



National College for
Teaching & Leadership

Mr Joshua David Gregory: Professional conduct panel outcome

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

September 2016

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	5
Documents	5
Witnesses	5
E. Decision and reasons	5
Panel's recommendation to the Secretary of State	8
Decision and reasons on behalf of the Secretary of State	9

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

Teacher: Mr Joshua David Gregory
Teacher ref number: 1167972
Teacher date of birth: 29 December 1992
NCTL case reference: 15028
Date of determination: 1 September 2016
Former employer: Nettlestone Primary School, Isle of Wight

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 1 September 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Joshua David Gregory.

The panel members were Mr Colin Parker (teacher panellist – in the chair), Cllr Gail Goodman (teacher panellist) and Ms Karen McArthur (lay panellist).

The legal adviser to the panel was Miss Victoria Callicott of Eversheds LLP.

The presenting officer for the National College was Ms Rachel Morgan of Nabarro LLP.

Mr Gregory was not present and not represented.

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 Proceedings dated 16 May 2016.

It was alleged that Mr Gregory was guilty of unacceptable professional conduct and/or bringing the profession into disrepute, in that:

He failed to maintain appropriate professional standards in that:

1. He completed an application form for a teaching post at Nettlestone Primary School in which he stated that he had a BA (QTS) Primary English Key Stage 1/2 degree, with a result of a 2:2, at a time when his degree was incomplete;
2. He provided a copy of a degree certificate and/or his literacy skills test certificate to Nettlestone Primary School which had been fraudulently created by him and/or another;
3. His conduct set out at 1 and/or 2 above was dishonest;
4. On 1 February 2016 he received a police caution from Hampshire Constabulary for the offence of making a false representation to make a gain for himself or another or cause loss to another/expose another to risk, between 1 October 2015 and 31 January 2016, contrary to section 1(2)(a) and section 2 of the Fraud Act 2006.

In his response to the notice of referral form, Mr Gregory admitted the facts of the allegations and that they amounted to unacceptable professional conduct and conduct which may bring the profession into disrepute.

C. Preliminary applications

Whilst there were no preliminary applications, the panel considered at the outset whether the allegation should be considered at a public hearing at which the parties would be entitled to attend, or a private meeting without the parties present. The panel considered the interests of justice and, given that the facts of the allegation have been admitted, that Mr Gregory had requested a meeting and the panel had the benefit of his representations, the panel was of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and

considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 2 to 3

Section 2: Notice of referral, response and notice of meeting – pages 4 to 10b

Section 3: Statement of agreed facts and presenting officer representations – pages 13 to 18

Section 4: NCTL documents – pages 21 to 70

Section 5: Teacher documents – pages 72 to 75

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

Witnesses

The matter was convened as a meeting and no oral evidence was heard.

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.

Following a period of voluntary work at Nettlestone Primary School (the “School”), Mr Gregory applied for a Newly Qualified Teacher (“NQT”) position at the School in October 2015, and he was employed by the School on a short term basis as cover for a teacher on maternity leave. Mr Gregory provided the School with what purported to be certificates for his numeracy and literacy skills tests and his degree. When seeking references, the School contacted Newman University (the “University”), where Mr Gregory said he had taken his undergraduate degree. The School was told that he had not yet completed his degree and he would not be recommended for Qualified Teacher Status due to his lack

of an honours degree and outstanding skills tests. Mr Gregory resigned from his post on 9 February 2016.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegation against Mr Gregory proven, for these reasons:

1. He completed an application form for a teaching post at Nettlestone Primary School in which he stated that he had a BA (QTS) Primary English Key Stage 1/2 degree, with a result of a 2:2, at a time when his degree was incomplete;

The panel notes Mr Gregory's admissions of the facts underlying this allegation, made in his response to the notice of referral (p.10), the statement of agreed facts (p.13) and his letter to the NCTL (p.72 to 74).

In addition, the panel has seen a copy of Mr Gregory's application to the School, which states that he attended Newman University and he achieved a "BA (QTS) Primary English Key Stage 1/2" with the result being a "2:2" (p.49).

The panel has also seen a letter from the University dated 25 January 2016, which confirms that the certificate provided had not been issued by them. In addition, the University confirmed that there was "a maths element outstanding for one module and his degree is therefore incomplete" (p.42).

In the circumstances, the panel is satisfied that there is independent evidence to support Mr Gregory's admissions, and the panel therefore finds this allegation proven.

2. He provided a copy of a degree certificate and/or his literacy skills test certificate to Nettlestone Primary School which had been fraudulently created by him and/or another;

The panel again notes Mr Gregory's admissions of the facts underlying this allegation, made in his response to the notice of referral (p.10), the statement of agreed facts (p.13) and his letter to the NCTL (p.72 to 74).

