which contained inappropriate statements such as:
 - i. 'if you were genuinely too ill for work on 3½ separate occasions last term [...] I would question whether you are actually physically capable of holding down a job';
 - ii. 'You cannot afford to be ill any more this year as you have already had more than a whole year's expected absence'.
2. Acted dishonestly in that she:
 - a. Instructed staff to alter the levels given to certain pupils in respect of the Key Stage One Profile before the data was submitted to the Local Authority; as a result of which she knew or ought to have known that the data returned to the Local Authority in respect of the Key Stage One Profile was not an accurate reflection of the attainment of the cohort of children.

Mrs Jones admitted the facts of allegation 1 and that those facts amounted to unacceptable professional conduct. The presenting officer and Mrs Jones agreed a Statement of Agreed and Disputed Facts.

Mrs Jones denied allegation 2.

C. Preliminary applications

The presenting officer and teacher's representative made an application in agreed terms for the allegations to be amended. The panel agreed to the application.

D. Summary of evidence

Documents

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

Section 1 Chronology

Section 2 Notice of Proceedings and Response to Notice of Proceedings

Section 3 NCTL witness statements

Section 4 NCTL documents

Section 5 Teacher documents

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

Witnesses

The panel heard oral evidence from:

Witness A – investigating officer

Witness B – deputy headteacher

Witness C – headteacher

Witness D – teacher

Mrs Elizabeth Jones

Witness E – headteacher

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.

Mrs Jones began her teaching career in 1991 and taught in a number of junior schools before being appointed headteacher of St Michael's Primary School Thorpe on the Hill, Lincoln in June 2000. The school had approximately 140 children and 23 staff. A number of staff over a period of time raised concerns as to the style of Mrs Jones' leadership which culminated in two anonymous letters of grievance being submitted to the governors in 2012. An investigation by the school led to Mrs Jones' dismissal in April 2013.

Findings of fact

The panel make the following findings of fact by reference to each of the allegations set out in the Notice of Proceedings.

1. a Made inappropriate comments to and about staff on one occasion or more.

Mrs Jones admitted that she made inappropriate comments on numerous occasions, including, for example, that she had kept a junior colleague on contract despite considering he did not reach the required standard, 'because I was stupid enough to think he could turn it around'. Mrs Jones admitted that it was hurtful to make such comments which left staff members feeling unsupported in their roles. On other occasions Mrs Jones would say 'derr' to colleagues as if to imply that they were stupid.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1. b Shouted at staff and pupils without a reasonable justification for doing so on one occasion or more.

Mrs Jones admitted that she shouted at both staff and pupils at times without reasonable justification for doing so. For example, on one occasion she shouted down the telephone at a colleague 'You can't have been, you're not well. I'm not having this ... You're letting everyone down – the parents, your colleagues, the children'. On another occasion Mrs Jones acknowledged that she shouted at colleagues and as a result they cried. Mrs Jones admitted that shouting at colleagues and pupils without reasonable justification was inappropriate and could be perceived as bullying and/or intimidating.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1. c Made inappropriate comments about parents on one occasion or more.

Mrs Jones admits that occasionally she spoke to the School Receptionist inappropriately. On another occasion Mrs Jones told a teaching assistant to tell a parent to 'fuck off'. Mrs Jones admitted that this was a disrespectful attitude to have towards parents and inappropriate for a headteacher to make such comments.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1.d Made inappropriate gestures at or about staff on one occasion or more.

Mrs Jones admitted that her use of gestures and body language towards staff was at times inappropriate, including that she would on occasions fold her arms when speaking to colleagues, sigh and lift her hands in the air, and roll her eyes at people. Mrs Jones acknowledged that such behaviour caused distress and/or people felt belittled in their roles.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1. e Made comments intended to cause staff to believe that their jobs were under threat on one occasion or more.

