



National College for
Teaching & Leadership

Mr Theophilus Horsoo: Professional conduct panel outcome

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

August 2016

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

Teacher: Mr Theophilus Horsoo
Teacher ref number: 0366442
Teacher date of birth: 10 May 1975
NCTL case reference: 13107
Date of determination: 5 August 2016
Former employer: Simply Education Limited

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 4 and 5 August 2016 at Ramada Hotel and Suites, Butts, Coventry CV1 3GG to consider the case of Mr Theophilus Horsoo.

The panel members were Mrs Alison Walsh (teacher panellist – in the chair), Mrs Catherine Boyd (lay panellist) and Mr Martin Pilkington (lay panellist).

The legal adviser to the panel was Ms Patricia D’Souza of Eversheds LLP.

The presenting officer for the National College was Mr Christopher Geering of 2 Hare Court Chambers.

Mr Horsoo was present and was represented by Mr Christopher Hopkins of No 5 Chambers.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 8 June 2016 (as amended see below).

It was alleged that Mr Horsoo was guilty of having been convicted of a relevant offence in that:

1. On 10 July 2013 at Buckinghamshire Magistrates' Court, he was convicted of the offence of having the care of a person without mental capacity and ill-treating or wilfully neglecting that person on 12 April 2013, contrary to Section 44 of the Mental Capacity Act 2005. He was ordered to pay a fine of £400, costs of £85 and a victim surcharge of £40;

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

2. In an application for a Disclosure and Barring Service check completed on or around 18 August 2014, he wrongly stated he had no unspent convictions;
4. When he re-registered with Simply Education Ltd on or around 24 September 2014, he wrongly stated he had no unspent convictions;
6. His conduct as set out at allegations 2 and/or 4 above was dishonest in that he was attempting to conceal a conviction which he knew he was meant to disclose.

The Notice of Proceedings form included in the bundle indicates that Mr Horsoo partly admits the facts of the above allegations. At the start of the hearing, Mr Horsoo admitted the factual particulars of the above allegations. He also admitted the facts amount to unacceptable professional conduct and/or conduct which may bring the profession into disrepute and/or conviction of a relevant offence.

C. Preliminary applications

Application to amend the allegations

At the start of hearing, the presenting officer made an application to amend the allegations based on admissions that Mr Horsoo was prepared to make. The presenting officer advised the panel that on 27 July 2016 the National College received an email from the union representing Mr Horsoo, indicating that Mr Horsoo admitted the factual particulars of allegations 1, 2, 4 and 6.

The presenting officer also advised the panel that Mr Horsoo's representative, within the same email, also requested that the National College withdraw allegation 5. The presenting officer is content to agree to this request given that Mr Horsoo has presented a copy of the relevant application to Security Industry Authority ("SIA") which asks

whether Mr Horsoo has had a “conviction, caution or written warning in the last 12 months” to which Mr Horsoo stated “no”. The presenting officer advised the panel that this copy of the application was not available at the time that the allegations were formalised and in light of this content, the National College accepts that there is no evidence that Mr Horsoo wrongly stated that he had “no unspent convictions” in his application to SIA.

In addition, the presenting officer applied to withdraw allegation 3 as it has been phrased “In the alternative” to allegation 2. As Mr Horsoo now admits the factual particulars of allegation 2, the National College no longer wishes to pursue allegation 3.

The teacher’s representative did not oppose the application to amend the allegations as outlined by the presenting officer. When questioned by the panel, the teacher’s representative confirmed that Mr Horsoo accepts that he was convicted in 2013 of wilful neglect of a service user in a care setting. Albeit that this did not take place in an educational context, Mr Horsoo accepts that this conviction is relevant to his fitness to be a teacher and therefore that it is a relevant offence for the purposes of these proceedings.

