



National College for  
Teaching & Leadership

# **Linda Harvey: Professional Conduct Panel outcome**

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

**September 2014**

# Contents

A. Introduction	3
B. Allegations	4 - 5
C. Preliminary applications	5
D. Summary of evidence	5 - 6
Documents	5 - 6
Statement of agreed facts	6
Witnesses	6
E. Decision and reasons	6 - 9
Panel's recommendation to the Secretary of State	10 - 11
Decision and reasons on behalf of the Secretary of State	12

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

<b>Teacher:</b>	Mrs Linda Harvey
<b>Teacher ref no:</b>	1032719
<b>Teacher date of birth:</b>	3 March 1971
<b>NCTL Case ref no:</b>	10863
<b>Date of Determination:</b>	30 September 2014
<b>Former employer:</b>	Park High School, Colne

### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 29 and 30 September 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mrs Linda Harvey.

The Panel members were Mrs Alison Walsh (Teacher Panellist – in the Chair), Mr Tony Walsh (Teacher Panellist) and Mr Martin Greenslade (Lay Panellist).

The Legal Adviser to the Panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The Presenting Officer for the National College was Mr Stephen Brassington of Counsel instructed by Nabarro LLP solicitors.

Mrs Harvey was not present but was represented by Robert Young of 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 16 July 2014.

It was alleged that Mrs Linda Harvey was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed by Park High School, Colne (“the School”) between around 1 September 2009 and 28 February 2013 she:

1. Failed to maintain appropriate professional boundaries with Pupil A, a former pupil of the School, between mid July 2012 and 17 December 2012 in that she:
  - a. Sent Pupil A:
    - (i) Personal/private messages on Facebook
    - (ii) Personal text messages from her mobile telephone
    - (iii) Personal images of herself
    - (iv) An indecent image of herself
  - b. Requested that Pupil A provide her with his personal mobile telephone number
  - c. Provided Pupil A with her personal mobile telephone number
  - d. Invited and/or accepted Pupil A as a “friend” on Facebook
  - e. Failed to take appropriate action when she received:
    - (i) Personal/private messages on Facebook from Pupil A
    - (ii) Personal text messages from Pupil A
  - f. Offered to pick Pupil A up from Harrogate
  - g. Invited Pupil A to visit her home address
2. Her actions set out at 1(a) (iv) above were sexually motivated.

Mrs Harvey admitted the facts alleged in particulars 1a i, ii and iv, b, c, d and e i and ii and f and admitted that she failed to maintain appropriate professional boundaries with Pupil A. The facts alleged in 1a iii, and g and 2 were not admitted. No admissions were made as to unacceptable professional conduct or conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

### **Application for the hearing to take place in private**

Mr Young made an application that the hearing should be held in private. The application was opposed by the Presenting Officer. After hearing submissions from Mr Young and Mr Brassington and receiving legal advice, the Panel announced its decision and reasons as follows:

‘The Panel has considered an application that the hearing should take place in private. There is a presumption that hearings take place in public. The Panel is satisfied that the public interest in the hearing taking place in public outweighs the right of privacy in this case. However, the papers contain reference to sensitive medical evidence and the Panel is satisfied that any oral reference to the detail of this evidence should not be made in public. The Panel has, therefore, decided that the hearing should take place in public, but we will consider an application to go into private if Mr Young wishes to make any oral reference to the detail of the medical evidence. If, pursuant to Rule 4.64 any statement within the bundle is made available to the public during the course of the hearing, the statement shall be redacted to exclude any reference to the detail of the medical evidence.’

## **D. Summary of evidence**

### **Documents**

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

- Section 1: Chronology and anonymised pupil list, with page numbers from 2 to 5
- Section 2: Notice of Proceedings and Response, with page numbers from 7 to 18
- Section 3: Witness statements with page numbers from 20 to 28
- Section 4 : NCTL documents with page numbers from 30 to 246
- Section 5: Teacher documents with page numbers from 248 to 297

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

There were no additional documents, save that Mr Brassington presented a copy of the image at page 62 of the bundle which, in accordance with Rule 4.22, had not been served with the papers due to the nature of the document.

