



National College for
Teaching & Leadership

Mr Michael Harasymiw: Professional conduct panel outcome

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

April 2016

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

Teacher: Mr Michael Harasymiw

Teacher ref number: 9703426

Teacher date of birth: 4 November 1950

NCTL case reference: 14494

Date of determination: 1 April 2016

Former employer: N/A

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 1 April 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Michael Harasymiw in a meeting.

The panel members were Mr Michael Simon (lay panellist – in the chair), Mrs Kathy Thomson (teacher panellist) and Mr Michael Lewis (teacher panellist).

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

The meeting took place in private, save for the announcement of the panel’s decision, which was announced in public and recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 4 March 2016.

It was alleged that Mr Michael Harasymiw is guilty of conduct that may bring the profession into disrepute and/or has been convicted of relevant offences in that, whilst employed as a teacher:

1. On 28 March 2013, he was convicted at the Bolton Crown Court of fraud by abuse of position of trust contrary to sections 1(2) (c) and 4 of the Fraud Act 2006. He committed the offence on 9 December 2007 to 6 July 2010. As a result of his conviction, he was sentenced to:

a. 11 months imprisonment (subsequently varied to be wholly suspended for 15 months);

b. An unpaid work requirement.

2. On 28 March 2013, he was convicted at the Bolton Crown Court of making false representations to make gain for himself or another or cause loss to another/ expose another to risk contrary to a sections 1(2) (a) and 4 of the Fraud Act 2006. He committed the offence on 30 August 2009. As a result of his conviction, he was sentenced to:

a. 11 months imprisonment (concurrent) wholly varied to be wholly suspended for 12 months;

b. An unpaid work requirement.

Mr Michael Harasymiw admitted that he had been convicted of these offences and that the convictions were for relevant offences and that his conduct amounted to conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

D. Summary of evidence

Documents

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

Section 1: Chronology– page 2

Section 2: Notice of Referral, Response and Notice of Meeting – pages 4 to 11B

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 11 to 16

Section 4: NCTL documents – pages 18 to 25

Section 5: Teacher documents – pages 27 to 29

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

Statement of Agreed Facts

The panel received and considered a Statement of Agreed Facts which was signed by Mr Harasymiw on 16 January 2016.

E. Decision and reasons

The panel announced its decision and reasons as follows:

'The panel has carefully considered the case and has reached a decision.

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

Mr Harasymiw is a qualified teacher and at the relevant times was employed as a teacher in a school or college in England. He was appointed as the legal deputy for finances and affairs for his godmother. Between 2007 and 2010 he made false representations to misappropriate approximately £51,000 of his godmother's money. On being convicted, Mr Harasymiw was initially sentenced to a term of imprisonment and was imprisoned for seven days before his sentence was reviewed by the sentencing judge. His sentence of imprisonment was then suspended on the basis that the amount misappropriated was less than the figure provided to the court in the first instance.

Findings of fact

Our findings of fact are as follows:

It was alleged that you are guilty of conduct that may bring the profession into disrepute and/or have been convicted of relevant offences in that, whilst employed as a teacher:

1. On 28 March 2013, you were convicted at the Bolton Crown Court of fraud by abuse of position of trust contrary to sections 1(2) (c) and 4 of the Fraud Act 2006. You committed the offence on 9 December 2007 to 6 July 2010. As a result of your conviction, you were sentenced to:

a. 11 months imprisonment (subsequently varied to be wholly suspended for 15 months);

b. An unpaid work requirement.

2. On 28 March 2013, you were convicted at the Bolton Crown Court of making false representation to make gain for yourself or another or cause loss to another/ expose another to risk contrary to a sections 1(2) (a) and 4 of the Fraud Act 2006. You committed the offence on 30 August 2009. As a result of your conviction, you were sentenced to:

a. 11 months imprisonment (concurrent) wholly varied to be wholly suspended for 12 months;

b. An unpaid work requirement.

Mr Harasymiw admits that he was convicted of the offences concerned and he has signed a statement of agreed facts. The panel has also been provided with a copy of the certificate of conviction from Bolton Crown Court. The panel finds the facts proved on the basis of Mr Harasymiw's admissions, the statement of agreed facts and the certificate of conviction.

