



National College for
Teaching & Leadership

Mr Joseph Patrick Giblin: Professional conduct panel outcome

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

July 2017

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

Teacher: Mr Joseph Patrick Giblin
Teacher ref number: 9235697
Teacher date of birth: 29 November 1967
NCTL case reference: 15489
Date of determination: 28 July 2017
Former employer: Thomas Gray Primary School, Sefton

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 27-28 July 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Joseph Patrick Giblin.

The panel members were Mrs Marjorie Harris (former teacher panellist – in the chair), Dr Geoffrey Penzer (lay panellist) and Mrs Gail Goodman (teacher panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the National College was Mr Ian Perkins of Browne Jacobson LLP Solicitors.

Mr Joseph Patrick Giblin was 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 25 April 2017.

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

- 1) He provided answers to one or more pupils during controlled conditions in the Key Stage 2 SAT Reading Paper on 11th May 2015;
- 2) His conduct at allegation (1) was dishonest in that he intended to assist one or more pupils to achieve a higher exam result than they deserved.

Mr Giblin confirmed in his response dated 10 June 2017 to the Notice of Proceedings that he denied both allegations.

C. Preliminary applications

At the commencement of the hearing, the panel was handed clearer and better copies of pages 85, 90, 95 and 99. As this documentation was not new evidence, the panel allowed those four pages to be replaced.

The panel considered an application from Mr Giblin that three further pages of material should be allowed into evidence despite not being served on the NCTL in line with paragraph 4.20 of the Teacher misconduct: Disciplinary procedures for the Teaching Profession (the "Procedures"). Mr Giblin explained that these documents evidenced the relevant pupils previous exam scores and showed the improvements that each had made. The presenting officer confirmed he had seen the documents and had no objections.

In light of the fact that the documents appeared relevant to the hearing and there was no apparent unfairness, the panel determined it was in the interests of justice that these three pages be entered into evidence as pages 198 to 200.

Applications for Evidence to be Admitted During the Hearing

During Mr Giblin's evidence, it became clear to the panel that he was referring to additional documents that were not contained within the bundle but had been sent to the NCTL, albeit only a week before the hearing. As a result, the panel heard an application from Mr Giblin that his updated statement dated 12 July 2017 be entered into evidence in addition to his comments regarding an OFSTED inspection in March 2015 and the character references from Individual E and Individual F be entered into evidence. Again, the presenting officer had no objection to this application.

As a result of Mr Giblin's evidence, the presenting officer also made an application that character references he had been sent by Mr Giblin that, prima facie, were already produced in the bundle also be admitted into evidence due to apparent discrepancies between the different versions of three references. Mr Giblin confirmed he had no objection to this course of action.

The panel determined that all the documents would appear to be relevant to the hearing and, in light of the lack of objections from either party regarding both applications, there was no unfairness. The following documents were therefore included:

- 'Mobile Phone Incident' – Exhibit A;
- Character Reference of Individual A (unsigned) – Exhibit B;
- Character Reference of Individual B (unsigned) – Exhibit C;
- Character Reference of Individual C and Individual D (unsigned) – Exhibit D;
- Character Reference of Individual E (unsigned) – Exhibit E;
- Character Reference of Individual F (unsigned) – Exhibit F;
- OFSTED March 2015 commentary – Exhibit G.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 5

Section 2: Notice of Proceedings and response – pages 7 to 16

Section 3: NCTL witness statements – pages 18 to 20

Section 4: NCTL documents – pages 22 to 157

Section 5: Teacher documents – pages 159 to 197

A supplementary bundle containing the test papers of 26 pupils (pages 1 to 509) was also provided with the above documents.

In addition, the panel agreed to accept the documents that were the subject to the preliminary applications detailed above.

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

Witnesses

The panel heard oral evidence from:

- Witness A, headteacher of the School;
- Mr Joseph Giblin.

E. Decision and reasons

The panel announced its decision and reasons as follows:

We have carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

Mr Giblin had been employed at Thomas Gray Primary School (“the School”) since 1 September 2011 as a teacher. On 11 May 2015, Mr Giblin invigilated 13 pupils who were taking a Key Stage 2 Levels 3 to 5 Reading SATs.

Following the SATs, it was reported to the headteacher that Mr Giblin had provided answers to those he was invigilating. An investigation into matters was commenced and Mr Giblin was suspended on a precautionary basis.

As a result of the investigation, the results of the 11 May 2015 exams that Mr Giblin invigilated were annulled by the Standards and Testing Agency (STA) due to maladministration.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

1) You provided answers to one or more pupils during controlled conditions in the Key Stage 2 SAT Reading Paper on 11th May 2015;

We heard evidence on this allegation from the headteacher, Witness A, who explained that the initial report of possible maladministration of the Key Stage 2 SAT Reading Paper was made soon after its conclusion. As a result, she sought advice from HR and the local authority and subsequently started a low-level investigation that consisted of

little more than just general chat with a few of those pupils who were invigilated by Mr Giblin. At this stage, there was no direct evidence of any answers being provided to the pupils but there was mention of assistance being given to the extent of advice to re-read the questions. Nevertheless, Witness A accepted that she was not told anything that caused her any particular concern regarding the assessment.

