



National College for
Teaching & Leadership

Mr Adam Wieder: 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 Adam Wieder
Teacher ref no:	05/35954
Teacher date of birth:	30 June 1984
NCTL Case ref no:	0010463
Date of Determination:	6 November 2014
Former employer:	Oriel Primary School, Hanworth, Middlesex

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 3-6 November 2014 at Hilton Hotel, Paradise Way, Walsgrave Triangle, Coventry CV2 2ST.

The Panel members were Dr Geoffrey Penzer (Lay Panellist – in the Chair), Mrs Kathy Thomson (Teacher Panellist) and Mr Tony James (Teacher Panellist).

The Legal Adviser to the Panel was Mr Nick Leale of Blake Morgan Solicitors.

The Presenting Officer for the National College was Ms Melinka Berridge of Kingsley Napley Solicitors.

Mr Adam Wieder was present and was represented by Ms Olivia Callea 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 21 July 2014.

It was alleged that Mr Adam Wieder was guilty of unacceptable professional conduct/ conduct that may bring the profession into disrepute in that:

1. Whilst employed at Oriel Primary School in 2010 he behaved in an inappropriate manner towards Pupil A in that he:
 - a) Singled out Pupil A for special attention;
 - b) Gave Pupil A preferential treatment.
2. Whilst employed at Oriel Primary School in 2010 he engaged in inappropriate physical contact with Pupil A in that he:
 - a) Wrapped himself around Pupil A to show him how to butter bread and rested his body against his back;
 - b) Touched his shoulders, back and arms;
 - c) Fitted a climbing harness on Pupil A and placed his hands around Pupil A's leg and groin area whilst doing so;
 - d) Stroked his hair.
3. His conduct at paragraphs 1 and 2 above was in breach of the 'Final Written Warning' issued to him on or about 15 October 2009.

All of the allegations were denied by Mr Wieder.

C. Preliminary applications

The Presenting Officer clarified that factual particular at paragraph 3 above was a separate allegation that required proof. This particular appeared without a number on the Notice of Proceedings. All parties accepted this and it was therefore confirmed that the allegations were numbered as above.

It was agreed prior to the decision making stage that, as the conduct that is the subject of the allegations all took place within the educational setting, the Panel was not required to consider the issue of whether the conduct amounted to conduct that might bring the profession into disrepute.

D. Summary of evidence

Documents

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

1. Chronology and anonymised pupil list (pages 1-6)
2. Notice of Proceedings and Response (pages 7-15)
3. NCTL Statements (pages 16-38)
4. NCTL Documents (pages 39-238)

In addition, the Panel agreed to accept the following:

1. The missing second page of the letter from Witness C to Adam Wieder dated 6 July 2010 (paginated as 79a)
2. The full version of the Strategy Meetings held on 6 July 2010 and 9 September 2010 (paginated as 201-201k)
3. Teacher documents:
 - i) Sketches of key incidents (paginated as 240-242, including annotated versions of Witness B at 241a and 242a)
 - ii) House of Lords judgment in 'Re B' (paginated as 243-267);
 - iii) Statement of Adam Wieder (paginated as 268-285)
 - iv) Testimonial statements of Individual A and Individual B (paginated as 286-287)

The Panel Members confirmed that they had read all of the documents in advance of the hearing or immediately after accepting them during the hearing.

Witnesses

The Panel heard oral evidence from:

1. Witness A – Higher Level Teaching Assistant at Oriol Primary School at the relevant time – called by the Presenting Officer

2. Witness B – Volunteer Teaching Assistant at Oriel Primary School at the relevant time – called by the Presenting Officer

3. Witness C – Headteacher of Oriel Primary School at the relevant time – called by the Presenting Officer

4. Adam Wieder – the Teacher

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.

This case relates to a teacher at a Primary School who qualified in 2006. It is alleged that in 2010, following receipt of a final written warning in relation to inappropriate physical contact with a year 6 child during 2009, Mr Wieder preferentially treated a pupil and on a number of occasions engaged in inappropriate physical contact with him. The inappropriate contact included the touching of the pupil's shoulders, back, arms, leg and groin area as well the stroking of the pupil's hair.

