

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

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

Teacher: Ms Lucy Jennifer Read

Teacher ref no: N/A

Teacher date of birth: 16 October 1981

TA Case ref no: 9874

Date of Determination: 16 August 2013

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership convened on 15 August 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Lucy Jennifer Read.

The Panel members were Mr Jake Greenwood (Lay Panellist– in the Chair), Mrs Gill Goodswen (Teacher Panellist) and Ms Nicole Jackson (Lay Panellist).

The Legal Adviser to the Panel was Mr Paul Owston of Berrymans Lace Mawer LLP Solicitors.

The Presenting Officer for the National College for Teaching and Leadership was Ms Rowena Rix of Kingsley Napley LLP Solicitors.

Ms Read was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 12 June 2012, as amended (see below).

It was alleged that Ms Read was guilty of having been convicted of relevant offences, in that:

1. Offence: Battery – on 21/06/12
Court: North Essex Magistrates; 17/07/12
Sentence: fine £110; costs £50; victim surcharge £15
2. Offence: Possessing controlled drug – Class A- cocaine – on 28/11/12

- Court: North Essex Magistrates; 18/12/12
Sentence: fine £95; costs £60.00; victim surcharge £20; forfeiture and destruction
3. Offence: Possessing controlled drug – Class B- cannabis/cannabis resin – on 28/11/12
Court: North Essex Magistrates; 18/12/12
Sentence: no separate penalty; forfeiture and destruction
4. Offence: Possessing controlled drug – Class B- amphetamine – on 28/11/12
Court: North Essex Magistrates; 18/12/12
Sentence: fine £60; forfeiture and destruction

Ms Read had made no response to the Notice of Proceedings.

C. Preliminary Applications

Jurisdiction

The Panel queried whether they had jurisdiction to consider the case given the absence of definitive evidence that Ms Read was or ever had been a teacher. Ms Rix confirmed that the only evidence she could refer to was the record made by Essex Police that Ms Read had declared herself to be a teacher and that the Police had thereafter reported the matter to the Teaching Agency in accordance with the Notifiable Occupation Scheme. She had checked the register of those with Qualified Teacher Status and Ms Read was not on that. Further, internet searches had failed to yield any useful information. She submitted that, nevertheless, the Police record was sufficient evidence that Ms Read was at the time or had previously been a teacher as defined by statute and it was in the public interest to proceed on that basis.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

The Teachers' Disciplinary (England) Regulations 2012 state that a "teacher" means a person who is employed or engaged to carry out teaching work at – (a) a school in England; (b) a sixth form college in England; (c) relevant youth accommodation in England; (d) a children's home in England; or (e) when section 53 of the Education Act 2011 is fully in force, a 19 to 19 Academy.

The Regulations further state that "teaching work" consists of - (a) planning and preparing lessons and courses for pupils; (b) delivering lessons to pupils; (c) assessing the development, progress and attainment of pupils; (d) reporting on the development, progress and attainment of pupils. The activities specified are not teaching work for the purposes of the Regulations if the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher or other person nominated by the head teacher to provide such direction and supervision, which definition covers a teaching assistant.

The Panel must have a reasonable belief that Ms Read is a teacher, as defined. A reasonable belief equates to being satisfied that it is more likely than not that Ms Read is a teacher, as defined. Simply put, the Panel cannot make decision about someone who has never been a teacher.

The Panel announced its decision and reasons for that decision as follows:

We are satisfied that it is more likely than not that Ms Read has at some point been employed or engaged to carry out teaching work in accordance with the definition given in The Teachers' Disciplinary (England) Regulations 2012. It was officially recorded by the Police that Ms Read was a teacher and we can but assume that was on the basis of what she told them. Further, given that the Police must give notice to the relevant authority when a teacher is convicted of a criminal offence they might be expected to consider matters carefully when they are informed that someone is a teacher. We have noted that Ms Read is not on the register of those with Qualified Teacher Status. The definition of who is a teacher is far wider than this and therefore we do not consider that her absence from the register particularly assists us.

