



National College for
Teaching & Leadership

Michelle McCusker: Professional Conduct Panel outcome

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

July 2014

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

Teacher:	Ms Michelle McCusker
Teacher ref no:	9050015
Teacher date of birth:	17 January 1967
NCTL Case ref no:	11016
Date of Determination:	11 July 2014
Former employer:	Regents Park Community Primary School, Birmingham.

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 July 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Michelle McCusker.

The Panel members were Mr Martin Greenslade (Lay Panellist– in the Chair), Mrs Alison Walsh (Teacher Panellist) and Miss Nicole Jackson (Lay Panellist).

The Legal Adviser to the Panel was Mr Graham Miles of Blake Morgan solicitors.

The meeting took place in private and was recorded. The decisions of the Panel as to facts and unacceptable professional conduct and conduct that may bring the profession into disrepute were announced in public.

B. Allegations

The Panel considered the allegations set out in the Notice of Referral dated 24 April 2014.

It was alleged that Ms Michelle McCusker was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed as the Deputy Head Teacher at Regents Park Community Primary School, Birmingham, she:

- 1. Failed to adhere to examination guidelines surrounding the administration of SATs mathematics test papers; specifically, that she altered the answers for a significant number of children, and that her conduct in this regard was dishonest in that she sought to mislead the qualifications agency as to the attainment of pupils.**
- 2. Was dishonest in that she failed to declare when interviewed by the Standards and Testing Agency on 6/7 June 2013 in connection with the SATs papers that she had altered them.**

The teacher admitted the facts of the allegations against her and also admitted that the allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

None

D. Summary of evidence

Documents

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

- Section 1 - Chronology at page 2
- Section 2 - Notice of Referral, Response and Notice of Meeting at pages 4 to 7b
- Section 3 - Statement of Agreed Facts/Representations at pages 9 to 17
- Section 4 - NCTL documents at pages 18 to 41
- Section 5 - Teacher documents at pages 43 to 60

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

Statement of Agreed Facts

The Panel considered the Statement of Agreed Facts

E. Decision and reasons

The Panel announced its decision and reasons as follows:

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

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

Ms McCusker was employed as a Deputy Head Teacher at Regents Park Community Primary School until 31 October 2013.

Ms McCusker admits that following the collation of Year 6 mental maths test script papers after the exams were sat in May 2013, she, together with another colleague, altered a significant number of papers in such a way as to improve the marks to be awarded to the pupils concerned. Ms McCusker cannot recall how many script papers were altered, and accepts that as a result of her conduct the entire cohort of Year 6 mental maths SATs papers were annulled, causing a significant impact on the pupils concerned who had worked hard to prepare for these exams.

Ms McCusker admits that her conduct in this regard was dishonest, in that she intentionally sought to mislead the qualifications agency as to the level of attainment which pupils had achieved on these SATs papers; she accepts that her conduct would be regarded as dishonest by the public and that she was aware of this at the time that she caused the scripts to be altered.

Ms McCusker admits that she was interviewed by the Standards and Testing Agency on the 6th/7th June 2013 in connection with an investigation arising out of concerns about over-aiding students with their SATs papers generally, and that she failed to declare that she and a colleague had conspired to amend mental maths exam scripts before submission to the exam board. Ms McCusker admits her conduct in this regard was dishonest in that she concealed on this occasion relevant information which she knew would assist the Standards and Testing Agency with their enquiry.

Findings of Fact

Whilst employed as the Deputy Head Teacher at Regents Park Community Primary School, Birmingham, she:

- 1. Failed to adhere to examination guidelines surrounding the administration of SATs mathematics test papers; specifically, that she altered the answers for a significant number of children, and that her conduct in this regard was dishonest in that she sought to mislead the qualifications agency as to the attainment of pupils.**

2. Was dishonest in that she failed to declare when interviewed by the Standards and Testing Agency on 6/7 June 2013 in connection with the SATs papers that she had altered them.

We find that the facts have been proved based on the teacher's admissions and the Statement of Agreed Facts.

Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute

Ms McCusker admits unacceptable professional conduct and conduct that may bring the profession into disrepute.