## Statement of Agreed Facts

The Panel was presented with a statement of agreed facts signed by Mrs Harvey on 23 April 2014.

## Witnesses

The Panel heard oral evidence from the following witnesses called by the Presenting Officer

- Pupil A, former pupil of the School and now a student
- Witness A

## 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.

Mrs Linda Harvey was employed at Park High School, Colne between 1 August 2002 and 28 February 2013. She was initially employed as a teaching assistant but became employed as a teacher from 2009. Mrs Harvey taught Pupil A when he was in Year 10 from January 2010. In Year 11, Mrs Harvey was his SPACE (School of Professional and Continuing Education) teacher. It is alleged that shortly after Pupil A left the school in July 2012, Mrs Harvey began inappropriately communicating with Pupil A via Facebook. Pupil A started employment on 9 September 2012 and it is alleged that this is when they exchanged mobile telephone numbers and text message communication between them began. It is further alleged by Pupil A that in October 2012 the text messages from Mrs Harvey started becoming more frequent. In November 2012, Pupil A left employment and began a college course. Around this time, it is alleged that Mrs Harvey had sent an indecent image via picture message to Pupil A, which was reported to the school. There was an investigation by the school, during which Mrs Harvey was interviewed. The case was referred to the Governing Body for a disciplinary hearing. Mrs Harvey left the school before the hearing took place. The Governors decided that Mrs Harvey would have been dismissed had she not resigned.

## Findings of Fact

Our findings of fact are as follows:

**Whilst employed by Park High School, Colne (“the School”) between around 1 September 2009 and 28 February 2013 she:**

**1. Failed to maintain appropriate professional boundaries with Pupil A, a former pupil of the School, between mid July 2012 and 17 December 2012 in that she:**

**a. Sent Pupil A:**

**(i) Personal/private messages on Facebook**

Mrs Harvey admits that she sent Pupil A messages via Facebook on and after 23 August 2012 and that these were personal in nature. (See paragraph 7 of the Statement of Agreed Facts).

**(ii) Personal text messages from her mobile telephone**

Mrs Harvey admits that she sent Pupil A messages via text and Facebook and that these were personal in nature. (See paragraphs 5 and 10 of the Statement of Agreed Facts).

**(iii) Personal images of herself**

The Panel heard evidence from Pupil A, whom we regarded as a credible witness, that he received personal images of Mrs Harvey, which included a picture of Mrs Harvey sitting on her sofa, and a video of her and her teacher friend and a family member in a holiday setting. On the balance of probabilities, the Panel accepts that this did take place. Although they were not indecent images, they were personal. We, therefore, find the facts proved.

**(iv) An indecent image of herself**

Mrs Harvey admits that she sent Pupil A an indecent image of herself by text. (See paragraph 27 of the Statement of Agreed Facts). The Panel has seen the image, which shows a bare-breasted woman from the neck down who has been identified as Mrs Harvey. The Panel do consider the image to be indecent.

**b. Requested that Pupil A provide her with his personal mobile telephone number**

Mrs Harvey admits that she asked Pupil A for his phone number because Pupil A sent a message requesting her to text. (See paragraph 9 of the Statement of Agreed Facts and the record of interview at page 49 of the bundle).

**c. Provided Pupil A with her personal mobile telephone number**

Mrs Harvey admits that she provided Pupil A with her personal mobile telephone number. (See paragraph 9 of the Statement of Agreed Facts).

**d. Invited and/or accepted Pupil A as a “friend” on Facebook**

Mrs Harvey states that Pupil A initiated the Friend request, which she initially declined. Subsequently, Mrs Harvey sent a Friend request back to him, which he accepted. (See the record of interview at page 49 of the bundle).

**e. Failed to take appropriate action when she received:**

**(i) Personal/private messages on Facebook from Pupil A**

**(ii) Personal text messages from Pupil A**

Mrs Harvey admits that she knew that her behaviour in relation to her contact with Pupil A was inappropriate. (See paragraph 33 of the Statement of Agreed Facts).

