

# NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Decision of a Professional Conduct Panel and the Secretary of State

**Teacher:** Mr Paul Nutley  
**Teacher ref no:** 9143646  
**Teacher date of birth:** 7 December 1955  
**NCTL Case ref no:** 3885  
**Date of Determination:** Tuesday 25 June 2013

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## **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (The National College) convened on 24 and 25 June 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Paul Nutley.

The Panel members were Ms Jean Carter (Lay Panellist in the Chair), Mrs Mary Speakman (Teacher Panellist) and Mr David Longson (Teacher Panellist).

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

The Presenting Officer for the National College for Teaching and Leadership was Miss Sophie Lister of Kingsley Napley LLP Solicitors.

Mr Paul Nutley was present and was represented by Mr Steve Lloyd of the NASUWT.

The hearing took place in public and was recorded.

## **B. Allegations**

The Panel considered the allegations set out in the Notice of Proceedings dated 17 August 2012.

It was alleged that Mr Paul Nutley was guilty of Unacceptable Professional Conduct in that whilst employed at Northcott Special School, Hull he:-

1. Failed to follow the correct examination procedures by asking a Teaching Assistant, Witness A, on 13 November 2008 to complete two AQA French Entry Level Certificate test papers, namely:-
  - a. Unit 2: Free time, ELC Reading Assessment a Set 2, Entry 3; and

- b. Unit 2: Free time, Writing Assignment a Set 2, Entry 3, on behalf of a pupil AB;
2. On several occasions knowingly gave answers to pupils whilst they were completing tests and assessments in the subjects that he taught;
3. Behaved and spoke in an inappropriate and unprofessional manner to pupils;
4. Behaved and spoke in an inappropriate and unprofessional manner to Teaching Assistants.

The allegations were denied by Mr Nutley.

### **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	Chronology	(Page 1 - not included).
Section 2	Notice of Proceedings and Response	Pages 2 to 10.
Section 3	The National College Witness Statements	Pages 12 to 25.
Section 4	The National College Documents	Pages 26 to 349.
Section 5	Teacher Documents	Pages 351 to 375.

By agreement a further document being a character reference for Mr Nutley from Dushanbe International School (undated) was added at Page 375a.

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

#### Brief summary of evidence given

Both the Presenting Officer and Mr Lloyd made opening statements.

The Presenting Officer called the following witnesses:-

#### **Witness A**

This witness adopted her witness statement (Pages 12-17). She said:-

- On 13 November 2008 the children were sitting an exam – that's what they were told they were doing.

- Mr Nutley wanted to get the exam done and half the children were missing – it was quite stressful.
- Mr Nutley gave her AB's exam paper. AB was absent in the Gambia.
- She could not remember his exact words at all. He asked her to "just fill it in".
- She said "I can't do that" – she felt she did not have a choice.
- She said to her colleague "this is so wrong".
- She was sure Mr Nutley said "just fill it in".
- She understood that he wanted her to fill in the answers – that's what he wanted her to do.
- She definitely said "I can't do that".
- He said to her "oh come on Witness A".
- The documents at Pages 126 and Page 282 were the writing and reading exam papers for child AB – it was her writing.
- She could not remember whether the papers were left on the desk or she handed them in at the end of the lesson.
- In classes Mr Nutley would just flip up a sheet on the flip board and it was the children's choice if they took notice of what was written there.
- In French she remembered the words "J'aime" and "Je déteste" being on the board – written in English along side – that was all she could remember.
- Mr Nutley used to emphasise "pis" in the word piscine which used to make the children giggle.
- She remembered Mr Nutley talking about "necrophilia" in class in relation to pupil HC.
- Mr Nutley had stood up another pupil and said how terrible he was and he was "scum of the earth".

On cross examination she said:

- She couldn't remember how late half the children were to the class on 13 November – it was more than five minutes.
- Mr Nutley told her to fill in the form.
- He did not ask her to fill in the name and centre number only.

