



National College for
Teaching & Leadership

Mr Alan Basey: Professional conduct panel outcome

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

March 2017

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

Teacher: Mr Alan Basey

NCTL case reference: 15296

Date of determination: 17 March 2017

Former employer: St Mary's Catholic School, Bishop's Stortford, Herts

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 15 March 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Alan Basey.

The panel members were Mr Peter Cooper (teacher panellist – in the chair), Dr Angela Brown (lay panellist) and Mr Ian Hughes (lay panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP, solicitors.

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

Mr Basey was present and was represented by Mr Lachlan Wilson of Counsel, instructed by Match Solicitors.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 21 November 2016.

It was alleged that Mr Basey was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, whilst employed at St Mary's School, Bishop's Stortford ("the School"):

1. He engaged in inappropriate behaviour towards one or more pupils during lessons including:
 - a. On or around 2 March 2016 in respect of Pupil A he:
 - i. Held Pupil A's hand;
 - ii. Stroked Pupil A's hand
 - iii. Said to Pupil A that he loved her or words to that effect;
 - iv. Said to Pupil A that he wanted to marry her or words to that effect;
 - v. Said to Pupil A that he wanted to have children with her or words to that effect;
 - b. On or around 10 February 2016 he said to Pupil C, '*would you suck your husband's toes*' or words to that effect;
 - c. On or around 26 February 2016, when discussing homosexual relationships, he said to Pupil E, '*you like a bit of that don't you*' or words to that effect;
 - d. On or around 16 March 2016 he said to Pupil D when he had a lollipop:
 - i. '*Just stick it in your mouth and give it a hard suck*' or words to that effect;
 - ii. '*Just suck that lolly really hard*' or words to that effect;
 - e. On or around 10 March 2016 he said to one or more pupils, '*girls shouldn't be teased because boys cannot control themselves once they get going. They are hot blooded, this is why girls are getting raped, so girls don't be teased*' or words to that effect;
 - f. Between January and March 2016 he said to one or more pupils:
 - i. '*if you don't be quiet I'll sit on your face*' or words to that effect;

- ii. *'Oral sex, that's just what girls do though isn't it'* or words to that effect;
 - iii. *'Masturbation should be encouraged boys and girls, girls as well, I really encourage masturbation, explore yourselves'* or words to that effect;
 - iv. *'Girls feel yourselves for vaginal mucus'* or words to that effect;
- g. Between January and March 2016 he discussed the following in the presence of pupils during lessons:
- i. Sex toys;
 - ii. Flavoured condoms;
 - iii. Anal sex.

Mr Basey admitted the facts of allegations 1.a., 1.d., 1.f..i. and 1.g..ii. The panel had regard to the Statement of Agreed and Disputed Facts included within the papers.

Mr Basey also initially admitted that his conduct in relation to allegations 1.a., 1.d., 1.f..i. and 1.g..ii. was such that he was guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute. However, at the outset of the hearing it was confirmed on behalf of Mr Basey that this admission was not maintained following the provision of legal advice.

There were no admissions in relation to the remaining allegations, which were denied.

C. Preliminary applications

Applications by the National College and Mr Basey to admit additional evidence and Application by the National College to rely upon the evidence of Pupil B as hearsay evidence

The panel decided to admit the additional evidence.

First, the panel considered that the documents are relevant to the case.

The panel also decided that it is appropriate for the additional evidence to be admitted in the interests of a fair hearing.

Both parties agreed to the evidence being admitted and no new factual matters were raised with reference to the allegations.

The documents were added to the case papers, marked pages 17A to L in relation to the National College's additional evidence and pages 212 to 229 in relation to Mr Basey's additional evidence.

As regards the evidence of Pupil B, the National College sought permission to rely upon her signed witness statement as hearsay evidence on the basis that she was unavailable to attend the hearing.

Hearsay evidence is admissible in these proceedings subject to the requirement of fairness.

Having considered the reasons for Pupil B's absence and the fact that Mr Basey did not object to the application, the panel agreed to the request.

