



National College for
Teaching & Leadership

Ms Jacqui Symes: Professional Conduct Panel outcome

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

February 2014

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

Teacher:	Ms Jacqui Symes
Teacher ref no:	85/68455
Teacher date of birth:	26 May 1965
NCTL Case ref no:	0009259
Date of Determination:	3 February 2014
Former employer:	Victoria Road Primary School, Northwich, Cheshire

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 18 – 19 November 2013 in Chester and subsequently in Coventry on 3 February 2014 to consider the case of Ms Jacqui Symes.

The Panel members were Mr Nicholas Andrew (Lay Panellist– in the Chair), Mrs Margaret Simpson (Teacher Panellist) and Mrs Mary Speakman (Teacher Panellist).

The Legal Adviser to the Panel was Mrs Luisa Gibbons of Eversheds LLP Solicitors.

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

Ms Symes was present and was represented by Mr Ian Poole.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 12 November 2012 as amended pursuant to an application by the Presenting Officer, referred to below.

It was alleged that Ms Symes was guilty of unacceptable professional conduct, in that:

1) she wilfully and deliberately abused her position as Headteacher and breached professional boundaries by

a) manipulating her son's employment position to give him access to Council internal vacancies;

b) using her position as Headteacher to persuade college and placement authorities to accommodate her daughter NS's paid employment in Victoria Road School;

c) falsely misrepresenting herself as her Deputy Headteacher to again manipulate NS's college commitments to ensure that NS continued in paid employment at Victoria Road School and in doing so breached the relationship of trust and confidence with her Deputy, necessary to the effective running of the school;

2) she deliberately failed to secure the approval of her governing body for the payment of £150 per week LLE income to reflect the additional responsibilities she undertook at School B and School C and misrepresented her governing body position to the Head of Achievement and Wellbeing;

3) she deliberately and wilfully misled Witness A into agreeing that she could retain any LLE income relating to work undertaken when Victoria Road School was closed, and subsequently exploited this approval for personal financial gain;

4a) she breached the trust and integrity placed in her by Officers of the Council by offering work or suggesting a need for work at times when Victoria Road School was closed in order to maximise financial gain for herself; and

4b) in addition to her actions at 4a above, she deliberately failed to secure the approval of her governing body for the payment of £300 per day LLE income to reflect the additional days work she undertook at School B and School C.

Ms Symes denied all of the allegations.

C. Preliminary applications

The Presenting Officer applied to amend a typographical error in allegation 3 of the Notice of Hearing which referred to the phrase "**return** any additional income"; whereas

this was intended to state “**retain** any additional income”. The Panel acceded to the application.

D. Summary of evidence

Documents

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

Section 1	Chronology and List of Key People	Pages 1 – 7
Section 2	Notice of Proceedings and Response	Pages 8 – 13
Section 3	National College for Teaching and Leadership Witness Statements	Pages 14 – 53
Section 4	National College for Teaching and Leadership Documents	Pages 54 – 406
Section 5	Teacher Documents (Cover sheet only)	Pages 407 - 408

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

In addition, the Panel agreed to accept a witness statement of Jacqueline Symes and allocated it page numbers 409 – 418.

Witnesses

The Panel heard oral evidence from Witness A (the former Chair of Governors) and Witness B (the author of an investigation report) both called by the Presenting Officer. Ms Symes gave oral evidence herself.

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 Symes was employed as Headteacher at Victoria Road School until she was dismissed on 11 February 2012. Ms Symes is alleged to have abused her position as Headteacher to manipulate employment opportunities for her son and daughter, failing to

secure governor approval for payments to her and misleading others to maximise financial gain for herself.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for the reasons set out below. The Panel has dealt with some of the allegations out of the order in which they appear in the Notice of Hearing, in order to deal with them in a chronological manner.

1) you wilfully and deliberately abused your position as Headteacher and breached professional boundaries by:

c) falsely misrepresenting yourself as your Deputy Headteacher to again manipulate NS's college commitments to ensure that NS continued in paid employment at Victoria Road School and in doing so breached the relationship of trust and confidence with your Deputy, necessary to the effective running of the school.