In addition, the panel has seen a copy of a certificate from Newman University which confirms that Mr Gregory "was admitted to the degree of Bachelor of Arts (Honours) in Primary Education" with "Second Class Honours (Higher Division)" on 27 October 2015 (p.41)

Further, the panel has seen a copy of a certificate from the Teaching Agency congratulating Mr Gregory on passing the literacy professional skills test for trainee teachers (p.40).

However, the letter dated 25 January 2016 from the University to the School confirmed that the degree certificate had not been issued by the University. Moreover, in relation to the literacy skills test, the University's records indicated that "whilst he has successfully passed his numeracy test, he has taken his literacy skills test on three occasions during 2014 and has failed on all three occasions. Under the new regulations he is unable to retake the literacy test for 2 years and will not be eligible until the end of April [2016] to retake the test" (p.42).

Finally, the panel has seen that Mr Gregory accepted a caution for presenting a false graduation certificate and QTS certificate under the Fraud Act 2006 (p. 21).

In the circumstances, the panel is satisfied that the certificates had been created fraudulently, and there is independent evidence to support Mr Gregory's admissions, so the panel therefore finds this allegation proven.

3. His conduct set out at 1 and/or 2 above was dishonest;

As before, the panel notes Mr Gregory's admission of his dishonesty made in his response to the notice of referral (p.10), the statement of agreed facts (p.13) and his letter to the NCTL (p.72 to 74).

In addition, the panel notes that Mr Gregory has accepted a caution for an offence involving false representation contrary to the Fraud Act 2006.

The panel is of the view that misleading a prospective employer about qualifications achieved would be deemed to be dishonest both by the standards of reasonable and honest people generally and by those of reasonable and honest teachers specifically. Further, the panel is satisfied that Mr Gregory himself knew that his actions were dishonest as admitted in the statement of agreed facts at item 19 (p.14).

The panel received and accepted advice from the legal adviser that there was a further requirement to consider two questions when deciding whether Mr Gregory's actions were dishonest.

The panel was advised that the first limb of the traditional test to which panels are referred is "whether the panel is satisfied on the balance of probabilities that Mr Gregory's actions would be regarded as dishonest according to the standard of a reasonable and honest man".

The panel was informed of a High Court case of May 2015 concerning the appeal against a decision of a Professional Conduct Panel which stated that the tribunal should first determine whether on the balance of probabilities, a defendant acted dishonestly by the standards of ordinary and honest members of that profession". If so, the panel was advised that it must then go on to determine whether or not it is more likely than not that the defendant realised that what he or she was doing was by those standards dishonest. The panel accepted that only if the answer to both these questions is yes, can

the allegation of dishonesty be established in this case. The panel was also informed that the Court of Appeal in an appeal against a criminal conviction in December 2015 held that the required standard under the objective limb was the ordinary standards of reasonable and honest people. However, the panel understands that it has yet to be seen whether that decision will be applied in the context of professional discipline proceedings, given the shift away from that test by the High Court.

In the circumstances, the panel finds this allegation proven.

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

Having found all of the allegations proven, including dishonesty, 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 notes that unacceptable professional conduct is defined as misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. In making a judgement as to whether the behaviour demonstrated falls significantly short of the standard expected of a teacher, the panel has drawn on its own knowledge and experience of the teaching profession as well as the Teachers’ Standards. In particular, the panel has found the following standards relevant in Mr Gregory’s case:

- teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that Mr Gregory’s conduct fell significantly short of the standards expected of the profession, which include acting with honesty and integrity.

The panel has also considered whether Mr Gregory’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice, which would be an indicator of unacceptable professional conduct. In the panel’s view offences of fraud or serious dishonesty are relevant to Mr Gregory’s case. The panel notes that Mr Gregory has accepted a police caution for fraud by false representation under the Fraud Act 2006. The panel also considers Mr Gregory’s actions amount to “serious dishonesty” and were manipulative, due to the fact that such dishonesty was repeated on a number of occasions over a significant period of time. Further, the panel notes that Mr Gregory’s

brother, parents and a good friend were, unwittingly or otherwise, involved in the lies of Mr Gregory.

Therefore, the panel considers that Mr Gregory's conduct fell significantly short of the standards expected of teachers. Whilst the panel notes his explanation that his family was undergoing a difficult period at that time and he did not want to disappoint his parents, this does not reduce the seriousness of his actions. Teachers are expected to uphold public trust and maintain high standards of ethics, which he has clearly failed to do.

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

Turning to the issue of conduct that may bring the profession into disrepute, 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.

