



National College for  
Teaching & Leadership

# **Mr Simon Pickhaver: Professional conduct panel meeting outcome**

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

**January 2018**

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

**Teacher:** Mr Simon Pickhaver  
**Teacher ref number:** 8063837  
**Teacher date of birth:** 12 April 1958  
**NCTL case reference:** 16231  
**Date of determination:** 5 January 2018  
**Former employer:** Heathfield Community School

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 5 January 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Simon Pickhaver.

The panel members were Mr John Armstrong (lay panellist - in the Chair), Ms Sarah Evans (teacher panellist) and Ms Ruth Winterson (former teacher panellist).

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

In advance of the meeting, the National College agreed to a request from Mr Pickhaver that the allegations be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Pickhaver provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Pickhaver or his representative.

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

### **B. Allegations**

The panel considered the allegations set out in the Notice of Meeting dated 15 December 2017.

It was alleged that Mr Pickhaver was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed as a teacher at Heathfield Community School:

1. Between 2015 and 2016, he failed to maintain professional boundaries with Pupil A and/or Pupil B, including by:
  - a. Exchanging e-mail messages with Pupil A and/or Pupil B; and
  - b. Accompanying Pupil A and/or Pupil B on one or more occasions:
    - i. Out of school;
    - ii. To his home.
2. By his conduct as may be found proven at allegation 1.a., he failed to have regard to previous warning and/or guidance given to him relating to inappropriate communication with Pupil C in 2006.

Mr Pickhaver admitted the facts of the allegations and that those facts amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

There were no preliminary applications.

## **C. 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 4

Section 2: Notice of Referral, response and Notice of Meeting – pages 6 to 11b

Section 3: Statement of Agreed Facts and Presenting Officer representations – pages 13 to 17

Section 4: NCTL documents – pages 19 to 221

Section 5: Teacher documents – pages 223 to 228

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

### **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr Pickhaver on 17 October 2017.

## D. Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the National College agreed to a request from Mr Pickhaver that the allegations be considered without a hearing.

The panel has the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction is necessary or appropriate in this case.

The panel proceeded to carefully consider the case, having read all the documents within the bundle in advance of the meeting, and reached a decision.

Mr Pickhaver was employed as a teacher and head of year at Heathfield Community School ("the School") between 8 April 2002 and 20 January 2017.

On 27 July 2016, a disclosure was made by a pupil at the School, Pupil A, regarding contact that had occurred between her and Mr Pickhaver by email and in person outside of the School.

As a consequence, Mr Pickhaver was suspended by the School on 15 August 2016.

Following an investigation, Mr Pickhaver was dismissed on 20 January 2017.

In considering the allegations, the panel has not relied upon any opinions expressed in papers which formed part of the documentation for the investigation undertaken by the School and has disregarded all references to alleged historic misconduct. It has formed its own view of the allegations based on the evidence presented to it.

### Findings of fact

Our findings of fact are as follows:

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

**1. Between 2015 and 2016, you failed to maintain professional boundaries with Pupil A and/or Pupil B, including by:**

**a. Exchanging e-mail messages with Pupil A and/or Pupil B**

Mr Pickhaver admitted the facts of this allegation. The evidence considered by the panel was consistent with the admission.

Copies of emails exchanged between Mr Pickhaver and Pupil A and Pupil B were included within the papers and were carefully considered by the panel. The majority of the correspondence was with Pupil A.

The panel noted that whilst some elements of the correspondence addressed matters related to School business, much of the content did not and in many instances referred to Mr Pickhaver's own personal matters. Over the course of the period of the exchanges the panel noted that the matters discussed strayed more and more into matters of a personal nature.

For example, on 28 June 2016 Mr Pickhaver sent an email to Pupil A in which he stated, "*Why am I so excited about seeing YOU again on Friday?*". The panel also noted that in an email dated 10 July 2016 to Pupil A, Mr Pickhaver stated that he felt something for her of, "*a physical nature*". A separate email sent by Mr Pickhaver on the same date stated, "*I love you as much as I ever have*".

The panel concluded that both the circumstances of the emails and a large proportion of their content were highly inappropriate and went far beyond what was appropriate as regards communications between a teacher and a pupil. The panel noted that the School's Safeguarding and Staff Code of Conduct provided guidance in relation to digital communications with pupils and professional boundaries.

Mr Pickhaver accepted that he should not have exchanged email addresses and engaged in correspondence with Pupil A and Pupil B outside of the School. He also admitted that by engaging in e-mail exchanges with Pupil A and Pupil B he failed to maintain appropriate professional boundaries.