The panel has the power to amend an allegation under rule 4.56 of the Teacher Misconduct – Disciplinary Procedures for the Teaching Profession (“the Procedures”). This paragraph of the Procedures indicates that at any stage before making its decision about whether the facts of the case have been proved, the panel may amend the allegations if it deems this is in the interests of justice. The panel considered that the amendments to the allegations requested by the presenting officer reflect both the evidence provided in the bundle and Mr Horsoo’s admissions at the start of the hearing. The request to withdraw both allegations 3 and 5, did not, in the panel’s view, make any material difference to the nature of the allegations still pursued by the National College. Also, in view of the fact that the amendments requested would not cause prejudice to Mr Horsoo, and would not, in the panel’s view lead to him presenting his case differently (given the admissions Mr Horsoo has now made) the panel was content to accept the presenting officer’s application. Therefore the panel agreed to amend the allegations and withdraw allegations 3 and 5.

As a result of the panel’s decision, the panel considered it would also be appropriate to amend the wording of allegation 6 such that it relates only to the factual particulars of the allegations that relate to dishonesty that are still pursued by the National College, namely allegations 2 and 4. In addition, the panel considered there was a typographical error in allegation 6 with a reference to “paragraphs 2 and/or 3....” As the convention is for the National College to refer to each numbered paragraph in a Notice of Proceedings as an allegation, the panel considered it would be consistent to replace the word “paragraphs” with “allegations” in allegation 6. Therefore the panel decided that allegation 6 should now read “Your conduct as set out at allegations 2 and/or 4 above was dishonest in that

you were attempting to conceal a conviction which you knew you were meant to disclose”.

Application to admit a document recording admissions

After Mr Horsoo had completed his oral evidence, the teacher’s representative made an application to admit a signed document setting out the admissions Mr Horsoo wished to make in relation to allegation 6. The panel asked the teacher’s representative to clarify whether this written admission document was being offered to replace/supersede the oral evidence Mr Horsoo gave on oath. The teacher’s representative submitted that Mr Horsoo had instructed him over the lunch break to prepare this document in order that it supersede and clarify the oral submissions relating to allegation 6. The presenting officer did not object to the teacher’s representative’s application.

The panel noted the National College had agreed not to call oral evidence in support of its case and Mr Horsoo has now completed his oral evidence.

The panel received advice and considered paragraph 4.18 of the Procedures which states that the “panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case”. The panel considered that whilst the admission document may be relevant to the case, it was not convinced that admitting this document at this late stage of the proceedings was fair.

The admissions recorded in this written document relate to the allegation of dishonesty and the panel considered it appeared at odds with the documentary evidence supplied by Mr Horsoo included in the bundle. It also appeared at odds with the content of Mr Horsoo’s oral evidence. The panel was concerned that Mr Horsoo did not understand the significance and impact of the panel admitting this document, in that his representative was asking that this document supersede his oral submissions relating to allegation 6. Mr Horsoo’s representative indicated, in the course of his application, that Mr Horsoo had been stressed by giving oral evidence and as a result the panel were concerned that this may have affected his judgment and instructions to his legal representative. The panel considered that Mr Horsoo may not have had sufficient time over the course of the short lunch break to fully reflect on the significance of the content of this document. Therefore the panel decided it was neither fair nor in the public interest for this document to be admitted. The teacher’s representative’s application was accordingly denied.

The panel decided to adjourn the hearing until the next day to enable Mr Horsoo to reflect overnight on whether he wished the content of the admission document to supersede his oral evidence.

At the second day of the hearing, Mr Horsoo’s representative confirmed that, having had the opportunity to reflect further overnight, Mr Horsoo wished to make full admissions to allegations, 1, 2, 4 and 6. Mr Horsoo requested that the panel reconsider admitting the admission document referred to above. The presenting officer told the panel that Mr

Horsoo is an educated individual and has the benefit of legal assistance. Therefore, it is entirely appropriate for Mr Horsoo to make submissions for the admission of this document. The panel was content that, with the benefit of more time to consider the impact of this document and to take further advice from his representative, the document should be admitted.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 1 to 2

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

Section 3: National College's witness statements – pages 10 to 22

Section 4: National College's documents – pages 23 to 67

Section 5: Teacher documents – pages 68 to 149

In addition the panel agreed to accept the admission document relating to allegation 6, prepared by Mr Horsoo's representative, which was submitted in the course of the hearing. This document was paginated pages 150 to 151.

