



National College for
Teaching & Leadership

Mr Darren Cassidy: Professional conduct panel outcome

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

November 2016

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

Teacher: Mr Darren Cassidy

Teacher ref number: 3334676

Teacher date of birth: 26 July 1969

NCTL case reference: 15327

Date of determination: 11 November 2016

Former employer: Princess Helena College, Hertfordshire,

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 November 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Darren Cassidy.

The panel members were Mr John Pemberton (former teacher panellist – in the chair), Mr Anthony Bald (teacher panellist) and Mrs Susan Iannantuoni (lay panellist).

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

Neither the presenting officer for the National College, Mr Oliver Bristow of Nabarro solicitors, nor Mr Darren Cassidy was present as this matter was convened as a meeting. Mr Cassidy was not represented either.

The meeting took place in private, save for the announcement of the panel’s decision, which was announced in public and recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 31 October 2016 (as amended as set out below).

It was alleged that Mr Cassidy was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as a teacher at Princess Helena College (“the College”) he failed to maintain appropriate professional boundaries and/or appropriate professional standards in that:

1. In 2015, in relation to Pupil A (an 18 year old female pupil) he:
 - a. exchanged mobile telephone numbers with her;
 - b. sent to her and/or received from her text messages;
 - c. kissed her on the forehead and/or hugged her;
 - d. attempted to kiss her on the lips;
 - e. spoke to her inappropriately including saying he:
 - i. “[I] think a lot about you” or words to that effect;
 - ii. “I really, really like you [Pupil A]” or words to that effect;
 - iii. “I think I love you more than any other woman” or words to that effect.
 - f. Invited her to his house.
 - g. Failed to take any action or any appropriate action when Pupil A took a number of tablets;
2. His conduct as set out at allegation 1 above was contrary to the College’s Policy and/or the staff Code of Conduct.
3. His conduct as set out at 1 above was sexually motivated.

Mr Cassidy admits the factual particulars of the above allegations in the Statement of Agreed Facts. He also admits in the Statement of Agreed Facts and in a written submission dated 8 September 2016 that such conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

Amendment of the stem of allegation 1

The panel noted there was a typographical error in the stem of allegation 1 contained within the Notice of Meeting dated 31 October 2016. The words “appropriate professional boundaries” were repeated. Such repeated words were not included in the stem of allegation 1 contained in the Statement of Agreed Facts which Mr Cassidy signed on 8 September 2016.

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 removing the repeated words in the stem of allegation 1 made no material difference to the nature of the allegations being considered by the panel. The panel was mindful that as Mr Cassidy was not present, any amendment contemplated should not introduce a more serious allegation. It may be said that the amendment contemplated reflected inaccuracies in the drafting of the stem of allegation 1 and nothing more.

In view of the fact that the amendment would not cause prejudice to Mr Cassidy the panel considered it was in the interests of justice to remove the duplicated words in the stem of allegation 1, which now reads:

“You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as a teacher at Princess Helena College (“the College”) you failed to maintain appropriate professional boundaries and/or appropriate professional standards in that:” .

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 3

Section 2: Notice of Referral, response, and Notice of Meeting – pages 4 to 11b

Section 3: Statement of Agreed Facts and presenting officer representations – pages 12 to 17

Section 4: National College’s documents – pages 19 to 74

Section 5: Teacher documents – pages 75 to 78

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

Witnesses

As this matter was convened as a meeting there was no 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.

Mr Cassidy was employed by the College as a mathematics teacher between September 2014 and June 2015. On 18 June 2015 Mr Cassidy was interviewed by staff at the College following concerns raised by Pupil A. Mr Cassidy resigned from his position at the College on 19 June 2015.

