

## NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Decision of a Professional Conduct Panel and the Secretary of State

**Teacher:** Mr David Livesay (aka Mr Livesey)  
**Teacher ref no:** 08/47376  
**Teacher date of birth:** 22 October 1984  
**NCTL Case ref no:** 9779  
**Date of Determination:** 8 April 2013  
**Former Employer:** St John Plessington Catholic College, Bebington

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### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership convened in private meeting on Monday 8 April 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr David Livesay (aka Mr Livesey).

The Panel members were Mr Stewart McKane (Teacher Panellist in the Chair), Mr Stan Szaroleta (Lay Panellist), Ms Cynthia Bartlett (Teacher Panellist).

The Legal Adviser to the Panel was Mr Paddy Roche of Morgan Cole LLP Solicitors.

The meeting took place in private and the announced decision was recorded.

### **B. Allegations**

The Panel considered the allegations set out in the Notice of Meeting dated 12 March 2013.

It was alleged that Mr David Livesay (aka Mr Livesey) was guilty of Conviction, at any time of a Relevant Offence, in that:-

1. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence on 12 March 2010. He was sentenced to a period of imprisonment for 14 months and placed on the Sex Offenders Register for a period of 10 years.
2. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.

3. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
4. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
5. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
6. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
7. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
8. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
9. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
10. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.

## **C. Summary of Evidence**

### Documents

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

Section 1	Anonymised Pupil List.	Pages 2 to 3.
Section 2	Notice of Referral and Response.	Pages 5 to 9.
Section 3	Statement of Agreed Facts/Representations.	Pages 11 to 18.
Section 4	Teaching Agency Documents.	Pages 19 to 28.

## **D. Panel's 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.*

This case concerns allegations that while employed as a teacher of music at St John Plessington Catholic College Bebington Mr Livesay (aka Mr Livesey) formed a relationship with Student A. Following her sixteenth birthday he engaged in sexual touching and sexual intercourse with her on several occasions while she was still a student at the College. He was prosecuted and convicted on his own plea of guilty at Liverpool Crown Court of 10 separate charges of sexual activity with a female aged 13-17 whom he did not believe to be over 18 while in a position of trust - contrary to s 16(1)(a) Sexual Offences Act 2003. On 28 September 2012 he was sentenced to 14 months immediate imprisonment and placed on the Sex Offenders Register for a period of 10 years. The National College allege that these are convictions of offences which are relevant to Mr Livesay's (aka Mr Livesey's) suitability to be a teacher.

### Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against David Livesay (aka David Livesey) proven:-

1. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence on 12 March 2010. He was sentenced to a period of imprisonment for 14 months and placed on the Sex Offenders Register for a period of 10 years.
2. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a

- period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
3. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.
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  10. On 28 September 2012 he was convicted at Liverpool Crown Court of the offence of Sexual Act with a Female 13 – 17. He committed this offence between 12 March 2010 and 16 February 2011. He was sentenced to a period of imprisonment for 14 months (concurrent) and placed on the Sex Offenders Register for a period of 10 years.

And our reasons are that we have relied upon Mr Livesay's (aka Mr Livesey's) admission, the statement of agreed facts (pp 11-14) and the Certificate of Conviction from Liverpool Crown Court (p 27).

### Findings as to Conviction of a Relevant Offence

We are satisfied that these are offences that are relevant to Mr Livesay's (aka Mr Livesey's) fitness to be a teacher. His behaviour towards Student A showed a gross failure to observe the standards of personal and professional conduct expected of a teacher and represented an abuse of his position of trust towards Student A. He has been convicted of serious sexual offences towards Student A which were regarded as so serious that they led to a sentence of immediate imprisonment of 14 months. Clearly his conduct would have both had a serious impact on Student A and undermined public confidence in the profession.

### **Panel's Recommendation to the Secretary of State**

#### Recommendation to Secretary of State

On page 15 of the case papers Mr Livesay (aka Mr Livesey) says he does not wish to offer any mitigation although he indicates that he deeply regrets his actions and any disrepute this has brought upon the profession. We have noted those observations but do not feel we can give much, if any, weight to them.

This was not an isolated incident but Mr Livesay (aka Mr Livesey) engaged in a course of conduct that continued for a year or so. He admitted ten specific counts of sexual activity with Student A – some of those incidents occurring in a park and at a Church. These actions were plainly deliberate and persistent and Mr Livesay (aka Mr Livesey), worryingly makes no mention at all of the emotional damage that may have been caused to Student A.

We are very concerned about this case and particularly the potential risk to pupils with whom Mr Livesay (aka Mr Livesey) may come into contact in the future should he be allowed to return to teaching.

We have no doubt at all that a Prohibition Order should be made in this case. Prohibition Orders are made in the public interest which includes protection of the public, maintaining professional standards and upholding the reputation of the profession. On all those grounds a Prohibition Order, in our judgement, should be imposed.

In particular our concerns about Mr Livesay (aka Mr Livesey)'s serious sexual misconduct over a substantial period of time, the gross nature of his disregard for the welfare of Student A and the abuse of trust demonstrated by his behaviour lead us to conclude that, in the interests of future pupils, there should be no review period.

### **Secretary of State's Decision and Reasons**

I have given very careful consideration to this case and to the recommendation of the panel.

This is a very serious case which resulted in ten convictions and a custodial sentence for the offence of a sexual act with a female aged 13-17. Mr Livesay (aka Mr Livesey) engaged in a deliberate course of conduct which seriously fell below the standards expected of a teacher. His behaviour had no regard for the welfare of the pupil and he has offered no mitigation.

I support the recommendation that Mr Livesay (aka Mr Livesey) be prohibited from teaching and that there be no review period. I believe that this is in the public interest and is proportionate.

This means that Mr David Livesay (aka Mr Livesey) 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 David Livesay (aka Mr Livesey) 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 David Livesay (aka Mr Livesey) 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.

**NAME OF DECISION MAKER: Alan Meyrick**  
**DATE: 10 April 2013**