The panel members confirmed that they had read all of the documents in advance of the hearing save for the admissions document which was admitted in the course of the hearing.

Witnesses

The panel heard no oral evidence on behalf of the National College. However Mr Horsoo gave oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case before it and has reached a decision.

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing save for the admissions document which was admitted in the course of the hearing.

Mr Horsoo qualified as a teacher in 2003/4. After teaching full-time for some time, he decided to undertake supply teaching work whilst supporting a family member experiencing health issues. To support his family, Mr Horsoo took an extra role working as a waking support night worker. On 11 April 2013, Mr Horsoo was undertaking a night shift and he was caring for service users including one who ate inappropriate food items. A complaint was raised that Mr Horsoo had locked a service user in his bedroom and he was convicted of an offence of wilful neglect at Buckinghamshire Magistrates' Court. When asked, Mr Horsoo failed to disclose his conviction in two separate application forms which led to loss of employment.

He began teaching at an academy in December 2014 and has recently been appointed to a full-time teaching position.

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:

You are guilty of a conviction of a relevant offence in that:

- 1. On 10 July 2013 at Buckinghamshire Magistrates' Court, you were convicted of the offence of having the care of a person without mental capacity and ill-treating or wilfully neglecting that person on 12 April 2013, contrary to Section 44 of the Mental Capacity Act 2005. You were ordered to pay a fine of £400, costs of £85 and a victim surcharge of £40;**

The panel had regard to the memorandum of an entry entered in the register of the Buckinghamshire Magistrates' Court for 10 July 2013 ("the memorandum") which states that on 12 April 2013 at Milton Keynes Buckinghamshire, Mr Horsoo had the care of a person who lacked or whom he reasonably believed to lack mental capacity, ill-treated or wilfully neglected him.

The memorandum stated that Mr Horsoo was convicted of the offence "carer ill-treat / wilfully neglect a person without capacity", contrary to section 44 of the Mental Capacity Act 2005. Mr Horsoo was sentenced to a fine of £400, costs of £85 and a victim surcharge of £40.

In his opening statement, the presenting officer outlined the facts of the matter that led to Mr Horsoo's conviction. Mr Horsoo admitted in the course of the proceedings that he had received a conviction as a result of tying a belt around the bedroom door which prevented a service user leaving his room to access the kitchen.

This allegation is admitted. Taking all of the above into account, the panel find this allegation proven.

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

2. In an application for a Disclosure and Barring Service check completed on or around 18 August 2014, you wrongly stated you had no unspent convictions;

The presenting officer submitted that the factual particulars of this allegation took place approximately a year after Mr Horsoo received the conviction referred to in allegation 1. The presenting officer submits that guidance is attached to the forms for completing a Disclosure and Barring Service (“DBS”) check and it would have been clear that Mr Horsoo must include details of his conviction in an application to the DBS.

The panel had regard to the eBulk application form included in the bundle which Mr Horsoo completed and the response made to the question “Unspent Convictions” is “n”. This is a clear indication that Mr Horsoo answered “no” to this question.

Mr Horsoo admitted this allegation in the course of the hearing. The panel find the factual particulars of this allegation proven.

4. When you re-registered with Simply Education Ltd on or around 24 September 2014, you wrongly stated you had no unspent convictions;

When questioned by the panel, Mr Horsoo indicated that once he paid the fine and the compensation he was ordered to pay under his sentence (referred to in allegation 1) he considered that the matter was over. When referred to the paper application for Simply Education Ltd referred to in the bundle, the panel asked Mr Horsoo to explain if he knew what “spent” or “unspent” conviction meant. The panel did not obtain a clear answer from Mr Horsoo on this.

The panel noted from the copy of the application to Simply Education Ltd included in the bundle to the question “Do you have any convictions spent or unspent to declare?”, Mr Horsoo stated “No”.