**f. Offered to pick Pupil A up from Harrogate**

Mrs Harvey admits that she offered to pick up Pupil A from Harrogate. (See paragraph 23 and 35 of the Statement of Agreed Facts).

**g. Invited Pupil A to visit her home address**

Pupil A said in his evidence that when he was running he would tell Mrs Harvey where he was running and Mrs Harvey would say ‘*that is near me, why don’t you pop in?*’. However, Pupil A also said that Mrs Harvey never gave him her specific address and he did not know the address. Therefore, the Panel finds the facts not proved.

Through her representative, Mrs Harvey admits that her actions involved a failure to maintain appropriate professional boundaries. The Panel is satisfied that in acting as admitted and/or found proved, Mrs Harvey failed to maintain appropriate professional boundaries. She continued an ongoing dialogue via text and Facebook with a 16 year old former pupil, during which she exchanged personal information and pictures, including an indecent image of herself. She failed to report the communications to the school, thereby breaching school policy and practice as outlined in the school’s safeguarding training.

**2. Her actions set out at 1(a) (iv) above were sexually motivated.**

Mrs Harvey denies that her actions in sending the indecent image were sexually motivated. Mrs Harvey stated in her interview that Pupil A sent her two or three picture messages that were explicit. Pupil A confirmed this in his oral evidence.

There was evidence presented of a flirtatious conversation that took place in August 2012. However, there was no evidence presented of a continuing exchange of this



nature. Moreover, the evidence presented suggested Pupil A was the instigator of the flirtatious messages, which Mrs Harvey made limited attempts to rebuff over a period of a few days.

The image sent by Mrs Harvey was sent in or around November 2012 and in the view of the Panel was of a sexual nature. However, in light of the texts/ Facebook messages presented to the Panel sent at that time, the Panel do not feel that the sending of the image was sexually motivated. Therefore, we find the facts not proved.

## **Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute**

The Panel is satisfied that Mrs Harvey breached the Personal and Professional Conduct elements of the Teachers' Standards. Mrs Harvey failed to uphold public trust and confidence in the profession and maintain high standards of ethics and behaviour within and outside school in that she did not:

- treat Pupil A with dignity or build a relationship with him rooted in mutual respect and at all times observe proper boundaries appropriate to a teacher's professional position;
- have regard to the need to safeguard Pupil A's well-being, in accordance with statutory provisions;

In addition, Mrs Harvey did not have regard to the policies and practices of the school in which she taught.

The Panel is satisfied that Mrs Harvey's actions involve misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher and amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Although the actions occurred after Pupil A had left the school, they involved misconduct in the education setting because the relationship was initiated by Mrs Harvey in her capacity as Pupil A's teacher. The fact that details of the Facebook and text messages quickly became common knowledge serves to damage public perception of Mrs Harvey and the teaching profession. Teachers have a uniquely influential role and pupils and the public must be able to view teachers as role models in the way they behave.

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

The Panel has considered this case very carefully and considered all of the matters put forward in mitigation, including the character references presented.

The Panel is satisfied that the conduct is incompatible with being a teacher in that:

- her actions were a serious departure from the personal and professional conduct elements of the Teachers' Standards;
- her actions were an abuse of position of trust. Mrs Harvey used her position as Pupil A's teacher to develop an inappropriate relationship. This impacted on Pupil A's sibling and other students who viewed the inappropriate communications and indecent image that had been disclosed to them by Pupil A.
- we consider that the sending of the indecent image amounts to sexual misconduct on the basis that it was of a sexual nature, but we consider it not to be sexually motivated. We accept that the sending of this image was an isolated event and not with the intention of developing an intimate relationship with Pupil A. However, the Panel believe this action was an abuse of Mrs Harvey's professional position, despite the fact that the sending of the image and exchange of messages all occurred after Pupil A had left the school and that Pupil A sent the flirtatious messages, which Mrs Harvey did not take appropriate steps to stop.

The Panel considered the following matters in mitigation.

