



National College for
Teaching & Leadership

Mr David Knight: Professional conduct panel outcome

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

March 2016

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

Teacher: Mr David Knight
Teacher ref number: 7747951
Teacher date of birth: 18 May 1956
NCTL case reference: 13196
Date of determination: 8 March 2016
Former employer: Tatworth Primary School, Somerset

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 7 and 8 March 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr David Knight.

The panel members were Mrs Mary Speakman (teacher panellist – in the chair), Mrs Janet Draper (lay panellist) and Mr Steve Oliver (teacher panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP, solicitors.

The presenting officer for the National College was Mr Tom Day of counsel, instructed by Nabarro LLP, solicitors.

Mr Knight was not 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 18 September 2015.

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

Whilst employed as headteacher at Tatworth Primary School, Somerset:

In or around May 2014, he breached the procedures/instructions issued by the Standards and Testing Agency ("STA") relating to the administration and management of the 2014 SATS examinations in that he:

1a. In his capacity as headteacher, amended or allowed pupils' scripts to be amended outside of examination conditions in respect of the SATs examinations for:

i. Mental Mathematics

ii. Spelling

iii. Reading

1b. Inappropriately commented to Pupil A, words to the effect, "in yesterday's paper you didn't do what you were told to do in the instructions. You ticked things instead of circling them; you might not get your marks for that", which:

i. demonstrated that you had inappropriately reviewed Pupil A's English and Reading SAT's examination script following their examination

ii. caused distress to Pupil A immediately prior to her undertaking another SATs examination

1c. Failed to collate and seal English reading scripts in line with the STA procedures/instructions.

1d. Failed to collate and seal the Mental Mathematics and Mathematics Paper scripts in line with the STA procedures/instructions.

1e. Failed to ensure sealed scripts were kept in a locked cupboard in line with the STA procedures/instructions.

1f. Signed the headteacher's declaration form despite breaching the protocols/instructions for the tests.

2. His actions as set out at paragraphs 1a. and/or 1f. were dishonest.

Mr Knight did not admit the alleged facts or that his conduct amounted to unacceptable professional conduct.

C. Preliminary applications

Application to proceed in absence

The panel considered an application from Mr Day to proceed in the absence of Mr Knight. After hearing submissions from Mr Day and receiving legal advice, the chair announced the decision of the panel as follows:

'We are satisfied that the Notice of Proceedings was sent to Mr Knight in accordance with Rule 4.1 of Teacher Misconduct - Disciplinary procedures for the teaching profession .

We have decided to proceed with the hearing in Mr Knight's absence for the following reasons:

- It is clear that Mr Knight is aware of today's hearing and has decided not to attend. We are satisfied that Mr Knight has voluntarily waived his right to attend and that he is expecting the hearing to proceed in his absence.
- No application for an adjournment has been made and there is nothing to indicate that Mr Knight would attend at a later date if the hearing were to be adjourned.
- Although we will not have the benefit of Mr Knight's oral evidence, we have received written evidence and submissions from him that have been prepared specifically for these proceedings. We will take this into account and will have the opportunity to test the evidence presented on behalf of the National College.
- There is a public interest in these proceedings taking place reasonably promptly.

Application to amend allegations

The panel considered an application by Mr Day to amend allegation 1b to change the reference to 'Pupil A' to read 'Pupil 13' and in 1b i to read 'him' rather than 'her'. Notification of the proposed application had been given to Mr Knight's representative by letter dated 22 October 2015 and confirmation was received by email dated 4 February 2016 that Mr Day does not object to the proposed amendment. After receiving legal advice, the panel agreed to the proposed amendments.