Mr Horsoo admitted this allegation in the course of the hearing. The panel find the factual particulars of this allegation proven.

6. Your conduct as set out at allegations 2 and/or 4 above was dishonest in that you were attempting to conceal a conviction which you knew you were meant to disclose

At the start of the hearing, Mr Horsoo admitted this allegation.

The panel was advised that it is required to have regard to a two stage test that was set out in the cases of *R v Ghosh* and *Twinsectra Limited v Yardley and Others*, as updated by the Court of Appeal case of *Dr Fazal Hussain v GMC*. These cases made clear that

the balance of probabilities test applies to both of the limbs of the two stage test. The first question the panel must ask itself is, whether on the balance of probabilities, Mr Horsoo's actions were dishonest by the standards of reasonable and honest members of that profession (i.e. teachers). This is the objective test.

If the panel finds that the objective test is satisfied, it must go on to determine whether it is more likely than not that Mr Horsoo realised that what he was doing was, by those standards, dishonest i.e. the subjective test. The panel was advised that a person should not escape a finding of dishonesty because he sets his own standards of dishonesty.

The panel found the objective test established under *R v Ghosh and Twinsectra* was met. A reasonable and honest teacher would consider that Mr Horsoo's failures to declare the conviction referred to in allegation 1 in his application for a DBS check and in his application to register with Simply Education Ltd (referred to in allegations 2 and 4 respectively) were dishonest. Accurate DBS checks and disclosures of criminal convictions are an important expectation of those within the teaching profession.

In his oral evidence, Mr Horsoo appeared to state that he was confused following a discussion with the DBS in May 2014 as to whether or not he had to disclose the fact of his conviction in subsequent application forms to the DBS or otherwise. The panel questioned Mr Horsoo about how he completed the eBulk application form for the DBS. Mr Horsoo confirmed that he did so online and he did not hesitate to answer no to the question relating to "unspent" convictions; he believed that this was the appropriate response. Mr Horsoo considered that his conviction was "finished" as he had paid the fines imposed by the Magistrates Court and the DBS had written to him to indicate that he was not barred from working with children and adults. He was not aware of anyone having an "unspent" conviction.

In addition, in his oral evidence, Mr Horsoo accepted that he should have revealed his conviction at the time of this application to DBS in August 2014. The teacher's representative subsequently confirmed to the panel that Mr Horsoo admitted the factual particulars of this allegation.

In the course of the hearing, the panel agreed to accept the admissions document, dated 4 August 2016, prepared by the teacher's representative, signed by Mr Horsoo. This document confirmed that Mr Horsoo fully admitted that, at the relevant times in 2014, he acted dishonestly in not declaring his conviction in his applications and that he attempted to conceal a conviction he knew he was meant to disclose at that time.

The panel carefully considered the sequence of events that relate to the evidence supporting this allegation. The bundle agreed between the parties contains written representations from Mr Horsoo which state that he did not attempt to conceal his conviction. The panel was advised that Mr Horsoo's union representative emailed the National College in advance of the hearing to admit allegations 1, 2, 4 and 6. Mr Horsoo's oral evidence was conflicting and contradictory as to whether he did deliberately take

steps to conceal his conviction. Finally, the panel agreed to admit the admissions document which Mr Horsoo confirmed superseded his oral testimony.

In light of the above, particularly Mr Horsoo's admissions, the panel determined that he was aware in August and September 2014 when he completed the application for a DBS check and the application to register with Simply Education Ltd (respectively) that his failures to declare his conviction were dishonest. There was sufficient evidence before the panel which led it to conclude on the balance of probabilities that Mr Horsoo did attempt to conceal his conviction which he knew he was meant to disclose.

Accordingly, this allegation is found proven.

The panel has found the following particulars of the allegations against you not proven, for these reasons:

- 3. In the alternative to paragraph 2 above, on or around 18 August 2014 you supplied information to Coda Education, which was used for a Disclosure and Barring Service check, in which you wrongly stated you had no unspent convictions.**

The presenting officer's application to withdraw this allegation was accepted by the panel. Therefore this allegation is not proven.

