



National College for
Teaching & Leadership

Ms Michelle Louise Truman: Professional Conduct Panel outcome

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

February 2014

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	4
Documents	4
Witnesses	5
E. Decision and reasons	5
Panel's recommendation to the Secretary of State	10
Decision and reasons on behalf of the Secretary of State	13

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

Teacher:	Ms Michelle Louise Truman
Teacher ref no:	02/44695
Teacher date of birth:	26 September 1967
NCTL Case ref no:	10278
Date of Determination:	7 February 2014
Former employer:	Swindon Academy

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 7 February 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Michelle Truman.

The Panel members were Gill Goodswen (Teacher Panellist – in the Chair), Melvyn Kershaw (Teacher Panellist) and Tapan Debnath (Lay Panellist).

The Legal Adviser to the Panel was Isabelle Mitchell of Eversheds Solicitors.

The Presenting Officer for the National College was Mary Page of Kingsley Napley Solicitors.

The Presenting Officer and Ms Michelle Truman were not present as this was a meeting of the Professional Conduct Panel, rather than a hearing.

The meeting took place in private. The decision as to facts and unacceptable professional conduct and / or conduct that may bring the profession into disrepute and / or conviction of a relevant offence was announced in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the amended Notice of Meeting dated 5 February 2014, which Ms Truman confirmed she had received.

It was alleged that Ms Michelle Truman was guilty of unacceptable professional conduct and / or conduct that may bring the profession into disrepute and has relevant convictions, in that whilst employed at Swindon Academy, she:

1. On 20 December 2012 inappropriately restrained Pupil A by her neck against the wall;
2. Failed to notify her employer of an incident that incurred in August 2012, that resulted in her receiving a criminal conviction for battery, despite:
 - a. Declaring in the Academy's annual safeguarding status that you had 'not been involved in any activity / incident in the last twelve months which might result in a change to her CRB status.
3. The actions at paragraph 2(a) above were dishonest;
4. On 15 January 2013 received a conviction at Gwent Magistrates on the following counts:
 - a. Battery by common assault of Person A on 24 August 2012, for which she was fined £450, ordered to pay costs of £450, compensation to the victim of £50 and for which a restraining order – protection from harassment was put in place until 14 January 2014.
 - b. Battery by common assault of Person B on 24 August 2012, for which she was ordered to pay compensation to the victim of £50 and for which a restraining order – protection from harassment was put in place until 14 January 2014.

In a signed Statement of Agreed Facts, Ms Truman admits the facts of the allegation and has confirmed that the admitted facts amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

D. Summary of evidence

Documents

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

Section 1: Anonymised Pupil List (Pages 1 to 2)

Section 2: Notice of Referral, Response and Notice of Meeting (Pages 3 to 8b)

Section 3: Statement of Agreed Facts / Representations (Pages 9 to 29)

Section 4: NCTL Documents (Pages 30 to 166)

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

Witnesses

Convened as a meeting, the Panel heard no oral evidence.

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.

Summary of Evidence

A Statement of Agreed Facts was signed by Ms Truman on 12 December 2013 and by the Presenting Officer on 4 February 2014. The Statement of Agreed Facts confirmed that Ms Truman admitted all of the alleged facts and admitted that the facts amounted to unacceptable professional conduct and / or conduct that may bring the profession into disrepute. Furthermore, in the Statement of Agreed Facts Ms Truman admitted that her conviction dated 13 January 2013 was of a relevant offence, in that it was conduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

The Statement of Agreed Facts confirmed that Ms Truman was initially employed at Swindon Academy as a supply teacher, between 12 to 30 March 2012 and 16 April to 20 July 2012. Ms Truman then accepted a full time position on 20 July 2012.

On 20 December 2012, there was an incident at school involving Ms Truman and Pupil A. It is accepted that Pupil A was a very volatile and difficult student. On 20 December 2012, Pupil A was standing in the corridor outside Ms Truman's classroom, having already refused to move when asked by another teacher. Ms Truman came outside the classroom and asked Pupil A to move. Ms Truman returned to the classroom, and then became aware that Pupil A had not moved when another pupil in her class tried to engage in a conversation with Pupil A. Ms Truman went outside the classroom and

asked Pupil A to move again. Pupil A continued to refuse to move, and Ms Truman issued Pupil A with the necessary warnings. Following a further discussion with Pupil A, Ms Truman says Pupil A told her to 'fuck off'. Ms Truman stated that when Pupil A saw the On Call Officer / Response Officer (responsible for managing pupils' behaviour) coming down the corridor she 'dropped her shoulder' into Ms Truman, and as Ms Truman stepped back Pupil A 'elbowed her and then hit her'. Ms Truman says she then lost her balance and restrained Pupil A to prevent her from moving away. The Statement of Agreed Facts records the various statements given by Ms Truman immediately following the investigation and during the disciplinary proceedings by the school. Ms Truman does not specify in those statements whether or not she restrained Pupil A by her neck against the wall. However, Ms Truman does admit the facts of the allegations. Person C account of the incident was that Ms Truman restrained Pupil A by her neck.