- He told her to fill it in.
- She couldn't remember his exact words.
- She felt so intimidated that she did not have a choice.
- She accepted that Witness B, Acting Head Teacher, was approachable.
- She could have gone to see her but she was frightened of reprisals.
- She just did not want any comeback.
- It was not possible that she had misunderstood Mr Nutley's request.
- She did not know that Individual C was keeping a written record on Mr Nutley – that came as news to her today.
- She didn't make a complaint about the comments made by Mr Nutley to Pupils.
- It was more than one occasion and it just became the norm – she did not question things.
- She still had to work with Mr Nutley and was frightened.
- She couldn't say precisely whether Mr Nutley had used the word "spragged" - she accepted it was a local word.

On questioning by the Panel she said:-

- There were no more than twelve pupils in Mr Nutley's class.
- On the day of the exam they waited for others to arrive.
- Mr Nutley was getting stressed because the exam was to be done.
- Papers were given out which is when Mr Nutley asked her to do it.
- The papers that she filled in were handed in at the end of the lesson.
- There would be no reason why the name of AB would need to be filled in on any of the papers.
- She couldn't see any need for that when the child was absent.
- She reported what had happened to Individual D because she was her immediate boss.

- She couldn't believe what she'd done.
- She just needed to get it off her chest.
- It was the first time she had referred anything to Individual D.

**Witness B** gave evidence.

She adopted her witness statement at Pages 18 to 25. She said:-

- She was Acting Head Teacher at the time of the investigation.
- Individual D called and asked to see her.
- She came in and told her of the incident involving Witness A filling in papers for an absent pupil.
- The interview notes that she made with members of staff were very accurate, notes were taken, they were read through and sent to the witness to sign.
- Child AB was absent when the assessment was carried out.
- It was standard practice to do an assessment on another date if a child was absent.
- The exam papers had been handed in, filed away and had been marked.
- She found child AB's papers which were marked and filed away with the rest of the class papers.
- In relation to the history assessment she went through the class papers looking for similarities.
- She would expect some similarities in pupils' response answers if they were taught by the same Teacher but not as similar as these papers.
- Ten out of fourteen pupils spelt the word "herd" incorrectly.
- As a result of Mr Nutley's conduct the School withdrew all of his assessments from the Exam Board.
- There seemed to be evidence of him making inappropriate and sexual references to pupils.
- Some of his comments would have gone over their heads but other pupils were street-wise and would have understood.
- Mr Nutley admitted that he had spoken to a member of staff inappropriately – he said he was stressed and he had apologised.

Under cross examination she said:-

- She accepted there had not really been time to have a proper exam conditions test on 13 November 2008.
- In relation to the History papers she thought it was unusual to misspell “herd” as “heard”.
- It was the more able pupils that didn’t do so.
- There had only been one parental complaint about Mr Nutley during the time that she was acting as Head Teacher.
- It was resolved by her speaking to Mr Nutley.
- She had advised him about making remarks in front of pupils.
- She accepted that pupils were pleased to have Mr Nutley as their Teacher.
- She didn’t find it surprising that a second member of staff couldn’t remember precisely what was said to Witness A on 13 November.
- Her impression was that the other member of staff did substantiate what Witness A had said.
- She was essentially saying the same thing had happened.
- She would have hoped that it would have been reported by Witness A.
- Mr Nutley was popular with his class.
- She felt it was difficult for Support Staff to report a Teacher and some thought that they wouldn’t be taken seriously.
- She understood that a member of staff kept a written record of incidents involving Mr Nutley.
- She couldn’t say why some things were recorded in the notebook and not others.

On questioning by the Panel she said:-

- Because of concerns raised about other assessments she interviewed other staff at the School.
- She interviewed other Teaching Assistants from other lessons that Mr Nutley taught.

- She felt she took account of a fair spread of views.
- She was very clear that the interviews were entirely confidential and not to be discussed with other members of staff.
- Her impression was that the persons she interviewed had not discussed incidents with others – they appeared very shocked.
- She had no sense that there was a vendetta against Mr Nutley.
- The French Assessments done on 13 November were found in a locked filing cabinet.
- When assessments are done they are locked away.
- Pupil AB's marked assessment was there even though she had been absent from the class.