- 5. On or around 24 July 2015 you supplied information to the Security Industry Authority, which was used for a Disclosure and Barring Service check, in which you wrongly stated you had no unspent convictions;**

The presenting officer's application to withdraw this allegation was accepted by the panel. Therefore this allegation is not proven.

Findings as to conviction of a relevant offence and/or unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found a number of the allegations proved, the panel has gone on to consider whether the facts of those proven allegations amount to conviction of a relevant offence, 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".

With regard to the allegation of conviction of a relevant offence, the panel is satisfied that the conduct of Mr Horsoo involved breaches of the Teachers' Standards. The panel considers that by reference to part two, Mr Horsoo is in breach of the following standards:

A teacher is expected to demonstrate consistently high standards of personal and professional conduct.

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - showing tolerance of and respect for the rights of others.

The panel noted that Mr Horsoo admitted that his conviction was relevant to his teaching practice. The panel considered that the incident represented a serious error of judgment.

The panel determined that Mr Horsoo's behaviour had an impact on the safety and security of the service user locked in his room. Mr Horsoo did not follow appropriate safeguarding procedures, on which he had received training. Such disregard for appropriate safeguarding procedures would be likely to have an impact on the safety or security of pupils.

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

The panel has noted that Mr Horsoo's behaviour has led to him receiving a conviction for his offence which included a fine, victim surcharge and costs payable to the Crown Prosecution Service. However, the panel noted that Mr Horsoo's conviction did not lead to a sentence of imprisonment which is, in the panel's view, indicative that the offence was at the less serious end of the possible spectrum.

The panel considered it was necessary for it to turn its own independent mind to whether the offence of which Mr Horsoo was convicted amounted to a relevant offence. This is not a case relating to an offence involving any of the categories of behaviour included in the Advice, which the Advice states is likely to be considered a relevant offence. However, the panel notes that Mr Horsoo's conviction does not fall within the category of a "minor offence" which the Advice states is less likely to amount to a relevant offence.

The panel has taken into account the written evidence that has been adduced by Mr Horsoo attesting to his record as a teacher. The reference from the senior vice principal at Mr Horsoo's current school indicates that Mr Horsoo is an extremely reliable and hardworking member of staff and his teaching has continued to develop. This reference goes on to state that the school had recently provided Mr Horsoo with a permanent contract which would become effective in September 2016, which is the "strongest recommendation" the school can give as to its "trust" in Mr Horsoo.

In addition, the panel had regard to the witness statement of Mr Horsoo's local pastor which stated that Mr Horsoo was confused by his criminal conviction or ruling from the DBS and what this meant in relation to his completing forms. The pastor believed that Mr Horsoo did everything he could to complete the relevant forms correctly and acted upon

what he had been told. The pastor believes that Mr Horsoo is a good, gracious man and he would have no hesitation in letting him take care of vulnerable people at the church and would have no hesitation in asking Mr Horsoo to take care of the pastor's children. The panel took note that this character statement was produced prior to Mr Horsoo's admissions of the allegations pursued by the National College.

The panel has also taken into consideration Mr Horsoo's account of the incident and the context in which it occurred.

There is no evidence before the panel that Mr Horsoo's teaching practice is unsatisfactory, and there is a positive testimonial from his current employer. However, the panel has found the seriousness of his conviction is relevant to Mr Horsoo's ongoing suitability to teach.

When questioned by the presenting officer, Mr Horsoo accepts his conviction would be of concern to teaching organisations. He admits that he was placed in a position of trust. The panel considers that a finding that his conviction is a relevant offence is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

With regard to the allegation of unacceptable professional conduct and/or conduct which may bring the profession into disrepute, the panel is satisfied that the conduct of Mr Horsoo involved further breaches of the Teachers' Standards. The panel considers that by reference to part two, Mr Horsoo is in breach of the following standards:

A teacher is expected to demonstrate consistently high standards of personal and professional conduct.