Findings of Fact

Our findings of fact are as follows:

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

2. Whilst employed at Oriel Primary School in 2010 you engaged in inappropriate physical contact with Pupil A in that you:

(b) Touched his shoulders, back and arms

The combined effect of the evidence of Witness A, Witness B, Witness C and the record of Pupil A's police interview, as well as the evidence of Mr Wieder himself leads the Panel to conclude that, on the balance of probabilities, Mr Wieder touched Pupil A on the shoulders, back and arms on several occasions in the relevant period. The record of the pupil's police interview is particularly important corroborative evidence in this regard. The Panel further finds proved that this physical contact was inappropriate. Pupil A was clearly disturbed by it and while occasional physical contact of this kind may be appropriate, it happened on an excessive number of occasions and in the context of a recent final written warning being issued to Mr Wieder due to a previous allegation of

inappropriate physical contact with a pupil, it was in breach of the school's Code of Safe Practice.

3. Your conduct at paragraphs 1 and 2 above was in breach of the 'Final Written Warning' issued to you on or about 15 October 2009.

The Panel is satisfied that this factual particular is proved. The written warning issued to Mr Wieder in October 2009 included an action list which was to remain in force for two years. The action list included the following entry:

"- To ensure at all times that any physical contact with children conforms strictly to the professional guidelines laid down on the LBH Safe Working Practices and Child Protection Training manuals....."

Page 3 of the relevant Code of Safe Practice states as follows under the heading 'Physical Contact':

"As a general rule, do not touch pupils" and "there are occasions when it is appropriate and proper for staff to have physical contact with pupils, but you should only touch when it is appropriate and proper to do so in your professional judgement. Physical contact should be in response to a child's needs at the time, of limited duration, and appropriate given their age, stage of development, gender, ethnicity and background."

For the reasons stated above the Panel is satisfied that the physical contact made with Pupil A was not appropriate. There was therefore a repeated breach of the Code by Mr Wieder and therefore a breach of the terms of his final written warning.

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

1. Whilst employed at Oriel Primary School in 2010 you behaved in an inappropriate manner towards Pupil A in that you:

(a) Singled out Pupil A for special attention

The Panel is satisfied that Pupil A did receive some special attention from Mr Wieder. This is evidenced by Witness A and Witness B. However, the Panel did not believe on the balance of probabilities that Pupil A was necessarily singled out for such special attention. There was insufficient evidence available for the Panel to conclude that Pupil A was uniquely singled out for such treatment. The Panel particularly had in mind that the school did apply personalised learning strategies for Pupils and was also aware of evidence that Mr Wieder on occasion treated particular groups of Pupils differently from others.

(b) Gave Pupil A preferential treatment

The evidence in support of this allegation was limited to that of Witness B and the Panel considered this evidence (mainly relating to Mr Wieder's treatment of Pupil A at singing practice) to be limited and isolated. Witness B is not a teacher and her evidence had to be considered in the context of her not necessarily understanding potentially suitable behaviour strategies to be employed by the classroom teacher. There was therefore insufficient evidence available for this particular to be proved.

2 Whilst employed at Oriel Primary School in 2010 you engaged in inappropriate physical contact with Pupil A in that you :

(a) Wrapped yourself around Pupil A to show him how to butter bread and rested your body against his back

We are not satisfied on the balance of probabilities that Mr Wieder wrapped himself around Pupil A or rested against Pupil A in the way described. Witness B's evidence in relation to this particular was not corroborated and her position and view causes the Panel to conclude that she may have been mistaken with regard to Mr Wieder's position in relation to Pupil A. There is some inconsistency between her hand written notes of 2010, where reference is made to stroking of the arm and back and her typed statement of 2014, and Witness A's record of Witness B's description of this event. The factual particular does not allege stroking of the arm and back. The Panel further notes that Pupil A made no reference to this incident in his police interview.

(c) Fitted a climbing harness on Pupil A and placed your hands around Pupil A's leg and groin area whilst so doing

The Panel is satisfied that Mr Wieder did assist in the safe fitting of Pupil A's harness but is not satisfied on the balance of probabilities that he placed his hands inappropriately around Pupil A's leg and groin whilst so doing. Again, Pupil A makes no mention of Mr Wieder touching his leg and groin area inappropriately at that time in his police interview (despite being specifically asked about this incident) and, indeed, Witness B' most contemporaneous note of these events makes no mention of contact with the groin area.