### Teacher's Case

**Witness E** gave evidence. He adopted his witness statement (pp 363 – 365) He said:-

- That Paul Nutley was known to him from his time at Northcott School and for some years before.
- Mr Nutley related well to the children.
- The children liked him.
- Quite a few of the children were upset when he left without a word.
- He was acknowledged to be a good teacher.
- He was able to get points over in a humorous way.
- Teaching Assistants used to talk about him with admiration and affection.
- He knew that Mr Nutley was going through a very difficult situation with his wife.
- He felt that Mr Nutley had not been guided as he should have been by the School Management.

On questioning by the Panel he said:-

- He didn't feel it was a type of school where problems could be raised and sorted out without stress.

- He was not sure people felt very comfortable about going and asking for help.
- He felt that Mr Nutley was not guided and supported sufficiently.
- When Paul Nutley was sent out of the school it was a total shock to him.

**Witness F** gave evidence. He adopted his testimonial (p 369). He said:-

- He had worked alongside Paul Nutley for a year or two.
- He had never had any problems with him at all.
- He was very effective with children.
- He was a very funny man and it worked well.
- Children used to love him.
- He was caring, careful, supportive and understanding.
- He left flip charts with different words on them when Witness F took over his French classes.

On cross examination he said:-

- He had never witnessed Paul Nutley in French, History or Maths lessons.

On questioning by the Panel he said:-

- He never felt uncomfortable about Paul Nutley's sense of humour.
- When he described his sense of humour as "over the top" he really meant zany.
- He had never once heard Mr Nutley make an over the top joke.

**Paul Nutley** gave evidence. He adopted his witness statement (pp 358 – 366). He said:-

- He had no previous experience in Maths at secondary level.
- He had to do two years Maths teaching in one.
- He had his doubts about being able to do this.

On cross examination he said:-



- On 13 November 2008 a lot of the children missed at least forty minutes of the lesson.
- The adults knew that it was going to be a test.
- They knew the papers were never going to be sent off.
- He had compulsive/obsessive traits.
- He collected the papers in.
- He wouldn't have looked at the names he just went tick, tick, tick and put the papers away.
- It couldn't have been an exam - there was not enough time.
- He was one hundred percent certain that Witness A knew it was not a test – they didn't have the time – it was impossible.
- He said to her “please write down the name and centre number”.
- He really could remember this.
- It was his system to have a sheet with all the candidates' names and the centre number.
- Everybody has their own system.
- It was to show the class what exams were like.
- He didn't remember Witness A saying “I can't do it”.
- He accepted the papers had been ticked by him.
- He marked all the sheets including the sheets for AB who was absent.
- He doubted that he even looked at their names.
- He asked why the witnesses had not spoken to him at the end of the lesson.
- He said the witnesses had worked with him for four years.
- He was stressed “most of the time”.
- The marked papers weren't in a locked filing cabinet – they were in a wooden box – he could be mistaken.
- In relation to the flip chart not one word that ever went on any of the boards was from him – this accounted for the misspellings.

- He would leave the misspelt word up and say to the class “are you sure?” - he wouldn’t touch it.
- None of the words that went on the flip charts were from him.
- He mentioned that he was not confident in Year 10 and 11 French.
- He told the School he wasn’t confident but he would do his best.
- The word on the French papers “jour” and not “jouer” came from the pupils not him.
- He knew that there were one or two words spelt slightly wrong which wouldn’t have affected their mark.
- He had not changed his system in the last three years.
- History was his major subject – it was his thing.
- He got key words and wrote them on the board for everyone.
- He was stupid to help the School by taking Maths.
- Witness B knew that they were doing two years of Maths in one academic year.
- She didn’t acknowledge it.
- In relation to speaking with the pupils he had no recollection of using the word necrophilia to child HC.
- He wanted to know why the Teaching Assistant had not reported it.
- He thought she had misheard it or thought it up later.
- He categorically denied using that word.
- He didn’t remember using the word “scum”. It was not right he’d used the expression “scum of the earth” – “scum” was really insulting.
- He had called Pupil J a “bully” – Pupil J was tough.
- He may possibly have used the word “thug” and he may possibly have said to Pupil J “you repulse me”.
- He categorically denied saying anything about cowboys having sex.
- All the witnesses to these expressions were women.