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has also considered whether Mr Horsoo's conduct relating to allegations 2, 4 or 6 displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that serious dishonesty is relevant, albeit that Mr Horsoo has no conviction for dishonesty. Mr Horsoo's actions were contrary to his obligation to reveal his conviction.

The panel considered that the failure to disclose conviction information affects Mr Horsoo's role as a teacher, as he would not be appropriately vetted for a teaching position.

The teacher's representative submitted that Mr Horsoo admits that his conduct as set out in allegations 2, 4 and 6 was unacceptable professional conduct. Mr Horsoo also stated in oral evidence that deliberately concealing his conviction on the relevant application

forms was unacceptable. The panel is therefore satisfied that the conduct of Mr Horsoo is misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers 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 finding of dishonesty, in particular, would have a negative impact on Mr Horsoo's standing as a teacher, potentially damaging the public perception. The panel therefore finds that Mr Horsoo's actions also 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 a conviction of a relevant offence, 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 all of them to be relevant in this case, namely: the protection of pupils and other members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

There is a strong public interest consideration in respect of the protection of pupils and members of the public given the serious findings of a conviction for wilful neglect of a service user in Mr Horsoo's care and failing to reveal his conviction on application forms in compliance with standard vetting procedures.

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

Notwithstanding 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 Horsoo.

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 Horsoo. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards;
- Misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- Dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- The commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

Although 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 presenting officer submitted that Mr Horsoo's criminal conviction related to inappropriate care of a vulnerable adult and Mr Horsoo's decision to lock the service user in his room took no account of the risk to the service user.

The presenting officer also submitted that Mr Horsoo's deliberate concealment of his conviction on the relevant application forms amounted to both a "lie" to the DBS and the relevant teaching agency. The teacher's representative submitted that Mr Horsoo only realised that he should admit the facts of the allegations pursued by the National College following consultation with his legal advisors about his obligation to reveal his conviction.

The teacher's representative submitted that Mr Horsoo pleaded guilty at the first opportunity before the Magistrates' Court and did not contest the criminal proceedings brought against him, which resulted in his conviction. The teacher's representative further submitted that Mr Horsoo's guilty plea at the Magistrates' Court demonstrated that he had developed insight into his conduct.

With regard to allegations 2, 4 and 6, the teacher's representative reminded the panel that Mr Horsoo instructed his union representative to send correspondence to the

National College on 27 July 2016 admitting these allegations. Although such an admission was “late in the day”, he submitted that this demonstrates that Mr Horsoo has developed insight into his behaviour including that he acted dishonestly in failing to reveal his conviction.

In considering the content of the Advice document, the panel concluded that there was no evidence to suggest that Mr Horsoo was acting under duress, and in fact the panel found Mr Horsoo’s actions to be deliberate. The teacher’s representative stated that prior to his conviction, Mr Horsoo had a previous good character and teaching history.

The panel has seen no evidence that shows Mr Horsoo was previously subject to disciplinary proceedings or warnings. However, the panel noted from the teacher’s representative’s submissions that Mr Horsoo has been subject to a disciplinary process at his current school as a result of his failure to declare his conviction.

The panel had further regard to the witness statement of Mr Horsoo’s local pastor which stated that Mr Horsoo is a “good, gracious man” and the pastor stated that he would have no hesitation in letting him take care of vulnerable people at the church or the pastor’s own children. It was clear to the panel, the pastor held Mr Horsoo in high regard. In addition, the panel took further account of the reference from the senior vice principal at Mr Horsoo’s current school. This states that Mr Horsoo is a “dedicated teacher who poses no threat to students”. The panel noted that Mr Horsoo’s current school have appointed him to a permanent position.

The panel considered the lesson observation form included in the bundle indicates that Mr Horsoo is a capable and proficient teacher as demonstrated by the number of references to good teaching in this form.