Mrs Jones admitted that on more than one occasion she made reference to formal proceedings to colleagues in a way that upon reflection she now recognised may have led colleagues to believe that their jobs were under threat. Mrs Jones admitted the overarching allegation that she was not managing disciplinary matters appropriately and staff discipline had become reactive. Mrs Jones had become over reliant on HR advice and now recognised that she often expressed a subjective view of events to HR and then acted on the resulting advice. Mrs Jones admitted that she should have presented a fully objective account to HR.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1. f. Misled parents about the reasons for the departure of a colleague Witness D

Mrs Jones admitted that she misled parents about the departure of colleague Witness D. Mrs Jones stated that being in a management position will sometimes require discretion as to the nature of staff departures. However, it was not appropriate to give a materially different account as to the reason for the departure of Witness D.

The panel finds the particular of the allegation proved on the evidence, and the admission of Mrs Jones.

1. g. On 4 January 2012 she sent a letter to [Individual A] which contained inappropriate statements such as:

- i. 'if you were genuinely too ill for work on 3½ separate occasions last term [...] I would question whether you are actually physically capable of holding down a job';**

ii. 'You cannot afford to be ill any more this year as you have already had more than a whole year's expected absence'.

Mrs Jones admitted that she wrote a letter on 4 January 2012 which contained inappropriate statements as set out in the allegation. Mrs Jones accepted that she should not have sent the letter in those terms and that doing so was both unreasonable and unsympathetic to the colleague's health condition.

The panel finds the particular of the allegation proved on the evidence, and the admittance of Mrs Jones.

1. Behaved in an unprofessional manner within school.

The panel having found proved the particulars of the allegation, a to g, the panel further finds proved the allegation that Mrs Jones behaved in an unprofessional manner within school.

2. Acted dishonestly in that she instructed staff to alter the levels given to certain pupils in respect of the Key Stage One Profile before the data was submitted to the Local Authority; as a result of which she knew or ought to have known that the data returned to the Local Authority in respect of the Key Stage One Profile was not an accurate reflection of the attainment of the cohort of children.

The panel has considered carefully the evidence as to the allegation that Mrs Jones instructed staff to alter levels given to certain pupils in respect of the Key Stage One Profile before the data was submitted to the Local Authority. The panel has been provided with conflicting accounts as to what took place, and it has been necessary for the panel to form a view as to what weight to give to each account, which has meant the panel determining the credibility of each witness.

Witness D gave evidence that he was inputting pupil assessment data onto the system and was content with the grades he had assigned to the children. Witness D was clear that he was placing on the system, with the aid of the school administrator, formal test results. He stated that whilst he was completing these tasks Mrs Jones appeared from her office and told him to change some of the pupil assessments. Witness D did as he was told, but considered the instruction given by Mrs Jones to be wrong.

Witness D could not recall the exact number of pupils whose assessments were increased on the instructions of Mrs Jones, but he had a recollection that for the maths assessment the number was two or three pupils; probably a similar number for speaking and listening assessments. He did not think there were any changes for writing assessments. He shared his concerns with Witness C (deputy headteacher) and Witness B (Key Stage 1 Co-ordinator) who both gave evidence to the panel. Witness C confirmed in her evidence that Witness D had shared his concern with her, and she told the panel that there were repercussions to the change in results. The pupils had to play catch up

when they moved up a year as a consequence of the inflation of their assessments. Witness B also confirmed in evidence that Witness D had shared his concerns with him as to the instruction from Mrs Jones to increase the assessments. When the children moved up a year it was discovered they were not working at the level they had been assessed at according to Witness B.

Mrs Jones' recollection of events differed in material respects to that of Witness D. Mrs Jones told the panel that she was not present in the room on the day that Witness D and the school administrator entered the assessments onto the database. Furthermore, Mrs Jones denied ever instructing Witness D to amend or change any of the pupil assessments. Mrs Jones stated that Witness D was incorrect when he said that it was the formal test results that were entered onto the database. It was teacher assessments conducted throughout the year that were entered onto the database, and not formal test results (which would inform teachers as to the overall assessment of pupils.) Mrs Jones was uncertain whether the test results were also forwarded to the Local Authority. She told the panel that as headteacher she did see a completed written copy of the assessment schedules, and was required to approve and sign, before submission to the Local Authority.