Proof of Service/ Proceeding in the Absence of the Teacher

Ms Rix requested that the Panel proceed in the absence of Ms Read and submitted that the essential requirements of service had been satisfied and the Panel should exercise its discretion to proceed. She produced an exchange of emails between the National College and a firm of enquiry agents, Farleigh Consultants, and the latter, in their email of 22 March 2013, confirmed that the address recorded by Essex Police of 21A Rosemary Road, Clacton-on-Sea, Essex CO15 1NZ was Ms Read's last known address. They also confirmed a previous address of 2 Paradise Place, Leiston, Suffolk IP16 4DW, which was where the National College had sent a letter dated 11 July 2013 to Ms Read informing her again about the hearing. Further to an enquiry by the Panel about the methods used by the enquiry agents, Ms Rix produced a telephone enquiries log sheet dated 15 August 2013 detailing a telephone conversation between the National College and the enquiry agents in which the latter explained the search methods they used.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

The Panel first needs to be satisfied that the Notice of Proceedings has been served in accordance with Rule 4.10 of The Disciplinary Procedures for the regulation of the teaching profession. In particular, the Notice must be served at least eight weeks before the hearing date, unless otherwise agreed with the teacher.

Further to section 19 of The Teachers' Disciplinary (England) Regulations 2012 anything required to be served on a teacher may be sent to or left at the teacher's last known address.

The Notice of Proceedings is dated 12 June 2013 and has therefore been properly served more than 8 weeks prior to the hearing. Further, Ms Rix has provided evidence that the Notice was sent to the last known address for Ms Read, namely

21A Rosemary Road, Clacton-on-Sea, which is the address referred to in the letter from Essex Police to the Teaching Agency dated 21 December 2012 and an enquiry agent's email to the National College dated 22 March 2013. Further, Ms Rix has provided evidence, in the form of the enquiry agent's email that Ms Read was residing at this address.

On that basis the Panel can be satisfied that the Notice has been sent in accordance with Rule 4.10.

If so satisfied, the Panel has discretion to proceed with the hearing in the absence of Ms Read or adjourn. They should take into consideration any representations by Ms Rix, no submissions having been made on behalf of Ms Read. In exercising its discretion the Panel has to proceed with great care and caution and with close regard to the overall fairness of the proceedings. The Panel should have regard to the guidance contained in the cases of *R v Jones* and *Tait v Royal College of Veterinary Surgeons*. In particular the Panel should take into account the following:-

1. The risk of reaching the wrong conclusion as a result of not being able to hear from Ms Read;

It is of relevance in this regard that the case relates to convictions and the formal records in that regard are strong evidence about the facts of the matter.

2. The nature and circumstances of the behaviour of Ms Read in absenting herself and whether the behaviour was voluntary and if so whether she had plainly waived her right to be present.

The Panel can only speculate on the reasons for Ms Read's absence given her failure to engage with the proceedings or respond to the Notice of Proceedings but can take that into account and again Ms Rix has provided evidence that the Notice was sent to the address where Ms Read was residing, with a further letter dated 11 July 2013 sent to a previous address noted by the enquiry agents.

3. Whether an adjournment would resolve the matter and if so the likely length of such an adjournment.

Again, in the absence of any engagement with the proceedings or response to the Notice of Proceedings the Panel can only speculate if Ms Read will take part in any future hearing.

4. The Panel can also take into account the general public interest and the proper regulation of the profession and the protection of the public and the need for a hearing to take place in a reasonable time;

The Panel should give reasons for its decision.

The Panel announced its decision and reasons as follows:

We have decided to proceed in the absence of Ms Read for the following reasons:-

We are satisfied that the Notice of Proceedings has been served in accordance with Rule 4.10 of The Disciplinary Procedures for the regulation of the teaching profession. The Notice was sent to Ms Read on 12 June 2013 and we are satisfied on the basis of the evidence provided by the Presenting Officer that it was sent to the correct address.