The Panel is satisfied on the balance of probabilities that this allegation is proven, with the omission of the word "again". The Panel cannot find any plausible explanation for anyone else writing the email, or having the information or motivation to do so. Ms Symes informed the Panel that she had a meeting at 3pm on 2 April 2009 and the email was sent from her account at 3:05pm. However, the Panel does not attach significant weight to the small timing discrepancy. The Panel has noted drafting similarities between the email of 2 April 2009 and the letter that Ms Symes admits writing on 2 February 2009 in respect of the use of the same telephone number and inaccurately concluding the letter with the phrase "Yours Faithfully". It seems highly improbable anyone else would have included Ms Symes' mobile number as the return phone call would have immediately alerted Ms Symes to the perpetration of a deception. The Panel considers this to be wilful and deliberate abuse of Ms Symes' position as Headteacher and a breach of professional boundaries.

4b) in addition to your actions at 4a above, you deliberately failed to secure the approval of your governing body for the payment of £300 per day LLE income to reflect the additional days work you undertook at School B and School C.

Both parties proceeded with their presentation of their respective cases on the basis that the criticism alleged was that Ms Symes had failed to secure approval of the governing body for the payments she received when undertaking work at other schools when Victoria Road was closed. The Panel has therefore construed this allegation as referring

to the £300 per day Ms Symes herself received when undertaking work at other schools when Victoria Road School was closed.

The Panel had before it a statement on the implementation of the National Agreement on Rewards and Incentives, which contained two pertinent policy statements:

- First, that Heads' contracts are not time-bound, and therefore it cannot be assumed that days of school closure are free time; and
- Secondly, that where Heads undertake work of the type at issue in this case, any absence must be authorised formally by the governing body.

The Panel had before it multiple versions of the Minutes of the Staffing Committee meeting held on 9 March 2010. In her testimony, Witness B submitted that the signed version of the Minutes was the version included at page 285 of the Panel Bundle. The critical passage of these minutes reads as follows:

“County will pay £300 for each day that Jacqui is out of school and this money will be paid directly into the school budget and not reimbursed to Jacqui or the teacher providing the support”.

The Panel has seen the minutes of the next meeting of the Staffing Committee, held on 20 April 2010. These state that the minutes of the 9 March 2010 meeting were amended as follows:

“County will pay £300 for each day that Jacqui... add “or a member of staff”... is out of school, and this money will be paid directly into the school budget...add “for use for supply or resources as required”... and not be reimbursed to Jacqui or the teacher providing the support”.

Ms Symes' submission was that the correct version of the minutes of 9 March 2010 was that contained at page 290 of the Panel Bundle, which stated:

“County will pay £300 for each day that Jacqui or a member of staff is out of school, and this money will be paid directly into the school budget for use for supply/ resources as required and not reimbursed to Jacqui or the teacher providing the support(except when worked during holiday periods)” [sic].

The Panel took the view that Ms Symes' argument was implausible for four reasons:

a) the Full Governing Body's discussion of the issue at its meeting on 16 March 2010 is consistent with the signed version of the minutes: thus crucially, it is recorded that “the school would receive £300 in the budget which would not be paid out to staff members...”;

b) governors were consistent in saying they were never aware of the payments;

c) one of the teacher governors was interviewed at her home address on 27 June 2011 and provided her copy of the Staffing Committee Minutes in her possession. These are the same as the signed version at page 285 of the Panel Bundle;

d) if the version at page 290 was the correct version of the minutes, there would have been no need for the Committee to record its amendments at its subsequent meeting.

There was one further consideration taken into account by the panel in respect of these minutes. Ms Symes submitted that she could not have changed them because they were password protected and she did not have the password. This is contradicted by the witness statement of the Administration Officer at Victoria Road School, which states that electronic copies of all governing meetings are held on the school's administration system and are not password protected on an individual basis or in a secure folder on the system.

Ms Symes suggested that another senior member of staff had witnessed discussions regarding LLE payments, but no evidence in either written or oral form from this witness was produced to the Panel to substantiate Ms Symes' assertion.

The Panel was concerned at the frequency with which Ms Symes said that documentation existed which would substantiate her version of events. It was concerned as to whether the documentation in the Panel Bundle was sufficient, and accordingly raised with both parties the possibility of an adjournment to allow additional documents to be added to the bundle. Both parties declined and confirmed they were content for its decision to be based on the documentation before the Panel. On the balance of probabilities and on the basis of the evidence before it, this allegation is found proven.

