



National College for
Teaching & Leadership

Mr Ramkrishna Fatania: Professional conduct panel outcome

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

September 2016

Contents

A. Introduction	3
B. Allegations	3
C. Preliminary applications	4
D. Summary of evidence	5
Documents	5
Witnesses	6
E. Decision and reasons	6
Findings of fact	7
Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute	9
Panel's recommendation to the Secretary of State	10
Decision and reasons on behalf of the Secretary of State	13

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

Teacher: Mr Ramkrishna Fatania
Teacher ref number: 1072379
Teacher date of birth: 07/08/1989
NCTL case reference: 12055
Date of determination: 27 September 2016
Former employer: Kingsbury High School

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 26 September 2016 the Ramada Hotel, Butts, Coventry, CV1 3GG to consider the case of Mr Fatania.

The panel members were Ms Marion May (teacher panellist – in the chair), Mr Brian Hawkins (teacher panellist) and Ms Nicole Jackson (lay panellist).

The legal adviser to the panel was Miss Clare Strickland of Blake Morgan solicitors.

The presenting officer for the National College was Mr Tom Day of Counsel.

Mr Fatania was present and was represented by Mr Rabin Govindarajah of Counsel.

The hearing took place in public (except for those parts where issues relating to Mr Fatania's health were discussed, which took place in private) and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 2 January 2015.

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

1. He failed to comply with the relevant rules and regulations in relation to controlled assessments in that he:
 - a. projected an exemplar essay when students were writing the controlled assessment for English Literature

- b. allowed pupils to write down identical plans for a writing piece onto a planning sheet
 - c. gave photocopied planning sheets written in his handwriting for pupils to use when writing controlled assessments for the texts:
 - i. 'An Inspector Calls'
 - ii. 'Of Mice and Men'
 - d. gave students two opportunities to write a piece of extended reading controlled assessment for the same text and title
 - e. instructed students to complete in non-exam conditions a controlled assessment, which he would then submit in place of whatever work the students had completed during the formal assessment in the School Hall
 - f. allowed students to draft and use feedback on drafts to write final versions of controlled assessments on pieces with the same title
 - g. allowed students to submit as controlled assessment pieces of work that they had completed at home and/or outside of the classroom
2. His actions set out in paragraphs 1(a) to (g) inclusive were individually and/or cumulatively dishonest in that he intended the pupils to attain higher marks, in the controlled assessment(s), than they would have achieved without the additional help

Mr Fatania admitted the facts set out at 1(a) to (g) above. He initially admitted the facts set out at 2 above, but having heard his evidence, the panel allowed an application made on his behalf from him to withdraw that admission.

Mr Fatania admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

The panel considered an application from Mr Govindarajah to admit a medical report from Individual P dated 21 April 2016. On behalf of the College, Mr Day accepted that the report was relevant, and that without medical evidence about Mr Fatania's condition, there was a risk of unfairness. However, he made clear his position that he did not accept all of the conclusions within the report, and would have wished to challenge some of them by asking questions of Individual P, who is not available to give evidence in person.

Mr Govindarajah submitted that Individual P's report superceded that prepared by Individual S, which had been presented to the panel at the original hearing of this matter in April 2015. On that occasion, the hearing had been adjourned in order that arrangements could be made for further medical evidence to be put before the panel, and for Individual S to attend to give evidence. Mr Govindarajah submitted that Individual P's report was comprehensive, and until shortly before the date of this hearing, it was not his understanding that she should attend to give evidence because others would have questions for her. He submitted that as soon as he was put on notice of this, he made efforts to secure the attendance of Individual P. She is not available because of clinic commitments, but in any event, is reported to have said that she has nothing to add to the contents of her report.

The panel has decided to admit the medical report. While it considers that the requirement for Individual P to attend should have been anticipated given the history of this matter, it accepts that she is not available and that there is no application to adjourn in order to secure her attendance. The panel does not consider it would be appropriate to adjourn in order for her to attend, given the age of these matters and the public interest in concluding the proceedings expeditiously. The panel considers that it can deal fairly with this issue, when the time comes, by considering very carefully what weight can be attached to the evidence of Individual P.

D. Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 2 to 6

Section 2: Notice of Proceedings and response – pages 8 to 14a

Section 3: NCTL witness statements – pages 16 to 46

Section 4: NCTL documents – pages 48 to 372

Section 5: Teacher documents – pages 373 to 420

In addition, the panel agreed to accept the following:

- Determination April 2015 – pages 14b to 14h
- Additional documents adduced at the hearing April 2015 (including the report of Individual S which is not now relied upon) - pages 373 to 398
- Medical report of Individual P 21 April 2016 – pages 407 to 417

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

Witnesses

The panel heard oral evidence from:

- Individual Q, Head of Faculty for English and Media at the School at the relevant time
- Individual R, Associate Deputy Head Teacher at the School at the relevant time

both of whom were called by the presenting officer.