Witness A, a member of the counter fraud and investigation team, interviewed Mrs Jones on a number of occasions, but in August 2012 had asked Mrs Jones to reply to a number of written questions. One question put to Mrs Jones asked her to respond to the allegation that 'in July 2011 Witness D told Witness B (who then informed Witness C) that he was concerned because you had made him adjust some of his year 2 pupil assessment grades when entering them on Integris, to a higher grade ... and the pupil evidence did not support these grades'.

Mrs Jones provided a full written answer by email part of which stated 'once the examples were gathered a levelling decision was made and this was used as the official assessment. Most if not all were higher than Witness D's assessment and I told them to change them because I was clear they had demonstrated the ability across several genres ... my experience of Witness D's assessment was that he had under assessed rather than over assessed'. Mrs Jones was clear that her replies did not relate to any conversation with Witness D. Mrs Jones accepted that she could have made her position clearer in her written answers to Witness A, and referred the panel to her medical report, and said at the relevant time she 'was a mess'.

The panel found Witness D to be a credible witness whose evidence was corroborated by Witness C and Witness B. Witness D was a newly qualified teacher (NQT) and was therefore inexperienced, but the panel was satisfied that he was truthful in his recollection of events, and that he considered he should be inputting formal test results. Mrs Jones' evidence was sometimes difficult to follow, and at times conflicted with her earlier evidence. Mrs Jones was distressed at times, but the panel has determined that in circumstances when the evidence of Witness D and Mrs Jones was in conflict, then the

panel preferred the evidence of Witness D. Accordingly the panel is satisfied that Mrs Jones instructed Witness D to alter the levels given to certain pupils in respect of the Key Stage One Profile.

In so doing Mrs Jones as headteacher was entitled to make amendments to the assessments because she was ultimately responsible for the data submitted to the Local Authority. She was entitled to make an overall assessment of the pupils, and the panel is satisfied that on the balance of probabilities the assessments were not an inaccurate reflection of the attainment of the cohort of the children.

The panel accepted the advice of the legal adviser as to the test that had to be applied for dishonesty. The legal adviser had referred the panel to the case of Professional Standards Authority for Health and Social Care v Health and Care Professions Council and Elizabeth Abosede David [2014] EWHC (4657) when Mr Justice Popplewell suggested a modified test to the well-established criminal test for dishonesty stated in R v Ghosh.

The modified test was that firstly the panel must be persuaded on the balance of probabilities that what was done was dishonest by the standards of reasonable and honest people, and secondly, that the person in fact realised that what he or she was doing was dishonest by those standards.

The panel is persuaded on the balance of probabilities, that Mrs Jones, by instructing Witness D to alter the levels of some pupils in respect of the Key Stage One Profile, was not dishonest by the standards of reasonable and honest people. Mrs Jones was carrying out a task for which she was ultimately responsible. In those circumstances the panel is not required to consider the second stage of the test.

Accordingly the panel finds allegation 2 not proved.

Findings as to unacceptable professional conduct

Mrs Jones admitted in relation to allegation 1 that she was guilty of unacceptable professional conduct. The panel is satisfied that the conduct of Mrs Jones in relation to the facts found proved involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mrs Jones is in breach of the following standards:

- Teachers are expected to demonstrate consistently high standards of personal and professional conduct.
- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.
- Treating pupils with dignity.
- Showing tolerance of and respect for the rights of others.

The panel is satisfied that the conduct of Mrs Jones was misconduct of a serious nature falling significantly short of the standards of behaviour expected of a teacher.

For all of these reasons the panel finds that Mrs Jones' actions constituted unacceptable professional conduct.

Panel's recommendation to the Secretary of State

The panel has made a determination of unacceptable professional conduct. It is necessary for the panel 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 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 may have a punitive effect.

The panel has 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 has considered the advice on Teachers' Misconduct in relation to the Prohibition of Teachers, and has concluded that the following are relevant:

- Serious departure from the personal and professional conduct elements of the latest Teachers' Standards, as published by, or on behalf of, the Secretary of State.
- Abuse of position of trust or violation of the rights of pupils.
- Misconduct seriously affecting the well-being of pupils.
- Deliberate behaviour that undermines pupils, the profession, the school or colleagues.

