



National College for
Teaching & Leadership

Dr Andrew Preston: Professional conduct panel outcome

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

January 2016

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

Teacher: Dr Andrew Preston

Teacher ref number: 9304790

Teacher date of birth: 14 December 1965

NCTL case reference: 12423

Date of determination: 19 January 2016

Former employer: Chetham's School of Music, Lancashire

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 18 & 19 January 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Dr Andrew Preston.

The panel members were Mr John Elliott (lay panellist – in the chair), Dr Robert Cawley (teacher panellist) and Ms Alison Walsh (teacher panellist).

The legal adviser to the panel was Mr Paddy Roche of Blake Morgan LLP solicitors.

The presenting officer for the National College was Mr Ben Rich of Counsel.

Dr Andrew Preston was present and was represented by Ms Jan Alam of Counsel.

The hearing took place in public (save that the teacher gave evidence in private session) and was recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Proceedings dated 19 June 2015 which was amended with the consent of both parties.

It was alleged that Dr Andrew Preston was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, he:

1. Engaged in highly sexualised language in one or more of his Skype conversations in respect of young teenage girls;
2. His conduct set out in paragraph 1 was sexually motivated.

Dr Andrew Preston admitted Particular 1 of the allegation in relation to one Skype conversation only. He denied Particular 2.

Dr Andrew Preston did not admit unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

The panel considered an application made by the teacher's Counsel that the hearing should be held in private. It decided that the public interest required that the hearing should be public. However, in the light of medical evidence submitted on behalf of Dr Preston the panel was satisfied that it was not contrary to the public interest to allow Dr Preston's evidence to be given in private session.

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 1 to 2

Section 2: Notice of Proceedings and Response – pages 3 to 9

Section 3: NCTL witness statements – pages 10 to 16

Section 4: NCTL documents – pages 17 to 129 (pages 61 -110 were disputed and had been removed from the case papers).).

Section 5: Teacher documents – pages 130 to 234

In addition, by consent, the panel admitted into evidence a transcript of Dr Preston's caution interviews with West Yorkshire Police. This document was marked "A" – pages 1-40.

The panel members confirmed that they had read all of the documents in advance of the hearing together with the document A 1-40.

Witnesses

The panel heard oral evidence from the following witnesses called by the Teacher's representative:-

1. Dr Andrew Preston – the respondent teacher
2. Witness A – character witness
3. Witness B – character witness

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

We confirm that we have read all the documents provided in the bundle in advance of the hearing and the additional bundle marked "A" provided at the commencement of the hearing.

The case concerns conversations in which Dr Preston – a secondary school Maths teacher - was involved, made over the Internet using Skype. In particular the National College rely on a conversation which occurred in October 2013 between Dr Preston and another person identified only as "[redacted]" in which sexual activity between teenage girls and "lads" was discussed in graphic and sexualised terms. Dr Preston used his own mobile phone from his home address late in the evening, unbeknown to other members of his family. He was not aware of the true identity of the other party and towards the end of the discussion, which lasted over 40 minutes, he indicated that he intended to go and masturbate. He did not identify himself as a teacher. The conversation took place in October 2013 when he was in the process of moving schools. The full text of the conversation is set out in the case papers and is accepted by Dr Preston.

Some 7 months later, in May 2014, Dr Preston was arrested by West Yorkshire Police on suspicion of attempting to possess an indecent image of a child, believed to have been sent to him by the other party with whom he had conversed in October the previous year. He was interviewed under caution at length both about the alleged indecent image, the Skype conversation and his alleged engagement in other chat room conversations. In due course it was decided there was insufficient evidence to bring any charge arising

from the indecent image. This is because no indecent images had been located by the police on examination of various items of equipment seized from his home when he was arrested. He was, thus, told that no further action would be taken against him by the police as a result of the enquiry.

Dr Preston accepts the fact of his involvement in the one Skype conversation set out above and admits that it contained highly sexualised language. He denies being involved in any other similar conversations about young girls. He says he has no interest in young girls at all and the conversation was simply silliness, banter, a benign fantasy. He says that his involvement in the conversation was motivated by a desire to see if there was something he could do for the other person – to try and assist him. He denies particular 2 and says there was no sexual motivation in his engagement in the conversation. He asserts that he does not represent any sort of danger or risk to teenage girls or students and that assertion is supported by an assessment prepared by a consultant psychiatrist which is exhibited in the case papers. He speaks of his absolute commitment to teaching and says he will never again become involved in chat rooms with others over the internet. He very much regrets what has happened.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Dr Andrew Preston proven, for these reasons:

1. Engaged in highly sexualised language in one or more of his Skype conversations in respect of young teenage girls;

Dr Preston has admitted this particular in relation only to the Skype conversation which occurred with the individual known as [redacted] on 3 October 2013. That conversation is recorded in a document prepared by Dr Preston exhibited at pp 231-2 of the case papers. There is a very brief and entirely unexceptional exchange between the two same parties which was initiated by Dr Preston on 3 November 2013 and is also recorded at p232 of the case papers. Other than these two conversations there is no record of any other similar discussion about young teenage girls occurring which involved Dr Preston.