- He absolutely did not use the expression re Buffalo Bill – he was not a pervert.
- He had used “agricultural language” towards Individual A – he couldn’t remember the exact words – he was admitting this.

On questioning by the Panel he said:-

- He felt he was picked on - his threshold application was turned down.
- There were times when he could have behaved better.
- No one said anything to his face.
- In relation to a Maths pupil he had a lot of help and he, Mr Nutley, had given him a lot of time.
- He was very certain that neither Individual D nor he cheated with the pupil in Maths – they’d given one pupil more assistance than the others.
- He felt at the time he was not well but didn’t think he realised it then.
- He thought he suffered from depression but he was not aware how bad he was.
- He thought he should have paid a visit to the Doctor in about October 2008.
- In eighteen months three Teachers had left the School.

The Presenting Officer and Mr Lloyd made closing submissions.

## **E. Legal Advice**

Before the Panel went into private session to consider its decision, the Legal Adviser declared the following advice:-

1. Under the Disciplinary Procedures for the regulation of the teaching profession, the decision-making process has three stages:-
  - i. The Panel must be satisfied as to the facts of the case.
  - ii. The Panel must be satisfied that those facts amount to Unacceptable Professional Conduct; and
  - iii. If Unacceptable Professional Conduct is found, then the Panel must consider the previous history and character of the Teacher and any

mitigating circumstances before deciding whether or not to recommend to the Secretary of State that a Prohibition Order is appropriate.

2. The burden of proving the allegations rests with the Presenting Officer, not with the Respondent Teacher.
3. The standard of proof applied in these proceedings is the civil standard, “on the balance of probabilities”. This means that before finding a factual allegation proved, the Panel must be satisfied that an event is more likely to have happened than not.
4. In this case the Panel had heard evidence from a number of witnesses. Some of those witnesses principally Witness A and the Teacher himself had given first hand evidence and had been questioned by the advocates and by the Panel. This gave the Panel an opportunity to assess the credibility of each witness and to test the evidence by questioning. Where evidence was in dispute that was the best possible evidence as the evidence had been tested in this way.
5. Other witnesses had given evidence to the Panel in the course of the proceedings but much of that evidence had been hearsay because it was principally evidence of what the witnesses had been told by others. This applied particularly to Witness B who had conducted the investigation into Mr Nutley’s conduct on behalf of the School. In addition the case papers contained a number of records of interview of other persons who had not been called in person and other documents. All of that was hearsay evidence which is admissible in the National College for Teaching and Leadership proceedings. The Panel should however bear in mind that it had not heard direct oral evidence on the matters covered in the documentation and from other witnesses and should consider treating hearsay evidence with caution and consider carefully what weight it considered should be attached to it.
6. In this case there are a number of separate particulars set out in the Notice of Proceedings the Panel should assess the evidence in relation to each particular separately and independently and make a finding of fact in relation to each particular.
7. As far as Witness B was concerned she had given evidence about her view of the alleged similarities in some of the History papers exhibited in the case documents. The Panel should bear in mind that she was not an expert in matters of this sort and that her evidence in relation to her opinion carried no more weight than, for example, any assessment made by members of the Panel itself. The Panel should be careful not to give undue weight to her opinion in relation to the comparison of the History papers.
8. The Teacher himself had given evidence on oath and he should suffer no disadvantage whatsoever simply by virtue of being the Respondent in these proceedings. Mr Nutley’s evidence should be assessed on the same basis as the evidence of any other witness who had given evidence before the Panel over the course of the last two days. The Panel should therefore be careful to assess the weight that could properly be given to Mr Nutley’s evidence in the

same way as it would do in relation to the other witnesses from whom it had heard.

