



National College for
Teaching & Leadership

Mr Mark Donaldson Bryson: Professional Conduct Panel outcome

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

November 2014

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

Teacher: Mr Mark Bryson
Teacher ref no: 02/10580
Teacher date of birth: 04/10/1961
NCTL Case ref no: 0011162
Date of Determination: 14 November 2014

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 14 November at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Mark Bryson.

The Panel members were Mr Robert Cawley (Teacher Panellist), Mr Phil Lloyd (Teacher Panellist) and Janet Draper (Lay Panellist – in the Chair).

The Legal Adviser to the Panel was Mr Guy Micklewright of Blake Morgan LLP Solicitors.

The Presenting Officer for the National College was Mr Ben Bentley of Browne Jacobson LLP Solicitors.

Mr Mark Bryson was not present was not represented.

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

B. Allegations

The Panel considered the allegation set out in the Notice of Meeting dated 27 August 2014:

"You, Mark Donaldson Bryson, a teacher for Further & Adult Education and 6th Form, are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that between 25/03/08 – 30/09/11, you

1. Made indecent photographs of children or pseudo-photographs of children contrary to s.1(a) of the Protection of Children Act 1978. This resulted in a police caution."

C. Preliminary applications

During the Meeting the Panel considered an email submitted to the NCTL by Mr Bryson on the day of the Meeting at 07:16 am. The document raised concerns Mr Bryson had about the process adopted at the Case Management Hearing which took place via teleconference on 10 November 2014. The Panel considered whether it should admit the document under Rule 4.18. In the Panel's judgement this was a document which could not reasonably be considered to go to a relevant matter in the case and therefore decided not to admit it. It considers the contents of the email to be something which should more properly be considered by the NCTL as a complaint.

The Panel also considered whether there was any matter in the document which would mean that it was either in the public interest and/or the interests of justice to consider the allegation at a Hearing in order to give the parties an opportunity to make representations about the contents of the document. It was the Panel's judgement that this was not necessary.

D. Summary of evidence

Documents

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

1. Notice of Referral, Response, and Notice of Meeting (pages 4-7b)
2. Chronology (page 2)
3. Statement of Agreed Facts and Presenting Officer Representations (pages 9-12)
4. NCTL Documents (pages 14-22)
5. Teacher Documents (pages 24-34)

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

Witnesses

There were no witnesses who gave oral evidence as the hearing was dealt with by way of a Meeting.

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.

This case arises from the receipt by Mr Bryson of a police caution on 25 March 2013 for the making of indecent photographs or pseudo-photographs of children contrary to section 1(a) of the Protection of Children Act 1978.

In or around September 2011, Mr Bryson was arrested by police in relation to the making and possession of indecent images of children. The NCTL was notified by Merseyside Police by letter dated 23 January 2014 confirming that he was issued with the above caution on the above date. In the bundle is a printout from the Police National Computer Database. Both the fact of the receipt of the caution and the facts of the offending are admitted by Mr Bryson. Mr Bryson in his representations to the Disclosure and Barring Service ("DBS") asserts that the images he was viewing were only of children aged fourteen and above.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mr Bryson proven, for these reasons:

1. Made indecent photographs of children or pseudo-photographs of children contrary to s.1(a) of the Protection of Children Act 1978. This resulted in a police caution.

The Panel is satisfied that Mr Bryson received a caution for the above offence. The Panel accepts the accuracy of the printout from the Police National Computer recording the caution, the existence of which Mr Bryson admits in the Statement of Agreed Facts signed by him and dated 13 August 2014.

In the Statement of Agreed Facts Mr Bryson accepts that he was involved in the making of indecent photographs or pseudo-photographs of children and admits that the offences

were factually correct. He also accepts the facts of the offence in his letter to the DBS. The Panel recognises that in accepting a caution Mr Bryson was at that time admitting his guilt of the offence.

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

In the Panel's judgement Mr Bryson's conduct amounts to both unacceptable professional conduct and also conduct that may bring the profession into disrepute. This is accepted by Mr Bryson in the Statement of Agreed Facts.

