

Sarah Andrews: Professional conduct panel outcome

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

July 2015

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

Teacher:	Sarah Andrews
Teacher ref number:	0755246
Teacher date of birth:	11 July 1987
NCTL case reference:	14491
Date of determination:	12 July 2016
Former employer:	De Lucy Primary School, London

A. Introduction

A professional conduct panel ("the panel") of the National College for Teaching and Leadership ("the National College") convened on 11 July 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Ms Sarah Andrews.

The panel members were Mr Mike Carter (teacher panellist – in the chair), Ms Kathy Thompson (teacher panellist) and Ms Alison Feist (lay panellist).

The legal adviser to the panel was Mr Peter Shervington of Eversheds LLP, solicitors.

The presenting officer for the National College was Ms Kayleigh Brooks of Browne Jacobson, solicitors.

Ms Andrews was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 1 April 2016.

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

- Whilst seeking employment as a teacher with the supply agency Edustaff in 2015 she supplied a false reference in the name of a colleague at De Lucy Primary School by using an e-mail address in her name;
- 2. Whilst seeking employment as a teacher at Plumcroft Primary School in or around June/July 2015 she represented that she had not recently been in employment as a result of looking after a sick family member and failed to declare her most recent employment at De Lucy Primary School;
- 3. Her conduct in regard to allegation 1 and/or allegation 2 was dishonest.

In the absence of Ms Andrews, and in circumstances where no response had been received from her to the notice of proceedings, the allegations were taken as not admitted.

C. Preliminary applications

The panel considered an application from the Presenting Officer to proceed in the absence of Ms Andrews. The panel heard submissions from the Presenting Officer and received advice from the Legal Advisor. The following decision was read:

The panel has considered whether this hearing should continue in the absence of the teacher.

The panel is satisfied that the College has complied with the service requirements of Regulation 19 a to c of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations").

The panel is also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Procedures.

The panel has determined to exercise its discretion under Paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

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

In making its decision, the panel has noted that the teacher may waive her right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of R v Jones [2003] 1 AC1. In this case the panel is satisfied that Notice of Proceedings was been sent to the teacher on 1 April 2016 at her last known address, which, on the basis of the report produced by the Presenting Officer appears to remain her registered address today. No response has been received by the NCTL, despite a follow up letter being sent on 5 May 2016, and an email sent to an address identified during the course of investigations by the Presenting Officer's firm. No response was received to any of these communications. In these circumstances the panel considers that the teacher has waived her right to be present at the hearing in the knowledge of when and where the hearing is taking place.

There is no indication that an adjournment might result in Ms Andrews attending the hearing. The panel has had regard to the extent of the disadvantage to the teacher in not being able to give her account of events, having regard to the nature of the evidence against her. The panel has noted that the key witnesses relied upon are to be called to give evidence and the panel can test that evidence in questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel has not identified any significant gaps in the documentary evidence provided to it and should such gaps arise during the course of the hearing, the panel may take such gaps into consideration in considering whether the hearing should be adjourned for such documents to become available and in considering whether the presenting officer has discharged the burden of proof. The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel also notes that there are witnesses present, who are prepared to give evidence, and that it would be inconvenient for the witnesses to return again.

The panel has received advice on the case law, including the recent Court of Appeal decision in GMC v Adeogba & Visvardis [2016] EWCA Civ 162.

The panel appreciates the seriousness of this case, and the potential consequences for the teacher, and has accepted that fairness to the teacher is of prime importance. However, it considers that in light of the teacher's waiver of her right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, the public interest is in favour of this hearing continuing today.

D. Summary of evidence

Documents

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

Section 1: Chronology - page 2

Section 2: Notice of Proceedings and associated material - pages 4-14

Section 3: NCTL witness statements - pages 15-21

Section 4: NCTL documents - pages 22-66

Section 5: Teacher documents - (none submitted)

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, Assistant Head, De Lucy Primary School

Witness B, Head Teacher, Plumcroft Primary School

Witness C, Senior Consultant, Edustaff

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

In 2015, Sarah Andrews was seeking employment as a teacher. It was alleged that whilst seeking a job through Edustaff, the supply agency, she supplied a false reference in the name of a colleague at De Lucy Primary School, using an email address in her name. It was further alleged that when she sought a job at Plumcroft Primary School in the same year, she represented that she had not recently been in employment because she had been looking after a sick family member; it was also alleged that she failed to declare her most recent employment at De Lucy Primary School. It was alleged that her behaviour on both occasions had been dishonest.

Findings of fact

Our findings of fact are as follows:

1. Whilst seeking employment as a teacher with the supply agency Edustaff in 2015, you supplied a false reference in the name of a colleague at De Lucy Primary School by using an e-mail address in her name.

