



National College for
Teaching & Leadership

Mr John Salway: Professional Conduct Panel outcome

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

19 December 2014

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Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mr John Salway
Teacher ref no:	6975574
Teacher date of birth:	29 May 1947
NCTL Case ref no:	0011680
Date of Determination:	19 December 2014
Former employer:	Mount St Mary's College, Sheffield

A. Introduction

A Professional Conduct Panel ("the Panel") of the National College for Teaching and Leadership ("the National College") convened on 19 December 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr John Salway.

The Panel members were Dr Robert Cawley (Teacher Panellist – in the Chair), Councillor Gail Goodman (Teacher Panellist) and Professor Ian Hughes (Lay Panellist).

The Legal Adviser to the Panel was Mr Thomas Whitfield of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Ms Rachel Cooper of Nabarro LLP Solicitors.

Mr John Salway was not present and was not represented.

The meeting took place in private. The decision was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 18 November 2014.

It is alleged that Mr John Salwayis guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working, between 2012 and 21 March 2014, at Mount St Mary's College, Sheffield ("the School"), as a Drama teacher he:

1. On a date unknown, wrote a short story (the "Story") containing sexually explicit language including references to an adult male having:
 - a. Sexual intercourse with a 15 year old girl
 - b. Anal intercourse with a 15 year old girl
 - c. Sexual activity with a 12 year old girl
2. On around 25 February 2014, intentionally or unintentionally caused and/or allowed the Story to be:
 - a. brought into the School
 - b. seen by Pupil A, a Year 7 girl aged 12 years
3. His actions as set out at 2(a) and 2(b) caused:
 - a. Pupil A harm and/or to feel:
 - i. distressed
 - ii. worried
 - iii. uncomfortable
 - b. Pupil A's parents distress and/or discomfort
4. His conduct as set out in 1 was:
 - a. Sexually motivated
 - b. Suggestive of a deep-seated attitude towards children which could lead to harmful behaviour
5. His conduct as set out in 2(a) and 2(b), if found to be intentional, was sexually motivated.

There was a statement of agreed facts, indicating that Mr Salway accepted most of the facts of the allegations. The full details of this are set out in Section E, below.

Mr Salway admitted that he had demonstrated unacceptable professional conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

D. Summary of evidence

Documents

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

1. A chronology (pages 2 to 4);
2. A notice of referral, response and a notice of meeting (pages 6 to 10c);
3. A statement of agreed facts, a document from Mr Salway entitled “Personal explanation in answer to the charge” and representations from the Presenting Officer regarding suitability for a meeting (pages 12 to 21a);
4. Documents submitted by the National College (pages 23 to 60); and
5. Documents submitted by Mr Salway (pages 62 to 67).

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Witnesses

The Panel did not hear any oral evidence.

E. Decision and reasons

The Panel announced its decision and reasons as follows:

We have now 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.

Summary of Evidence

Mr Salway started working at Mount St Mary's College, Sheffield, as a part-time Drama Teacher in January 2011. From September 2012 Mr Salway's position was permanent. On 25 February 2014 the parents of a Year 7 Pupil, Pupil A, spoke with the Headteacher of the School, producing a copy of a document that had been found in Pupil A's text book. This document was the short story referred to in the allegations.

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. On a date unknown, wrote a short story (the "Story") containing sexually explicit language including references to an adult male having:

a. Sexual intercourse with a 15 year old girl

b. Anal intercourse with a 15 year old girl

c. Sexual activity with a 12 year old girl

This allegation is admitted and is consistent with the evidence. The Panel has read the Story and found all three references present in the Story. Mr Salway has admitted that he was the author thereof. The Panel finds this allegation proved.

2. On around 25 February 2014, he intentionally or unintentionally caused and/or allowed the Story to be:

a. brought into the School

b. seen by Pupil A, a Year 7 girl aged 12 years

This allegation is admitted and is consistent with the evidence. The Panel finds this allegation proved.

3. His actions as set out at 2(a) and 2(b) caused:

a. Pupil A harm and/or to feel:

i. distressed

ii. worried

iii. uncomfortable

b. Pupil A's parents distress and/or discomfort

The Panel considered evidence from Individual A, Headteacher of the School, that Mr Salway's actions as set out at 2(a) and 2(b) caused the pupil and her parents considerable distress. Mr Salway admits that he knew or ought to have known that if the Story came into the possession of a pupil it would cause them harm and to feel distressed and/or worried and/or uncomfortable and would cause the pupil's parents distress and/or discomfort.

The Panel therefore finds this allegation proved.

4. His conduct as set out in 1 was:

a. Sexually motivated

b. Suggestive of a deep-seated attitude towards children which could lead to harmful behaviour

Mr Salway admits that his conduct as set out in allegation 1 was sexually motivated. He states that the Story was written "as a sexual fantasy for my own private gratification". The Panel finds that this conduct was suggestive of a deep-seated attitude towards children which could lead to harmful behaviour. The Panel therefore finds this allegation proved.