The Panel considered the guidance contained in the 'Teacher misconduct: the prohibition of teachers' document dated July 2014. Whilst Mr Bryson has not been convicted of an offence, the Panel considered that the guidance relating to particular offences was relevant as the allegation relates to conduct that amounts to a criminal offence. The Panel notes that the guidance indicates that if conduct involved viewing, taking, making, possessing, distributing or publishing indecent images of children, then it is likely that that behaviour will be considered as being incompatible with being a teacher. Mr Bryson's actions amount to a failure on his part to meet his obligation as a teacher to maintain high standards of ethics and behaviour both within and outside the teaching environment. Such conduct inevitably undermines public confidence in a profession which is entrusted by the public with the care of children and young people.

In the Panel's judgment the viewing of indecent photographs of children over a prolonged period of time clearly amount to serious misconduct on the part of Mr Bryson. It is behaviour which is incompatible with the standards of conduct expected of teachers and may well bring the profession into disrepute.

Panel's recommendation to the Secretary of State

The Panel went on to consider the issue of prohibition. The Panel has considered the 'Teacher misconduct: the prohibition of teachers' guidance dated July 2014.

The Panel considers that an order is necessary to protect the public, to maintain public confidence in the profession, and to declare and uphold proper standards of conduct.

The Panel closely considered the mitigation advanced by Mr Bryson. The Panel notes that Mr Bryson has embarked on treatment and counselling which has provided him with insight into the reasons for his offending. He expresses great remorse for his actions and there appears to have been no repetition of his actions. The Panel has not had the benefit of knowing the precise number of images involved or the seriousness of the images. However, the Panel is of the view that the viewing of any indecent photographs of children, at whatever level of seriousness, contributes towards harm to children.

Whilst the Panel notes that Mr Bryson states that he currently has no intention of returning to teaching, the Panel must be conscious of the fact that that is something which might change in the future.

The Panel has considered the potential adverse effect on Mr Bryson of the imposition of a Prohibition Order. Mr Bryson is currently not relying on teaching as a source of income. He submits that there will be potential for emotional harm to his family if the existence of his caution is made public. The Panel has weighed his interests against the wider public interest in protecting children from harm, maintaining public confidence in the teaching profession and declaring and upholding high standards in the profession. The Panel considers that all three of these public interest considerations are engaged in this case. In the Panel's view the conduct in question is so unacceptable that only a Prohibition Order can meet the public interest in this case and must outweigh the effect of any order either on Mr Bryson personally or on his family.

The very serious nature of the conduct is such that, in the Panel's view, it is appropriate and proportionate that Mr Bryson is not permitted to be able to apply in the future for a Prohibition Order to be reviewed. The above guidance is clear that there is an expectation that these sorts of offences would not lead a Panel to recommend that provision be made to allow for a future application for review. The Panel do not consider that there are any matters in this case which would permit it to depart from this guidance.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case.

The panel have found the allegation relating to a caution for the making of indecent photographs or pseudo-photographs of children contrary to section 1(a) of the Protection of Children Act 1978 proven. They have judged that the facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel have considered the Secretary of State's advice '*Teacher misconduct: the prohibition of teachers*'. This indicates that where conduct involves viewing, taking, making, possessing, distributing or publishing indecent images of children, then it is likely that that behaviour will be considered as being incompatible with being a teacher. They have judged Mr Bryson's behaviour to be serious misconduct.

In considering whether a prohibition order is an appropriate and proportionate sanction the panel have considered the public interest considerations and have found several to be engaged in this case. Given the serious nature of the conduct, they believe that those considerations outweigh the interests of Mr Bryson and that a prohibition order is an appropriate sanction. I agree with this recommendation.

The Secretary of State's advice is clear that the behaviour found proven in this case is behaviour that would not ordinarily lead to the teacher having provision to apply to have the order set aside. The panel have recommended that there should be no provision for Mr Bryson to apply to have the order set aside and I agree.

This means that Mr Mark Donaldson Bryson 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 allegation found proved against him, I have decided that Mr Mark Donaldson Bryson 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 Mark Donaldson Bryson 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.

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

NAME OF DECISION MAKER: Paul Heathcote

Date: 17 November 2014

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