Mrs Harvey has a previous good history, as testified by Witness A, her former Headteacher, who had also supported her through her professional development from teaching assistant to qualified teacher. Witness A also confirmed that there had been no other concerns and that she was a hard working member of staff.

Individual B, whom Mrs Harvey worked under in the SEN department, provided a written statement in which she said Mrs Harvey was 'an invaluable member of the team who was always extremely conscientious and professional in all aspects of her work'.

Her current employer outside of teaching has stated that she has found Mrs Harvey to be 'an honest, hard-working, compassionate and understanding' individual. All of the references presented indicate that Mrs Harvey's actions were totally out of character.

The Panel is satisfied by all of the evidence presented, including Mrs Harvey's own statement, that she has insight into the impact of her actions on Pupil A, other pupils and the school community. In her statement, Mrs Harvey shows genuine remorse. She says that she would 'like to apologise for any upset and distress caused to the ex-pupil who I let down badly throughout the entire incident. Above all it is the impact on him that I am mindful on - as well as the impact on other pupils and the school community as a whole.'

Mrs Harvey admitted the inappropriateness of her conduct from an early stage and her representative during the hearing emphasised both her awareness of the implications of her actions and her sense of shame. Her current employer states that 'from the onset of being offered the role, Linda was truthful about her previous employment history'.

Notwithstanding the mitigating factors identified above, and taking all considerations into account, including proportionality, the Panel has concluded that a Prohibition Order is

necessary in the public interest: this is for the maintenance of public confidence in the teaching profession and to uphold proper standards of conduct.

The Panel then considered whether to recommend that a Prohibition Order be imposed with no provision for it to be reviewed or whether Mrs Harvey should be able to apply to have the Prohibition Order set aside after a specified period of time.

The Panel considered the list of factors in the guidance which when present suggest that there should be no provision to apply for a review. The only possible factor in that list is 'serious sexual misconduct'. The Panel does not regard this as a case of serious sexual misconduct. As the Panel has already found, the conduct was not sexually motivated and Pupil A did not present during his oral evidence as someone who had been affected or harmed at the time or as a result of the subsequent investigation and proceedings.

Taking into account the factors identified in mitigation, the Panel recommends that Mrs Harvey should have the opportunity to apply for the Prohibition Order to be set aside after a period of 5 years.

## **Decision and reasons on behalf of the Secretary of State**

I have given careful consideration to the findings and recommendations of the panel in this case.

The panel have found proven a range of allegations relating to the maintenance of professional boundaries by Mrs Harvey with Pupil A.

They are satisfied that Mrs Harvey has breached the personal and professional conduct elements of the Teachers' Standards, particularly with regard to treating pupils with dignity and respect and the safeguarding of pupils in accordance with statutory provisions.

Her actions amount to misconduct of a serious nature falling significantly short of the standards expected of a teacher. The panel have found that her behaviour amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering whether a prohibition order would be a proportionate sanction, the panel have properly considered both the public interest and the interests of Mrs Taylor.

Public interest considerations include the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. Both of these considerations are relevant in this case.

Mrs Harvey has a previous good history. All of the references indicate that her actions were out of character. She has shown genuine insight and remorse and is acutely aware

of the impact on Pupil A and other pupils and the school community as a whole. She admitted the inappropriateness of her behaviour at an early stage in proceedings.

Whilst not sexually motivated, Mrs Harvey's behaviour, and in particular her failure to maintain appropriate boundaries, falls well short of the standards expected and I agree that a prohibition order is a proportionate sanction.

Mrs Harvey has shown significant insight and genuine remorse. She has been honest about her behaviour both during the investigation of this case and also with her current employers. I agree with the panel's recommendation that she should be allowed to apply to have the order set aside after a period of 5 years has elapsed.

**This means that Mrs Linda Harvey 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 7 September 2019, 5 years from the date of this order at the earliest. This is not an automatic right to have the Prohibition Order removed. If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mrs Linda Harvey remains barred from teaching indefinitely.

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

Mrs Linda Harvey 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.

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

**NAME OF DECISION MAKER: Paul Heathcote**

**Date: 30 September 2014**

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