Findings as to conduct that may bring the profession into disrepute and/or conviction of a relevant offence

Mr Harasymiw admits that his conduct amounts to conduct that may bring the profession into disrepute. He also admits that the convictions were for relevant offences. The panel has taken these admissions into account, but has formed its own judgment.

Having found a number of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to conviction of a relevant offence and/or conduct that may bring the profession into disrepute.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice".

The panel is satisfied that the conduct of Mr Harasymiw in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Harasymiw is in breach of the overarching requirement to demonstrate consistently high standards of personal and professional conduct.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Harasymiw's behaviour in committing the offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has noted that Mr Harasymiw's behaviour has ultimately led to him receiving a sentence of imprisonment albeit that it is suspended which is indicative of the seriousness of the offences committed.

This is a case involving an offence of fraud and serious dishonesty through the misappropriation of £51,000 by Mr Harasymiw. His actions involved the exploitation of his position of trust as 'legal deputy' for his godmother.

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. The panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession. The panel, therefore, finds that Mr Harasymiw's conviction was for relevant offences.

As to disrepute, the panel is satisfied that the conduct of Mr Harasymiw in relation to the facts found proven, involved breaches of the Teachers' Standards. Specifically, teachers

uphold public trust in the profession by maintaining high standards of ethics and behaviour, within and outside school.

The panel is satisfied that the conduct of Mr Harasymiw fell significantly short of the standards expected of the profession. His conviction for (1) fraud by abuse of position and (2) dishonestly making false representations to make gain for himself or another, undoubtedly undermines public confidence in the teaching profession.

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The panel noted the limited contribution by Mr Harsaymiw to this process. He has indicated that he has retired from teaching, but offered no testimonials or character references.

The panel therefore finds that Mr Harasymiw's actions constitute conduct that may bring the profession into disrepute.'

Panel's recommendation to the Secretary of State

'Given the panel's findings in respect of conduct that may bring the profession into disrepute and conviction of relevant offences, 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 considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Harasymiw were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Harasymiw was unacceptable.

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 Harasymiw.

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 the teacher. 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 of trust involving dishonesty over a period of more than two years;
- 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 teacher did have a previously good history.

No mitigation was offered and the panel could not find any in the evidence available to it. In particular, the panel noted, in his email of 15 February 2016, Mr Harasymiw expressed neither insight nor regret. Although he pleaded guilty, he maintains that he is the victim of a miscarriage of justice.

The panel is of the view that prohibition is both proportionate and necessary. The panel has decided that the public interest considerations outweigh the interests of Mr Harasymiw. The nature and scale of the offences committed over an extended period of time, in the context of his abuse of his position of trust, were significant factors 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 to recommend that a review period of the order should be considered. The panel was 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. These behaviours include fraud or serious dishonesty. The panel has found that Mr Harasymiw has been responsible for serious dishonesty committed over an extended period of time, in the context of his abuse of his position of trust.

Mr Harasymiw has not demonstrated any insight into his actions – rather, quite the opposite.

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 considered very carefully the findings and recommendations of the panel in this case. The panel has found the allegations proven, given Mr Harasymiw has been convicted as alleged of a relevant offence.

Mr Harasymiw been convicted of an offence involving fraud and serious dishonesty, through misappropriation of money.

I note the panel has considered the particular public interest considerations, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

I agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Harasymiw were not treated with the utmost seriousness.

I note the panel took account of the Advice, and behaviours proven in this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position of trust involving dishonesty over a period of more than two years;
- the commission of a serious criminal offence.

I note that the panel found that no mitigation was offered nor could they find any in the evidence available. The panel noted, in his email of 15 February 2016, Mr Harasymiw expressed neither insight nor regret.

The panel has decided that the public interest considerations outweigh the interests of Mr Harasymiw. I have considered the public interest in this case and agree with the panel that prohibition is both proportionate and necessary.

I now turn to the matter of a review period. Mr Harasymiw has been responsible for serious dishonesty committed over an extended period of time, in the context of his abuse of his position of trust. The panel felt the findings indicated a situation in which a review period would not be appropriate. I agree with the panel's view.

For the reasons set out above, I agree with the panel's recommendation, that a prohibition order should be imposed and that no review period should be allowed.

This means that Mr Michael Harasymiw 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 Harasymiw 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 Harasymiw 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 'J. Millions', with a stylized flourish at the end.

Decision maker: Jayne Millions

Date: 5 April 2016

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