We are satisfied that Ms McCusker's actions amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

This was misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The dishonest actions of Ms McCusker undermine the trust that is placed in teachers, to administer all tests and examinations with full integrity. This is aggravated by her role as Deputy Headteacher and the expectation on her to be a leadership role model.

Ms McCusker breached the personal and professional conduct elements of the Teachers' Standards in that Ms McCusker failed to:

- uphold public trust and confidence in the teaching profession and maintain high standards of ethics and behaviour
- have proper and professional regard for the ethos, policies and practices of the school in which she taught
- act within the statutory frameworks which set out her professional duties and responsibilities.

Panel's recommendation to the Secretary of State

We have considered very carefully the matters put forward in mitigation, including Ms McCusker's previous good history.

The behaviour of Ms McCusker is incompatible with continuing to be a teacher in that her actions involved:

- a serious departure from the personal and professional conduct elements of the Teachers' Standards
- abuse of a position of trust

- dishonesty, both in relation to altering the examination papers and in relation to the subsequent investigation

In considering the appropriateness of whether to recommend prohibition we have taken into account the mitigating factors. We noted that, due to an agreed timetable variation for a sick child, the examination papers had been stored but not sealed. These exceptional circumstances made it possible for the teacher to look at the papers. In what Ms McCusker described as ‘a stressful moment of madness’ she, together with a colleague, altered the answers of the mental mathematics scripts for some of the middle band children as she felt that the children understood the mathematics and should have got these answers right.

The Panel has noted that Ms McCusker has a previous good history. In particular, we noted the Ofsted report dated November 2011, which graded the school as outstanding. Furthermore, the report stated that: *“through their monitoring of teaching and learning, the senior management team are rigorous in their pursuit of excellent provision.”*

Despite these mitigating factors, it is clear that the teacher’s actions were deliberate and dishonest. Moreover, as Deputy Headteacher she was supposed to lead by example and demonstrate the highest standards of integrity. We have concluded that a Prohibition Order is necessary in the public interest in order to maintain public confidence in the profession and to declare and uphold proper standards of conduct. We are satisfied that this is a proportionate sanction.

We then considered whether to recommend whether the teacher should be allowed to apply to have the Prohibition Order set aside or whether there should be no such opportunity.

While there was clearly dishonesty and this had a major impact for the school, we did not regard it as serious dishonesty as there was no direct personal gain and the alteration of the papers was confined to a single incident arising out of exceptional circumstances. This was clearly a ‘moment of madness’ in a distinguished career that started in 1991. Moreover, the teacher shows insight, remorse and shame concerning her actions.

For these reasons, the Panel considers that the teacher should have the opportunity to apply to have the order set aside after a period of five years.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the findings and recommendations of the panel in this case.

Ms McCusker has admitted the facts and that those facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel were satisfied with these admissions.

This was clearly misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The dishonest actions of Ms McCusker have undermined the trust that is placed in teachers, to administer all tests and examinations with full integrity. This is aggravated by her role as Deputy Headteacher and the expectation on her to be a leadership role model.

Whilst the panel have taken account of Ms McCusker's previous good history, they have found her actions to be deliberate and dishonest. Having balanced the public interest with those of the teacher, the panel have recommended that a prohibition order is an appropriate and proportionate sanction and I agree.

In considering whether it would be appropriate for Ms McCusker to have provision to apply for the order to be set aside, the panel have taken account of the fact that there was no direct personal gain and the alteration of the papers was confined to a single incident arising out of exceptional circumstances. Ms McCusker has shown insight, remorse and shame concerning her actions. I agree with the panel's recommendation that Ms McCusker should be allowed to apply for the order to be set aside after a minimum period of 5 years has elapsed.

This means that Ms Michelle McCusker is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the Prohibition Order to be set aside, **but not until 21 July 2019, 5 years from the date of this order at the earliest.** If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Ms Michelle McCusker remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Ms Michelle McCusker has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this Order.



NAME OF DECISION MAKER: Paul Heathcote

Date: 14 July 2014