However, the panel has carefully considered the transcript record of Dr Preston's caution interviews with West Yorkshire Police following his arrest on 14 May 2014. The panel has been invited by the teacher's Counsel to treat the answers attributed to Dr Preston with care as he was not represented, had never been arrested or interviewed before and he described in his oral evidence to the hearing that, at the time, his head was in a spin. In addition he was not shown the transcript of the Skype conversation on 3 October 2013 which had occurred some 8 months previously.

The panel has considered the responses made by Dr Preston in answer to questions put to him by the police. The relevant responses are set out in the second interview on the afternoon of his arrest which took place three hours after the first. Dr Preston would therefore have had some time to think about his position. The section of the interview which is relevant to this particular is set out at pp 24, 25, 26, 30, 31 and 32 of document A. It appears that Dr Preston sought to evade a significant number of the questions put to him. However, he acknowledged that the notion of persons between the ages of 13 – 18 years having sex interested him. When asked whether he discussed people having sex under the age of 16 "with other people". He replied "I might have discussed the thought of them masturbating" On being asked whether he masturbated whilst talking about these subjects he replied "A little bit.". He went on to acknowledge that he communicated through chat rooms with 20 or 30 people "about these subjects."

The panel is therefore satisfied on the balance of probabilities that there were more occasions when Dr Preston engaged in the sort of discussions over the Internet covered by this particular and it is proved. The extent and detail in the answers he gave to West Yorkshire Police on 14 May 2014 allow the panel to reasonably conclude, without room for mistake or confusion, that Dr Preston engaged in more than one such conversation.

2. His conduct set out in paragraph 1 was sexually motivated.

The panel has, firstly, given careful consideration to the agreed transcript of the Skype conversation on 3 October 2013 prepared by Dr Preston at pp 231-2. It establishes that the teacher initiated the contact with [redacted]. He opens the conversation by saying "Cool 47m UK love to chat a.bout wankin n sex." The conversation that follows is graphic and gives no indication at all that – despite his claims to the contrary – Dr Preston was in any sense a reluctant participant in the dialogue. Many of the more depraved comments were made by him. The conversation is not a brief exchange as it lasts for 45 minutes. At the end of the conversation Dr Preston writes "Gonna have to go to bed n wank now keep in touch ok" There can be no doubt the dialogue is sexual in nature.

Dr Preston told the hearing that this conversation was nothing more than a benign fantasy in that there was no intention on his part that he would actually behave towards young teens in the way discussed. He said that it was merely banter and silliness and thus he denies being sexually motivated in participating as he did.

Further he also suggested that he kept the conversation going as he soon became concerned about the respondent and was trying to "get into his head" as he thought the man was capable of doing something serious. He says he was seeking to act as a counsellor towards him but acknowledged that what he did was wholly inconsistent with the safeguarding training he had received since 2006 and his obligation to report his concerns – something he failed to do.

The panel found that the totality of the evidence it heard and read demonstrated that Dr Preston had developed this explanation over the many months after the conversation had

occurred or come to light. The panel note this explanation, put forward by Dr Preston in evidence at this hearing, was not mentioned at all to the Police in his caution interviews. Nor was it given to the Consultant Psychiatrist whom he instructed in late 2015 to examine and assess him and whose report is disclosed in the case papers.

Dr Preston is clearly an experienced teacher with excellent academic credentials. However, the panel found Dr Preston not to be a credible witness. He was evasive in giving answers at the hearing, often preferring to answer a different question than the one actually put to him. His evidence was not straightforward and the panel judged much of what he said to be contradictory, implausible and unsettling.

The panel noted the following-

In answers to his own counsel in re-examination Dr Preston said

- at the outset (of the Skype conversation with [redacted]) he thought he would get sexual gratification
- he had hoped it would lead to a routine solitary sexual experience (from which the panel concludes he meant masturbation)

The panel also notes that, according to Individual A, the Consultant Psychiatrist, Dr Preston told him "that he was aware that boys and girls of the same age as his daughter would have sexual contact and this he found horrifying but also fascinating."

For these reasons the panel rejects Dr Preston's claim that his continuance of the Skype conversation with [redacted] had some sort of safeguarding purpose or motivation. The contact was initiated with the expectation that it would lead to sexual gratification and ended with the declaration made by the teacher that he was going to masturbate. The discussion itself is consistent with the two participants exchanging lurid and graphic observations principally designed to excite each other. The panel further rejects the teacher's claim that his engagement in this "fantasy" was benign in that the fantasy existed only in his head and that, thus, the conversation was not sexually motivated. It is not a distinction the panel understands or recognises.

The panel also takes account of its finding under particular 1 that this was not an isolated and unique internet discussion but these sort of conversations featured more regularly in his home life than Dr Preston has been prepared to accept at this hearing. For all these reasons the panel is satisfied that this particular is proven on the balance of probabilities.