Mr Fatania gave evidence.

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.

Mr Fatania was employed as an English teacher at Kingsbury High School ("the School"). He had completed his NQT year there. He taught English Language and English Literature to pupils in Key Stage 4 (the examination stage) and Key Stage 3. As part of their GCSE courses, his pupils had to undergo a number of controlled assessments during years 10 and 11. Controlled assessments must be carried out in exam conditions. Students are allowed in advance to prepare a cover sheet containing some bullet point notes to take into the assessment. Cover sheets cannot be marked prior to the assessment.

On 13 February 2014, two of Mr Fatania's Year 11 students, came forward to report various irregularities in the way that Mr Fatania had been supervising controlled assessments. These irregularities were investigated by Individual R, Associate Deputy Head Teacher, and various pieces of evidence were found which have now been considered by the panel.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

1. You failed to comply with the relevant rules and regulations in relation to controlled assessments in that you:

a. projected an exemplar essay when students were writing the controlled assessment for English Literature

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

b. allowed pupils to write down identical plans for a writing piece onto a planning sheet

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

c. gave photocopied planning sheets written in your handwriting for pupils to use when writing controlled assessments for the texts:

i. 'An Inspector Calls'

ii. 'Of Mice and Men'

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

d. gave students two opportunities to write a piece of extended reading controlled assessment for the same text and title

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

- e. instructed students to complete in non-exam conditions a controlled assessment, which you would then submit in place of whatever work the students had completed during the formal assessment in the School Hall**

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

- f. allowed students to draft and use feedback on drafts to write final versions of controlled assessments on pieces with the same title**

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

- g. allowed students to submit as controlled assessment pieces of work that they had completed at home and/or outside of the classroom**

This particular of allegation has been admitted and is therefore proven. In addition, the panel was satisfied on the basis of the unchallenged evidence in the bundle that this allegation was proven.

- 2. Your actions set out in paragraphs 1(a) to (g) inclusive were individually and/or cumulatively dishonest in that you intended the pupils to attain higher marks, in the controlled assessment(s), than they would have achieved without the additional help**

The panel has found this allegation proved, notwithstanding Mr Fatania's evidence that at the time of his conduct, he did not realise that what he was doing was dishonest by the standards of ordinary and reasonable people. He says that this is because of the state of his [redacted] health at the time.

The panel had full regard to the account he gave, but did not accept that it reflected the true position. The reasons for this are as follows:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- Finally, the panel rejected Mr Fatania's suggestion that other members of staff were complicit in what he did, or that there was a culture of cheating. The panel found the evidence of Individual Q and Individual R on this point to be wholly credible. It considered that their reactions when it was put to them that they were personally involved in cheating were honest and truthful. Further, Individual R pointed to the investigations that had taken place within the school, and the

oversight of independent bodies, none of which had found any evidence to support the suggestion that other teachers were involved.

The panel concludes without hesitation, as has been accepted by Mr Fatania, that his conduct was dishonest by the standards of ordinary and decent people. It has also concluded that it is more likely than not that Mr Fatania recognised that it was dishonest by those standards.

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

Having found all of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven 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 Mr Fatania in relation to the facts found proven involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Fatania 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
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position. The panel considered that by allowing pupils the opportunity to cheat, Mr Fatania failed to treat them with dignity and breached professional boundaries with them by making them complicit in his wrongdoing
- 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 Mr Fatania fell significantly short of the standards expected of the profession. It amounted to an extremely serious, prolonged, pre-planned course of cheating that had the potential to have devastating effects on his pupils.

The panel has also considered whether Mr Fatania's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and the panel has found that his conduct amounted to serious dishonesty.

In considering whether Mr Fatania's conduct may bring the profession into disrepute, 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.

Mr Fatania blatantly encouraged pupils to cheat in their GCSE controlled assessments over a considerable period of time. The panel has had regard to the impact this had on the pupils, and in particular, the evidence of Individual R as to the serious emotional effects that this had on a number of the teenagers who were involved, through no fault of their own. Two of the pupils were forced to whistleblow, which must have caused them significant anxiety and had the potential to adversely affect their relationships with other pupils in the class. Mr Fatania's actions undermined his pupils' confidence and trust in him and the school. They had to switch to a different GCSE board shortly before their final examinations, which involved wholly new texts. This would have caused unnecessary stress and worry to pupils and their families, and put the pupils at a significant disadvantage in achieving their full potential. It had a knock-on effect on their ability to perform well in other subjects, because of the time needed to catch up with the new board. It also had a knock on effect on other pupils in the same school, because the teacher resource that should have been available to help them was diverted to sorting out the situation left behind by Mr Fatania. Inevitably, this causes serious damage to the reputation of the profession.