The panel noted that the National College had made all reasonable efforts to secure her attendance. It also had regard to Pupil B's age and the fact that, were she in attendance, it would be required to determine whether, as a child, her welfare would be prejudiced by giving evidence.

However, on the basis that Pupil B was not being called to give oral evidence, such that her evidence would not be tested by questioning, the panel would carefully consider the weight to be attached to her evidence and any other hearsay evidence. The panel would endeavour to treat such evidence with caution.

The National College's application to amend allegation 1.e.

In light of the parties' submissions, and on the basis that Mr Basey consented to the application having been given advance notice of it, the panel agreed to amend allegation 1.e. to refer to 10 March 2016 as opposed to 20 March 2016.

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 4

Section 2: Notice of Proceedings and Response – pages 6 to 13

Section 3: NCTL witness statements – pages 15 to 19

Section 4: NCTL documents – pages 21 to 120

Section 5: Teacher documents – pages 122 to 211

At the outset of the hearing and having considered the parties' submissions the panel agreed to remove pages 56 and 57 from the hearing bundle on the basis that they were not probative and were potentially prejudicial.

In addition, the panel agreed to admit the following:

Witness statement of the mother of Pupil B and exhibited correspondence (added as pages 17A to L to the bundle)

Excerpt from Edexcel GCSE in religious studies specification (added as pages 212 to 229 to the bundle)

Additional character references (added as pages 230 to 243 to the bundle)

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

Witnesses

The panel heard oral evidence from Witness A, assistant headteacher at the School, called by the presenting officer.

The panel also heard oral evidence from Mr Basey.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms it has read all of the documents.

Mr Basey was employed as a teacher of religious education at the School on a supply basis from 4 January 2016 until his resignation on 17 March 2016.

Prior to this, Mr Basey taught at the School from 1 September 1983 and had been employed as the subject leader for religious education until his retirement in 2012.

As part of his role between January and March 2016 he taught the religious education GCSE course to a Year 11 class which included Pupils A to I.

On 16 March 2016, an allegation was made by Pupil A and Pupil B to Individual A, deputy headteacher at the School, that Mr Basey had made inappropriate comments during the course of lessons.

In her witness statement dated 16 October 2016, provided in these proceedings, Pupil B alleged that Mr Basey began to make inappropriate comments in class in January 2016.

Having been encouraged to do so by her mother, Pupil B began to write a log in which she recorded specific comments alleged to have been made by Mr Basey.

Excerpts from that log were included within the case papers.

Mr Basey's representative invited the panel to treat this document with caution insofar as it purported to set out a verbatim account of comments attributed to Mr Basey. He noted that certain alleged comments were not recorded contemporaneously as they were said to have been made before she started writing the log. It was also noted that Pupil B indicated she would write in the log when she returned home from School. She confirmed that certain comments made by Mr Basey were often discussed after class and on that basis Mr Basey's representative suggested that her recollection could have been influenced.

This was a matter to which the panel had careful regard, including the possibility that the accounts of other pupils may have been influenced by after class discussions.

In considering what weight to attach to the hearsay evidence of Pupil B the panel endeavoured to consider all of the circumstances including the extent to which it was supported or contradicted by other evidence. In certain instances, for example, Pupil B's accounts were supported by Mr Basey's recollection of events and his admissions with regard to certain of the allegations.

Whilst it was unfortunate that the panel did not have the benefit of hearing oral evidence from Pupil B, in considering the weight to be attached to her evidence the panel also had careful regard to the additional documents at pages 17A to L which provided an explanation for her absence. The panel noted that her witness statement was also supported by a statement of truth and it had regard to her earlier accounts provided during the School's investigation, which demonstrated she had been consistent throughout.

Following the disclosure to Ms McHugh an internal investigation was commenced and Witness A was appointed as investigation officer.

During the course of his investigation Witness A interviewed a number of pupils and certain staff members.

Written accounts of some of the other individuals interviewed by Witness A were included within the papers. However, again, the panel did not hear oral evidence from them. The panel were informed by the National College that whilst attempts were made to seek the assistance of pupils they were not willing to engage with the proceedings.