Findings of fact

The panel's findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

Whilst working as a teacher at Princess Helena College (“the College”) you failed to maintain appropriate professional boundaries and/or appropriate professional standards in that:

1. In 2015, in relation to Pupil A (an 18 year old female pupil) you:

a. exchanged mobile telephone numbers with her;

The panel noted from the Statement of Agreed Facts signed by Mr Cassidy that in or around May 2015, Mr Cassidy admits that he was aware that Pupil A was upset and he exchanged mobile telephone numbers with Pupil A. The reason for the exchange of numbers was so that Pupil A could text or call Mr Cassidy if she needed to. Mr Cassidy admits that he was aware that Pupil A stored his number under a different name so that no one knew she had his number on her telephone.

The allegation has been admitted and therefore is found proved.

b. sent to her and/or received from her text messages;

The panel noted from the Statement of Agreed Facts that Mr Cassidy admits that in May 2015 he began sending to and/or receiving from Pupil A text messages. A number of those messages were set out in the Statement of Agreed Facts. This included a message that Mr Cassidy sent that asked Pupil A if she would like some company if she was still awake as Mr Cassidy was “there” for her.

The allegation has been admitted and therefore is found proved.

c. kissed her on the forehead and/or hugged her;

The panel noted from a record of an interview with Pupil A included in the bundle that Pupil A is recorded as stating that on an occasion where Pupil A stood up in front of Mr Cassidy, Mr Cassidy hugged her and kissed her on the forehead. In the Statement of Agreed Facts Mr Cassidy admits that, in May/June 2015, after a maths lesson he kissed Pupil A on the forehead and he hugged her.

In light of the evidence and the fact that this allegation has been admitted, the panel find this allegation proved.

d. attempted to kiss her on the lips;

The panel noted from the Statement of Agreed Facts that Mr Cassidy admits sending Pupil A text messages which included a message in which Mr Cassidy apologised for “trying to kiss” Pupil A and indicates that he did not want to make her feel uncomfortable. The record of the interview with Pupil A included in the bundle states that Pupil A stated he tried to kiss her, possibly on the lips, and he ended up kissing her temple.

In light of the evidence, the panel find this allegation proved on the balance of probabilities.

e. spoke to her inappropriately including saying you:

- i. “[I] think a lot about you” or words to that effect;**
- ii. “I really, really like you [Pupil A]” or words to that effect;**
- iii. “I think I love you more than any other woman” or words to that effect.**

The panel had further regard to the record of the interview with Pupil A included in the bundle. This record suggests that Pupil A notified those she was interviewed by that Mr Cassidy said to her, “You know I think a lot about you”. The record of this interview further indicates that Mr Cassidy told Pupil A the next day that he “really, really” liked Pupil A and on a subsequent occasion he told Pupil A “I love you more than I have loved any other woman”.

In the Statement of Agreed Facts, Mr Cassidy has admitted speaking to Pupil A inappropriately when she was alone including stating words to the effect of as set out under allegations 1(e)(i) to 1(e)(iii).

In light of the evidence and the fact that this allegation has been admitted, the panel find this allegation proved.

f. Invited her to your house.

In the Statement of Agreed Facts, Mr Cassidy has admitted that “on a date unknown” (page 16) when Pupil A was in a taxi on the way back to the College, Pupil A sent him a text message(s) stating that she “was drunk”. Mr Cassidy admits he sent her his home address and told her to get the taxi driver to drop her off there. He also admits that he invited Pupil A to his house to drink alcohol and play cards.

The allegation has been admitted and therefore is found proved.

g. Failed to take any action or any appropriate action when Pupil A took a number of tablets;

The panel noted from the record of the interview with Pupil A included in the bundle that Pupil A is recorded as stating that she started taking pain killers which Mr Cassidy was aware of. She took between 4 to 14 codeine and paracetamol tablets in front of Mr Cassidy and began to feel sleepy. During this incident, Mr Cassidy brought Pupil A water and told her not to fall asleep. It is further stated in the record of interview, that Pupil A stated that Mr Cassidy tried to kiss her lips and he ended up kissing her temple as Pupil A turned her head away.