The panel therefore finds that Mr Fatania's actions constitute conduct that may bring the profession into disrepute as well as unacceptable professional conduct.

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.

In light of the panel's findings against Mr Fatania, which involved significant and serious dishonesty that had the potential to cause serious harm to pupils, there is a strong public interest consideration in making a prohibition order.

The panel considers that pupils need to be protected from any repetition of the conduct in future. In considering the risk of repetition, the panel had regard to his current state of mind [redacted].

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Fatania 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 Fatania was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Fatania. [redacted].

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Fatania. 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
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk
- a deep-seated attitude that leads to harmful behaviour
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up

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, it concluded that Mr Fatania's actions were deliberate. However, it accepts that he was under stress and was, on balance, suffering from health problems, although not to the extent he described in his evidence. The panel particularly notes that he had a previous good record, and was

described by his superiors at the time as a well-regarded teacher with great potential. The panel also noted that he has worked as a teacher subsequent to his departure from the School in 2014, but it had no references or testimonials about his practice.

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 the teacher.

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 it 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 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours is fraud or serious dishonesty, and the panel has found serious dishonesty in this case.

However, this case is complex and unique, given the evidence about Mr Fatania's current [redacted] health condition and prognosis. While the panel has found that Mr Fatania's [redacted] health was not as he described it at the time of the conduct, it recognises that he is now suffering from a serious [redacted] health condition that is likely to have impacted on the way in which he has conducted himself in these proceedings. He has accepted now that his conduct was dishonest, and to that extent, has started to show insight.

The panel believes that in order to be proportionate, it must recommend that Mr Fatania be given the opportunity to apply for a review of the prohibition order once his [redacted] health has stabilised to the point where he is well enough to return to work. At that stage, a future panel will be able to assess whether the public interest would best be served by his return to the profession or his continued prohibition.

The panel recognises the importance of sending out a signal as to the seriousness of his misconduct, but considers that any reasonable member of the public, in possession of full information about his health condition, would agree that this case has particular factors that mean Mr Fatania should be allowed to apply for a review.

The panel considers that a period of 2 years should be recommended. Individual P does not in her report suggest any minimum period of time that it will take for him to achieve recovery. In the absence of any such period, the panel considers that it should recommend the minimum review period available, in the expectation that Mr Fatania will only apply for a review once he and his treating professionals are clearly able to demonstrate that he is well enough to return to work.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations made by the panel in respect of both sanction and review period.

I have taken very careful consideration of the findings of fact made in this case and that the panel has found both unacceptable professional conduct as well as conduct that may bring the profession into disrepute.

I have noted that in this case the panel is satisfied that the conduct of Mr Fatania in relation to the facts found proven involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Fatania 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
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position. The panel considered that by allowing pupils the opportunity to cheat, Mr Fatania failed to treat them with dignity and breached professional boundaries with them by making them complicit in his wrongdoing
- 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

I agree with the assessment of the panel that this behaviour amounted to an extremely serious, prolonged, pre-planned course of cheating that had the potential to have devastating effects on his pupils.

I have taken into account the advice published by the Secretary of State 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
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk
- a deep-seated attitude that leads to harmful behaviour
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up

In this case the health of the teacher is a critical element and I have read with great care the approach that the panel has taken to the medical evidence.

For the reasons given I support the recommendation of the panel that a prohibition order is proportionate in this case. I have taken into account the need to balance the interests of the public with the interests of the teacher.

In my view the panel has taken proper consideration of the medical evidence.

Indeed in considering the recommendation of the panel in respect of a review period I have also thought carefully about the medical evidence in this case.

The panel has said that “any reasonable member of the public, in possession of full information about his health condition, would agree that this case has particular factors that mean Mr Fatania should be allowed to apply for a review.”

I have been able to consider that information and accordingly I support that recommendation. Mr Fatania will need to return to a new panel with appropriate evidence before he can be permitted to return to teaching, but he should be afforded that opportunity.

This means that Mr Ramkrishna Fatania is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. He may apply for the prohibition order to be set aside, but not until 30 September 2018, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Ramkrishna Fatania remains prohibited from teaching indefinitely.

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

Mr Ramkrishna Fatania 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: Alan Meyrick

Date: 30 September 2016

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