At the conclusion of the School's investigation and notwithstanding Mr Basey's resignation a disciplinary process was commenced.

The letter dated 13 May 2016, Mr Basey was notified that, had he not resigned, a decision would have been taken to terminate his employment for gross misconduct. However that was not a matter to which the panel had any regard.

The School subsequently referred Mr Basey's conduct to the National College.

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:

You engaged in inappropriate behaviour towards one or more pupils during lessons including:

- a. On or around 2 March 2016 in respect of Pupil A you:**
 - i. Held Pupil A's hand;**
 - ii. Stroked Pupil A's hand**
 - iii. Said to Pupil A that you loved her or words to that effect;**
 - iv. Said to Pupil A that you wanted to marry her or words to that effect;**
 - v. Said to Pupil A that you wanted to have children with her or words to that effect;**

The panel heard that an incident took place during the course of a religious education lesson on or around 2 March 2016.

The signed written account provided by Pupil A on 16 March 2016 records:

"On March 2nd Mr Basey stroked my hand and repetitively told me he loves me, wants to marry me and have children with me. His tone of voice was jokey however I felt very uncomfortable and I'm sure he could tell as I went very red (according to others in my class) and I turned away from him to avoid any eye contact."

This was corroborated in part by the accounts provided by Pupil B, Pupil C and Pupil I.

The panel carefully considered Mr Basey's evidence in relation to this incident.

Mr Basey contended that the incident occurred during a role play exercise of a marriage ceremony in which he was acting as the 'Priest'.

In the course of doing so he claimed that he asked the 'groom' if he was happy marrying the 'bride', said to have been Pupil A, at which point the 'groom' responded that he was not and had no desire for babies. Mr Basey stated that at this point he commented that if that were the case then he would marry Pupil A and she could have his children. In doing so he asserted that he was seeking to reassure Pupil A.

He contended that these were frivolous comments, and were inappropriate coming from him; however they were to be considered in the context of the lesson and the role play exercise undertaken.

In his witness statement Mr Basey stated that *"I think I said, in jest, something along the lines of "Well if I were fifty years younger I would have loved to marry someone so beautiful, and start a family but that I was already very happily married"*.

However Mr Basey gave a different account in his oral evidence where he accepted that he did say to Pupil A that he loved her, but certainly not in an emotional context. He gave an explanation of the concept of agape love which he referred to as a higher form of love such as the love of God for mankind.

Mr Basey has maintained throughout that he has no recollection of stroking Pupil A's hand but he accepts that it may have happened. He contended that if he did he would have done so innocently and without being aware of it. The panel was invited to consider allegations 1.a..i. and ii. as one and the same.

The panel noted that there was an inconsistency between certain of the accounts provided in relation to this incident as to whether it did in fact occur in the specific context of a marriage role play exercise. Pupil B's witness statement suggested that marriage was being discussed at the time.

The panel was unable to resolve the conflict as regards the precise context.

The panel noted that there was an acceptance by Mr Basey of certain aspects of Pupil A's version of events.

Whilst it did not have the benefit of hearing from Pupil A, her written account was prepared not long after the event and was signed. It had also been suggested that she was a bright and capable student and there was certainly no evidence to suggest that she was motivated by any ill-will towards Mr Basey. To the contrary her account was, considered as a whole, measured and balanced. She accepted, for example, that Mr Basey's tone was *"jokey"*.

As the panel has already noted, her account was also corroborated in part by Pupil B, Pupil C and Pupil I as well as by Mr Basey.

The panel concluded that, having considered the evidence as a whole and on the balance of probabilities, Mr Basey did hold and stroke Pupil A's hand and say that he

loved pupil A, wanted to marry her and wanted to have children with her, or words to that effect.

Taken as a whole, the panel also considered that this behaviour was inappropriate.

The nature of the physical contact and the comments made to Pupil A had the potential to cause embarrassment. Mr Basey's conduct amounted to a failure to maintain appropriate professional boundaries.