9. If the Panel found all or any of the particulars proved to the requisite standard against Mr Nutley it should then go on to determine whether this is a case of Unacceptable Professional Conduct. "Unacceptable Professional Conduct" is defined in "The Prohibition of Teachers – DfE advice on factors relating to decision leading to the prohibition of teachers from the teaching profession" as "misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher".
10. Whether any facts the Panel find proved amount to Unacceptable Professional Conduct is a matter for the judgement of the Panel itself applying this definition.
11. The Panel may have regard to the latest Teachers' Standards as published by or, on behalf of, the Secretary of State.
12. Should the final stage be reached in this matter, then the Panel's attention will be drawn to "The Prohibition of Teachers – DfE advice on factors relating to decision leading to the prohibition of teachers from the teaching profession" in deciding whether to recommend to the Secretary of State that a prohibition order is appropriate.
13. In relation to the imposition of a Prohibition Order the Panel should take account of any mitigating features in relation to the Teacher which it finds to be material and should follow the Guidance mentioned above in relation to any recommendation to the Secretary of State.
14. The Panel should give reasons for its decisions and recommendations at each stage.

#### **F. 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.*

***The case concerns allegations that Paul Nutley, whilst employed as a form tutor at Northcott School Hull, on 13 November 2008 supervised an Entry Level Certificate in French Reading and Writing. One of the children AB, who was blind, was absent from the class in Gambia. A Teaching Assistant in the class that day alleges that Mr Nutley gave out exam sheets and requested that she should fill out an exam sheet for child AB. Although she said "I can't do that" she, in fact, complied because she felt intimidated and completed the exam paperwork and handed it to Mr Nutley. Mr Nutley denies that this occurred.***

***It is further alleged by several witnesses that Mr Nutley would often indicate the correct answers to pupils completing tests and exam assessments in his class usually by writing the answers on a flip chart or board and pointing to the answers written. On other occasions it is alleged he told the pupils what to write.***

***Witnesses also speak of him using inappropriate language and expressions to pupils in class and causing upset to pupils by his teaching style and comments. Other witnesses describe instances where he is alleged to have been intimidating and abusive to colleagues. It is alleged that he is thus guilty of Unacceptable Professional Conduct by this behaviour. All of the particulars are denied by Mr Nutley.***

### Findings of fact

Our findings of fact are as follows:-

We have found the following particulars of the allegations against Paul Nutley proven:-

That whilst employed at Northcott Special School, Hull Mr Nutley :-

1. Failed to follow the correct examination procedures by asking a Teaching Assistant, Witness A, on 13 November 2008, to complete two AQA French Entry Level Certificate Test Papers, namely;
  - (a) Unit 2: Free Time, ELC Reading Assessment a Set, Entry 3 and
  - (b) Unit 2: Free Time, Writing Assignment a Set 2, Entry 3 on behalf of a Pupil, AB;

We have heard conflicting accounts of what occurred in Mr Nutley's classroom on this date from Witness A and Mr Nutley. We find that Witness A gave an account on oath which was broadly consistent with both her written witness statement at pp 12-17 in the case papers and her interview with Witness B at pp.38-41. We acknowledge that there was some lack of clarity in her evidence and that she accepted that she could not recall the exact words used by Mr Nutley when directing her to fill in a form for the absent Pupil AB. We were satisfied that she was a credible witness who, although very nervous, was doing her best to tell the truth. We will deal with her evidence in more detail later.

By contrast we felt that Mr Nutley was an erratic witness. We found it very difficult to understand and accept his explanation for the assessment papers completed by Witness A on behalf of the absent pupil AB being marked and filed with the papers completed by the remainder of the class. We find that his explanation that the way he dealt with AB's papers was somehow the result of his compulsive/obsessive traits to be incredible.

In relation to this particular there is no dispute that:-

- Witness A was given an instruction by Mr Nutley.
- She completed the assessment papers for AB – including the centre number and the answers.
- The completed papers were handed in.
- Mr Nutley marked the papers submitted on behalf of AB.
- He filed the marked papers with those completed by the other pupils and entered the Level awarded to each pupil.
- The class papers were filed either in a locked filing cabinet or a box.

Those agreed facts persuade us that this was intended by Mr Nutley to be a piece of assessed work done under the conditions imposed by AQA in relation to supervision and authentication and in accordance with the published scheme of assessment. We appreciate that Mr Nutley categorically denies that this was anything other than a practice session but if that is so we cannot understand why AQA forms were used, why the Centre number was entered, why the papers were marked and why they were kept and filed in the way described.