Application to admit an additional document and original documents

The panel considered an application by Mr Day to admit an additional document not in the bundle and to present originals of copies of documents in the bundle. After hearing

submissions from Mr Day and receiving legal advice, the chair announced the decision of the panel as follows:

The panel has considered the application by the presenting officer for the admission of the document referred to as exhibit JCF/2, a SATs examination script, which is referred to in the statement of Staff Member A at paragraph 18. The panel noted that a copy of this document has not been included in the bundle received by the panel. The panel cannot, therefore, be satisfied that Mr Knight has seen the document concerned. However, in considering whether it would be fair to allow the document to be admitted the panel has taken into account the following factors:

- Mr Knight was informed by letter dated 18 September 2016 that arrangements could be made by him to view the original SATs examination scripts and he did not make arrangements to do so.
- The document is specifically referred to in the statement of Staff Member A and she describes in her statement how the paper refers to answers being ticked and circled. In his written statement, Mr Knight provides an explanation as to how a pupil might both tick and circle an answer. Although this explanation does not refer specifically to exhibit JCF/2, the panel can consider this explanation in the context of this document.

Taking these factors into account, the panel does not believe any prejudice will be caused to Mr Knight by admitting the document JCF/2.

As to the original examination documents generally, at this stage, the presenting officer has indicated that he is not seeking to rely upon original documents other than those of which copies are contained within the bundle. The panel's view is that it would assist the panel's consideration of the case to see the original documents limited to those of which copies are contained in the bundle (and JCF/2). If the presenting officer should seek to rely upon any other original documents, a further application will need to be made.

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 4.

Section 2: Notice of Proceedings and Response – pages 6 to 17.

Section 3: NCTL witness statements – pages 19 to 38.

Section 4: NCTL documents – pages 41 to 153.

Section 5: Teacher documents – pages 155 to 192.

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

In addition, the panel agreed to admit the document JCF/2 which was added to section 3 of the bundle as page 50A.

Witnesses

The panel heard oral evidence from the following witnesses called by the presenting officer:

Staff Member A, Teacher at Tatworth Primary School.

Staff Member D, Business Manager at Tatworth Primary School

Staff Member Y, Senior Test Administration Manager, Standards and Testing Agency

Staff Member Z, Senior Primary Adviser, Somerset Local Authority.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing and page 50A following the admission of that document at the outset of the hearing.

Mr David Knight was the headteacher at Tatworth Primary School, Somerset ('the school') from April 2002 until his retirement in August 2014 (which he had announced in November 2013). In June 2013 OFSTED judged the school to 'require improvement.' In May 2013, the school received an anonymous allegation from a parent who alleged that her daughter had returned home after a Key Stage 2 test and said that the headteacher had been assisting pupils in the tests by giving them answers. Somerset Local Authority investigated the matter. This investigation included visiting the school and speaking to staff members. No evidence was found to substantiate the allegation and no further action was taken.

In the light of this, a decision was taken by the Standards and Testing Agency ('STA'), which is responsible for developing and delivering Key Stage 1 and 2 assessments, to recall the school's scripts for the 2014 Key Stage 2 tests. The relevant SATs tests took place during week commencing 12 May 2014. Following a review of the scripts by the STA, which included the use of forensic techniques, there were concerns about the

potential maladministration of the SATs tests. Therefore, in June 2014, Somerset Local Authority was commissioned by the STA to conduct an investigation. Staff Member Z, Senior Primary Adviser, conducted the investigation, which included reviewing the SATs administration process at the school from delivery of the papers, administration of the tests, storage of the completed scripts and their despatch to external markers. The school conducted a further investigation, which involved interviewing members of staff. Mr Knight, who had by that time retired, was also interviewed as part of this investigation. The panel has not been notified of the outcome of that investigation, but a referral was made to the NCTL.

Findings of fact

Our findings of fact are as follows.

Whilst employed as headteacher at Tatworth Primary School, Somerset.

In or around May 2014, you breached the procedures/instructions issued by the Standards and Testing Agency ("STA") relating to the administration and management of the 2014 SATs examinations in that you:

1a. In your capacity as headteacher, amended or allowed pupils' scripts to be amended outside of examination conditions in respect of the SATs examinations for:

i. Mental Mathematics,

ii. Spelling,

iii. Reading,

The panel heard evidence from Staff Member Y of the STA about the review of the scripts. The review conducted by Staff Member Y, his colleague and managers, included the use of forensic techniques, which he also demonstrated to the panel. The panel regarded Staff Member Y as a credible witness. The panel also had the opportunity to examine some of the original scripts. In relation to the scripts for tests for mental mathematics and spelling, the panel noted examples of indentations on scripts caused by entries made on other scripts which impacted on the script immediately below. This indicates that the amendments were made to the papers outside of examination conditions. This was further confirmed by the fact that some amendments produced indentations on scripts from different examination rooms, showing that the amendments must have been made after all the scripts had been combined across rooms into alphabetical order. The panel judged this to be very strong evidence that pupil scripts were amended outside of examination conditions. In relation to scripts from the reading test, the panel was presented with evidence that the style of writing, ticks and number answers on some scripts varied within individual test papers. In addition, the panel noted that, in one instance, the number response style appeared consistent across

the test papers of six pupils. This suggested that one person was responsible for making these alterations outside of examination conditions.

The panel found that there were a considerable number of amendments in each of the separate test papers. Furthermore, given the dates the tests were taken and subsequently collected for secure delivery to the STA, the amendments must have been made on more than one occasion.

Mr Knight accepts that amendments were made, but has stated that he does not know how they were made. He offers the suggestion that there was an opportunity for others to have made amendments before the scripts reached his office. However, the extent of the alterations across a number of papers would seem to render this suggestion unlikely. The most likely explanation is that the amendments were made in a private environment after papers were alphabetically ordered. The panel noted that, by his own admission, Mr Knight had the only key to the locked cupboard in which the scripts were kept prior to being sent off and was, therefore, the person responsible for the security of the scripts. No evidence has been presented that other members of staff would have been able to access the scripts when they were in the locked cupboard in order to make amendments.

The panel finds that in his capacity as headteacher, Mr Knight either amended or allowed to be amended pupils' scripts outside of examination conditions. Furthermore, the panel finds that it is more likely than not that it was Mr Knight who amended the pupils' scripts. The panel, therefore, find 1a proved.

1b. Inappropriately commented to Pupil 13, words to the effect, "in yesterday's paper you didn't do what you were told to do in the instructions. You ticked things instead of circling them; you might not get your marks for that", which:

- i. demonstrated that you had inappropriately reviewed Pupil 13's English and Reading SAT's examination script following their examination,**
- ii. caused distress to Pupil 13 immediately prior to him undertaking another SATs examination,**

The only evidence in support of this allegation is from Staff Member A. The panel noted that in her oral evidence, Staff Member A said that Mr Knight used the words '*make sure you follow the instructions, you may not get marks for your last test paper as you ticked instead of circled.*' This wording differs from that set out in the allegation. In addition, the panel noted that Staff Member A did not mention this until several months later when Mr Knight had already left the school. The panel noted that there was no corroboration from any other adult and no contemporaneous account of the words alleged to have been used by Mr Knight to a specific pupil. Mr Knight says that he might have given a general instruction to all pupils that they should comply with the examination instructions. The panel could not be satisfied that Mr Knight used the words alleged or words to that effect

or that his comments were directed specifically to Pupil 13. Accordingly, the panel finds 1b i and ii not proved.

1c. Failed to collate and seal English reading scripts in line with the STA procedures/instructions,

The evidence of Staff Member D was that the English reading scripts were stored loose before being checked against a mark sheet and sealed for collection. This was after all of the English tests were completed over two separate days instead of each set of test papers being sealed immediately. The panel was satisfied by Staff Member D's evidence on this issue. This was contrary to STA procedures. In addition to Staff Member D's evidence, the evidence of alterations outside of examination conditions shows that the papers could not have been immediately sealed. Therefore, the panel finds 1c proved.

1d. Failed to collate and seal the Mental Mathematics and Mathematics Paper 1 scripts in line with the STA procedures/instructions,

Staff Member D said in her evidence that the the scripts for the maths tests were also stored loose and not sealed in secure envelopes after each test. In addition, as part of the school's investigation, Mr Knight was interviewed and confirmed that the maths papers were 'stored loose and not put in the envelopes until all the papers were sat.' This was contrary to STA procedures. In addition to this evidence, the evidence of alterations outside of examination conditions shows that the papers could not have been immediately sealed. Therefore, the panel finds 1d proved.

1e. Failed to ensure sealed scripts were kept in a locked cupboard in line with the STA procedures/instructions.