The panel accepted that there was no intention to cause harm on the part of Mr Basey and he was clearly genuinely distressed at the prospect that he may have caused any embarrassment. The panel accordingly considered that he was misguided but certainly not malicious.

On this basis the panel found allegation 1.a. proven.

b. On or around 10 February 2016 you said to Pupil C, 'would you suck your husband's toes' or words to that effect;

An entry in Pupil B's log dated 10 February 2016 records that Mr Basey allegedly made an inappropriate comment to Pupil C whereby she "*was asked 'would you suck your husband's toes'.*"

Witness A's typed note of his meeting with Pupil B on 16 March 2016 records her stating that "*this came about as he had said to the class that he has a friend who likes to suck her baby's toes, and then he'd said he's heard that people do it to their husbands as well. Then he'd said to [Pupil C], would you suck your husband's toes. The boys were laughing but the girls were embarrassed. [Pupil C] laughed it off – nervous laughter.*"

In her witness statement Pupil B confirmed that this note accurately sets out what she said in this meeting to the best of her knowledge and belief.

Pupil B's account is supported by the account provided by Pupil A which records "*in another lesson (I can't remember the exact date) [Mr Basey] was asking pupils if they'd suck their girlfriend/boyfriend's toes.*"

Pupil C's account was that:

"Once Mr Basey said some mums kiss their baby's bums or suck their toes and I said sir that's a bit weird and he said would you suck your husband's toes to me in front of the whole class. I didn't know what to do. I just laughed."

Pupil C's account goes on to record that she thought matters had "*been blown out of proportion*" suggesting a balanced account of Mr Basey's conduct that was certainly not motivated by malice.

Mr Basey denied this allegation.

In his witness statement Mr Basey confirmed that he could recall talking about how a mother may express love for a new-born through kissing or sucking the toes of the baby.

Mr Basey stated he could not "*recall speaking about the toes of a husband.*" The note of his interview with Witness A on 21 March 2016 also records Mr Basey stating "*I vehemently deny (saying) it. This is just so unlikely as I was talking about a mother and a baby.*" He maintained this denial in his oral evidence.

Whilst it was unfortunate that the panel did not have the opportunity to hear from the pupils in question, on balance and in particular taking account of the high degree of corroboration in the accounts obtained from certain of the pupils, the panel considered that it was more likely than not that Mr Basey did say to Pupil C, 'would you suck your husband's toes' or words to that effect.

This comment was clearly inappropriate. It had the potential to cause embarrassment and was in no way relevant to the subject matter seemingly being taught. Such comments have no place in a classroom environment.

Accordingly, the panel found allegation 1.b. proven.

- d. On or around 16 March 2016 you said to Pupil D when he had a lollipop:**
- i. *'Just stick it in your mouth and give it a hard suck' or words to that effect;***
 - ii. *'Just suck that lolly really hard' or words to that effect;***

This allegation was admitted.

The panel noted that Pupil B gave an account of this incident during her meeting with Witness A, the note of which records:

"Today 16.03, period 2, he gave out lollipops. He gave one to [Pupil D]. He was trying to open it with his teeth to rip open the plastic covering. Then he said just put it in your mouth and give it a good hard suck. A few of the boys were giggling so he repeated it but even louder. [Pupil D] laughed. Some boys joined in, others looked at each other. The girls' reaction was embarrassed, uncomfortable."

Pupil B's log entry records:

"[Pupil D] was given lolly. Said to [Pupil D] "Just stick it in your mouth and give it a hard suck" then repeated louder "Just suck that lolly really hard"

Whilst Pupil D confirmed that he did not recall this incident, Pupil B's account was corroborated by the written accounts provided by Pupil C and Pupil H.

Mr Basey admitted that words to this effect were used by him and that this was inappropriate.

He contended that he did not say the comments in a suggestive manner and, because he had given lollipops to staff members and pupils for many years, he had gotten into the habit of saying 'have a suck on me' or words to that effect. He accepted that to make such a comment to a pupil was inappropriate.

Whilst the panel accepted that Mr Basey was not intending to cause embarrassment or discomfort, it considered that there was the potential for such comments to have that effect and for them to be misinterpreted.