The panel agreed. Accordingly, in light of the admission made and the evidence, the panel found the facts of allegation 1.a. proven.

**b. Accompanying Pupil A and/or Pupil B on one or more occasions:**

**i. Out of school;**

**ii. To your home.**

Mr Pickhaver admitted the facts of allegation 1.b. in its entirety.

Pursuant to the statement of agreed facts, he confirms that on 5 April 2016 he accompanied a group of pupils, including Pupils A and B, on a walking expedition without having the School's permission. Secondly, on 4 May 2016 Mr Pickhaver accompanied Pupils A and B out of school during which time he took them to his house for a coffee.

The panel noted that the School had a clear policy dealing with school trips. It appears that this had been disregarded by Mr Pickhaver.

Whilst the panel considered that taking Pupils A and B on the walking trip on 5 April 2016 may not in isolation have amounted to a failure to maintain appropriate professional boundaries, it had regard to the wider context of the allegations. On balance, the panel therefore considered that Mr Pickhaver's conduct in relation to both incidents was

inappropriate and was such that he had failed to maintain appropriate professional boundaries with Pupil A and Pupil B.

The evidence that the panel received was consistent with the admission.

The panel accordingly found the facts of allegation 1.b.i. and 1.b.ii. proven.

**2. By your conduct as may be found proven at allegation 1.a., you failed to have regard to previous warning and/or guidance given to you relating to inappropriate communication with Pupil C in 2006.**

In the statement of agreed facts, Mr Pickhaver admits that he received advice and/or guidance from the headteacher of the School in relation to inappropriate communications with Pupil C after she had left the School.

Mr Pickhaver accepts that he failed to have regard to this in his dealings with Pupil A and Pupil B.

The evidence is consistent with Mr Pickhaver's admission. The panel noted that a letter from the headteacher to Mr Pickhaver sent in December 2006 provided specific written confirmation of Mr Pickhaver's agreement that he would not engage in email communications with pupils. On three separate occasions between 2006 and 2009 Mr Pickhaver received advice in relation to inappropriate communications.

The panel accordingly found the facts of allegation 2 proven.

**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 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.

Mr Pickhaver admitted that the facts found proved in relation to all of the allegations amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Whilst the panel took this admission into account, it formed its own judgment.

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

The panel was satisfied that the conduct of Mr Pickhaver in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Pickhaver 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;
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

In relation to all of the allegations, whether considered individually or together, the panel was satisfied that the conduct of Mr Pickhaver amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Mr Pickhaver held a position of trust as a teacher and it was incumbent on him to ensure that appropriate professional boundaries were maintained at all times. With reference to allegation 1.a., having carefully scrutinised the emails exchanged between Mr Pickhaver and Pupil A particularly, the panel considered that certain emails contained some very concerning elements and were highly inappropriate. The panel also took into account the volume of communications and the length of time over which they were exchanged.

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

In relation to whether Mr Pickhaver's conduct had brought the profession into disrepute, 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 were 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 Pickhaver's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 and 2 proved, the panel further found that Mr Pickhaver'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, the panel went 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 a 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 Pickhaver, which involved extensive, inappropriate communications with pupils and a failure to observe appropriate professional boundaries, there is a strong public interest consideration in respect of the protection of pupils. The panel considered that the risk as regards the need to protect pupils was high in the particular circumstances in this case. The panel also paid careful regard to the fact that Mr Pickhaver was previously prohibited from teaching in the 1980s as a consequence of an inappropriate relationship with a pupil.

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

The panel considered that there was no strong public interest consideration in retaining Mr Pickhaver in the profession. Mr Pickhaver had provided no evidence or testimonials in relation to his teaching practice.

In view of 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 Pickhaver.

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 Pickhaver. 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;

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel considered that there were the following mitigating circumstances:

- The panel noted Mr Pickhaver's explanations for his conduct and his ill-health at a particular point. However, the panel did not consider this mitigated the severity of his conduct and the impact upon Pupil A in particular. Further, the inappropriate communications commenced prior to the particular period of ill health expressly referred to by Mr Pickhaver.
- Mr Pickhaver admitted the allegations at an early stage and had engaged with the National College in respect of these proceedings.
- Mr Pickhaver had shown some regret and remorse for his actions. He apologised for his behaviour and for, "*any distress or hurt [his] actions have occasioned*".

In terms of aggravating factors, the panel considered that:

- Mr Pickhaver's actions were deliberate and were sustained over a considerable period of time.

