

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Professional Conduct Panel Decision and Recommendations,
and Decision on behalf of the Secretary of State

Teacher: Mr Jonathan Hollier
Teacher ref no: 09/41794
Teacher date of birth: 04/08/1982
NCTL Case ref no: 9512
Date of Determination: 29 August 2013
Former Employer: Buckinghamshire County Council

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (the National College) convened on 28 and 29 August 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Jonathan Hollier.

The Panel members were Mr Martin Greenslade (Lay Panellist – in the Chair), Ms Lianne Kitchen (Teacher Panellist), and Mr Colin Parker (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 was Ms Louisa Atkin of Browne Jacobson LLP Solicitors, Nottingham.

Mr Jonathan Hollier was not present and was not represented.

The hearing took place in public other than the viewing of a video recording which was taken in private session. The hearing was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 11 June 2013.

It was alleged that Mr Jonathan Hollier was guilty of Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute, in that:-

1. whilst employed at School A during 2011 (as amended) he failed to maintain appropriate professional boundaries with a student of the School, Student C, in that he:-
 - a. Engaged in inappropriate communications with him including that he:-
 - i. Sent text messages to Student C from his personal mobile phone;
 - ii. Sent a handwritten letter to Student C on or around 3 November 2011, in which he stated “you know I love you”;
 - b. Engaged in inappropriate physical contact with Student C, including that he:-
 - i. Gave him massages on one occasion or more;
 - ii. Hugged him on one occasion or more;
 - c. Gave gifts to him, such as:-
 - i. A heart shaped sweet;
 - ii. A gift wrapped pen;
 - d. Between September and November 2011, met with Student C alone:-
 - i. On a number of occasions;
 - ii. In the Fitness Suite, where he locked the door;
 - e. Personally arranged for him to become a peer mentor for his Tutor Group outside the normal process for the allocation of peer mentors at the School.

The Teacher had made no formal admission of the facts and the case was thus treated as being contested.

C. Preliminary Applications

Proof of Service and Proceeding in the Absence of the Teacher

The Presenting Officer applied to proceed in the absence of Mr Hollier.

The Panel considered this preliminary issue and announced its decision as follows:-

“We are asked to consider proceeding with this hearing in the absence of Mr Hollier today. The hearing is convened to hear an allegation of Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute.

We are firstly satisfied that the Notice of Proceedings has been served on Mr Hollier at his last known address: Flat 10a, Church Street, Basingstoke, RG21 7QE in accordance with the provisions of Rule 4.10. A copy of the Notice of Proceedings is

included in the case papers at Pages 5 to 8. It was sent to him on 11 June 2013 and contains the relevant information.

We are therefore satisfied that the Notice of Proceedings has been properly served on Mr Hollier.

We therefore have a discretion to proceed with this hearing in the absence of Mr Hollier and have been made aware of the guidance given in the cases of *R v Jones* and *Tait v Royal College of Veterinary Surgeons*.

We are told that Mr Hollier has engaged with the National College in responding to the Notice of Referral but he has not responded to the Notice of Proceedings.

We have also seen the documents that Mr Hollier has sent in to the National College at pages 221 and 222 of the case papers.

We conclude on the balance of probabilities that Mr Hollier has no intention of attending today's hearing and particularly note that in his response to these proceedings at page 222 of the case papers he says: "I will not be attending a hearing, as I do not believe that one is necessary."

In the circumstances therefore we have decided to proceed in the absence of Mr Hollier today. In doing so we will approach this case with appropriate care and caution giving due consideration to the matters advanced by Mr Hollier in his caution interview with Thames Valley Police and during the course of his various interviews conducted as part of the School's Disciplinary investigation process."

Request for a Private Hearing

The Presenting Officer invited the Panel to view the video evidence of Student C's interview with the Police in private session.

The Panel announced its decision and reasons for that decision as follows:-

"We have considered the Presenting Officer's application for the video evidence of Student C's interview with the police to be shown in private session in this case.