The panel heard from Witness C , a Senior Consultant with Edustaff, who confirmed that an application had been submitted by Ms Andrews on 5 May 2015. This followed a telephone conversation and a subsequent meeting outside De Lucy Primary School, when he checked her documentation to verify her identity. As part of the application form, she provided the email addresses of three referees Witness C stated that an email was then sent to these addresses asking for a reference form to be completed, and a response was received from all three.

Of the three references received, two were very positive with ratings of 'Outstanding' for all 11 criteria covered. These references are found at page 32 and 34 of the bundle. The other reference, at page 30, gave no rating for Ms Andrews, referring to her as having, 'personal difficulties' and indicating that the referee felt it unfair, 'to comment on her current capabilities'.

The reference purported to have been given by Witness A is the subject matter of the allegation. This can be found at page 32 of the bundle. The reference rates Ms Andrews as 'Outstanding' in all 11 skill areas listed, and concludes with a paragraph of text providing an extremely positive account of Ms Andrews. It stated as follows:

'I cannot recommend her enough for a new post. She is highly experienced, knowledgeable and committed to her career. Even as a temporary teacher Sarah has been able to make significant contributions to the FS team, including giving new and fresh ideas for continuous provision and adult-child engagement strategies. She has always been willing to give her time to assist staff and pupils alike, even volunteering to come to school unpaid on a weekend to run a workshop for Dads [sic].'

Witness C described telephoning the individual who gave a less than positive reference, because, he told the panel, 'alarm bells' were ringing. He recalled that the referee explained that Ms Andrews had experienced personal difficulties when she was at her school, but did not provide much more detail than this. No attempt was made to call the other two referees. Witness C proceeded to email prospective employers detailing Ms Andrews' availability for recruitment. He stated that he had accidently included De Lucy School (it was not his normal practice, he told the panel, to send applications to candidates' existing schools). Witness C stated that, in the event, Ms Andrews obtained a job by other means within a few days.

The panel heard from Witness A, the purported author of the reference at page 32. She stated that she had worked with Sarah Andrews as a nursery teacher at De Lucy Primary School from January 2015 until June 2015. She stated that in May 2015 she had become aware, through receiving an EduStaff email forwarded by the headteacher, that Ms Andrews was seeking employment elsewhere. She later clicked on the links and realised that one of the references was in her name. Witness A confirmed that she did not know of, or have access to, the email address from which the reference was provided. It was not a school email address, and indeed, she stated that on the day that Ms Andrews was removed from the school, Ms Andrews had emailed Witness A using Witness A's school email address. Witness A stated that she did not create the document and had no knowledge of its creation. She stated that she was not ever asked by Ms Andrews if she would provide a reference to Edustaff, and had not been aware that Ms Andrews was applying for other jobs.

Witness A stated that the document did not reflect the assessment she would have given had she been asked to complete it. She stated that the personal comments purporting to have been made by her, 'are a fabrication and I have been impersonated' (page 20). She stated that when she realised what had happened she was shocked because she felt that as a profession, teachers needed to be seen as honest and trustworthy. She contacted the headteacher of her school and reported the matter to the police.

The panel was satisfied from the evidence of Witness A that she had no knowledge of the reference. The panel was further satisfied from the details in the documents and from the evidence of Witness C that Witness A herself completed the form and provided the email address purporting to be that of Witness A . Further, Ms Andrews had a clear incentive to provide positive references in order to promote her application. In light of this, and considering all the evidence, the panel has reached the conclusion that, on the balance of probabilities, it was more likely than not that the reference purporting to be in the name of Witness A was in fact created by Ms Andrews using a false email address to which Witness A had no access.

Having considered all the evidence, the panel was satisfied that the allegation was proved on the balance of probabilities.

2. Whilst seeking employment as a teacher at Plumcroft Primary School in or around June/July 2015, you represented that you had not recently been in employment as a result of looking after a sick family member and failed to declare your most recent employment at De Lucy Primary School.

The panel heard from Witness B, the headteacher at Plumcroft Primary School. He stated that Ms Andrews had applied for a job at the school and had been interviewed. Ms Andrews had stated in her application (page 64) that in the period from 2014 onwards she had been undertaking 'short term and daily supply due to caring for a family member who was terminally ill'. No mention was made of her having been

employed full time at De Lucy Primary School between January and June 2015. Witness B stated (page 16) that he asked Ms Andrews specifically about her most recent teaching role and at no point did she mention her employment at De Lucy Primary School. The panel noted the evidence of Witness A which stated that she had worked with Ms Andrews within the De Lucy School from January to June 2015.