In light of Mr Basey's admission and the evidence, the panel therefore found allegation 1.d. proven.

f. Between January and March 2016 you said to one or more pupils:

i. 'if you don't be quiet I'll sit on your face' or words to that effect;

This allegation was admitted by Mr Basey.

Whilst the precise date is unknown, Pupil A's log records that Mr Basey said to a student "*if you don't be quiet I'll sit on your face.*"

The signed written account of Pupil I similarly records: "*Mr Basey has said "If you don't be quiet I'll sit on your face" not to me but to others. He might say it to the whole class or to an individual if they find that funny.*"

Mr Basey indicated in his oral evidence that this was a phrase he had used repeatedly in the past. However he was not aware that it had any sexual connotation. In his interview during the School's disciplinary process he had similarly stated "*I've been saying that for time immemorial.*"

Mr Basey accepted that, despite his intention being to make a humorous comment, this was an inappropriate comment to make to pupils.

Accordingly, in light of the admission made and the evidence, the panel found allegation 1.f..i. proven.

g. Between January and March 2016 you discussed the following in the presence of pupils during lessons:

ii. Flavoured condoms;

Mr Basey admitted this allegation.

An entry in Pupil B's log dated 22 January records:

"Fruit flavoured condom's and kinky sex were briefly mentioned, he then went back to talk about Fruit flavoured condoms again, he asked the class what they their (sic) used for as he knew 'pointless for oral sex'. Asked the class again and said 'you lot know more than me in this department'. Individual B had walked into our lesson to look at some books, Mr Basey changed the topic but returned to it once Individual B had left."

Pupil B gave a further account of this incident in her meeting with Witness A, the note of which records:

"Then he moved onto flavoured condoms (fruit flavoured as for oral sex you don't need a condom so why would you need a flavoured condom? He said to the class, you probably know more than me than what they are used." (sic)

Mr Basey admitted that he discussed flavoured condoms during a lesson and that it was inappropriate to do so in front of or in the vicinity of pupils. His account was that he was drawn into the discussion and that was inappropriate, but that he brought the brief discussion to a close.

The panel considered that discussing this issue in the presence of pupils was certainly inappropriate.

In light of the admission made and the evidence, the panel therefore found allegation 1.g..ii proven. The panel has found the following particulars of the allegations against you not proven, for these reasons:

You engaged in inappropriate behaviour towards one or more pupils during lessons including:

- c. On or around 26 February 2016, when discussing homosexual relationships, you said to Pupil E, 'you like a bit of that don't you' or words to that effect;**

Pupil B's log records that during the course of a lesson on 26 February 2016 Mr Basey allegedly said:

"Gay young people or young people who think they may be gay shouldn't experiment with homosexual sex, it's dangerous, very dangerous and shouldn't be encouraged."

It is alleged that he then stated to Pupil E words to the effect of "you like a bit of that don't you?"

Pupil E did not explicitly mention this alleged incident within his written account. Whilst the account records "the reference to me was accurate but I took it as a joke" the panel could not be certain as to precisely what this was referring to.

Mr Basey accepted that the topic of homosexuality was taught as part of the syllabus and he regarded it as a serious subject. However whilst he accepted in his oral evidence that the making of jokes had been a feature of his teaching, he denies that he made any such comment to Pupil E.

In those circumstances and in the absence of hearing from Pupil B and Pupil E, the panel could not be satisfied that the National College had proved to the requisite standard that words to this effect were spoken.

Accordingly, the panel did not find allegation 1.c. proven.

- e. On or around 10 March 2016 you said to one or more pupils, '*girls shouldn't be teased because boys cannot control themselves once they get going. They are hot blooded, this is why girls are getting raped, so girls don't be teased*' or words to that effect;**

Pupil B's log records that on 10 March 2016 Mr Basey allegedly said "*girls shouldn't be teased because boys cannot control themselves once they get going, they are hot blooded, this is why girls are getting raped, so girls don't be teased.*"

In her witness statement she confirmed that she relayed this to Individual C the next day.