In the circumstances, the panel is of the view that Mr Gregory's conduct, in deliberately lying about his educational qualifications, as well as fabricating qualification certificates, amounts to conduct which would likely have a negative impact on his status as a teacher, potentially damaging the public perception.

The panel therefore finds that Mr Gregory'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 unacceptable professional conduct and conduct that may bring the profession into disrepute, the panel has gone on to consider whether to recommend the imposition of a prohibition order by the Secretary of State. In considering this, the panel has borne in mind whether this would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. The panel is mindful that 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 on page 9 of the Advice and so has found a number of them to be relevant in this case. In particular:

- protection of pupils and other members of the public – the panel notes that part of the reason for the QTS qualification is to ensure that only suitably trained and vetted individuals are allowed to teach children. By seeking to bypass the qualification process, Mr Gregory's actions had the potential to put the wellbeing of

pupils at risk, not least because of the time and resources taken by the School to investigate the matter.

- the maintenance of public confidence in the profession - the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Gregory were not treated with the utmost seriousness when regulating the conduct of the profession.
- declaring and upholding proper standards of conduct - the panel considered that there is a strong public interest consideration in declaring proper standards of conduct in the profession, as the conduct found against Mr Gregory is outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that are present, 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 Mr Gregory.

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 Gregory. The panel has taken further account of the Advice, which suggests that a prohibition order may be appropriate if the panel finds certain behaviours of a teacher proven. These behaviours include a serious departure from the personal and professional conduct elements of the Teachers' Standards, and dishonesty, which the panel has already found apply to Mr Gregory's case.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel has gone on to consider whether or not there are sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel has no information before it regarding Mr Gregory's previous history. However, the panel notes that in the conversation between the school's headteacher and Mr Gregory on 29 February 2016, the headteacher told him he "had shown real potential in working in school" and that "he clearly had a conscience" (p.69). The panel noted that Mr Gregory's difficult family circumstances had led to his decision to "carry on the lie" (p.72). Nevertheless, the panel does not consider that he was acting under duress, and the panel is of the view that his actions were deliberate.

In the circumstances, 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 Gregory. The panel had already found the actions of Mr Gregory amounted to "serious dishonesty". The dishonesty was deliberate, manipulative and sustained over a lengthy period of time. The panel considered this to be particularly persuasive in reaching its recommendation.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order be imposed with immediate effect.

The panel has gone on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel is 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 two years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended, and these include fraud or serious dishonesty.

The panel notes that Mr Gregory has demonstrated limited regret for and no insight into the consequences of his actions but has stated that he was “totally and utterly ashamed of what I have done and I now understand the consequences that may follow because of my actions” (p.72).

The Advice provides that a lifetime prohibition is imposed with no opportunity for review is the usual recommendation in cases which involve fraud or serious dishonesty. The panel has found that Mr Gregory’s case involves both of these elements and that no substantive mitigating evidence has been offered by Mr Gregory. The panel therefore considers that these findings indicate a situation in which a review period would not be appropriate and as such has decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found all of the allegations proven, including dishonesty, and Mr Gregory has been found guilty of unprofessional conduct and conduct bringing the profession into disrepute.

I note that the panel is of the view that that the offences of fraud or serious dishonesty are relevant to Mr Gregory’s case. Mr Gregory has accepted a police caution for fraud by false representation under the Fraud Act 2006. The panel’s findings against Mr Gregory involved repeated dishonesty on a number of occasions over a significant period of time.

I have considered the public interest in this case. I note the panel has considered the particular public interest considerations, namely: the protection of pupils; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct; and have found them all to relevant in this case. I agree with the panel’s view.

I note the panel took account of the Advice, and behaviours proven in this case, and consider that Mr Gregory's conduct fell significantly short of the standards expected of teachers.

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 Gregory. I agree with that view. I agree with the panel that prohibition is both proportionate and appropriate. By seeking to bypass the qualification process, Mr Gregory's actions had the potential to put the wellbeing of pupils at risk. The panel have found serious dishonesty, and that the dishonesty was deliberate, manipulative and sustained over a lengthy period of time.

I now turn to the matter of a review period. I note that the panel has considered the Advice, which indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include fraud and serious dishonesty. The panel has found that Mr Gregory has shown such behaviour. The panel notes that Mr Gregory has demonstrated limited regret for and no insight into the consequences of his actions, however I have noted the statement that Mr Gregory was "totally and utterly ashamed of what I have done and I now understand the consequences that may follow because of my actions".

I note the panel considers it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period. No substantive mitigating evidence has been offered by Mr Gregory.

For the reasons set out above, I agree with the panel's recommendation, that a prohibition order should be imposed and that no review period should be allowed.

This means that Mr Joshua Gregory 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 Gregory 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 Gregory 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: 7 September 2016

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