



National College for
Teaching & Leadership

Mr Michael Robertson: Professional conduct panel meeting outcome

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

March 2018

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Professional conduct panel decision and recommendations

Teacher: Mr Michael Ian Robertson
NCTL case reference: 16450
Date of determination: 5 March 2018
Former employer: Chesterfield High School, Merseyside

A. Introduction

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

The panel members were Mr Martin Greenslade (lay panellist, in the chair), Ms Surinder Dhillon (lay panellist) and Mr Alex Osiatynski (teacher panellist).

The legal adviser to the panel was Miss Hannah James of Eversheds Sutherland (International) LLP solicitors.

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

The presenting officer for the National College was Miss Holly Quirk of Browne Jacobson solicitors.

Mr Robertson had been represented by his wife, Mrs Robertson, throughout the case.

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 February 2018.

It was alleged that Mr Robertson was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as the Head of Business Studies at Chesterfield High School you:

1. For the purposes of the sample requested by the Examining Board in relation to the Year 11 Business Studies coursework, falsified work for one or more pupils, including by submitting the work of another in exchange for theirs;
2. Your conduct was dishonest in that you deliberately falsified coursework.

C. Preliminary applications

In advance of the meeting, the National College agreed to a request from Mr Robertson 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 considered at the outset whether the allegation should be considered at a public hearing at which the parties would be entitled to attend, or a private meeting without the parties present. The panel considered the interests of justice and given that the facts of the allegation have been admitted, that Mr Robertson has requested a meeting and the panel has the benefit of Mr Robertson's representations on the papers, the panel is of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

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 & list of key people – pages 2 to 4

Section 2: Correspondence – pages 6 to 12

Section 3: NCTL documents – pages 14 to 844

Section 4: Teacher documents – pages 845 to 873

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

In addition, the National College provided to the panel a copy of the Notice of Referral dated 2 October 2017 which was not initially in the papers. This was added to the bundle at pages 874 to 880.

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Robertson on 28 November 2017. Mr Robertson confirmed by email of 29 November 2017 that he had accidentally signed it on the wrong line and offered his apologies for that error.

No summary of the evidence given is required as evidence that was material to the panel's decision will be captured in the reasons given for it, below.

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 that it has read all the documents provided in the bundle in advance of the hearing, and it also took time at the beginning of the meeting to read the Notice of Referral.

Mr Robertson was employed as a teacher at Chesterfield High School on 1 September 1993. In September 2003 he became the Head of Business Studies at the School. Following the submission to the examination board of the coursework it requested in order for it to moderate, concerns were raised in relation to what Mr Robertson submitted. It became apparent that Mr Robertson had submitted the work of other students but presented it as that of the students whose work was in fact requested.

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:

Allegations

It was alleged that Mr Robertson was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as the Head of Business Studies at Chesterfield High School you:

- 1. For the purposes of the sample requested by the Examining Board in relation to the Year 11 Business Studies coursework, falsified work for one or more pupils, including by submitting the work of another in exchange for theirs;**
- 2. Your conduct was dishonest in that you deliberately falsified coursework.**

Both allegations have been admitted and are therefore found proven. The admission of the factual particulars is clear and unequivocal, the panel therefore considers that the case does not require a public hearing on the basis that it is not in the public interest for the allegation to be determined publically.

The panel considers the allegations proven not just on the basis of Mr Robertson's own admissions, set out in the Statement of Agreed Facts which he signed on 28 November 2017, but also because of his previous witness statement and admissions throughout the school investigation. In addition to his admissions, the panel finds the allegations proven on the basis of the evidence it has before it, namely; the records of the work submitted to the examination board for the various students, the plagiarism reports, the screenshots of Mr Robertson's school network documents and the witness statements relevant to the allegations from the individuals who conducted the investigation at the school. The panel is satisfied based on the clear and unambiguous evidence before it, as well as Mr Robertson's admission, that the allegations are proven.

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

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

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

The panel is satisfied that the conduct of the teacher in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, the teacher is in breach of the following standards:

- 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 the teacher amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

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

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The panel therefore finds that Mr Robertson's actions constitute conduct that may bring the profession into disrepute.