2) you deliberately failed to secure the approval of your governing body for the payment of £150 per week LLE income to reflect the additional responsibilities you undertook at School B and School C and misrepresented your governing body position to the Head of Achievement and Wellbeing;

The Panel has seen no evidence of any minutes of the governing body approving the payment of £150 per week LLE income to reflect the additional responsibilities she undertook at other schools. Witness A likewise confirmed, during the disciplinary investigation of Ms Symes' conduct, that she could not recall any discussions around approving a payment to Ms Symes of £150 per week, and had such a discussion taken place, it would have appeared in the full governing body minutes. The Panel has seen an email from Ms Symes to the Head of Service, Achievement and Wellbeing asking if she was content for her governors to continue to supplement her salary stating "they are at present paying ½ day of LLE time/ payment a week to me". Although the response Ms Symes received stated "I absolutely agree you should be getting more and that we should pay for that", there is no evidence that her governors had approved the payments to her at all. This allegation is therefore found proven.

We have found the following particulars of the allegations against you not proven, for these reasons:

1) you wilfully and deliberately abused your position as Headteacher and breached professional boundaries by:

a) manipulating your son's employment position to give him access to Council internal vacancies;

The Panel has had regard to the email from Ms Symes to her son making him aware of an employment opportunity to those on the payroll, which she admits sending. The Panel considers that whilst there was an element of opportunism on her part, there was no evidence of manipulation of her son's employment position. The evidence that the Panel has heard is that her son was not kept on the school's payroll in order to take advantage of such opportunities, but technically remained on the Council's payroll. This allegation is therefore found not proven.

b) using your position as Headteacher to persuade college and placement authorities to accommodate your daughter NS's paid employment in Victoria Road School;

The Panel is concerned that Ms Symes imprudently blurred the distinction between her role as a mother and her role as a Headteacher by, for instance, sending the letter from the school's email address and using the school's telephone number. However, the Panel does not find that on the balance of probabilities that this constitutes a wilful and deliberate abuse of her position. This allegation is therefore found not proven.

3) you deliberately and wilfully misled Witness A into agreeing that you could retain any LLE income relating to work undertaken when Victoria Road School was closed, and subsequently exploited this approval for personal financial gain;

Witness A was clear that she never approved the payments to Ms Symes for work undertaken when Victoria Road School was closed. The Panel is satisfied that any discussions about the work were at best ambiguous, and would take the view that Ms Symes was remiss in creating and maintaining a lack of clarity which was to her advantage. However, the allegation as drafted is inconsistent with Witness A's denial that she gave approval. This allegation is therefore found not proven.

4a) you breached the trust and integrity placed in you by Officers of the Council by offering work or suggesting a need for work at times when Victoria Road School was closed in order to maximise financial gain for yourself

The Panel has seen evidence that Ms Symes proposed times to work at other schools when Victoria Road School was closed. The Panel has seen little evidence that these proposals were motivated by a desire to maximise financial gain, and it could be that it was a matter of convenience to propose such times. The Panel has not seen any evidence that the times that Ms Symes worked at other schools was unnecessary or that it was not appropriate for her to be working at those schools at such times. This allegation is therefore found not proven.

Findings as to Unacceptable Professional Conduct

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 (updated on 22 May 2013), which we refer to as the Guidance. This is the version of the Guidance current at the time this hearing began, and which therefore applies throughout the course of this hearing.

Ms Symes as a teacher was expected to demonstrate consistently high standards of personal and professional conduct and the Panel is of the view that she has failed to do this.

The Panel is satisfied that Ms Symes' conduct in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Ms Symes is in breach of the requirement to:

“have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality”.

Particularly in her role as a Headteacher, Ms Symes is expected to provide a good example to other staff members. The Panel considers that she failed to respect the relationship of trust between a Headteacher and the Governing Body. She also abused her position and breached the relationship of trust that should exist with her Deputy Headteacher.

The Panel is satisfied that Ms Symes' conduct fell significantly short of the standards expected of the profession and that her conduct is relevant to her fitness to be a teacher.

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

Panel's recommendation to the Secretary of State

Ms Symes was not present at the resumed hearing on 3 February 2014 during the public announcement of the above findings or during submissions on mitigation, although her representative was present.

The Panel was satisfied that Ms Symes had received notice of the hearing and that she had previously received the Notice of Proceedings, having attended the first two days of the hearing in November.

The Panel determined to exercise its discretion to proceed with the resumed hearing in the absence of the teacher. In making its decision, the Panel noted that the teacher might waive her right to participate in the hearing. The Panel understood that its discretion to continue the hearing in the absence of the teacher had to be exercised with the utmost care and caution, and that its discretion is a severely constrained one.

The Panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC 1. The teacher's representative confirmed Ms Symes' absence is a voluntary one and that his instructions were in favour of the hearing proceeding. The Panel noted that it was no longer at the fact finding stage and that mitigation was something upon which Ms Symes could provide instruction to her representative. The Panel has had regard to the seriousness of this case, and the potential consequences for the teacher but considered, in light of the teacher's waiver of her right to appear, that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time was in favour of the hearing continuing.