The following day, more detailed questions were asked of relevant pupils by Witness A. She explained that, prior to questioning, the pupils waited separately and she had no concerns as to any possible collusion. It was during these interviews that allegations were made to Witness A that Mr Giblin had provided answers to the pupils he was invigilating.

Mr Giblin also provided oral evidence to the panel. He accepted that he may have provided assistance over and above what was appropriate in the circumstances but emphatically denied providing the answers to any questions. Mr Giblin explained that he was a highly experienced teacher who was knowledgeable on SATs assessments. To this extent, he effectively 'drilled' those pupils that he taught as to how to answer questions appropriately. If there were any similarities in the answers that they gave, this was more reflective of his teaching methods compared to, for instance, the group who were taught in a different manner by another teacher and therefore gave a wider range of answers.

Mr Giblin explained that for those questions where the pupils used terminology in their answers that was not present in the original text, this was a consequence of the amount of practice the pupils had rather than being a result of answers, which he had told them. Similarly, when the pupils gave the same answers when they had a range of answers from which to choose, this was as a result of his teaching methods.

In relation to those questions where most of his group scored poorly, they were questions of the sort that he had previously told them not to spend much time considering their answers.

Mr Giblin stated that he would have been unable to provide any answers as suggested as, until the final ten minutes of the assessment, he did not have the Reading Booklet. He did not accept that it was possible for him to have read the booklets that were on the pupils' desks.

Mr Giblin explained that the pupil who had made the initial allegation just after the assessment was disgruntled with him for lowering a previously higher mark awarded by a different teacher. The allegations that were then made against him by the other pupils were a result of collusion although he did accept that he had no evidence on this.

The suggestion by Mr Giblin that the allegation had been made up was only raised in a statement he provided to the National College in the week before the hearing. He was unable to give a clear explanation as to why this had not been suggested at the time of the investigation nor, at the very least, at an earlier stage than it was.

Mr Giblin also suggested that there was confusion within the National College's evidence as it was not possible to link the exam answer papers to the relevant pupils. To this extent, he said that that evidence could not be relied upon to prove allegation 1.

We were greatly assisted by the documentary evidence in this matter, especially the exam papers from all pupils and the analysis of the answers provided by the National College.

We found Witness A to be a compelling witness who gave evidence in a clear manner. It was to her credit that she was quick to praise Mr Giblin without prompting and accepted he was rated, at the very least, a good if not outstanding teacher by OFSTED. Witness A appeared keen to give a fair summary, both positive and negative, of her dealings with Mr Giblin generally and the incident in question.

In contrast, we found Mr Giblin to be evasive and unnecessarily vague on matters that we would have expected him to know. We did not accept that he did not have access to the Reading Booklet either from the copies available on the pupils' desks or the invigilator's copy. Where there was disagreement between the two witnesses, we preferred the evidence of Witness A.

We also carefully considered the examination answers given by the pupils and the explanation given by Mr Giblin as to why their answers were so similar. Whilst we accept that Mr Giblin is a highly experienced teacher and knows how to prepare a class to obtain the best results possible, on careful analysis, the answers given went beyond good preparation. For those questions when a range of correct answers could be given and each pupil made the same selection, e.g. questions 4 and 19, we felt this could only have happened by Mr Giblin's involvement in providing the answers.

We also noted that for both parts of question 34, eight pupils in Mr Giblin's group used terminology that was not present in the exam paper. We accept that on occasion a pupil may use such terminology similar to the correct answer. However, for 8 out of 13 pupils to select the same word(s) could only have happened with Mr Giblin's assistance.

Whilst we noted Mr Giblin's comment that the answer booklets could not be relied upon, we did not accept this position. We were aware of the names of those pupils not in Mr Giblin's group and therefore, by elimination, could also determine which papers related to those being invigilated by him.

Similarly, we did not accept that there had been collusion between pupils. Witness A explained that the pupils had been kept separate as much as possible. In any event, regardless of why the investigation was initiated, the documentary evidence showed undeniable similarities between the answers and phrasing used by Mr Giblin's pupils that could only have occurred if he had provided the answers.

Mr Giblin accepted that he offered too much assistance during the test and this increased the propensity that he had committed such conduct as detailed in allegation 1.

For all of the reasons above, we find this allegation proved.

2) Your conduct at allegation (1) was dishonest in that you intended to assist one or more pupils to achieve a higher exam result than they deserved.

Although Mr Giblin accepted in evidence that the conduct described in allegation 1 would be dishonest, we have considered this allegation as if it had been denied.