Ms Andrews was subsequently offered a job by Witness B, subject to references. Witness B stated that, when he was later made aware by the local authority of concerns regarding Ms Andrews' employment, he met with her again, and gave her the opportunity to clarify her employment history, but she continued to make no mention of De Lucy (page 17). In oral evidence, Witness B stated that when asked directly about her employment at De Lucy, Ms Andrews responded to the effect that, 'the agent has made it all up and it was all a mistake' and that, 'it's all a mistake. It will get sorted out'. When questioned about this, Witness B could not recall her explaining exactly what she alleged had been, 'made up' by the agency.

Witness B stated that Ms Andrews appeared to him to be, 'utterly calm' when confronted with the issue. He stated that when she and her partner (who was also in the school at the time) were asked to leave the premises, they seemed, 'relaxed' and did not get upset. Witness B subsequently wrote to Ms Andrews on 25 August 2015 (page 66) to confirm that, having become aware of an allegation regarding references made to another school in the area, and in circumstances where she had not informed Plumcroft School of her employment at De Lucy Primary School, the offer of employment was being withdrawn.

The panel has considered the evidence carefully. It is clear that the form at page 63 and 64 mis-states the circumstances of Ms Andrews' recent employment, suggesting that she was employed in 'short term and daily supply' when in fact the panel heard evidence that she had been employed full time over a period of some months at De Lucy Primary School. Further, the panel heard clear evidence from Witness B that Ms Andrews was given an opportunity to clarify her employment history and failed to do so.

The panel concludes that this allegation is proved on the balance of probabilities.

3. Your conduct in regard to allegation 1 and/or allegation 2 was dishonest.

The panel was advised of the two stage test set out in the case of R v. Ghosh. The panel considered first whether Ms Andrews' conduct in respect of each allegation would be seen as dishonest by the standards of a reasonable and honest person, or teacher. The panel then considered whether Ms Andrews would have known that what she did was by those standards dishonest.

In relation to allegation 1, the panel was satisfied that the provision of a false reference by Ms Andrews in the name of a teacher who was not even aware that she was applying for other jobs, and who would not have rated her in the manner set out in the reference, was dishonest by the both the standards of the honest and reasonable person and by the standards of the honest and reasonable teacher. The panel was also satisfied on the balance of probabilities that, given the inherently false nature of the act of putting forward a reference not prepared by the purported referee, Ms Andrews would have known that such an act was dishonest by those standards.

In relation to allegation 2, the panel has found that Ms Andrews failed to provide details of her role at De Lucy Primary School, in circumstances where a clear opportunity was given by her prospective employer for her to clarify the position. Indeed, the evidence of Witness B in the hearing was that when confronted with the facts, Ms Andrews stated that, 'the agency has made it up'. The panel considers this an implausible explanation. The panel was satisfied in the light of the evidence that the conduct of Ms Andrews was dishonest by the standards of honest and reasonable people and teachers. Further, the panel was satisfied that Ms Andrews would have known this failure to disclose was dishonest by those standards.

The panel therefore finds that Ms Andrews' conduct in relation to both allegations 1 and 2 was dishonest, and thus Allegation 3 is found to have been proved on the balance of probabilities.

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

Having found all the allegations to have been proved, the panel has gone on to consider whether the facts of those allegations amount to unacceptable professional conduct 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 Ms Andrews in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Ms Andrews 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, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

• Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms Andrews, in providing false references to support job applications and in failing to disclose information about a teaching post, fell significantly short of the standards expected of the profession. Her behaviour in relation to the provision of references in particular appears to have been calculated, and her dishonesty took place over a period of time, affecting two schools. In the panel's view her behaviour risked undermining the processes and policies which are put in place by schools in order to ensure the competence and quality of those appointed to teaching roles.

The panel has also considered whether Ms Andrews' conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. Ms Andrews put forward false references on behalf of a teacher who was unaware that she was even seeking a job, and failed to tell Witness B of her previous employment despite being given several opportunities. The panel considers that she demonstrated behaviours associated with fraud or serious dishonesty.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

Accordingly, the panel is satisfied that Ms Andrews is guilty of unacceptable professional conduct.

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 findings of misconduct are serious and the conduct displayed would likely have a negative impact on Ms Andrews' status as a teacher, potentially damaging the public perception. It is of paramount importance that the public are able to trust the honesty and integrity of teachers as professionals. The dishonest use of false references and the failure to disclose full information about employment history significantly undermine the status of Ms Andrews as a teacher.

The panel therefore finds that Ms Andrews' actions constitute conduct that may bring the profession into disrepute.

