



National College for
Teaching & Leadership

Mr Ashley Matto: Professional Conduct Panel outcome

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

January 2015

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

Teacher:	Mr Ashley Matto
Teacher ref no:	1246059
Teacher date of birth:	26 September 1988
NCTL Case ref no:	0011580/MATTO
Date of Determination:	12 January 2015
Former employer:	Hammersmith Academy, London Borough of Hammersmith & Fulham

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 12 January 2015 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Ashley Matto.

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

The Legal Adviser to the Panel was Mr Thomas Whitfield of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Mr Chris Geering of counsel.

Mr Ashley Matto was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 30 September 2014.

It is alleged that Mr Ashley Matto is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Hammersmith Academy as a teacher:

1. He posted on a publicly accessible social media website (www.reddit.com) ("the Website") comments relating to drug use with the following titles:

- a. 'Nutmeg Experiment',
- b. 'Hawaiian Baby Woodrose - BE PREPARED',
- c. 'Kratom Sumatra Reid Vein (24g), Hawaiian Baby Woodrose seeds (2x10 seeds), Peruvian DRIED Torch (20g), Fly Agaric Mushrooms (12.5g), 20 bag of the herb, Product attempt no 1',
- d. 'LSD + Xanax + Coke = Weed + Alcohol + Electronic music xD';

2. On 24 March 2014, he emailed pupils a link to the Website and in particular an image showing advances in science;

3. His actions set out at 2 above created a situation whereby pupils could easily access his comments set out at 1 above;

4. One or more pupils accessed his comments which caused them:

- a. Shock,
- b. To think that he was associated with illegal drug use,
- c. To question his ability and/or suitability as a teacher;

5. On a date unknown, he sent an inappropriate text message to a colleague which inferred that he (Ashley Matto) had taken DMT (a recreational drug).

Mr Matto disputes the allegations.

C. Preliminary applications

The Panel considered an application from the Presenting Officer to proceed in the absence of Mr Matto. The Panel was satisfied that the notice of proceedings had been sent to the teacher in accordance with Regulation 19 of the Regulations and paragraphs 4.11 and 4.12 of the Procedures.

The Panel noted that Mr Matto had responded to the notice of referral form, had provided an e-mail address and telephone number and had not indicated that his postal address had changed. The Panel was satisfied that the notice of proceedings had been sent to the e-mail address provided by Mr Matto (as well as his postal address) and that attempts had been made to contact Mr Matto on the telephone number provided by him.

The Panel also noted that the National College had engaged a private investigator to attempt to locate Mr Matto and that the investigator had found only the address used by the National College as an address for Mr Matto.

The Panel was mindful at all times that the discretion to commence a trial in the absence of a defendant should be exercised with the utmost care and caution. It placed prime importance on fairness to the teacher but also took into consideration fairness to the National College and the wider public interest.

The Panel was also mindful that three witnesses were in attendance, including a former pupil of Mr Matto and that an adjournment may affect their memory of the events in question.

The Panel concluded, in the absence of any contact from Mr Matto since 12 June 2014, despite numerous attempts to contact him using the various contact details provided by Mr Matto himself, that he had voluntarily absented himself from the process.

On these bases, the Panel decided to proceed in Mr Matto's absence.

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 3
- Section 2: Notice of Proceedings, with page numbers from 4 to 11
- Section 3: National College for Teaching and Leadership Witness Statements, with page numbers from 12 to 22.
- Section 4: National College for Teaching & Leadership Documents, with page numbers from 23 to 52.

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

In addition, the Panel agreed to accept the following:

- Section 5: Documents relating to service of documents on Mr Matto, with page numbers from 53 to 7

Witnesses

The Panel heard oral evidence from

Pupil B, former student at Hammersmith Academy, called by the National College;

Witness A, Senior Deputy Headteacher of Hammersmith Academy, called by the National College; and

Witness B, Headteacher of Hammersmith Academy, called by the National College.

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.

Summary of Evidence

In September 2013, Mr Ashley Matto joined Hammersmith Academy (the “Academy”) as a Newly Qualified Teacher, teaching physics. In February 2014 Mr Matto had a performance meeting with Witness A, Senior Deputy Headteacher of the Academy, at which Mr Matto was informed that the Academy had decided not to renew Mr Matto’s contract at the end of the academic year. It is alleged that in March 2014 Mr Matto sent to pupils a link to a website, which led to these allegations. The Academy raised with Mr Matto its concerns about the matters alleged and on 27 March 2014 Mr Matto resigned from the Academy.

Findings of Fact

Our findings of fact are as follows:

1. He posted on a publicly accessible social media website (www.reddit.com) ("the Website") comments relating to drug use with the following titles:

a. 'Nutmeg Experiment',

b. 'Hawaiian Baby Woodrose - BE PREPARED',

c. 'Kratom Sumatra Reid Vein (24g), Hawaiian Baby Woodrose seeds (2x10 seeds), Peruvian DRIED Torch (20g), Fly Agaric Mushrooms (12.5g), 20 bag of the herb, Product attempt no 1',

d. 'LSD + Xanax + Coke = Weed + Alcohol + Electronic music xD';

Mr Matto denied this allegation (and each of the other allegations) in his only response to the National College.