The teacher’s representative also submitted that Mr Horsoo is passionate about the teaching profession and this is the primary source of income for himself and his family. A prohibition order would mean that he would have to find some other means to support his family. The removal of his ability to teach would cause him exceptional financial hardship and the panel notes this would lead to him losing his position at his current school.

Taking all of the above into account, the panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the nature of Mr Horsoo’s misconduct and the public interest considerations outweigh the interests of Mr Horsoo. A recommendation for a prohibition order is necessary to uphold proper standards of conduct in the profession. 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 it to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that 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. One of these behaviours includes serious dishonesty. The panel has found that Mr Horsoo has been responsible for concealing his conviction when he completed his application on two separate occasions when he completed the eBulk application form for the DBS check and application to register with Simply Education Ltd. Mr Horsoo admitted in the course of the hearing that he knew that his conviction should have been disclosed. In addition, the panel was deeply perturbed by Mr Horsoo's change of position during these proceedings, in particular his conflicting and contradictory oral evidence, which culminated in a documented admission of dishonesty. The panel is of the view that Mr Horsoo was not truthful in his oral evidence and this goes to his lack of insight.

In the course of his oral evidence, Mr Horsoo stated how sorry he was for the actions he took to lock the service user in his room. This was a serious error of judgment on his part. He also apologised for not disclosing this conviction when applying for jobs in 2014 which he realised, with the benefit of hindsight, he was clearly obligated to do.

However, the panel concluded that, given the contradictory nature of his oral evidence and also his written representations included in the bundle, Mr Horsoo has not developed any insight into his behaviour. The panel agreed with the presenting officer's submissions and further concluded that Mr Horsoo had failed to acknowledge the impact of his behaviour on the teaching profession. He failed to have regard to the safety and wellbeing of the service user locked in his room. He also did not recognise that failing to disclose his conviction would have a negative impact on public perception of the profession.

In the circumstances, the panel considered the need to preserve the public interest and the reputation of the teaching profession outweighed the interests of Mr Horsoo. As such the panel decided that it would be proportionate for the prohibition order to be recommended with no provision for a review.

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 both in respect of sanction and review.

In this case the panel has found a number of allegations proven. Where the panel has made no such findings I have set these from my mind. Of the facts found proven, the panel has decided that those facts amount to: the conviction of a relevant offence; unacceptable professional conduct; and conduct that may bring the profession into disrepute.

I have noted that the panel has made reference to part two of the Advice published by the Secretary of State, and they found that Mr Horsoo 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.....
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

I have also taken into account the guidance published by the Secretary of State. I have taken into account the need to balance the public interest with the individual interests of Mr Horsoo. I have also taken into account the need to be proportionate.

In this case the behaviours that have been found proven and that are relevant 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;
- Dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- The commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

For the reasons set out I support the recommendation of the panel that Mr Horsoo be prohibited from teaching.

I turn next to the matter of a review period. Once again I have weighed the public interest and the interests of Mr Horsoo, and have taken into account the need to be proportionate.

I have taken into consideration the mitigation that was put forward by Mr Horsoo and note his apologies for his actions and his serious errors of judgement. I note the panel considered a lesson observation form that indicated that "Mr Horsoo is a capable and proficient teacher as demonstrated by a number of references to his good teaching".

However, I have also noted that the panel were not satisfied that this mitigated the seriousness of Mr Horsoo's conduct. The panel were deeply perturbed by Mr Horsoo's change of position during these proceedings in particular his conflicting and contradictory evidence. The panel concluded that Mr Horsoo has not developed any insight into his behaviour, and failed to acknowledge the impact of his behaviour on the teaching profession. I agree with the panel's view.

In addition, Mr Horsoo failed to have regard to the safety and wellbeing of a service user locked in his room, and he has not recognised that failing to disclose his conviction would have a negative impact on the public perception of the profession.

For these reasons I support the recommendation of the panel that this prohibition order should be without a review period.

This means that Mr Theophilus Horsoo 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 Horsoo 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 Horsoo 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 be 'J. Millions', written on a light-colored background.

Decision maker: Jayne Millions

Date: 8 August 2016

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