We have carefully considered whether in the absence of Ms Read the proceedings can be dealt with fairly having regard to the guidance in R v Jones and Tait v Royal College of Veterinary Surgeons. Taking the criteria referred to by the Legal Adviser in turn:-

Having regard to the nature of the case, which relates to formally recorded convictions, we consider that there is sufficient evidence before us to properly consider the case.

We have noted that despite the likely receipt of the Notice of Proceedings and/or other correspondence Ms Read has not engaged with the proceedings. In the circumstances we are satisfied that Ms Read has voluntarily declined to take part in the proceedings and therefore waived her right to be present.

We do not consider that an adjournment would assist in resolving the matter since we believe that we can fairly deal with the proceedings today. Further, Ms Read has not made an application for an adjournment or engaged with the proceedings.

The public interest determines that a hearing should take place within a reasonable time and we have taken account of the general public interest in the proper regulation of the profession and the protection of the public. The Panel has no reason to believe that Ms Read would be more likely to attend a hearing at a later date.

Application to Amend Allegations

Ms Rix informed the Panel that she wished to withdraw the item that formed the first part of the allegation, namely:

1. Offence: Using disorderly behaviour or threatening/abusive/insulting words likely to cause harassment, alarm or distress on 26/01/2008
Court: Suffolk Constabulary; 31/03/2008
Sentence: Caution

On the basis that this was a caution rather than a conviction and therefore was not covered by the statutory definition of a relevant conviction.

The Legal Adviser declared the following advice:

Further to Rule 4.55 of The Disciplinary Procedures for the regulation of the teaching profession the Panel may, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage prior to making its findings of fact.

Before making an amendment the Panel should consider any representations by Ms Rix, again, no submissions having been made by Ms Read.

The proposed amendment relates to the removal of an allegation and therefore raises no concerns about the fairness of the hearing.

The Panel confirmed that they would agree to the amendment for the reason submitted by Ms Rix and the items forming the allegation would be re-numbered accordingly (as above).

D. Summary of Evidence

Documents

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

Notice of Proceedings and letter chasing response – on pages 2 – 9A

Teaching Agency witness statement – on pages 10 – 12

Teaching Agency documents – on pages 13 - 37

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

Opening statement and submissions

Ms Rix addressed the Panel on the facts of the case and the evidence in that regard. She made submissions on the findings she invited the Panel to make in relation to the facts and the issue of conviction of a relevant offence. After the Panel delivered its announced decision she made further submissions with regard to the Panel's recommendation to the Secretary of State.

E. Decision and Reasons

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

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

It is alleged that Ms Read was convicted of four relevant offences, one of Battery and three related offences of possessing controlled drugs – one of Class A and two of Class B.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against Ms Read proven, for these reasons:

1. On 17 July 2012 she was convicted of the offence of Battery, on 21 June 2012, at North Essex Magistrates Court. As a result of this conviction she was ordered to pay a fine of £110, costs of £50 and a victim surcharge of £15.
2. On 18 December 2012 she was convicted of the offence of possessing a controlled drug, Class A – Cocaine, on 28 November 2012, at North Essex Magistrates Court. As a result of this conviction she was ordered to pay a fine of £95, costs of £60, victim surcharge £20 and an order was made for forfeiture and destruction.
3. On 18 December 2012 she was convicted of the offence of possessing a controlled drug, Class B – Cannabis/Cannabis Resin, on 28 November 2012, at North Essex Magistrates Court. There was no separate penalty and an order made for forfeiture and destruction.
4. On 18 December 2012 she was convicted of the offence of possessing a controlled drug, Class B – Amphetamine, on 28 November 2012, at North Essex Magistrates Court. As a result of this conviction she was ordered to pay a fine of £60 and an order made for forfeiture and destruction.