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

Having found the allegation to have been proven, the panel has gone on to consider whether the facts proven 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 recognises and accepts that the activity which is the subject of this case occurred outside the education setting, involved equipment which belonged to Dr Preston, and took place in the privacy of his own home. There is also no suggestion that either the Sixth Form College where he was then employed or the school to which he subsequently moved prior to his arrest by the police were aware of what he was doing. There is no evidence of pupils being affected or harmed by his conduct.

Nonetheless this case discloses sexual misconduct of a serious nature by a member of the profession. It establishes that Dr Preston has an inappropriate sexual interest in children of school age. That interest is, on the evidence, confined to activities within the privacy of his own home but also gives rise to its overt expression on the internet and, in this case, has found its way into the public domain. In his evidence Dr Preston seeks to compartmentalise his behaviour but the panel is concerned both with the requirements of the Teachers Standards and the legitimate expectations of employers, pupils, parents and the general public.

The Teachers Standards require teachers to demonstrate consistently high standards of personal and professional conduct which includes upholding public trust in the profession and maintaining high standards of ethics and behaviour, within and outside school. In the panel's judgement Dr Preston has not done so and there can be few more damaging considerations for a teacher than to assert, in the way that has occurred in this case, a sexual interest in children of school age.

The panel particularly noted, and shared, the reaction of the two character witnesses who gave evidence in support of Dr Preston at the hearing. When each witness was confronted, for the first time, with the precise details of the Skype conversation it was only too obvious that both were shocked at the nature and detail of the exchange.

The panel is therefore satisfied that members of the public would view with extreme anxiety and concern the facts of this case... Accordingly the panel judges that this is a case of both unacceptable professional conduct and conduct that may bring the profession into disrepute. In making this finding the panel is satisfied that it reflects the views of the public in general.

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 a punitive effect.

The panel has considered the particular public interest considerations set out in the Advice. The panel acknowledges that Dr Preston has a previous good record as a teacher and the presenting officer has confirmed that it has never been part of the National College's case that he represents a risk to pupils.

However the panel judges that the public interest considerations of maintenance of public confidence in the profession and declaring and upholding proper standards of conduct are directly engaged in this case. As the presenting officer submitted in his closing remarks Dr Preston has demonstrated a disrespectful and repellent attitude to young people which is fundamentally inconsistent with him remaining a member of the teaching profession.

The panel determines that Dr Preston's unacceptable conduct exhibits:-

- A serious departure from the personal and professional conduct elements of the Teachers' Standards
- misconduct that has the potential to seriously affect the well-being of pupils
- a deep seated attitude that leads to harmful behaviour
- sexual misconduct

The panel is further satisfied, partly from his response to this case, that Dr Preston has no insight into the potentially harmful nature of his behaviour. He does not understand the fact that his behaviour, given his professional position, was totally inappropriate.

In light of the panel's findings against Dr Preston the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against teacher were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also has considered its duty to declare proper standards of conduct in the profession and concludes that the conduct found against teacher is outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that are set out above, the panel has considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Dr Preston.

The panel has taken account of the evidence given by the character witnesses called on behalf of the teacher and other written testimonials in the case papers. However the panel is of the view that prohibition is both proportionate and appropriate. The panel determines that the public interest considerations outweigh the interests of the teacher. The number of "aggravating features" set out above were significant factors 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 has gone on to consider whether or not it would be appropriate for it to decide to recommend that a review period of the order should be considered. The panel is mindful that the Advice confirms 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 serious sexual misconduct, such as in this case, since it involves a sexual interest in persons of school age. The panel has also found that Dr Preston exhibits a lack of insight into his behaviour and for those reasons the panel feels a review period would not be appropriate. As such, the panel decides 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 the findings and recommendations of the panel in this case. The panel has found the allegations proven, and judge that Dr Preston is guilty of both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Dr Preston was employed as a secondary school Maths teacher, at the time of the allegations. I have noted the panel's consideration that the activities in question occurred outside the education setting, and that there is no evidence of pupils being affected or harmed by Dr Preston's conduct. However, this case discloses sexual misconduct of a serious nature by a member of the profession. I agree with the panel that there can be

few more damaging considerations for a teacher than to assert, in the way that has occurred in this case, a sexual interest in children of school age.

I have considered the public interest in this case. Whilst the panel acknowledges that Dr Preston has a previously good record as a teacher, I also note that the panel found Dr Preston demonstrating a disrespectful and repellent attitude to young people. I agree with the panel's view that this is fundamentally inconsistent with him remaining a member of the teaching profession, and that public confidence in the profession could be seriously weakened if conduct such as Dr Preston's was not treated with the utmost seriousness.

The panel recommends that a prohibition order should be imposed. I agree with the recommendation that prohibition is both appropriate and proportionate.

I have carefully considered the question of a review period and the panel's recommendation that no review period should be allowed. Due to the serious nature of this case, and the fact that the panel found that Dr Preston exhibits a lack of insight into his behaviour, I agree with the panel's recommendation.

This means that Dr Andrew Preston 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 Dr Preston 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.

Dr Preston 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 'J. Millions', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date:

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