The Statement of Agreed Facts confirms that on 24 August 2012, Ms Truman was involved in an incident outside of school, concerning an altercation with a Person A and a Person B (as spelled on the Court register). On 21 October 2012, Ms Truman was arrested on suspicion of assaulting Person A and Person B and was later charged with two counts of assault. On 8 November 2012, Ms Truman appeared at Abergavenny Magistrates Court where she entered a not guilty plea. On 15 January 2013, Ms Truman was found guilty of the two counts of assault.

In September 2012, Ms Truman attended an informal meeting with Person D , to discuss the results of the Criminal Records Bureau (CRB) check carried out on Ms Truman. The results had revealed that Ms Truman had a conviction for a violent offence dating back to 1986. Ms Truman explained that the offence occurred when she was very young and said that she had not been involved in any incidents since and had not received any convictions or cautions.

On 5 November 2012, Ms Truman signed the Annual Renewal of Safeguarding Status which confirmed that she had not been involved in any activity / incident in the last 12 months which might result in a change to her CRB status. The Statement of Agreed Facts states that in signing the Safeguarding Status, Ms Truman 'deliberately and dishonestly led the Academy to believe that she had not been involved in any incidents that may affect her CRB status'.

Findings of Fact

Our findings of fact are as follows:

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

- 1. On 20 December 2012 inappropriately restrained Pupil A by her neck against the wall**

We find the facts proved based on Ms Truman's admission and the content of the Statement of Agreed Facts.

On 21 October 2013, Ms Truman returned a Notice of Referral Form admitting the allegations set out in the Notice of Referral. She further confirmed that the admitted facts amounted to unacceptable professional conduct and / or conduct that may bring the profession into disrepute.

The Panel have in their bundle of papers, at pages 10 – 25, the Statement of Agreed Facts signed by Ms Truman on 12 December 2013 and by the Presenting Officer on 4 February 2014.

2. Failed to notify her employer of an incident that incurred in August 2012, that resulted in her receiving a criminal conviction for battery, despite:

a. Declaring in the Academy's annual safeguarding status that she had 'not been involved in any activity / incident in the last twelve months which might result in a change to her CRB status

Again, we find the facts of the particular proved based on Ms Truman's admission and the content of the Statement of Agreed Facts. We also note that a copy of the Annual Renewal of Safeguarding Status signed by Ms Truman on 5 November 2012, this being two weeks after her arrest for the incident which took place in August 2012, is contained at page 104 of the bundle of papers.

3. The actions at paragraph 2(a) above were dishonest

Again, we find the facts of the particular proved based on Ms Truman's admission and the content of the Statement of Agreed Facts. At pages 13 to 14 of the Statement of Agreed Facts, it states that "in signing the Safeguarding Status, Michelle Truman deliberately and dishonestly led the Academy to believe that she had not been involved in any incidents that may affect her CRB status."

We find the facts proved based on Ms Truman's admission, the content of the Statement of Agreed Facts, and the Annual Renewal of Safeguarding Status document. We consider that Ms Truman was aware of what she was signing and was aware that in doing so she was being dishonest in not declaring the incident that occurred in August 2012, and a reasonable and honest person would consider such actions to be dishonest.

4. On 15 January 2013 received a conviction at Gwent Magistrates on the following counts:

a. Battery by common assault of Person A on 24 August 2012, for which she was fined £450, ordered to pay costs of £450, compensation to the victim of £50 and for which a restraining order – protection from harassment was put in place until 14 January 2014

- b. Battery by common assault of Person B on 24 August 2012, for which she was ordered to pay compensation to the victim of £50 and for which a restraining order – protection from harassment was put in place until 14 January 2014**

We have noted that pages 88 – 91 of the bundle of papers contain the register of the Gwent Magistrates Court recording the convictions that were recorded against Ms Truman on 15 January 2013. In accordance with page 6 of the Guidance, the Panel has accepted the papers as conclusive proof that establishes relevant facts. The Panel does note the circumstances of the events that led to the conviction.

We therefore find the facts proved based on Ms Truman's admission, the content of the Statement of Agreed Facts and the register of Gwent Magistrates Court at pages 88 – 91.

Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute and/or conviction of a relevant offence

Ms Truman has admitted that the facts amount to unacceptable professional conduct, conduct that may bring the profession into disrepute and conviction of a relevant offence. However, the Panel must make its own judgement and determination.

In considering the allegations that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'.

The Panel is satisfied that the conduct of Ms Truman in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Ms Truman 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;
- 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 the conduct of Ms Truman fell significantly short of the standards expected of the profession. In signing the Safeguarding Status, despite being aware that she had been involved in an incident which may affect her CRB status, Ms Truman failed to have regard for the need to safeguard pupils. Ms Truman's actions during the incident with Pupil A were also in contravention of the standard to treat pupils with dignity and maintain high standards of ethics and behaviour. Ms Truman also failed to have regard for the ethos, policies and practices of the school, which described how pupils' behaviour should be managed and stated that force should only be used to "de-escalate potentially dangerous situations".

The Panel has also considered whether Ms Truman's conduct in respect of allegations 1 to 3 displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance, even though Ms Truman was not convicted of any offence in respect of those allegations. The Guidance 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. The Panel considered whether or not Ms Truman's actions, in inappropriately restraining a pupil by the neck, showed behaviours associated with a violent offence. The Panel has seen from the facts that Ms Truman was dealing with poor behaviour from Pupil A, who was being difficult and abusive. The incident was clearly an altercation that got out of hand and Ms Truman restrained Pupil A. This was absolutely unacceptable behaviour and the school's policies, and indeed the teaching profession more widely, say that teachers should not use force against pupils unless absolutely necessary. Ms Truman clearly found herself in a challenging situation where she had to deal with a difficult pupil. However, the Panel does not believe that force was necessary in these circumstances. The evidence does not suggest this was a calm, professional or necessary restraint. Therefore, the Panel believes that Ms Truman's conduct in restraining Pupil A, using an unwarranted use of force, displayed behaviours associated with a violent offence.

Accordingly, the Panel is satisfied that Ms Truman is guilty of unacceptable professional conduct.

In relation to allegation 4, the Panel noted that Ms Truman's behaviour did not lead to a sentence of imprisonment, which is indicative that the offence was at the less serious end of the possible spectrum, although restraining orders were imposed. This is however a case involving convictions for common assault, and therefore involves violence, which the Guidance states is likely to be considered a relevant offence.

The Panel has considered the nature and circumstances of the offences, and considered whether the behaviour involved in committing the offences would be likely to have an impact on the safety or security of pupils or members of the public. The Panel noted that the convictions involved an incident concerning a family feud. It did not take place in an education setting or involve any pupils. Therefore, the Panel do not consider there is any

evidence to confirm that Ms Truman's actions would have an impact on the safety or security of pupils or members of the public.

The Panel has however found that the seriousness of the offending behaviour that led to the convictions is relevant to Ms Truman's ongoing suitability to teach. The Panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Finally, 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 pupil's 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 conduct displayed would likely have a negative impact on Ms Truman's status as a teacher, potentially damaging the public perception of the profession.

The Panel therefore also finds that Ms Truman's actions 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, conduct that may bring the profession into disrepute, and conviction of a relevant offence, 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 Teacher Misconduct – Prohibition of Teachers 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 and declaring and upholding proper standards of conduct.

In light of the Panel's findings against Ms Truman, particularly the finding concerning the physical restraint of Pupil A, there is a strong public interest consideration in respect of the protection of pupils. Ms Truman exercised poor judgement in managing the behaviour of Pupil A and the Panel considered that there may therefore be a risk that Ms

Truman will be unable to uphold the necessary standards in the future. Similarly, the Panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Truman were not treated with the utmost seriousness when regulating the conduct of the profession, particularly as the conduct involved convictions for assault and dishonest conduct.

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 Ms Truman was serious and 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 Ms Truman. 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 Ms Truman.

The Panel took further account of the Teacher Misconduct – Prohibition of Teachers 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, the Panel considers the following to be relevant:

- 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 Panel considered whether the commission of a serious criminal offence, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures, was relevant in this case. The Disclosure and Barring Service's guidance states that battery for common assault will only be a 'relevant matter' where committed against a child or young person. As the convictions were for assault against two adults, this was not relevant.

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 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. In relation to signing the Safeguarding Status, Ms Truman's actions were clearly deliberate. This was an opportunity for Ms Truman to disclose to the school the incident that occurred in August 2012 and instead she chose to dishonestly sign the renewal. In relation to the altercation with Pupil A, the Panel does not consider that Ms Truman was acting under duress. However, Pupil A was clearly being abusive

and difficult, and Ms Truman responded to that behaviour. Nevertheless, her response was entirely inappropriate.

