



National College for
Teaching & Leadership

Mr Leigh White: Professional Conduct Panel outcome

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

April 2014

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

Teacher:	Mr Leigh White
Teacher ref no:	1059904
Teacher date of birth:	3 July 1985
NCTL Case ref no:	0010505
Date of Determination:	30 April 2014
Former employer:	Merrill Academy (“the College”)

A. Introduction

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

The Panel members were Mrs Mary Speakman (Teacher Panellist and Chair), Mr Brian Hawkins (Teacher Panellist) and Mr Nicholas Andrew (Lay Panellist).

The Legal Adviser to the Panel was Mrs Luisa Gibbons of Eversheds LLP Solicitors.

Since this was a meeting, Mr White was neither present nor represented. The Presenting Officer for the National College was Katie Henderson of Nabarro LLP Solicitors who was also not present.

The meeting took place in private although the decisions on facts and whether Mr White was guilty of unacceptable professional conduct and/or conduct bringing the profession into disrepute were announced in public. The meeting was not recorded, save for the decisions announced in public.

B. Allegations

The Panel considered the allegation set out in the Notice of Meeting dated 4 April 2014.

It was alleged that Mr White was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

- On 31 July 2013, he was cautioned by Derbyshire Constabulary for the offence of Abuse of Position of Trust: sexual activity with a child, contrary to section 16(1) of the Sexual Offences Act 2003, that occurred between 1 March 2013 and 12 May 2013, with Pupil A (female aged 13 – 17), whilst employed as a teacher at Merrill College and Sixth Form, Derby.

Mr White admitted the allegation set out in the Notice of Referral dated 6 December 2013, namely that he had received a caution for the following offence: “Sexual Activity with Female 13 – 17. Offender does not believe victim is over 18. Abuse position of trust on 01/03/2013 – 12/05/2013”.

Mr White also admitted in his response to the Notice of Referral that those facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

On 17 March 2014, Mr White signed a statement of agreed facts which included a number of admissions which taken together, amounted to an admission of the facts set out in the Notice of Meeting.

The statement of agreed facts also included an admission that Mr White knew or ought to have known that his relationship with Pupil A constituted unacceptable professional conduct and that his relationship with Pupil A constituted conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

It was noted that in his response to the Notice of Referral, Mr White stated he wanted the allegation to be considered without a hearing, and repeated this more recently, in his letter of 20 March 2014. The Panel gave consideration to the public interest and the interests of justice, and determined that it was not necessary for the allegation to be considered at a hearing. Therefore, the Panel decided that this allegation could be considered at a meeting. In light of the admissions made by Mr White, there did not appear to be any crucial dispute of facts which would require oral evidence to be called. Mr White has denied that his actions in relation to Pupil A were sexually motivated, but has admitted having accepted the caution. This appeared to be the only point in issue,

and the Panel decided that it was not likely that oral evidence would clarify this issue further.

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	pages 1 – 3
Section 2: Notice of Referral, response and notice of meeting	pages 4 – 8b
Section 3: Statement of Agreed Facts and Presenting Officer Representations	pages 9 – 16
Section 4: National College for Teaching and Leadership Documents	pages 17 – 175
Section 5: Teacher Documents	pages 176 - 177

Following receipt of the bundle, it was identified that the second page of Pupil A’s police statement was missing from the bundle. This was provided to the Panel in advance of the hearing. Enquiries were made with the National College of Teaching and Leadership (the “National College”) and it was ascertained that the additional page had been provided to Mr White on 8 April 2014 and the Panel were not informed that Mr White had made any representations regarding its admission. The Panel considered the page to be relevant to the case and decided to admit the page pursuant to its discretion under the Procedures. The Panel did not consider there was any prejudice to Mr White, since he had been provided with a copy of the page and had not appeared to have raised no objection to its admission. In any event, the Panel considered that the contents of the page were broadly consistent with the facts admitted by Mr White.

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

Witnesses

Convened as a meeting, the Panel heard no oral evidence.

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

Between 4 July 2011 and May 2013, Mr White was employed as a Mathematics teacher at the College. He has admitted having taught Pupil A in Year 11 between February 2013 to May 2013. He has admitted having had an inappropriate relationship with Pupil A between 1 March 2013 and 12 May 2013. This led to two reports being made to the NSPCC regarding the relationship and Mr White being interviewed by the police, under caution, on 13 May 2013. On 14 May 2013, Mr White was suspended from his duties at the College. He was interviewed again, under caution, on 10 June 2013 and was cautioned by the police on 31 July 2013. The caution detailed the offence as “Abuse a position of trust – sexual activity with a child contrary to s16(1) of Sexual Offences Act 2003 between 1/3/13→12/5/13 @ Merrill College, Derby”.

Findings of Fact

Our findings of fact are as follows:

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

1 On 31 July 2013, he was cautioned by Derbyshire Constabulary for the offence of Abuse of Position of Trust: sexual activity with a child, contrary to section 16(1) of the Sexual Offences Act 2003, that occurred between 1 March 2013 and 12 May 2013, with Pupil A (female aged 13 – 17), whilst employed as a teacher at Merrill College and Sixth Form, Derby.

Mr White admitted the allegation set out in the Notice of Referral dated 6 December 2013, namely that he had received a caution for the following offence: “Sexual Activity with Female 13 – 17. Offender does not believe victim is over 18. Abuse position of trust on 01/03/2013 – 12/05/2013”.