We acknowledge that hearings before this Disciplinary Panel are normally heard in public and recognise the importance attached to the public's legitimate interest in the functions discharged by the National College's disciplinary panels. Hence we have to be satisfied that it is "necessary" to protect the interests of Student C for the Presenting Officer's application to succeed.

Student C was aged 14 at the time of the alleged events which form the basis of this case. He is still a child now. His name and details have been anonymised in this case – quite properly.

We are advised by the Presenting Officer that his name is used by the Interviewing Officer on the video evidence and other personal details are given. In our view it would therefore be entirely inappropriate and illogical for the video to be publicly

screened during the hearing as his identity would inevitably be disclosed. We consider we have a high duty to protect the interests of Student C and we therefore direct that the video evidence be screened in private.

For substantially the same reasons – and to ensure that Student C should not be identifiable - we direct, in accordance with paragraph 4.59, that the name and identity of the school where these events occurred should not be disclosed during the hearing and the school should be referred to as School A.”

Application to Amend Allegation

The Presenting Officer applied to amend the allegation faced by Mr Hollier by substituting 2011 for 2001 in the Notice of Proceedings. She said Mr Hollier had been notified by letter sent on 14 August that this was a typographical error and that an application would be made to the Panel for the amendment sought.

She said that this was not an application which would cause the Teacher any prejudice and did not prevent him from understanding the case against him.

The Panel announced its decision and reasons for that decision as follows:-

“We are asked by the Presenting Officer to make an amendment to the allegation faced by Mr Hollier in this case in relation to the date of the allegation as set out in the Notice of Proceedings.

The Notice of Proceedings indicates that the Panel will be considering an allegation of Unacceptable Professional Conduct/Conduct that may bring the Profession into disrepute in that it is alleged:-

1. That whilst employed at School A during 2001 Jonathan Hollier failed to maintain appropriate professional boundaries with a student at the School, Student C.

The allegation is then further particularised in relation to various alleged activities.

The Presenting Officer invites the Panel to amend the date so that 2011 is substituted for 2001.

We have been advised that under paragraph 4.55 of the Disciplinary Procedure a Panel may:-

“In the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case had been proved. Before making an amendment the Panel will consider any representations by the Presenting Officer and by the Teacher or Teacher’s representative, and take advice from the Legal Adviser”.

In that regard we have followed the provisions of the paragraph and heard representations from the Presenting Officer. Unfortunately the Teacher Mr Hollier is

not present so that we have not been able to hear any representations made on his behalf. We have also taken advice from the Legal Adviser.

We are urged to ensure that no prejudice is caused to either party in this case if the Application to amend the date was to be granted.

Having heard from the Presenting Officer we take the view that this is not a “material” amendment but the application merely seeks to rectify a typographical error in the Notice of Proceedings.

It is clear to this Panel from the case papers that the allegation against Mr Hollier concerns events in 2011 and not 2001. Mr Hollier has been served with a copy of the case papers and has also been interviewed extensively in the course of the investigations into the particulars which constitute the overarching allegation of Unacceptable Professional Conduct/Conduct which may bring the profession into disrepute.

It is clear from the served case papers that the events under consideration all occurred in 2011 and we are quite satisfied that Mr Hollier can be in no doubt as to the particulars on which the National College bases this case.

We further note that in the particulars of the allegation as set out in the Notice of Proceedings some of the events are specific as to their date. Particular A1(ii) regarding the hand written letter sent to Student C indicates that this occurred “on or around 3 November 2011” and under Particular 1d the dates are specified as “between September and November 2011.”

We are therefore entirely satisfied that Mr Hollier cannot possibly have been misled by the typographical error in the Notice of Proceedings and, thus, to allow this amendment as requested by the Presenting Officer on behalf of the National College would cause the teacher no prejudice even though he is absent today and will be unaware that this application is being made.