In the Statement of Agreed Facts, Mr Cassidy admits that he failed to take any action or any appropriate action when he became aware that Pupil A had taken an excessive number of painkiller tablets. He also admits that when he was looking after Pupil A, after she had taken the tablets, he attempted to kiss Pupil A on the lips.

In light of the evidence and the fact that this allegation has been admitted, the panel find this allegation proved.

Stem of allegation 1

The panel considered that each of its findings relating to allegations 1(a) to 1(g) was evidence of Mr Cassidy’s failure to maintain appropriate professional boundaries as a teacher and appropriate professional standards with regard to his behaviour towards Pupil A.

2. Your conduct as set out at allegation 1 above was contrary to the College's Policy and/or the staff Code of Conduct.

In the Statement of Agreed Facts Mr Cassidy admits that he knew or ought to have known his conduct towards Pupil A was contrary to the College's policies. The panel noted that even though there is no reference in the Statement of Agreed Facts to the College's staff Code of Conduct, that Mr Cassidy states within his two written submissions to the National College dated 27 June and 8 September 2016 respectively that he is "guilty" of all the allegations that have been made against him.

The panel took into account a note included in the bundle which summarised the allegation investigated by the College against Mr Cassidy. This note stated that a breach of the staff code of conduct policy is normally regarded as gross misconduct, as is harassment. This summary note reflects that all staff need to recognise that failure to meet appropriate standards of behaviour and conduct may result in disciplinary action including dismissal. Mr Cassidy had been accused of sexual harassment by a pupil which was evidenced via text messages between Pupil A and Mr Cassidy. This summary note also states that communicating with pupils in a manner that does not create an impression of professionalism is a breach of the College's e-safety policy.

The panel was not provided with any copy(ies) of any staff codes of conduct, e-safety policy or any other relevant policies.

Taking all available evidence into account, the panel considered it was more likely than not that the College had policies in place, at the relevant time, which would have indicated that Mr Cassidy's behaviour towards Pupil A was inappropriate. The fact that Mr Cassidy admitted this allegation was compelling and the panel find this allegation proved on the balance of probabilities.

3. Your conduct as set out at 1 above was sexually motivated.

The panel was advised by the legal advisor that it may find it helpful to ask itself whether on the balance of probabilities reasonable persons would think the words/actions found proven could be sexually motivated. If so, the panel would then need to go on to ask itself a second question: whether, in all the circumstances of the conduct in the case, it was more likely than not that Mr Cassidy's purpose of such words/actions was sexually motivated.

The panel determined that a reasonable person would consider Mr Cassidy's words or actions as set out under allegations 1(a) to 1(g) towards Pupil A was sexually motivated in that he tried to kiss her on the lips on more than one occasion and told her that he liked her and loved her.

Mr Cassidy admits in the Statement of Agreed Facts that his conduct in relation to Pupil A was sexually motivated.

The panel therefore find this allegation proven on the balance of probabilities.

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

Having found all 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 Cassidy in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Cassidy 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Exchanging text messages with Pupil A, hugging her, kissing and attempting to kiss her on more than one occasion, and failing to act appropriately when she had apparently taken a significant amount of medication, was significantly below the standards expected of the profession. The panel is therefore satisfied that the conduct of Mr Cassidy fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Cassidy’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that the offence of sexual activity is potentially relevant. The Advice 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.

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

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the

community. The panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The panel was concerned that, by his own admission, Mr Cassidy admits that he sent Pupil A a message in which he asked if she wanted company if she was "still awake". This, in the panel's view, implies that the message was sent late in the evening. The panel considers such conduct affects the way Mr Cassidy fulfils his teaching role or may have led to Pupil A being exposed to or influenced by the behaviour in a harmful way. The panel's findings of misconduct in this case are serious and the conduct displayed would likely have a negative impact on Mr Cassidy's status as a teacher, potentially damaging the public perception of the profession

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

Having found the facts of all of the particulars of the allegations proved, the panel further finds that Mr Cassidy's conduct amounts to both 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 protection of pupils, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Cassidy, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of Mr Cassidy's sexually motivated behaviour towards Pupil A.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Cassidy 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 Cassidy 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 Cassidy.