In summary, having found the facts of particulars 1,2 and 3 proved, the panel further finds that Ms Andrews' conduct amounts to both unacceptable professional conduct and conduct that may 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, 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 protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Ms Andrews involved repeated dishonesty over a period of time including the provision of a reference under the name of a colleague who was oblivious to it and a failure to disclose recent employment history. The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Andrews 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 Ms Andrews was outside that which could reasonably be tolerated.

The panel considered that the failure to ensure that job applications were put forward in an honest and transparent manner might lead to a risk to the protection of pupils by undermining the processes put in place to verify the quality and suitability of candidates. Further, Ms Andrews' dishonesty raises a concern as to her general trustworthiness which raises questions as to whether she is a suitable person to be responsible for the welfare and education of children.

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 Ms Andrews.

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 Ms Andrews. 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. The panel has found several of these to have been breached at stage 2.
- a deep-seated attitude that leads to harmful behaviour;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

In the present case Ms Andrews, having supplied a false reference on one occasion, then proceeded within a short period to fail to disclose recent employment history, despite being offered the opportunity on more than on occasion to do so. The panel considers the repetitive nature of Ms Andrews' behaviour to be indicative of a deep seated lack of honesty.

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. In light of the panel's findings, there was no evidence that the teacher's actions were not deliberate. There was no evidence to suggest that the teacher was acting under duress, and in fact the panel found the teacher's actions to be calculated and motivated. Whilst it has no character statements, the panel accepts that the teacher had a previously good history, and based on Witness B's assessment during a teaching observation, was a capable teacher. Nevertheless the panel has not seen any evidence that she had any insight into the significance or consequences of what were a series of dishonest actions.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Ms Andrews. The serious and repeated nature of her dishonesty 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 was mindful that the Advice states 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 two 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 Ms Andrews has shown such behaviour. She was

responsible for dishonestly supplying a reference purporting to be from a colleague who in actual fact had no knowledge that Ms Andrews was even applying for a job. She then proceeded to fail to disclose recent employment history to a prospective employer despite several opportunities being provided. The panel has not heard anything to suggest any real insight on the part of Ms Andrews in relation to these actions.

The behaviours shown are, in the panel's view, of great seriousness. Honesty is a fundamental quality for any professional, and is an essential prerequisite for a teacher who is entrusted with the welfare and education of young people. Honesty in job applications is critical, all the more so in an age of electronic communication where impersonation may be more difficult to detect. Parents must be able to trust those who take on teaching roles. In the panel's view Ms Andrews' actions so undermine her general trustworthiness that no period of review could adequately mitigate the risks presented. Accordingly, 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 all of the allegations proven, and Ms Andrews has been found guilty of unprofessional conduct and conduct bringing the professional into disrepute.

The panel's findings against Ms Andrews involved repeated dishonesty over a period of time including the provision of a reference under the name of a colleague who was oblivious to it and a failure to disclose recent employment history.

I have considered the public interest in this case. I note the panel has considered the particular public interest considerations, namely: the protection of pupils; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct; and have found them all to relevant in this case. I agree with the panel's view.

I agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Andrews were not treated with the utmost seriousness when regulating the conduct of the profession.

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards. The panel has found several of these to have been breached at stage 2.
- a deep-seated attitude that leads to harmful behaviour;

• dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

Ms Andrews, having supplied a false reference on one occasion, then proceeded within a short period to fail to disclose recent employment history, despite being offered the opportunity on more than one occasion to do so. The panel considers the repetitive nature of Ms Andrews' behaviour to be indicative of a deep seated lack of honesty. I agree with this view.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Ms Andrews. I agree with that view. I agree with the panel that prohibition is both proportionate and appropriate. The serious and repeated nature of her dishonesty was a significant factor in forming that opinion.

I now turn to the matter of a review period. I note that the panel has considered the Advice, which indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include fraud and serious dishonesty. The panel has found that Ms Andrews has shown such behaviour. I note that the panel has not heard anything to suggest any real insight on the part of Ms Andrews in relation to these actions.

The behaviours shown are, in the panel's view, of great seriousness. I agree with the panel. I also agree with the panel's considered view that Ms Andrews' actions so undermine her general trustworthiness that no period of review could adequately mitigate the risks presented.

I note the panel considers it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

I agree with the panel's recommendation, that a prohibition order should be imposed and that no review period should be allowed. I endorse the panel's view that honesty is a fundamental quality for any professional, and is an essential prerequisite for a teacher who is entrusted with the welfare and education of young people. Parents must be able to trust those who take on teaching roles.

This means that Ms Sarah Andrews 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 her, I have decided that Ms Andrews shall not be entitled to apply for restoration of her eligibility to teach.

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

Ms Andrews 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.



Decision maker: Jayne Millions

Date: 14 July 2016

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