- Mr Pickhaver was previously prohibited from teaching following his admission that he had formed an inappropriate relationship with a 15 year old female pupil which was described as intimate. Following his subsequent return to teaching, there were further instances of inappropriate communications with pupils which led to censure by his employer. The panel considered that there was accordingly evidence of both a risk of repetition and a failure on Mr Pickhaver's part to address his concerning behaviour.
- Notwithstanding the fact that Mr Pickhaver admitted the facts of the allegations, the panel considered that he had failed to demonstrate true insight into the inappropriateness of his behaviour, the impact of his behaviour on both pupils and the reputation of the teaching profession and the need to maintain appropriate professional boundaries at all times.
- There had been a clear and serious breach of the Teachers' Standards.
- The panel had seen evidence that shows that Mr Pickhaver was previously subject to disciplinary proceedings and warnings

As noted above, the panel was not provided with any references attesting to Mr Pickhaver's practice as a teacher.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel was sufficient.

The panel was of the view that applying the standard of the ordinary intelligent citizen, recommending no prohibition order is neither a proportionate nor an appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for Mr Pickhaver of prohibition.

Having carefully weighed all relevant considerations, the panel's view was that prohibition is both proportionate and appropriate. The panel decided that the public interest considerations outweigh the interests of Mr Pickhaver who has indicated that he does not intend to return to teaching in any event. The panel considered that the lack of true insight shown by Mr Pickhaver and the pattern of behaviour over a number of years, which the panel concluded was such as to give rise to a clear risk of repetition, were significant factors in forming that opinion. The panel was not satisfied that Mr Pickhaver was able to remediate his behaviours.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the Advice

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

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. None of these behaviours were present in this case.

However, for the reasons expressed above, the panel felt its findings indicated a situation in which a review period would not be appropriate. The panel had no confidence in Mr Pickhaver's ability to moderate his behaviour in future. Whilst he had shown some regret and remorse, he lacked true insight into professional boundaries. There is accordingly a continuing risk to pupils and to the reputation of the profession were he to return to teaching. As such the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

## **Decision and reasons on behalf of the Secretary of State**

I have given very careful consideration to this case and to the recommendation of the panel in respect of sanction and no review period.

In considering this case, I have also 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 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 Pickhaver should be the subject of a prohibition order, with no review period.

In particular the panel has found that Mr Pickhaver 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;
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

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

The panel finds that the conduct of Mr Pickhaver fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of repeated behaviour of a breach of boundaries.

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 Pickhaver, 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. The panel considered, "that the risk as regards the need to protect pupils was high in the particular circumstances in this case". A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "Mr Pickhaver had shown some regret and remorse for his actions." The panel has also commented that notwithstanding the fact that Mr Pickhaver admitted the facts of the allegations, it considered he had "failed to demonstrate true insight into the inappropriateness of his behaviour, the impact of his behaviour on both pupils and the reputation of the teaching profession and the need to maintain appropriate professional boundaries at all times." In my judgement the lack of insight means that there is some risk of the repetition of this behaviour and this risks future pupils' safety. 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, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Pickhaver was not treated with the utmost seriousness". I am particularly mindful of the finding of breach of boundaries 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 Pickhaver himself. A prohibition order would prevent Mr Pickhaver from continuing in the teaching profession. A prohibition order 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 lack of insight or remorse. The panel has said Mr Pickhaver’s, “lack of true insight” and “the pattern of behaviour over a number of years” meant it concluded there was a, “clear risk of repetition”. I also note that Mr Pickhaver has been subject to a prohibition order in the past following his admission that he had formed an inappropriate relationship with a 15 year old female pupil which was described as intimate.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Pickhaver has made 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 no review period.

I have considered the panel’s comments “The panel had no confidence in Mr Pickhaver's ability to moderate his behaviour in future.”

The panel has also said that whilst Mr Pickhaver had demonstrated some regret and remorse, he, “lacked true insight into professional boundaries.” The panel went on to say it felt, if Mr Pickhaver returned to teaching there was, “a continuing risk to pupils and to the reputation of the profession”.

I have considered whether a two 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 three 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 repetition of behaviour, the previous prohibition and the lack of true insight and remorse.

I consider therefore that no review period is required to satisfy the maintenance of public confidence in the profession.

**This means that Mr Simon Pickhaver is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Pickhaver shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Pickhaver has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'Dawn Dandy', with a stylized, elongated flourish extending to the right.

**Decision maker: Dawn Dandy**

**Date: 9 January 2018**

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