The panel did not consider that Mr Robertson's actions had a potential impact on the safety or security of pupils or members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Robertson's behaviour in committing the actions could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has taken into account the written evidence that has been adduced attesting to the teacher's exemplary record as a teacher. The panel has also taken into consideration the teacher's account of the emotional difficulties, work stress and [redacted] attributable to work which he describes that he was suffering from at the relevant time. [redacted] The panel has also read the teacher's evidence that he committed the actions following the extensive pressure he was under from his employer to achieve higher results, and also as a result of a capability procedure he was under which involved his work and lessons being regularly assessed and witnessed. Nevertheless, the panel was satisfied that Mr Robertson is guilty of unacceptable professional conduct and that his actions constitute 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/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 some of them to be relevant in this case, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. It also considered the interest of retaining the teacher in the profession.

In light of the panel's findings against Mr Robertson as set out above, the panel considered that there was a strong public interest consideration in retaining the teacher in the profession, since no evidence has been presented which would cast doubt upon his abilities as an educator and he is able to make a valuable contribution to the profession. He has an unblemished 22 year record of teaching in the school, there have been no concerns about his teaching ability or relationship with the children, staff or parents, and a number of staff in the school have attested to his credibility and standard of teaching.

In view of the 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 Robertson.

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 Robertson. 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; and
- dishonesty.

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 teacher presented evidence to suggest that he was under a great deal of stress. The teacher has a previous good history in terms of no previous National College decisions, he has a good record evidenced by written statements from some of his colleagues who have worked with him for a number of years, he has an unblemished 22 year record of teaching in the school without any incident, he appears to have been the subject of a disciplinary hearing in 2015 and has been placed on a capability process whereby he is regularly monitored and assessed. The panel has seen evidence, including from Mr Robertson's doctor, stating that he was under "significant stress caused by work".

There was evidence that the teacher's actions were deliberate. The panel accepts the teacher's evidence that his actions were deliberate.

There was no evidence to suggest that the teacher was acting under duress in the strictest sense, however, the panel found that there was evidence that Mr Robertson was suffering with significant work related stress, in addition to his added concerns about being made redundant (which it appears from the papers was in contemplation at the school at the time) and providing for his family if he were to lose his job. The panel accepts that the incident was out of character.

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 is sufficient.

The panel is of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order 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 (given that there was little impact on the children concerned) 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. The panel considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to the teacher, as to the standards of behaviour that are not acceptable and meets the public interest requirement of declaring proper standards of the profession.

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 no sanction.

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 Robertson should not be the subject of a prohibition order.

In particular the panel has found that Mr Robertson is in breach of the following standards:

- 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 finds that the conduct of Mr Robertson fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty.

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 Robertson, 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 has observed "The panel did not consider that Mr Robertson's actions had a potential impact on the safety or security of pupils or members of the public." The panel went on to say that there had been, "little impact on the children concerned." I have also taken into account the panel's comments on mitigation which the panel sets out as follows, "the panel found that there was evidence that Mr Robertson was suffering with significant work related stress, in addition to his added concerns about

being made redundant (which it appears from the papers was in contemplation at the school at the time) and providing for his family if he were to lose his job. The panel accepts that the incident was out of character.” 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, “Mr Robertson’s behaviour in committing the actions could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.” 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 Robertson himself. The panel say, “he has an unblemished 22 year record of teaching in the school without any incident, he appears to have been the subject of a disciplinary hearing in 2015 and has been placed on a capability process whereby he is regularly monitored and assessed. The panel has seen evidence, including from Mr Robertson’s doctor, stating that he was under “significant stress caused by work”.

A prohibition order would prevent Mr Robertson from continuing that work. 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 regarding mitigation and the impact on pupils. The panel has said, “Given that the nature and severity of the behaviour is at the less serious end of the possible spectrum (given that there was little impact on the children concerned) 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.” The panel were also of the view that, “the publication of the adverse findings it has made is sufficient to send an appropriate message to the teacher, as to the standards of behaviour that are not acceptable and meets the public interest requirement of declaring proper standards of the profession.”

For these reasons I have concluded that a prohibition order is not proportionate and not in the public interest in order to achieve the aims which a prohibition order is intended to achieve. I agree with the panel and am of the view, that in light of the circumstances presented in this case, a published decision of the adverse findings is proportionate and will satisfy the public interest requirement concerning public confidence in the profession.

A handwritten signature in black ink, appearing to read 'Dawn Dandy', written in a cursive style.

Decision maker: Dawn Dandy

Date: 12 March 2018

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