We therefore grant the Application to amend the allegation.”

D. Summary of Evidence

Documents

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

Section 1	Anonymised List and Chronology	Pages 2 to 3.
Section 2	Notice of Proceedings and Response	Pages 5 to 11.
Section 3	Witness Statements	Pages 13 to 18.
Section 4	NCTL Documents	Pages 20 to 219.
Section 5	Teacher Documents	Pages 221 to 222.

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

Brief summary of evidence given

The Presenting Officer called **Witness A** who gave evidence in accordance with her witness statement at Pages 13 to 18.

She said that she was appointed as the School's Investigating Officer and conducted interviews with witnesses and also interviewed Mr Hollier on three separate occasions. She explained that the notes of the interviews were made contemporaneously and later typed up and were then checked by herself and a colleague within a week or so – normally within a couple of days.

The notes of her interviews were sent to Mr Hollier and Panel members before the School's Disciplinary Meeting. Mr Hollier was asked whether the notes were an accurate account of the interviews and said nothing in response.

She gave further details about the layout of the School, the PE area and Fitness Suite and also explained the degree of safeguarding training that Mr Hollier had received. She said that staff were often reminded about the dangers of Face Book and it was part of the School culture to address these sort of issues at least once per term. She felt confident that Mr Hollier had been well briefed and he did not deny that he knew the basic rules in relation to safeguarding and specifically re mobile telephone numbers of pupils.

On questioning by the Panel she said that Teachers would generally be assumed to have responsibility for being aware of safeguarding issues. Mr Hollier had a certificate in safeguarding which was in the case papers.

The Panel then viewed the video of Student C's interview with the Police.

No other witnesses were called.

E. 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.

Summary of Case

The case concerns an allegation that while employed as a Teacher of PE at School A during 2011 Jonathan Hollier failed to maintain appropriate professional boundaries in his relationship with Student C, who at the time was aged 14 years and was a pupil in Year 10.

His conduct was initially investigated by the Local Authority Social Services Department and Thames Valley Police and subsequently, in early 2012, was the subject of a disciplinary investigation conducted by the Human Resources Manager of School A.

These investigations were triggered by a handwritten letter which Mr Hollier gave to Student C in November 2011 which contained material alleged to be inappropriate in a relationship between Teacher and Pupil.

In particular it is alleged that Mr Hollier exchanged personal mobile numbers with Student C in 2011 and subsequently sent a number of text messages to him during the summer holidays and during the following October half term. Some of the messages sent to Student C are said to have concluded with an "x". In the course of his disciplinary interview Mr Hollier said that he had probably done this with everyone and that it represented friendship.

In relation to the handwritten letter given to Student C in November 2011 it is alleged to have contained the following:-

"You know I love you because you are a fantastic person with a fantastic personality".

Mr Hollier in his interview is reported as saying that he valued Student C and thought that he was a decent person. However in hindsight he realised it was not appropriate to say this to Student C in the letter.

In addition it is alleged that Mr Hollier, on a number of occasions, gave Student C a massage particularly in relation to an injury to Student C's knee sustained in a rugby game. He did not have the permission of the School or Student C's parent to carry out the massages.

On other occasions it is alleged that Mr Hollier hugged Student C and he admitted that he had done so on a number of occasions.

Mr Hollier is also said to have confirmed that he gave a heart shaped sweet to Student C towards the end of the 2010/11 academic year and that he wrapped it in some tin foil. He also is said to have accepted that he had given Student C a handwriting pen. He said that Student C was the only student for whom he had bought a pen.

On other occasions, between September and November 2011, Mr Hollier is alleged to have met with Student C on the School premises when they were alone and that he sometimes locked the door of the Fitness Suite when these meetings took place.

Finally it is alleged that Mr Hollier personally arranged for Student C to become a Peer Mentor for Mr Hollier's Tutor Group who were a class of younger students. It is said that he did so by circumventing the normal process for the appointment of Peer Mentors at the School.