(d) Stroked his hair

The only evidence in support of this particular is within Witness B's statement of 24 February 2014 where it is stated that Mr Wieder stroked Pupil A's hair. However, this evidence is not corroborated and no mention is made of it in the more contemporaneous hand written record of events prepared by Witness B's in June 2010. We find this particular not proved on the balance of probabilities.

Findings as to unacceptable professional conduct

Having found factual particulars 2(b) and 3 proved, we further find that the matters found proved amount to unacceptable professional conduct. The facts found proved amount to misconduct of a serious nature that falls significantly short of the standard of behaviour expected of a teacher.

In forming this conclusion we have particularly borne in mind Part Two of the Teachers' Standards, which states at its outset that a teacher is expected to demonstrate consistently high standards of personal and professional conduct.

Part Two of the Standards states that teachers must uphold public trust in the profession and maintain high standards of ethics and behaviour. They must treat pupils with dignity and respect and at all times observe proper boundaries appropriate to a teacher's professional position. Teachers must have regard to the need to safeguard pupils' well-being.

By repeatedly touching Pupil A in the way that he did, Mr Wieder clearly failed to treat Pupil A with dignity and respect and failed to observe proper professional boundaries. Pupil A's well-being was harmed. This is indicated by the way Pupil A described how such contact made him feel and react in his police interview.

Mr Wieder showed disregard for the ethos, policies and practices of the school despite clear instructions and guidance provided to him as a result of his earlier written warning and the heightened state of awareness of the effect of his behaviour that this earlier process should have brought about. He patently failed to comprehend the effects of earlier events and reflect on his behaviour in the way that a professional in the position of trust that he held should have done.

Panel's recommendation to the Secretary of State

We recommend that a Prohibition Order is imposed by the Secretary of State in this case.

Such an outcome is, in our unanimous view, an appropriate and proportionate measure in this matter.

Only a Prohibition Order adequately protects the public interest in this case by protecting pupils from harm, maintaining public confidence in the profession and declaring and upholding proper standards of conduct.

We believe that Mr Wieder's clear lack of self-awareness as to the inappropriateness of his behaviour and his lack of insight into the impact of the events found to have occurred, suggest that there is an ongoing risk of repeat of such behaviour should he be free to continue teaching.

Despite the receipt of the written warning and action points in 2009 for previous similar activity he has not shown any insight or regret. He repeated the inappropriate physical behaviour with a pupil in 2010 and continued throughout this hearing, without respite, to defend his actions in their entirety.

As detailed above, Mr Wieder has demonstrated the following behaviours that are incompatible with being a teacher:

- serious departure from the professional conduct elements of the Teachers' Standards;
- misconduct which has seriously affected the well-being of a pupil;
- a deep-seated attitude that has led to harmful behaviour;
- abuse of his position of trust.

Mr Wieder is, however, young and there appears to the Panel to be a reasonable prospect of him, over time, properly reflecting on and remediating his attitude and demonstrating improved self-awareness of the effect of his actions.

We recommend that once a period of five years has passed Mr Wieder should be entitled to apply for the prohibition to be reviewed.

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 an allegation proven in respect of Mr Wieder's inappropriate physical contact with a pupil and also found his actions to be in breach of a final written warning issued by his employer.

There is a clear public interest in protecting pupils from harm, maintaining public confidence in the profession and declaring and upholding proper standards of conduct. Mr Wieder has shown a lack of self awareness and insight into the inappropriate nature and impact of his actions. The panel are of the view that there is an ongoing risk of the behaviour being repeated. In all the circumstances I agree that a prohibition order is an appropriate and proportionate sanction.

Whilst Mr Wieder continued to defend his actions throughout the hearing he is, however, young. The Panel have judged that there is a reasonable prospect of him properly reflecting on and remediating his attitude and demonstrating improved self-awareness of the effect of his actions in the fullness of time.

I agree that Mr Wieder should be granted provision to apply to have the order set aside after 5 years have passed.

This means that Mr Adam Wieder 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 12 November 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 he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Adam Wieder remains barred from teaching indefinitely.

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

Mr Adam Wieder 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: 7 November 2014

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