5. His conduct as set out in 2(a) and 2(b), if found to be intentional, was sexually motivated.

The Panel first considered whether Mr Salway's conduct as set out in allegations 2(a) and 2(b) was intentional. Mr Salway's evidence was to the effect that this element of his conduct was not intentional. The Panel did not accept Mr Salway's evidence to this effect. The Story, which included sexual activity with a 12 year old girl, came into the possession of a 12 year old girl at the School, where Mr Salway taught. The Story was inside a new workbook that was to be given to Pupil A (albeit not by Mr Salway). Mr

Salway accepts that he is at a loss to explain how the Story had found its way into the School or Pupil A's possession.

The Panel finds it unlikely that the Story getting from Mr Salway's home to the School was unintentional; separately it finds it unlikely that the Story getting into a new workbook for a pupil was unintentional; and separately it finds it unlikely that it was unintentional that the pupil who was to receive the book containing the Story was of the age and gender of a character in the Story. Cumulatively, the Panel finds it highly unlikely that Mr Salway's conduct as set out in 2(a) and 2(b) was unintentional. On the contrary, on the balance of probabilities, the Panel finds that his conduct in this regard was intentional. The Panel has found Mr Salway's conduct as set out in 2(a) and 2(b) to be sexually motivated.

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

In considering the allegations that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'.

The Panel is satisfied that the conduct of Mr Salway in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mr Salway 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 ...;
- 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 John Salway fell significantly short of the standards expected of the profession.

The Panel has also considered whether Mr Salway's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Guidance. The Panel has found that Mr Salway's conduct, in intentionally providing a 12 year old girl with a

story describing in vulgar and detailed terms sexual activity with children, was behaviour associated with offences relating to or involving sexual activity.

The Guidance indicates that where behaviours associated with such an offence exist, a Panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The Panel notes that allegations 1 and 4 took place outside of the education setting. Nonetheless, they demonstrate a deep-seated attitude to children which could lead to harmful behaviour and did in fact lead to a pupil being exposed to the behaviour in a harmful way, as described in allegations 2 and 3.

Accordingly, the Panel is satisfied that Mr John Salway 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 findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The Panel therefore finds that Mr John Salway's 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 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 Guidance 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 Salway, which involved intentionally exposing a pupil to a story describing sexual activity with children, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Salway were 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 Salway was far 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 Salway.

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 Salway, the Panel took further account of the Guidance, 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 (particularly involving vulnerable pupils) or violation of the rights of pupils; and
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

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 has determined that Mr Salway's actions were deliberate and there was no indication that he was acting under duress.

The Panel does understand however that Mr Salway has a previously good history.

Notwithstanding Mr Salway's previously good history, the Panel is of the view that Prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Mr Salway. The risk to pupils, as realised in the case of Pupil A, 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 Guidance 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 two years.

The Guidance indicates that there are behaviours that, if proven, would militate against a review period being recommended.

These behaviours include serious sexual misconduct, eg where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. The Panel has found that Mr Salway has been responsible for intentionally providing a story detailing sexual activity with a child, to a pupil at the School, that his actions were sexually motivated and resulted in harm to Pupil A and her parents. The Panel therefore find this to be a case of serious sexual misconduct.

Moreover there is evidence of a deep seated attitude towards children which has led to harmful behaviour in this instance.

Mr Salway has admitted that he wrote the Story and that it reached Pupil A. He has shown remorse for this from an early stage. He did not however admit that his actions in bringing the Story to School and arranging that it come into the possession of Pupil A were intentional; contrary to the Panel's findings.

In light of all of the above, the Panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended without provision 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 recommendations of the panel in respect of both sanction and review period.

In reaching my decision I have carefully balanced the public interest with the interest of the teacher Mr John Salway. I have taken into account the need to be proportionate in terms of determining the sanction that is appropriate in this case. I have also paid close attention to the guidance set out by the Secretary of State.

I have also taken into account the fact that Mr Salway had a previously good history.

This case is a serious one which involves behaviours that fall considerably short of those expected by the public of a teacher. Mr Salway wrote a story which itself evidenced a deep seated and harmful attitude to children. Furthermore the panel found that he deliberately caused a young pupil to read this story causing distress to her and to her parents.

The panel has found that this behaviour was sexually motivated.

I support the recommendation made by the panel that a prohibition order is appropriate and proportionate in this case.

I have also given careful consideration to the matter of a review period. The evidence in this case points to a deep seated harmful attitude towards pupils. Taking into account the guidance I also support the panel and have decided that Mr Salway should not be given any opportunity to apply for restoration of his eligibility to teach.

This means that Mr John Salway 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 John Salway 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 John Salway 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.



NAME OF DECISION MAKER: Alan Meyrick

Date: 19 December 2012

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