The National College of Teaching and Leadership (NCTL) allege that this conduct towards a young pupil represents an abuse of Mr Hollier's position of trust as a Teacher and constitutes Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute.

In response Mr Hollier, in documents submitted to the National College, says that he has admitted to the allegations to allow him to minimise the ongoing stress of the situation and bring it wholly to a conclusion.

He has been fully cooperative with all branches of the investigatory process and after the investigations had been concluded was able fully to appreciate the entirety of what occurred. He felt that the investigatory process lacked some objectivity. He makes reference to strong similarities between Student C's situation and his own childhood experiences and concedes that he "allowed the boundaries to be come blurred". He asserts that he was not sinister in any way and served to give Student C assistance.

He says that he knows that he will never return to teaching and feels he has been tremendously punished already for his honest yet naive error of judgement.

Findings of fact

Our findings of fact are as follows:-

We have found all particulars of the allegations against Jonathan Hollier proven:-

Our reasons are that we have considered carefully the evidence of Witness A who was the only witness called in person to give evidence in this case. She was appointed as the School's investigation officer and conducted a number of interviews with various witnesses. With a colleague she also interviewed Mr Hollier on three separate occasions and she explained how the interviews were conducted, the process for recording the questions and answers given contemporaneously, and the arrangements in place for checking the accuracy of the notes.

We learnt also that prior to the School's Disciplinary Hearing Mr Hollier was provided with a copy of the interview notes and did not require any amendments to be made to them. We felt that Witness A was a careful and truthful witness. Accordingly we feel able to rely on her record of the interviews with Mr Hollier. In those interviews Mr Hollier made a number of important and extensive admissions as to his involvement with Student C.

The Panel is satisfied on the balance of probabilities that the admissions made by Mr Hollier are reliable and they are broadly consistent with the account given to the Police by Student C in his video recorded interview which we have also viewed today. Indeed Mr Hollier in the documents at pages 221 and 222 does not challenge the National College's evidence at all or seek to deny any of the particulars that he faces.

Turning to the specific particulars we therefore find that Mr Hollier made admissions in his interviews as follows

Particular 1

Whilst employed at School A, during 2011 he failed to maintain appropriate professional boundaries with a student of the School, Student C in that he:-

a. Engaged in inappropriate communications with him including that he:-

i. Sent text messages to Student C from his personal mobile phone;

At page 109 Mr Hollier states that he had sent text messages to Student C during the summer holidays and “recalled he sent more than ten text messages to Student C.” He also acknowledged that he had sent texts to Student C during the weekend, during the summer holiday and then during the October half term 2011.

ii. Sent a handwritten letter to Student C on or around 3 November 2011 in which he stated:- “You know I love you”;

At pages 95 and 97 Mr Hollier agreed he had handwritten the letter to Student C and it contained the phrase “You know I love you” He said he meant he valued Student C and thought he was a decent person. The letter itself is exhibited at p 152.

b. Engaged in inappropriate physical contact with Student C including that he:-

i. Gave him massages on one occasion or more;

At page 114 Mr Hollier admits giving Student C a sports massage and when the rugby season started it became “a weekly thing.” He said that there were other people around pretty much all of the time but there were two times when he was alone with Student C.

ii. Hugged him on one occasion or more;

At pages 105-107 Mr Hollier admits hugging Student C on up to 7 occasions. He says that the first 2 occasions were instigated by Student C and that he had hugged Student C on up to four or five further times. We make no determination whether the hugs occurred as he describes but would observe that however the hugs were initially instigated that sort of physical contact between a teacher and a 14 year old pupil is entirely inappropriate.

c. Gave gifts to him, such as:-

i. A heart shaped sweet;

This particular is admitted by the teacher at pages 101/2 where Mr Hollier says that he gave to Student C “a heart shaped sweet probably the day after the party and he

wrapped it in a bit of tin foil". He confirmed that he had taken the Haribo sweet off of a cake.