Individual C written account records that he spoke with Pupil B who indicated to him that it had been "*suggested by [Mr Basey] in the lesson that it was girls' fault if they are raped because boys can't help it.*"

Whilst there was some corroborating evidence the panel did not consider it was sufficiently persuasive.

For example, Pupil G referred to this alleged incident within her written statement but she did not provide a clear, first-hand account. Rather, she appeared to refer to what was said by Pupil B to Individual C whereby Pupil B alleged that Mr Basey was "*saying that girls shouldn't flirt with boys if they don't want anything to happen because boys can't help themselves and will rape the girls thereby implying that girls are objects.*"

Witness A did interview Pupil G during the course of his investigation and his note of that discussion records Pupil G stating that: "*[Mr Basey] was saying that if girls lead boys on it's their fault if they get raped.*"

However as this was not explicitly referred to in her written, signed account the panel did not consider Witness A's second hand account to be sufficiently reliable.

In his investigatory report, Witness A also referred to Pupil A providing a written account that is said to have indicated that Mr Basey stated "*that girls need to stop teasing boys as they find it hard to control themselves and that's why girls are raped.*"

However this was not included within the papers.

The alleged incident was not referred to in any of the other written accounts provided by pupils.

Mr Basey has consistently denied this allegation.

Whilst he accepted that there was a discussion regarding the issue of sexual consent, he asserted in his oral evidence that he was seeking to get across that there was a risk of men getting a false impression. He repeatedly stressed a woman's right to change her mind.

The note of his interview on 21 March 2016 records his response to this allegation as being: "*I never said this. I did say that when men are aroused, it's hard to stop.*" Further, it records Mr Basey stating that "*When aroused men find it hard to stop when the girl changes her mind and this when is consensual stops and it goes to rape.*"

In his witness statement he added:

"If I made any comment in relation to the notion of 'teasing' it was a very serious note of caution shared in a bid to inform each and every pupil about the need to have their wits about them and be alert to the possible implications of certain behaviour. It was within the context of explaining that if girls engage in teasing behaviour and then they decide they want to stop the encounter with the young man, the young man may not have the will-power to stop which could lead to rape."

The panel noted that there was clearly a classroom discussion around a very sensitive topic.

However in the absence of hearing from the pupils in oral evidence, and in circumstances where there was no clear corroboration of Pupil B's account, whilst it had regard to the fact that Pupil B felt compelled to report Mr Basey to another teacher the panel was not satisfied that the National College had proved to the requisite standard that these particular words to words to that effect were said.

The panel considered that this was clearly a sensitive subject matter and there was a risk of misinterpretation. It therefore placed greater weight on Mr Basey's account of this incident.

The panel accordingly did not find allegation 1.e. proven.

- f. Between January and March 2016 you said to one or more pupils:**
 - ii. 'Oral sex, that's just what girls do though isn't it' or words to that effect;**

Pupil B's log records that Mr Basey allegedly made a comment in class in relation to oral sex whereby he stated "*that's just what girls do though isn't it*"

However this particular entry was not made contemporaneously. It was a comment allegedly made by Mr Basey prior to Pupil B starting the log.

This alleged incident is not referred to in any of the accounts provided by other pupils.

In his witness statement, Mr Basey accepted that oral sex was briefly mentioned in a lesson as part of a general discussion on sexually transmitted infections but he did not accept that he said "*that's what girls do*" or words to that effect. The allegation was accordingly denied.

In the absence of any corroborating evidence and in circumstances where Pupil B's account was reflective and not contemporaneous, the panel could not be satisfied that the National College had proved to the requisite standard that these words, or words to that effect, were said by Mr Basey.

The panel accordingly did not find allegation 1.f..ii. proven.

iii. *'Masturbation should be encouraged boys and girls, girls as well, I really encourage masturbation, explore yourselves' or words to that effect;*

Pupil B's log records that on an unknown date Mr Basey allegedly said during the course of a lesson "*Masterbation (sic) should be encouraged boys and girls, girls as well, I really encourage masterbation (sic), explore yourselves' or words to that effect.*"

This is a further example of a record that was not made contemporaneously. It was a comment allegedly made by Mr Basey prior to Pupil B starting the log.