The panel considers that public confidence in the profession could be weakened if such conduct, as the panel has found proved, were not treated with seriousness when regulating the conduct of the profession. The factual findings against Mrs Jones raise public interest considerations in declaring proper standards of conduct for the teaching profession. Teachers are at all times role models and are expected to act with integrity. Mrs Jones admitted that she did not behave in a professional manner within the school, and the particulars found proven evidenced unacceptable conduct towards colleagues, parents and pupils.

Notwithstanding the public interest considerations that were present, the panel has to consider carefully whether or not it would be proportionate to impose a prohibition order. The panel has taken careful note of the written references in the hearing bundle, and the mitigation advanced on behalf of Mrs Jones by Mr Faux. There are no regulatory matters recorded against Mrs Jones and she is given credit for admitting allegation 1. The panel has taken note of the medical report in respect of Mrs Jones (prepared for a different purpose) and the submission by Mr Faux that until she was suspended by the school, Mrs Jones did not have a full understanding of the impact of her actions on others at the school. Mrs Jones stated to the panel that she had rebuilt her reputation as a team member, was a compassionate person and a good teacher. Mrs Jones stated to the panel that she had no intention of being a headteacher again, and was truly sorry for the upset that she had caused to the staff at St Michael's School.

Witness E, the headteacher of the school where Mrs Jones is presently employed as a classroom teacher, had taken the trouble to come to the hearing to give mitigation evidence on behalf of Mrs Jones. Witness E told the panel that Mrs Jones had provided him with the details of her difficulties at St. Michael's at the time of her application for a post, and he had been provided with a copy of the Statement of Agreed and Disputed Facts presented to the panel. Witness E stated that her teaching was good in parts, outstanding at times and there were some areas for development as with all the teachers on his staff. Mrs Jones was an excellent team player and supportive of her colleagues. Witness E wanted to give her a second chance and Mrs Jones had not let him down.

In carrying out the balancing exercise the panel has decided that the public interest considerations can be met by allowing Mrs Jones to continue as a member of the teaching profession. The panel has determined that there are no issues as to the protection of children in this case. The panel has found unacceptable professional conduct and that declares to the public and to the teaching profession that Mrs Jones has conducted herself in a manner that is not acceptable for a member of the teaching profession. The panel is satisfied that Mrs Jones is now demonstrating insight and has been through a long period of self-reflection; she expresses her regret and shame for the difficulties caused to colleagues. She has taken steps to avoid repetition of her admitted past conduct. The panel has determined that Mrs Jones does have a future contribution to make to the teaching profession, and the evidence of Witness E was supportive and helpful in that regard. The panel considers that the imposition of a prohibition order would be a disproportionate response.

The Panel therefore recommends to the Secretary of State that no prohibition order be imposed upon Mrs Jones.

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 have found the allegation in respect of Mrs Jones acting in an unprofessional manner within school proven. The second allegation in respect of acting dishonestly with regard to Key Stage 1 data has not been proved, therefore I have put this from my mind in considering this case.

Having found that Mrs Jones acted in an unprofessional manner within school, the panel went on to find that those facts amounted to unacceptable professional conduct. Her actions involved breaches of the Teachers' Standards and her behaviour fell short of the standards expected of a teacher.

The panel went on to consider whether it would be appropriate and proportionate to recommend a prohibition order. They have properly balanced the interests of the public with those of the teacher and have noted that the purpose of a prohibition order is not to be punitive although the affect may be so.

There were no issues relating to the protection of pupils in this case. A finding of unacceptable professional conduct declares to both the public and the profession that Mrs Jones' conduct was not appropriate. She has rebuilt her reputation since the incidents concerned. She has shown considerable insight and remorse and has taken positive steps to avoid any repetition. Her current headteacher has provided mitigating evidence on Mrs Jones' behalf.

In all the circumstances I agree with the panel's recommendation that a finding of unacceptable professional conduct is in itself sufficient in this case and it would not be proportionate to impose a prohibition 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: 29 June 2015

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