Witness A told us that she could not remember the precise words used by Mr Nutley but she was sure she was being required to fill in the papers on behalf of pupil AB. She was sure that was the effect of the instruction. She said she felt she could not do it and protested. Mr Nutley said to her “Oh come on Witness A”. She then completed the papers as indicated above. Individual H at p 43 also says in her interview that this occurred and says it was clear that Witness A was asked to complete the assessment.

Even if there is some uncertainty in the evidence as to the precise words used by Mr Nutley we note that he collected in the papers. He marked the assessments including the papers completed by Witness A. This was a small class of 12 pupils. Mr Nutley, on his own account, did not notice that he was marking the assessments completed for AB who was absent and those assessments were treated in the same way as all the others collected in.

No questions were asked by Mr Nutley of Witness A as to the reason that the AB assessments had been fully completed and we just cannot accept that in a small class Mr Nutley failed to spot that AB’s assessments had been fully completed by Witness A when she was asked only, on his account, to fill in the pupil’s name and the Centre number. In short we do not believe him and thus we find this particular proved.

2. On several occasions knowingly gave answers to pupils whilst they were completing tests and assessments in the subjects that you taught:

The French ELC writing assignments – Set 2 Unit 2 – Free Time exhibited in the case papers at pp 139 – 150 in the case papers contain two errors in spelling/punctuation that are repeated exactly in the work of each pupil. In answer to Q3 “Je n’aime” is incorrectly written as “ Je naime.” (apostrophe missing). In answer to Q5 “jouer” is incorrectly written as “jour”. This drives us to the irresistible conclusion that these answers must have been copied by the pupils.

In his evidence Mr Nutley told us that anything in class that he wrote on the flip board and the pupils may have copied came from the pupils themselves and not from him. He just wrote down what they said. Even if that is accepted as correct it is not, in the view of the Panel, behaviour that can be justified.

Several Teaching Assistants in their interviews with Witness B gave similar accounts of Mr Nutley walking around in his lessons and in various ways directing pupils’ attention to answers written on the board/flip chart. We see no reason to disbelieve those accounts which are consistent with the evidence in the exhibited assignment papers mentioned above. In addition we can say that we felt the methodology adopted by Witness B in her investigatory interviews was careful and appropriate and we are satisfied as to the integrity of her investigation. It is alleged by Mr Nutley that there has been collusion between the witnesses but we find that suggestion to be without foundation and have heard nothing in the evidence to suggest any credible motive for such a conspiracy.

We have examined the history scripts exhibited in the case papers. Taken in isolation they do not, in our view, furnish sufficient evidence to persuade us that this particular is made out in relation to history tests. However supported by the written evidence of Witness I (p53) and Witness J (p65) we do find this particular proved in relation to both French and History.

3. Behaved and spoke in an inappropriate and unprofessional manner to pupils:

We have already made clear our overall view of the evidence. In summary we reject the claim that the written evidence of witnesses should be disregarded. There are no reasons which lead us to believe the accounts given therein are not genuine and not reliable. We find no evidence which suggests collusion or any other questionable motive behind the accounts those witnesses have provided.

There are numerous instances described by witnesses in the case papers of Mr Nutley using inappropriate, sexual and abusive comments towards pupils and behaving in an intemperate way in class. We saw a hint of that sort of conduct when he gave his evidence on the first day of the hearing and told the Presenting Officer to “behave”.

Some of the written accounts given by the witnesses are very specific in detail – e.g. the alleged use of words like “necrophilia” and “scum of the earth”. We



are of the view that it beggars belief to conclude that these accounts have been fabricated and we find no reason to think that this is a possibility.

We noted also that Witness A gave evidence to us of some instances of inappropriate conduct towards pupils that she observed.

It is also clear that Mr Nutley himself has, to some extent changed his ground in dealing with this particular. In his witness statement there is a robust and absolute denial of all the allegations. In his evidence before the panel he told us he “had no recollection” of using the word necrophilia. He said he accepted he called Pupil J a bully and he possibly called him a thug and used the phrase “you repulse me.”