Given the findings in 1c and d above, it follows that scripts were not sealed and kept in a locked cupboard in line with STA procedures. Therefore, the panel finds 1e proved.

1f. Signed the Headteacher's declaration form despite breaching the protocols/instructions for the tests,

The panel identified a number of breaches of the STA procedures. Despite this, Mr Knight signed the declaration form confirming that all procedures had been adhered to. Therefore, the panel finds 1f proved.

2. Your actions as set out at paragraphs 1a and/or 1f were dishonest.

The panel firstly considered Mr Knight's actions as set out in 1a. The panel has found, on the balance of probabilities, that Mr Knight amended pupils' scripts outside of examination conditions.

The panel is satisfied that Mr Knight's actions in 1a were dishonest by the ordinary standards of reasonable and honest members of the teaching profession and, secondly, that Mr Knight must have realised that by those standards his conduct was dishonest.

The panel then considered Mr Knight's actions as set out in 1f. Having made amendments to the scripts and failed to seal and secure the papers, Mr Knight must have been aware that the STA procedures had not been complied with. Therefore, applying the test previously described, the panel is satisfied that his action in signing the declaration was dishonest.

Therefore, allegation 2 is proved in relation to both 1a and 1f.

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

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.

The panel has also taken into account the fact that, as a consequence of the maladministration of the SATs tests, all of the school's Key Stage 2 SATs results were annulled and pupils, parents and staff were affected.

The panel is satisfied that the conduct of Mr Knight fell significantly short of the standards expected of the profession.

The panel has noted 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 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 of the profession.

The panel therefore finds that Mr Knight's actions constitute 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 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Knight, there is a strong public interest consideration in that his dishonest acts had the potential to damage the public perception of the profession. It is important that national examinations and testing systems are seen to be robust and reliable. Furthermore, the evidence before the panel showed that staff felt that pupils and staff had worked hard and were denied the recognition of their efforts.

The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Knight were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also 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 Knight 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 Knight.

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

Knight. 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;
- abuse of position of trust;
- 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.

The panel noted Mr Knight retired after a successful career and had a previously good record. The panel believes that Mr Knight's actions were out of character. The panel also noted that in June 2013 OFSTED judged the school to 'require improvement' and that the subsequent monitoring of the school was likely to be stressful for Mr Knight. However, his actions were deliberate and he was aware of the importance of following the STA procedures. Furthermore, Mr Knight persistently denied the allegations and has, therefore, shown no insight into his failings.

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 Knight. 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 was mindful 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. These behaviours include fraud or serious dishonesty. In considering whether the dishonesty in this case amounted to serious dishonesty, the panel has taken into account the fact that Mr Knight had no prospect of personal gain from his actions. Nevertheless, the actions involved the dishonest behaviour of a senior and very experienced teacher and headteacher which led to serious consequences for pupils and colleagues. On that basis the panel recommends that there be no review period.

Decision and reasons on behalf of the Secretary of State

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

I have taken into account the facts that the panel found proven and I have put from my mind the allegation where the panel did not find the facts proven.

This is a serious case in which the panel has found dishonesty in relation to Key Stage tests. The panel has found that Mr Knight is in breach of the following standard:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.

The panel also took into account the fact that, as a consequence of the maladministration of the SATs tests, all of the school's Key Stage 2 SATs results were annulled and pupils, parents and staff were affected.

I am satisfied that the conduct of Mr Knight fell significantly short of the standards expected of the profession.

I have taken into account the guidance published by the Secretary of State. That guidance 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;
- abuse of position of trust;
- dishonesty especially where there have been serious consequences.

I have taken into account the mitigating factors considered by the panel.

I have balanced the public interest and the interests of the teacher. I have also taken into account the need to be proportionate.

I support the recommendation of the panel and agree that Mr Knight should be given a prohibition order for his dishonest conduct.

I have also considered carefully the matter of a review period. This was a very serious case of maladministration, involving all the school's Key Stage 2 SATs results being annulled. Taking into account the guidance and all other matters I support the recommendation of the panel that there should be no review period. This was serious dishonesty in a school setting.

This means that Mr David Knight 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 David Knight 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 David Knight 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 blue ink, appearing to read 'Alan Meyrick', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 11 March 2016

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