It is clear that helping pupils achieve a higher mark than they merit, benefits some pupils over and above others in a similar position. Whether or not a higher exam mark was actually achieved did not need to be considered and it is inherent that a normal and reasonable person would find such conduct to be dishonest.

Mr Giblin is an educated man with a lengthy period of experience. It would have been clear to him that providing answers to pupils, even for the best reasons, would be seen as dishonest by others.

Whilst we did not rely on the following to determine this allegation, we were also concerned that Mr Giblin was willing to provide character references that had been altered by him when it was unclear whether agreement by the referee had actually been given.

We therefore find this allegation proven.

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

Having found both 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 we refer to as “the Advice”.

The panel is satisfied that the conduct of Mr Giblin in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Giblin 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 and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - showing tolerance of and respect for the rights of others;
- 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 Giblin fell significantly short of the standards expected of the profession and amounts to 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. Conduct such as Mr Giblin's unquestionably brings the teaching 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.

In light of the panel's findings against Mr Giblin, which involved an allegation of dishonesty (albeit for what appears to be a one-off event), there is a strong public interest consideration in ensuring that all of those three considerations set out above are protected.

The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Giblin was 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 Giblin 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 Giblin.

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 Giblin. 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 of pupils and particularly where there is a continuing risk;
- dishonesty especially where there have been serious consequences.

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 in respect of dishonesty, there was no evidence that the Mr Giblin's actions were not deliberate nor that he was acting under any sort of duress.

The panel did accept that Mr Giblin had a lengthy period of teaching and had a previously good record for that period. The panel also accepted that the incident was out of character and that Witness A considered him to be an excellent teacher who obviously had a strong relationship with many of his pupils.

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 Mr Giblin. The dishonest conduct 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 were mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended, one of which is serious dishonesty. The panel has found that Mr Giblin has been responsible for dishonest conduct that, by its nature, caused pupils to be effected both on the day of his conduct and later when their test results were annulled.

As a result of the denials to the allegations, it follows that Mr Giblin has not shown remorse or insight into his actions. There has been no remediation put forward on his behalf and, whilst character references were present in the documents, in light of the lack of clarity as to whether the referees had agreed for the amended references to be used, the panel did not place significant weight on these.

Honesty is an integral part of being a teacher and it therefore follows that a finding of dishonesty can only be seen as one of the most serious offences to be found against a teacher. However, the panel took into account the following factors regarding Mr Giblin's conduct, which swayed its views against this being one of the more serious types of dishonesty:

- the conduct was a one-off event;
- no planning had been involved; and
- Mr Giblin did not seem to benefit directly from his conduct.

There is little doubt that Mr Giblin was seen by his peers and pupils as an outstanding teacher. The panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with a provision for a review period after 5 years.

Decision and reasons on behalf of the Secretary of State

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

In considering this case I have given very careful attention to the advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case the panel has found the two allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr Giblin should be the subject of a prohibition order, with a review period of five years.

In particular the panel has found that Mr Giblin 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 and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - showing tolerance of and respect for the rights of others;
- 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 Giblin fell significantly short of the standards expected of the profession and amounts to unacceptable professional conduct.

I have noted that the panel has also taken into account how the teaching profession is viewed by others and it has 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.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Giblin, and the impact that will have on him, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. In this case, the panel has observed “helping pupils achieve a higher mark than they merit, benefits some pupils over and above others in a similar position.” A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “Mr Giblin has not shown remorse or insight into his actions.”

In my judgement the lack of insight means that there is some risk of the repetition of this behaviour and this risks future dishonesty concerning public exams. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "Conduct such as Mr Giblin's unquestionably brings the teaching profession into disrepute."

I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Giblin himself. The panel comment that Mr Giblin, "had a lengthy period of teaching and had a previously good record for that period. The panel also accepted that the incident was out of character and that Witness A considered him to be an excellent teacher who obviously had a strong relationship with many of his pupils."

A prohibition order would clearly prevent Mr Giblin from continuing that work and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case I have placed considerable weight on the panel's comments concerning the dishonesty found in this case. The panel has said, "Honesty is an integral part of being a teacher and it therefore follows that a finding of dishonesty can only be seen as one of the most serious offences to be found against a teacher."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Giblin has made and is making to the profession. In my view it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by remorse or insight does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel has recommended a 5 year review period.

I have considered the panel's comments:

- “the conduct was a one-off event;
- no planning had been involved; and
- Mr Giblin did not seem to benefit directly from his conduct.

There is little doubt that Mr Giblin was seen by his peers and pupils as an outstanding teacher.“

The panel has also said it would “be proportionate in all the circumstances for the prohibition order to be recommended with a provision for a review period after 5 years.”

I have considered whether a 5 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are two factors that in my view mean that a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found and the lack of either insight or remorse.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Joseph Giblin 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 10 August 2022, 5 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 Joseph Giblin remains prohibited from teaching indefinitely.

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

Mr Joseph Giblin 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: 7 August 2017

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