- ii. A gift wrapped pen;

Mr Hollier admitted at page 101 giving a handwriting pen to Student C because he thought it might help him. He said it cost about £5. He had paid for it out of his own money. He did not know why. He didn't think about it. He confirmed the pen was wrapped in gift wrapping paper. He confirmed he had not purchased a pen for any other students.

- d. Between September and November 2011 met with Student C alone:-

- i. On a number of occasions;

At p 114 as indicated above Mr Hollier accepts he was alone with Student C on 2 occasions when massaging him and at p 105 Mr Hollier agrees that he had taken Student C into the Fitness Room alone to talk to him but he could not recall how many times or why or for how long.

- ii. In the Fitness Suite, where he locked the door;

At page 105 Mr Hollier mentioned an occasion when in the Fitness Room at a specific break time Student C had come to talk to him about something specific and there were other children kicking the door. He said that as he was talking to Student C this meant he had to keep stopping the conversation so he locked the door.

- e. Personally arranged for Student C to become a Peer Mentor for his Tutor Group outside of the normal process for the allocation of Peer Mentors at the School.

At page 107 Mr Hollier acknowledged that he could not explain why Student C was not on the list of current Year 10 mentors. Student C came in on Thursdays - not Mondays like all of the officially appointed mentors – and was not paired with another mentor. Mr Hollier accepted that Student C “did sometimes use the Thursday morning as a “drop in” for any work Student C had done”. There is no evidence in the case papers that Student C’s appointment as a Peer Mentor was approved through the accepted process as evidenced by Witness B’s witness statement at pages 139-141.

Findings as to Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute

We are in no doubt that this is a serious case of Unacceptable Professional Conduct. Mr Hollier held a position of trust in relation to Student C who was, at the time of these events, aged only 14. He has demonstrated a total disregard for the boundaries that should be observed in that professional relationship where safeguarding the welfare and emotional well being of Student C should be the paramount consideration. The behaviour which we have found established continued

over a period of months and, in the view of the Panel, constitutes a course of conduct towards Student C which encompasses a variety of totally inappropriate behaviours towards Student C.

We note that the latest version of the Teacher's Standards requires members of the profession to "treat pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position" and to have "regard for the need to safeguard pupils' well-being, in accordance with statutory provisions." Against those standards Mr Hollier has fallen woefully short.

Taken in isolation any one of the factual particulars we have found proved would cause this Panel substantial concern. Taken together the litany of personal messages, gifts, closeted liaisons and inappropriate physical contact between teacher and pupil discloses a clear case of Unacceptable Professional Conduct.

Despite Mr Hollier's assertion at page 110 that he had no sinister intentions at all towards Student C and "realised it wasn't right but didn't know how to get himself out of the situation." – we can find no evidence in the case papers to suggest that was actually the case. In fact we note that matters came to a head in early November 2011 when Student C's mother saw the handwritten letter that Mr Hollier gave to him which contained "you know I love you" and "I want you to be part of my life" – both expressions suggesting that Mr Hollier had no intention whatsoever of extricating himself from his burgeoning relationship with a young pupil.

In view of our finding that this is a case of Unacceptable Professional Conduct we do not make any finding in respect of Conduct that may bring the Profession into Disrepute.

Panel's Recommendation to the Secretary of State

We recognise that Prohibition Orders are made in the public interest which includes:-

- the protection of children (and other members of the public)
- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct

We have no doubt that all those considerations are relevant in this case.

We have already commented in our finding of Unacceptable Professional Conduct that Mr Hollier's behaviour fell far below the professional conduct elements set out in the latest teacher's standards. We also conclude that his persistent and ongoing obsession with Student C, at the very least, exposed the risk of affecting Student C's emotional well being – we note also that on a number of occasions Student C describes feeling "uncomfortable" with the attention shown to him by Mr Hollier.