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 Cassidy. 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;
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- Sexual misconduct, e.g. 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 render a prohibition order being an inappropriate and disproportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

There was no evidence that Mr Cassidy's behaviour or actions was not deliberate or that he was acting under duress. Although there is no independent character evidence included in the bundle there is nothing to suggest that Mr Cassidy was anything other than of previous good history or record. The panel has seen no evidence that shows Mr Cassidy was previously subject to disciplinary proceedings/warnings.

The panel took into account from his written representations, that Mr Cassidy considered that his relocation and life in a rented home impacted on his judgment at the time. He comments, in these representations, that he first gave Pupil A a hug as a means of reassuring her that she would progress in her studies but then these were "offered or exchanged approximately once every week" and kisses were "offered/exchanged approximately once every two weeks". Mr Cassidy states that he "deeply regrets" and he feels "shame" and "remorse" for his actions. He also states that he will never be able to "apologise enough" regarding not taking appropriate action when Pupil A apparently

consumed a significant number of painkillers. His “senseless action” of swapping telephone numbers with Pupil A led to Mr Cassidy, in his words, turning a “blind eye” and that he had created an impossible situation for himself. Mr Cassidy states further, in his written representations, that he has vowed to never place himself in such a “hopelessly susceptible position ever again” or to risk compromising someone else’s well-being in such a “reckless fashion”. In hindsight, Mr Cassidy did not consider that he had the “crucial” skills and experience to maintain the necessary boundaries, and this had influenced him to leave the teaching profession. Finally, Mr Cassidy apologised, in his written representations, to “every single person” that has been affected by his “appalling” behaviour.

Despite Mr Cassidy’s written representations, expressing his remorse, 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 Cassidy. The negative impact that Mr Cassidy’s behaviour could have had, and possibly did have, on 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 was mindful that the Advice states 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. One of these includes “serious sexual misconduct, e.g. 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” (page 12 of the Advice). The panel has found that Mr Cassidy’s behaviour towards Pupil A, as set out in allegation 1, was sexually motivated and that this “.....had the potential to result in, harm to....” Pupil A. As a result of this, and in accordance with the Advice, the panel considered a review period would not be appropriate in this case, 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 recommendation made by the panel in respect of both sanction and review period.

The panel has found all the allegations proven and that Mr Cassidy is guilty of unprofessional conduct and conduct which may bring the profession into disrepute. The panel considers that Mr Cassidy 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has gone on to take into account the Advice published by the Secretary of State. That advice 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;
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- Sexual misconduct, e.g. 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.

I have taken into account the guidance published by the Secretary of State. I have also taken into account the need to be proportionate and to balance the interests of the teacher with the interests of the public.

I have taken into account the mitigating factors considered by the panel. I note that the panel found there was no evidence that Mr Cassidy's behaviour or actions were not deliberate or that he was acting under duress.

Despite Mr Cassidy's written representations, expressing his remorse, 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 Cassidy. I note the

negative impact that Mr Cassidy's behaviour could have had, and possibly did have, on Pupil A was a significant factor in forming that opinion. I am also mindful of Mr Cassidy's comments, that in hindsight, he did not consider that he had the "crucial" skills and experience to maintain the necessary boundaries, and this had influenced him to leave the teaching profession.

I support the recommendation made by the panel. This was a serious case and it is proportionate and in the public interest that Mr Cassidy be prohibited from teaching.

I now turn to the matter of a review period. I have taken into account the Advice which indicates that there are behaviours that, if proven, would militate against a review period being allowed. These behaviours include serious sexual misconduct. For the reasons stated above, the panel has found that this was serious sexual misconduct. I therefore support the recommendation that there be no review period.

This means that Mr Darren Cassidy 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 Cassidy 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 Cassidy 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 'JM', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date: 15 November 2016

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