On 17 March 2014, Mr White signed a statement of agreed facts which included an admission that: “On 31 July 2013, you were cautioned by Derbyshire Constabulary for the offence of Abuse of Position of trust: sexual activity with a child contrary to section 16(1) of the Sexual Offences Act 2003”. He admitted having been employed as a Mathematics teacher at Merrill College and Sixth Form Derby between 4 July 2011 and May 2013. The statement of agreed facts also contained a number of admissions regarding the background to Mr White receiving the caution and contact between Mr White and Pupil A by text message and telephone between 1 March 2013 and 12 May 2013. There were also admissions made by Mr White regarding contact with Pupil A outside school on unspecified dates, kissing her, hugging her and holding hands with her.

It was noted that Mr White has denied that his actions in relation to Pupil A were sexually motivated.

The Panel bundle contains a copy of the caution.

The statement of agreed facts contained a number of admissions which taken together, amounted to an admission of the facts set out in the Allegation. This allegation is therefore found proven.

The Panel understood that a caution could not be conclusive evidence of the relevant facts which was the subject matter of the caution, but that the Teacher Misconduct: the Prohibition of Teacher (the "Guidance") states that it will carry significant weight in their considerations. The Panel noted that the acceptance of a caution establishes that Mr White had made a clear admission of guilt in respect of committing the offence for which the caution was given. In light of both this, and the admissions made by Mr White in the statement of agreed facts regarding meeting with Pupil A on numerous occasions, kissing and hugging her, the Panel found proven the facts for which the caution was given.

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 'Guidance'.

The Panel is satisfied that the conduct of Mr White in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mr White 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;
- 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 White fell significantly short of the standards expected of the profession. Mr White has admitted having received

safeguarding training provided by the College and this has also been confirmed in a police statement provided by the Safeguarding Manager of the College. He also admitted during his police interview that he had been taught during the safeguarding elements of his degree that relationships between pupils and teachers were forbidden because such relationships would be abusing the teacher's position of trust. It would have been inappropriate for Mr White to have met Pupil A on just one occasion, but Mr White met with Pupil A on a number of occasions over a period of months which was a flagrant breach of his position of trust.

The Panel has also considered whether Mr White's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance and has concluded that the offence that was the subject of the caution relates to sexual activity. 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 the conduct that is the subject of the caution took place outside of the education setting. Although there is no evidence of sexual intercourse between Mr White and Pupil A, he has admitted conduct including: flirting with her; telling Pupil A he loved her; meeting her on a number of occasions on weekday evenings and weekends; having kissed her; hugged her; held hands with her; allowed her to travel in his car and attended an event with her. The Panel considered this relationship to be inappropriate given that he was in a position of trust.

Accordingly, the Panel is satisfied that Mr White 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 Mr White's status as a teacher, and would almost certainly damage the public perception of the profession.

The Panel therefore finds that Mr White'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 unprofessional 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 all 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.

In light of the Panel's findings against Mr White, which involved a serious abuse of his position of trust, there is a strong public interest consideration in respect of the protection of pupils. The conduct could have seriously affected the well being of Pupil A.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr White 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 White 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 White.

In carrying out the balancing exercise the Panel has weighed the public interest considerations both in favour of and against prohibition as against the interests of Mr White. 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;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;

- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position; and
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

In forming a judgement in this respect, the Panel noted that there were no statements produced by Mr White testifying to his good character. The Panel believed there to have been no previous findings having been made against Mr White. However, the Panel noted that he has admitted having received a previous verbal warning in relation to a complaint made by a pupil that he had made her feel uncomfortable.

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. In light of the Panel's findings, Mr White's actions were deliberate and repeated over a period of months and there was no evidence to suggest that the teacher was acting under duress.

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 White. The breach of the position of trust was a significant factor in forming that opinion. 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 serious sexual misconduct, eg where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. The Panel considered that the contact was of a sexual nature and had the potential to result in harm to Pupil A. It is clear that Mr White met Pupil A through having taught her, and as such this was an abuse of his professional position. In addition, there is no evidence that Mr White has demonstrated insight as to the potential harm that could have been caused to Pupil A. There has been no remorse shown by Mr White beyond stating that it was wrong and a result of being naive. His consistent denial that his actions were sexually motivated

demonstrates a lack of understanding of his actions. Having previously received a warning, Mr White should have been on notice regarding proper standards of behaviour. The Panel also took account of the absence of evidence regarding his character or his qualities as a teacher.

The Panel having given this matter very careful consideration, 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 provision for a review period.

Decision and reasons on behalf of the Secretary of State

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

Mr White has admitted the facts and agreed they amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel have nevertheless properly considered the matter themselves and agree.

The panel have found that Mr White's conduct in relation to the facts found proven breach the Teachers' Standards. They are satisfied that his behaviour falls significantly short of the standards expected of a teacher. Mr White has received formal safeguarding training and was taught during his degree course that relationships between students and teachers were forbidden because it would be an abuse of trust to engage in such relationships.

The panel are of the view that this is a case of serious misconduct. The conduct displayed would likely have a negative impact on Mr White's status as a teacher, and would almost certainly damage the public perception of the profession.

The panel have properly balanced the public interest considerations against the interests of Mr White and have given due consideration to the Secretary of State's advice on prohibition.

In all the circumstances they have recommended that a prohibition order is both appropriate and proportionate and I agree with their recommendation.

The panel moved next to consider whether a review would be appropriate. The panel have judged Mr White's behaviour to be sexually motivated despite his consistent denial that this was the case. His behaviour had the potential to result in harm to Pupil A. There is no evidence of insight and no remorse beyond an acceptance that what he did was wrong and naive. Mr White had received a previous warning for his behaviour and should have been on notice regarding

proper standards. No evidence was submitted regarding his character or qualities as a teacher.

I agree that the prohibition order should be without the opportunity to apply for the order to be set aside.

This means that Mr Leigh White 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 Leigh White 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 Leigh White 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: Paul Heathcote

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

Date: 1 May 2014

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