This alleged incident is not referred to in the accounts provided by any of the other students. To the contrary, there is some conflicting evidence. For example, the written account of Pupil G suggests that Mr Basey's lessons "*are full of remarks such as "don't masturbate"*".

Mr Basey denied this allegation. Whilst he accepted that masturbation was discussed, in his witness statement he stated that "*I in no way encouraged it but was at great pains to assuage any lingering feelings of guilt that might have been present.*"

Having considered all of the evidence and on the balance of probabilities, the panel did not find this allegation proven.

iv. *'Girls feel yourselves for vaginal mucus' or words to that effect;*

Pupil B's log records that on 11 March 2016 Mr Basey said during the course of a lesson "*Girls feel yourselves for vaginal mucus.*"

Pupil G's written account also refers to an occasion where Mr Basey was talking about "*how girls should touch themselves to see if they are pregnant or not.*"

Mr Basey accepted that the Billings method of birth control was discussed during a lesson on contraception; however he did not encourage pupils to act in the way that had been suggested. Rather, he asserted in his evidence that the discussion occurred in the context of family planning with reference to married woman and he would not have made such a suggestion to unmarried pupils. His belief was that sexual intercourse was solely for married people.

The panel considered this explanation to be credible and it was probable that Mr Basey had been misinterpreted.

Accordingly, the panel did not find this allegation proven.

g. Between January and March 2016 you discussed the following in the presence of pupils during lessons:

i. Sex toys;

Pupil B's log refers to a lesson in which a survey was put onto a projector by Mr Basey which examined the topics of 'How sexually adventurous are you' and 'do you use sex toys'.

In her witness statement she further stated that "*a survey involving sex toys was brought up during a lesson.*"

However, Pupil B does not explicitly state that sex toys were in fact discussed by Mr Basey and nor is that suggested by any other pupil.

Mr Basey accepted that there was an incident where a reference to sex toys was inadvertently included within a lesson presentation sourced from the internet but he maintained that there was no discussion in relation to this issue.

The panel considered that there was no evidence to support the suggestion that a discussion in relation to sex toys had taken place and on that basis, the panel did not find allegation 1.g..i. proven.

iii. Anal sex.

An entry in Pupil B's log dated 8 March 2016 records:

"Anal penetration" doesn't see point because you 'can't have children from your anus."

There is further reference to "*gay young people*" in an entry in Pupil B's log dated 26 February 2016.

Pupil G's written account also refers to an occasion where Mr Basey was talking about "*anal between gays.*"

Mr Basey previously denied that anal sex had been discussed. In a letter to the National College dated 15 June 2016 he stated that "*Anal sex was NEVER discussed in any of my lessons. I do not know where that originated from.*"

Mr Basey subsequently accepted that anal sex was discussed in the course of a wider discussion on the topic of homosexuality, which was part of the syllabus. His explanation for his previous denial was that anal sex had not been discussed as a standalone topic.

Whilst he now accepted that anal sex was discussed, he denied that the discussion was inappropriate.

Considering the evidence as a whole, the panel was not satisfied that there was any clear evidence regarding the precise context in which anal sex may have been discussed. Accordingly, it did not consider that the National College had proved to the requisite standard that Mr Basey had behaved inappropriately.

The panel therefore did not find allegation 1.g..iii. proven.

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

Having found a number of the allegations to have been proven, the panel went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

The panel was satisfied that the conduct of Mr Basey in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Basey was 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;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

The panel was satisfied that the conduct of Mr Basey fell significantly short of the standards expected of the profession. There were a number of instances of inappropriate conduct which occurred over a three month period. The panel was not considering an isolated incident but rather a number of failings evidencing poor judgment.

The panel also considered whether Mr Basey's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. It found that none of these offences were relevant.

Accordingly, the panel was satisfied that Mr Basey was guilty of unacceptable professional conduct.