Given the Panel's findings in respect of unacceptable professional conduct, 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.

It was noted that Ms Symes is of previous good character. The Panel has taken account that in the letter from Victoria Road School confirming the decision of the Staff Dismissal Committee Disciplinary Hearing, that it was noted that Ms Symes had made a significant contribution to Victoria Road School and the wider community over a number of years and to the LLE programme. The Panel has also taken account that in the subsequent letter from Victoria Road School, confirming the decision of the Staff Dismissal Appeal Committee, that there had previously been the utmost respect for Ms Symes.

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 a 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. Having done so, it has found two of them to be relevant in this case, namely the maintenance of public confidence in the profession and the declaring and upholding proper standards of conduct.

In light of the Panel's findings against Ms Symes, which involved breaching the trust between her and the governors and between her and her Deputy Head, there is a strong public interest consideration in declaring proper standards of conduct in the profession. The Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Symes were not treated with the utmost seriousness when regulating the conduct of the profession.

Notwithstanding the 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 Symes. In forming a judgement in this respect, the Panel took particular account of the mitigation evidence that was presented to it. It is clear that Ms Symes made a significant contribution to both her school and to other schools that she assisted as well as to the wider community. The Panel was also mindful of the fact that prior to these findings being made against her, Ms Symes was considered to be a person of good character with no criminal or disciplinary sanctions recorded against her.

In carrying out this balancing exercise the Panel has considered the public interest factors both in favour of and against prohibition as well as the interests of Ms Symes. 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 has considered that one is relevant, namely:

- serious departure from the personal and professional conduct elements of the latest teachers' standards.

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. In light of the Panel's findings, it considered Ms Symes' actions were deliberate. There was no evidence to suggest that she was acting under duress, and, in fact, the Panel found her to have acted wilfully and deliberately. She did, however, have a previous good history.

The Panel is of the view that Prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Ms Symes. The act of wilfully and deliberately misrepresenting herself as her Deputy Headteacher was a significant factor in forming that opinion. 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 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. The conduct found proven is not amongst the categories of misconduct for which the Guidance recommends that a prohibition order be imposed with no provision for the teacher to apply for it to be set aside. The Panel has had in mind that the purpose of prohibition is not to be punitive, and that Ms Symes is recognised to have previously made a valuable contribution to education in her community, both in her school and other schools.

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 provision for a review period after two years.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case. In particular I have given very careful consideration to the recommendations of the panel that a prohibition order is appropriate and proportionate, and that if a prohibition order is imposed that a review period of two years would be appropriate.

Ms Symes' conduct in relation to the facts that the panel has found proven did involve breaches of the Teachers' Standards. Part Two of those standards says that teachers should have:

“proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality”.

In her role as a Headteacher, Ms Symes should have provided a good example to other staff members. She failed to respect the relationship of trust between a Headteacher and the Governing Body. She also abused her position and breached the relationship of trust that should exist with her Deputy Headteacher. In this respect, I am satisfied that Ms Symes' conduct fell significantly short of the standards expected of the profession and that her conduct is relevant to her fitness to be a teacher.

I have also balanced the public interest factors both in favour of and against prohibition as well as the interests of Ms Symes. I have also taken into account 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. I consider that one is relevant, namely:

- serious departure from the personal and professional conduct elements of the latest teachers' standards.

There were behaviours that would point to a Prohibition Order being appropriate. I have also considered whether there were sufficient mitigating factors to militate against a Prohibition Order being an appropriate and proportionate measure to impose. In my view Ms Symes' actions were deliberate. There was no evidence to suggest that she was acting under duress, and, in fact, the Panel found her to have acted wilfully and deliberately. She did, however, have a previous good history and I have taken that into consideration.

I consider therefore that prohibition is both proportionate and appropriate. I have decided that the public interest considerations outweigh the interests of Ms Symes. The act of wilfully and deliberately misrepresenting herself as her Deputy Headteacher was a significant factor in forming that opinion. I support the recommendation that a Prohibition Order should be imposed.

I have also given careful consideration to the matter of a review period. In this case I consider that a review period of the order is appropriate. In the circumstances I support the recommendation that the review period should be two years.

This means that Ms Jacqui Symes 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 11 February 2016, 2 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 Jacqui Symes remains barred from teaching indefinitely.

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

Ms Jacqui Symes 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: 4 February 2014

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