We have accepted the evidence in the Police National Computer Record dated 21 December 2012, the Memoranda of Convictions from North Essex Magistrates Court dated 20 March 2013, the letters from Essex Police dated 21 & 27 December 2012 and the Police Report dated 28 November 2012.

Conviction of Relevant Offences

Having found that Ms Read was convicted of the offences as at 1 – 4 above we further find that they are relevant offences.

We consider that the offences are relevant to Ms Read's fitness to be a teacher.

In relation to all four offences Ms Read failed to demonstrate consistently high standards of personal conduct. Specifically, she failed to uphold public trust in the teaching profession and maintain high standards of ethics and behaviour outside of school.

It is unacceptable for a teacher to engage in violent behaviour particularly when they are convicted of the offence of Battery. It is likewise unacceptable for a teacher to engage in any activity involving a Class A controlled drug much less that they have that and other controlled substances in some quantity about their person. The public would rightly consider that all this behaviour was entirely inappropriate for a teacher and that the subsequent convictions would have a serious impact on a person's fitness to be a teacher. Further, whilst there is no evidence that any of these matters

are connected to Ms Read's work as a teacher they do raise questions about the safety and security of pupils in her care.

Panel's Recommendation to the Secretary of State

When considering what sanction, if any, to recommend we have had regard to "Teacher misconduct - the prohibition of teachers – DfE advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession". In particular we have had regard to the protection of children, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. We have sought to approach the issue bearing in mind the principle of proportionality. We have concluded that in this instance it is appropriate to recommend that a Prohibition Order be made.

We have carefully considered the documents that we have been provided with and the submissions made by Ms Rix.

Ms Read's behaviour is incompatible with being a teacher because two of the offences that she committed were serious criminal offences, involving violence and a Class A controlled drug, and the behaviour that led to them constituted a serious departure from the personal conduct elements of the latest Teacher's Standards, as published by, or on behalf of the Secretary of State. Further, the convictions suggest evidence of a deep seated attitude that leads to harmful behaviour (noting the earlier caution).

Ms Read has not presented any mitigation for us to consider or taken any part in these proceedings. Nevertheless, we have noted that the sentences imposed for all the offences were at the bottom end of the scale and another person was involved. This suggests that the magistrates did not consider that Ms Read's behaviour was at the more serious end of the spectrum and raises the potential for coercion. Accordingly, we recommend that Ms Read should be allowed to apply to set aside the Prohibition Order but not before three years have elapsed. At that stage sufficient time will have elapsed for Ms Read to reflect on the matters before us and she should be allowed the opportunity of explaining why she might then be a suitable person to be allowed to teach.

Decision and Reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations of the panel in respect of both sanction and review period.

The convictions are for battery and possession of Class A and Class B drugs. These are serious offences and the panel has made it clear that they consider them to be relevant. I have considered the recommendation made by the Panel that Ms Read is prohibited. I support this recommendation because I think that the offences are relevant and that they represent behaviour that is serious and falls significantly short of the behaviours expected of a teacher. Moreover, I have considered whether a Prohibition Order is proportionate, and in my view it is because of the seriousness of the offences.

I have also given careful consideration to the issue of a review period. These are serious convictions, and it is proportionate that Ms Read is prohibited. Prohibition is for life, and any review will require Ms Read to demonstrate that she is a suitable person to be able to return to teaching. For the reasons given, I accept the recommendation of the Panel that the review period should be greater than the minimum period allowable, and that Ms Read should be able to make an application after three years has elapsed. Unless that application is successful, Ms Read will remain prohibited.

This means that Ms Lucy Read 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 23 August 2016, 3 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 Lucy Read remains barred from teaching indefinitely.

This Order takes effect from 23 August 2013 the date on which it is served on the Teacher.

Ms Lucy Read 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: Alan Meyrick

Date: 16 August 2013

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