The panel took 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 also took 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 the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Mr Basey's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1.a., .b., .d., f.i., and g.ii. proved, the panel therefore further found that Mr Basey's conduct amounted 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 was 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 had 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 considered the particular public interest considerations set out in the Advice and, having done so, 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 the declaring and upholding of proper standards of conduct.

In light of the panel's findings against Mr Basey, which involved findings of inappropriate behaviour, it considered there was a strong public interest consideration in this case.

The panel considered the risk as regards the need to protect pupils was very low given the insight which Mr Basey demonstrated, in that he admitted, at an early stage, 9 of the 10 findings that the panel made and recognised the inappropriateness of his behaviour.

However, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Basey was not treated with the utmost seriousness when regulating the conduct of the profession.

Similarly, the panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was present. There was also a strong public interest in terms of deterring others and maintaining confidence in the regulatory process.

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 Basey.

In carrying out the balancing exercise the panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Basey.

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, relevant in this case is that the behaviour amounted to a serious departure from the personal and professional conduct elements of the Teachers' Standards.

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 considered that:

- Mr Basey had over 40 years' service as a teacher and an unblemished record. He was described as having been dedicated to the School.
- Mr Basey was clearly very well respected and the panel was provided with a range of testimonials. The panel was impressed with the quantity and quality of these testimonies which were from a range of people, including professionals, teachers, pupils and parents. Several former pupils explained that they had been inspired to become teachers as a result of having been taught by Mr Basey. Another pupil stated that Mr Basey had been "*relentless in his effort to improve [her] grade and get [her] what [she] needed to secure [her] place at university.*"

- Mr Basey made admissions at an early stage.
- The behaviour was at the lower end of the spectrum of seriousness.
- The actions were not deliberate in that Mr Basey was not intending to cause offence or embarrassment and was not aware that he might be doing so.
- The panel considered that Mr Basey had demonstrated clear insight into his failings.
- The panel's findings concerned behaviour which had occurred over a relatively short period of time and related to a particular GCSE class.
- A number of pupils within that class did not consider there was any inappropriate behaviour.

In terms of aggravating factors, the panel considered that:

- Mr Basey's conduct had caused some pupils to feel embarrassed and uncomfortable.
- He did not sense the embarrassment and discomfort he was causing.
- His teaching style had perhaps not moved sufficiently with the times.

Having carefully weighed all of these considerations, the panel was not of the view that prohibition is a proportionate and appropriate response. Given that the nature and severity of the behaviour is at the less serious end of the possible spectrum, and in light of the mitigating factors that were present in this case, the panel has determined that a recommendation for a prohibition order will not be appropriate in this case.

In arriving at this conclusion, the panel considered that its findings of unacceptable professional conduct and conduct that may bring the profession into disrepute were sufficient without unacceptably compromising the objective of protecting the public interest. The panel considered that this struck a fair balance between the effect on Mr Basey and the need to protect the public interest.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation made to me by the panel in respect of the sanction.

In particular I have noted that the panel only found a small number of the allegations proven. Accordingly, I have put from my mind all of those allegations where the panel did not find the facts proven.

In considering this case I have had regard to the Advice published by the Secretary of State concerning the prohibition of teachers.

In this case the panel has found some of the facts proven. Those facts that have been found proven have also been found to amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered that by reference to Part Two of the Advice, Mr Basey was 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;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

The panel was satisfied that the conduct of Mr Basey fell significantly short of the standards expected of the profession. There were a number of instances of inappropriate conduct which occurred over a three month period. The panel was not considering an isolated incident but rather a number of failings evidencing poor judgment.

The panel has recommended in this case that a prohibition order is not proportionate or in the public interest.

I have also considered that issue. In doing so I have balanced the public interest with the interests of the teacher. I have also taken into account that the finding and public declaration of unacceptable professional conduct and conduct that may bring the profession into disrepute is itself a serious matter.

On balance I agree. The panel has set out its thinking and I support that. In this case the nature and severity of the behaviour is at the less serious end of the possible spectrum. A public declaration of unacceptable professional conduct is in my view a proportionate response in the public interest.



Decision maker: Alan Meyrick

Date: 22 March 2017

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