He asserted that he was a well liked and popular teacher as did his witnesses. We accept this may well be the case and some of the documents presented by the Teacher in the case papers recognise this. However this does not sit comfortably with the claim that many work colleagues have colluded to discredit him nor does it undermine our conclusion that this particular is proved.

We take account of the suggestion that there is significance in the absence of complaints from pupils or parents but we are satisfied that this particular is proved.

4. Behaved and spoke in an inappropriate and unprofessional manner to Teaching Assistants.

We find this particular proved only in relation to the Teaching Assistant (Individual A) which Mr Nutley admitted in his evidence. He explained that he had apologised for his language and the incident had been resolved.

We have read accounts from other female staff who variously claim that they felt intimidated by Mr Nutley. That may or may not be their perception but we have neither heard nor read any evidence which persuades us to the appropriate standard that any feeling of apprehension in relation to Mr Nutley may have been a consequence of any identifiable behaviour on his part.

In view of our limited finding on this particular it will not contribute to our consideration of whether, on the facts we have found established, this is a case of Unacceptable Professional Conduct.

#### Findings as to Unacceptable Professional Conduct

We find that this is a case of Unacceptable Professional Conduct. Your conduct has fallen significantly short of the standard the public are entitled to expect of members of the profession and must be viewed as serious.

In particular you failed to establish and foster an environment of mutual respect by your behaviour and attitude towards pupils and teaching colleagues. We view your conduct in relation to examinations and written assessments seriously as it adversely

affects pupils' academic progress and undermines the integrity of the examination/assessment process.

As a class teacher you carried the responsibility for ensuring and fostering good and courteous behaviour in and around the school.

Sadly you have fundamentally failed to treat pupils and colleagues with appropriate dignity and to fulfil your position as a role model thus damaging the collective reputation of the profession.

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

We have listened carefully to the submissions made by Mr Nutley's representative and accept that Mr Nutley has no previous record of inappropriate conduct. We also accept that he has produced positive testimonials from schools in Uzbekistan and Tajikistan where he has been subsequently employed following the events which are the subject of this case.

We are required to consider whether a Prohibition Order should be imposed in the public interest and particularly to protect pupils and colleagues. We also have a duty to uphold the collective reputation of the profession.

This case has concerned the regular denigration of young pupils in a special needs school and open abuse of the public examination and assessment system in which other more junior staff members and particularly Teaching Assistants became embroiled. In our view that is conduct of sufficient gravity that our public duty requires that a Prohibition Order should be recommended. We are told that Mr Nutley may as a consequence forfeit his current employment in Tajikistan. Nonetheless we consider that his behaviour demands that a Prohibition Order is imposed.

Mr Nutley is aged 58 and, taking account of his general teaching record, the references in the case papers and the evidence of his two witnesses, we believe it would be a proportionate response to the failings exposed by this case for the Prohibition Order to be made subject to Review after a period of 3 years has elapsed.

### **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.

The Panel has found that Mr Nutley's conduct fell significantly short of that expected. Mr Nutley failed to establish and foster an environment of mutual respect by his behaviour and through his attitude towards pupils and teaching colleagues. His conduct in relation to examinations and written assessments was very serious as it adversely affected pupils' academic progress and undermined the integrity of the examination/assessment process.

As a class teacher Mr Nutley carried the responsibility for ensuring and fostering good and courteous behaviour in and around the school.

I have taken into account the need to reflect the public interest and to recognise the interests of Mr Nutley. I have also taken into account the need to be proportionate.

I support the recommendation of the Panel that Mr Nutley is prohibited from teaching.

I have also given careful consideration to the recommendation of the Panel in terms of a review period. I have noted the matters that the Panel have considered and support their recommendation that Mr Nutley should be able to apply to have his Prohibition Order set aside after three years.

This means that Mr Paul Nutley is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the Prohibition Order to be set aside, **but not until 3 July 2016, 3 years from the date of this order at the earliest**. If he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Paul Nutley remains barred from teaching indefinitely.

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

Mr Paul Nutley 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: 27 June 2013**

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