The Panel considered the evidence from Witness B and Pupil B, confirming that the above material was present on the Website. This was confirmed by screenshots of the posts, save for a typographical error in the allegation, in that the title of the post referred to in allegation 1.d. included a plus sign rather than an equals sign and actually included reference to an additional drug, MDMA. The posts were each posted by a user with the username "ashleymatto". The Panel also took into consideration the record of the investigatory meeting of 27 March 2014 (the "Investigatory Meeting"), in which Mr Matto is said to have confirmed both that he used the username "ashleymatto" on the Website and that he submitted the above posts to the Website. The Panel noted that Witness A gave oral evidence confirming that Mr Matto had indeed made such admissions during that meeting. In light of this evidence, the Panel found this allegation proven.

2. On 24 March 2014, he emailed pupils a link to the Website and in particular an image showing advances in science;

Mr Matto denied this allegation (and each of the other allegations) in his only response to the National College.

The Panel considered the witness statement and oral evidence of Pupil B, which was to the effect that Mr Matto had e-mailed pupils the link described. The Panel also took into consideration the record of the Investigatory Meeting in which Mr Matto admitted sending such a link to pupils. In light of this evidence, the Panel found this allegation proven.

3. His actions set out at 2 above created a situation whereby pupils could easily access his comments set out at 1 above;

Mr Matto denied this allegation (and each of the other allegations) in his only response to the National College.

The Panel considered the witness statement and oral evidence of Pupil B and Witness B, which was to the effect that pupils could easily access Mr Matto's comments set out at 1 above. In light of this evidence, the Panel found this allegation proven.

4. One or more pupils accessed his comments which caused them:

a. Shock,

b. To think that he was associated with illegal drug use,

c. To question his ability and/or suitability as a teacher;

Mr Matto denied this allegation (and each of the other allegations) in his only response to the National College.

The Panel considered the witness statement and oral evidence of Pupil B, which confirmed that Pupil B accessed Mr Matto's comments and recorded that Pupil B felt that it was not appropriate for a teacher to be putting such comments on a social media website or to be behaving in the way described. Pupil B also described thinking that it was quite irresponsible and unprofessional.

Pupil B did not at any time indicate that the comments caused him or others shock, nor did any of the other evidence refer to such a response.

Based on the evidence before it, the Panel was not satisfied that accessing the comments caused any pupils shock. However, the Panel was satisfied that it caused one or more pupils to think that Mr Matto was associated with illegal drug use and to question his ability and/or suitability as a teacher.

The Panel therefore found allegation 4.a. not proven and allegations 4.b. and 4.c. proven.

5. On a date unknown, he sent an inappropriate text message to a colleague which inferred that he (Ashley Matto) had taken DMT (a recreational drug).

Mr Matto denied this allegation (and each of the other allegations) in his only response to the National College.

The Panel had a copy of the text message in question and concluded from the wording of that message that it was inappropriate and inferred that Mr Matto had taken DMT.

The Panel also took into consideration the record of the Investigatory Meeting in which Mr Matto indicated that he did not remember sending such a message but admitting that it was sent from his phone number.

In light of this evidence, the Panel found this allegation proven.

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

In considering the allegations that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the ‘Guidance’.

The Panel is satisfied that the conduct of Mr Matto in relation to the facts found proven, involved breaches of the Teachers’ Standards. The Panel considers that by reference to Part Two, Mr Matto is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions;
 - ...
 - ensuring that personal beliefs are not expressed in ways which exploit pupils’ vulnerability or might lead them to break the law;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The Panel is satisfied that the conduct of Mr Ashley Matto fell significantly short of the standards expected of the profession.

The Panel has also considered whether Mr Matto’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Guidance and has found that the offence of possession of class A drugs is relevant. The Guidance indicates that where behaviours associated with such an offence exist, a Panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The Panel notes that allegation 1 took place outside of the education setting but considers that allegations 2, 3 and 4 took place in the education setting, as they were accessed by pupils whilst at the Academy as a result of Mr Matto sending pupils a link to the Website as part of their education. In relation to allegation 1, Mr Matto’s conduct did in fact lead to one or more pupils being exposed to Mr Matto’s behaviour in a harmful

way, in that it resulted in Pupil B becoming aware of a teacher, who should be a role model, having a very favourable attitude to the use of drugs, including class A drugs, and demonstrating that the teacher had recently been using such drugs.

Accordingly, the Panel is satisfied that Mr Ashley Matto is guilty of unacceptable professional conduct.

The Panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The Panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The Panel therefore finds that Mr Ashley Matto's actions constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the Panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it is necessary for the Panel to go on to consider whether it would be appropriate to recommend the imposition of a Prohibition Order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a Prohibition Order should be made, the Panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition Orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The Panel has considered the particular public interest considerations set out in the Guidance and having done so has found a number of them to be relevant in this case, namely the protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

There is a strong public interest consideration in respect of the protection of pupils given the findings of the Panel that Mr Matto had exposed one or more pupils to material portraying the use of drugs, including class A drugs, in a very favourable light.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Matto were not treated with the utmost seriousness when regulating the conduct of the profession.

The Panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Matto was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the Panel considered carefully whether or not it would be proportionate to impose a Prohibition Order taking into account the effect that this would have on Mr Matto.

In carrying out the balancing exercise the Panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Matto, the Panel took further account of the Guidance, which suggests that a Prohibition Order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the teachers' standards;
- misconduct seriously affecting the education and/or well being of pupils, and particularly where there is a continuing risk; and
- a deep-seated attitude that leads to harmful behaviour.

Even though there were behaviours that would point to a Prohibition Order being appropriate, the Panel went on to consider whether or not there were sufficient mitigating factors to militate against a Prohibition Order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

Mr Matto's publication of the comments on the Website and sending of the inappropriate text message to a colleague were, the Panel has found, deliberate acts. The Panel has also found that Mr Matto acted deliberately in sending a link to the Website to pupils. However, the link sent was to an educational page on the Website and there was no evidence before the Panel to suggest that Mr Matto deliberately led pupils to his inappropriate comments on the Website. The Panel has found that this element of Mr Matto's conduct was not deliberate.

As to Mr Matto's previous record, the Panel understands that Mr Matto has had no disciplinary finding made against him by the NCTL or the GTCE. However, the Panel noted, from the evidence of Witness B, that concerns had been raised by staff members at the Academy concerning the way Mr Matto communicated with pupils, his timekeeping and inappropriate use of social media, including an inappropriate post on Facebook about excessive drinking. The Panel saw evidence that concerns were raised with Mr Matto about his professional conduct, amongst other things, and that as a result of these concerns the Academy decided in February 2014 not to renew Mr Matto's contract after the end of the 2013/2014 academic year.

There was no indication that Mr Matto's actions giving rise to the proven allegations were in any way attributable to duress.

Mr Matto has indicated that he was suffering from a medical condition at the time in question, but no other evidence of that condition has been presented to the Panel.

The Panel has not been provided with any character references for Mr Matto.

The Panel is of the view that Prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Mr Matto. The exposure of pupils to Mr Matto's harmful attitude to drugs, including class A drugs, was a significant factor in forming that opinion. This was reinforced by the fact that it came to the attention of pupils through the use of social media, despite Mr Matto having received recent training on the appropriate use of social media and despite Mr Matto having had a concern raised about such an issue very shortly before the matters that gave rise to the allegations.

Accordingly, the Panel makes a recommendation to the Secretary of State that a Prohibition Order should be imposed with immediate effect.

The Panel went on to consider whether or not it would be appropriate for them to decide to recommend that a review period of the Order should be considered. The Panel were mindful that the Guidance advises that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the Prohibition Order reviewed after a specified period of time that may not be less than two years.

The Guidance indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include class A drug abuse. The Panel has found that Mr Matto has used class A drugs and moreover has glorified their use in materials that he made accessible to pupils.

Mr Matto's only engagement with the National College has been to deny the allegations. He has not shown any remorse or insight and has given no other indication that his attitude to drugs and misuse of social media is likely to change.

The Panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended without provisions for a review period.

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 a number of allegations proven in relation to social media comments regarding drugs use, sharing associated website links with pupils and sending an inappropriate message to a colleague inferring he had taken a recreational drug.

The panel have decided that the proven facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

In determining whether the recommendation of a prohibition order would be an appropriate and proportionate sanction the panel have properly considered the public interest. The protection of pupils, the maintenance of public confidence in the profession and upholding proper standards of conduct are all relevant to this case.

Whilst Mr Matto had no previous disciplinary sanctions, concerns had been raised by staff members regarding the way he communicated with pupils, his timekeeping and his inappropriate use of social media.

I agree with the panel's recommendation that prohibition is an appropriate sanction.

The guidance indicates that class A drug abuse is a behaviour that would militate against a review period being recommended. The Panel has found that Mr Matto used class A drugs and glorified their use in materials that he made accessible to pupils.

Mr Matto's only engagement with the National College has been to deny the allegations. He has not shown any remorse or insight and has given no other indication that his attitude to drugs and misuse of social media is likely to change.

I agree that the order should be without the opportunity for an application to apply for it to be set aside.

This means that Mr Ashley Matto 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 Ashley Matto 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 Ashley Matto 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 extending to the right.

NAME OF DECISION MAKER: Paul Heathcote

Date: 13 January 2015

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