Mr Hollier plainly abused his position of trust towards Student C and we believe that the documents he has lodged with the National College demonstrate that he still has no appreciation of the possible impact of his behaviour towards a young pupil. He appears to show no insight into how seriously his behaviour must be viewed. We

also feel that teachers who behave as Mr Hollier has done in this case cause huge damage to the collective reputation of the profession and especially to those teachers and others who undertake pastoral work with young persons and do so without crossing the boundaries in the way that Mr Hollier has done.

We have looked for mitigation in the case. We note only that Mr Hollier has no previous disciplinary record of which we are aware. We also recognise that he was co-operative in the school's investigatory process but – as already indicated – we do not accept his assertion that he was effectively attempting to distance himself from Student C. The penning of the handwritten letter to Student C leads the Panel to conclude that he really has no insight into his sustained and entirely inappropriate pre-occupation with this pupil.

We therefore do think this is a serious case and that a Prohibition Order must be imposed in the public interest.

In terms of adding a review period we are most concerned that we can identify in any of the case papers no evidence from Mr Hollier that he has ever acknowledged that his sustained pursuit of Student C was entirely wrong.

We are required to weigh the interests of the public against those of the teacher and we also accept that while Prohibition Orders are made in the public interest they should also be proportionate.

Mr Hollier's interest in Student C persisted over several months and involved a number of entirely inappropriate contacts and behaviours. However we recognise that following a thorough Police investigation it was determined that he had not behaved in a way that would justify any criminal charges being brought.

Our principal and very real concern in this case, however, is the failure of Mr Hollier to acknowledge at all the potentially damaging impact of his behaviour on Student C. That failing gives rise to enormous anxiety on the part of the Panel and must give rise to real concerns about the protection of any pupils for whom he may be responsible in the future.

We have therefore given long and careful consideration to recommending that in this case Mr Hollier should be prevented altogether from applying at any time in the future for the Prohibition Order to be set aside. However we have decided to recommend that a period of 5 years should be set before Mr Hollier may make such an application to the National College.

We understand and accept that we cannot fetter the discretion and consideration of this case by another Disciplinary Panel if Mr Hollier should make a review application in the future. However we express the hope that any Professional Conduct Panel hearing such an application from this teacher would need to be entirely satisfied that, at that stage, Mr Hollier demonstrates clear and unequivocal insight into the gravity and potential impact of the behaviour that led to the making of the Prohibition Order. At the moment it is our clear and unanimous view that such insight is notable only by its absence.

Secretary of State's Decision and Reasons

I have given very careful consideration to the Panel's findings and recommendations.

The Panel have found all the allegations proven. Mr Hollier has demonstrated a total disregard for the professional boundaries that should be observed in a pupil/teacher relationship. The behaviour continued over a period of some months and involved a series of inappropriate activity and behaviour.

In the circumstances I agree that a Prohibition Order is an appropriate sanction.

Turning next to the question of a review period. The Panel were in no doubt that this was a serious case of unacceptable professional conduct. Mr Hollier abused a position of trust and failed to safeguard the welfare and emotional wellbeing of a student. The panel have concluded that Mr Hollier fell woefully short of the standards expected of a teacher and behaviours such as this cause huge damage to the collective reputation of the teaching profession.

The Panel have found no evidence of insight into Mr Hollier's behaviour and the only mitigation is his previously clear disciplinary record.

Whilst the Panel recommend that Mr Hollier should have the opportunity to ask for the order to be reviewed after a minimum period of 5 years, having considered all the aspects of this case, I believe it is in the public interest that the order is without the opportunity for review.

This means that Mr Jonathan Hollier 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 allegations found proved against him, I have decided that Mr Jonathan Hollier shall not be entitled to apply for restoration of his eligibility to teach.

This Order takes effect from 5 September 2013, the date on which it is served on the Teacher.

Mr Jonathan Hollier 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
Date **29 August 2013**

Paul Heathcote

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