Ms Truman has presented very little mitigating evidence in relation to her actions. There is also no evidence within the papers of Ms Truman's previous history and conduct as a teacher. For example, no character references have been provided. In light of the historical conviction for a violent offence in 1986, the convictions in January 2013 and the incident involving Pupil A, the Panel is unable to conclude that Ms Truman has a previously good history.

Taking all of these factors into account, the Panel is of the view that Prohibition is both proportionate and appropriate. The Panel decided that the public interest considerations outweigh the interests of Ms Truman. 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 were mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises 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 Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include violence and serious dishonesty.

In respect of dishonesty, Ms Truman was dishonest in that she signed the Safeguarding Status confirming that she had not been involved in any activity / incident in the last 12 months which might result in a change to her CRB status, when she had been arrested for common assault only two weeks prior. During the school's disciplinary proceedings, Ms Truman said that her solicitor had advised her that she was not obliged to disclose her arrest to the school given that she had not yet been convicted. The Panel however considers that in signing the renewal, Ms Truman was deliberately dishonest. Having said that, the Panel does not believe this was a case of 'serious dishonesty' as Ms Truman was not repeatedly dishonest with the school and in fact admitted it as soon as she was confronted by the Principal in January 2013.

In respect of behaviours relating to violence, the convictions against Ms Truman and the incident involving Pupil A did involve violent behaviour on the part of Ms Truman. However, whilst the Panel recognises that these findings are very significant and serious, it does consider that they are at the lower end of the spectrum. The convictions related to a family feud where emotions were clearly running high. In relation to the incident with Pupil A, although her actions were completely inappropriate, Ms Truman's actions were

one of restraint, rather than proactive violence, and as stated above Ms Truman was responding to challenging and difficult behaviour.

In reaching its recommendation the Panel has also considered the extent to which Ms Truman has shown insight into her actions. The Panel has noted that Ms Truman has admitted all of the allegations and admitted that they amounted to unacceptable professional conduct.

Taking into account the circumstances and nature of Ms Truman's behaviour, the Panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended with a review period of five years.

In considering the appropriate review period to recommend, the Panel did not feel that the minimum review period of two years would be appropriate in these circumstances, given the seriousness of the findings against Ms Truman. The Panel felt that five years would allow Ms Truman an opportunity to reflect on her conduct and rehabilitate. Ms Truman has already taken a step towards rehabilitation given that she has admitted the allegations, and a five year period would allow her time to demonstrate her commitment to teaching and that she is capable of being a fit and suitable teacher in the future. The Panel was also mindful of the fact that Ms Truman would be required to make a proactive application to set aside the Prohibition Order, and in doing so she would have to be able to demonstrate that she was committed to adhering to the personal and professional conduct standards in the future. Therefore, the Panel felt that five years would be a proportionate period of time to recommend.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the panel's findings and recommendations in this case. The panel have found proven all the allegations and have judged that those facts amount to unacceptable professional conduct, conduct that may bring the profession into disrepute and conviction of a relevant offence.

In considering whether a prohibition order should be imposed the panel have given full consideration as to whether to do so would be appropriate and proportionate and in the public interest. They have identified that several public interest considerations are relevant in this case namely the protection of pupils, the maintenance of public confidence in the profession and upholding proper standards of conduct.

The panel considered whether there were sufficient mitigating factors to militate against a prohibition order being imposed. In relation to the Safeguarding Status, Ms Truman's actions were deliberate. There was an opportunity for her to disclose

the incident in 2012 but she chose to dishonestly sign the renewal without declaring this incident. Ms Truman has presented very little mitigating evidence in relation to her actions. There is also no evidence within the papers of Ms Truman's previous good history and conduct.

Taking all these factors into account I agree with the panel's recommendation that a prohibition order is an appropriate sanction.

The panel then went on to consider whether a review period would be appropriate. Whilst they have found dishonesty it is the panel's view that her actions do not amount to serious dishonesty. In terms of behaviours relating to violence the panel have judged that this was not pre-meditated violence but reaction to difficult and challenging behaviour.

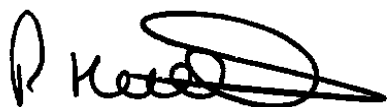
In the circumstances I agree with the panel's judgement that Ms Truman should be allowed to apply to have the order set aside after a minimum period of 5 years has elapsed.

This means that Ms Michelle Louise Truman 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 17 February 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 Louise Truman remains barred from teaching indefinitely.

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

Ms Michelle Louise Truman 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

A handwritten signature in black ink, appearing to read 'P Heathcote', with a large, sweeping flourish at the end.

Date: 10 February 2014

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