



National College for
Teaching & Leadership

Arnaud Barge: Professional Conduct Panel outcome

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

September 2014

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

Teacher:	Mr Arnaud Barge
Teacher ref no:	0001633
Teacher date of birth:	22 July 1973
NCTL Case ref no:	0010299/DPR/BARGE
Date of Determination:	9 September 2014
Former employer:	The Priory School, Kent – London Borough of Bromley

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 8 September 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Arnaud Barge.

The Panel members were Luke Graham (Teacher Panellist– in the Chair), Professor Janet Draper (Lay Panellist) and Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mr Peter Shervington of Eversheds LLP, Solicitors

The Presenting Officer for the National College was Sophie Lister, of Kinsley Napley LLP, Solicitors.

Mr Arnaud Barge was not 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 10 April 2014.

It was alleged that Mr Barge was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at the Priory School, Kent:

1. During 2010 and 2011, he made inappropriate comments to Student A via Facebook;
2. Between approximately 2008 and 2011, he made inappropriate physical contact with Student A by touching his bottom;
3. Had in his possession indecent images of children on a USB memory stick on 12 December 2011;
4. His actions at particulars 1 and 2 above were sexually motivated

Mr Barge was not in attendance at the hearing, however in his response to the Notice of Proceedings he indicated that the allegations were not admitted.

C. Preliminary applications

Proceeding in the Absence of Mr Barge

The Panel considered an application from the Presenting Officer to proceed in the absence of Mr Barge. The Panel was satisfied that the National College had complied with the service requirements of Regulations 19 a to c of the Teacher's Disciplinary (England) Regulations 2012. The Notice of Proceedings was sent to Mr Barge at his last known address on 10 April 2014. It was apparent that he had received the Notice of Hearing, as a completed Notice of Proceedings form was received dated 17 April 2014. Mr Barge was sent a letter as required by paragraph 4.34 of the Procedures notifying him of the time, date and place of the hearing. That letter was sent on 10 April 2014. The Panel was satisfied that Mr Barge had been provided with the requisite period of notice required by paragraph 4.10 of the Disciplinary Procedures for the Regulations of the Teaching Profession (the "Procedures"), containing the required details.

The Panel determined to exercise its discretion under Paragraph 4.28 of the Procedures to proceed with the hearing in the absence of the teacher. In making its decision, the Panel noted that the teacher may waive his right to participate in the hearing. The Panel understood that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution and that its discretion is a severely constrained one. The Panel took account of the legal advice it has received and the various factors drawn to its attention from the case of R v Jones.

The Panel was satisfied that Mr Barge had voluntarily absented himself from the proceedings. Mr Barge had indicated in writing that he did not intend to be present at the proceedings or to be represented. The Panel also had sight of an email dated 29 July in which Mr Barge stated, in response to a request that he provide any representations he may have, that he had 'nothing further to add or say on this matter, which has no relevance to me whatsoever'.

The Panel also had regard to the unlikelihood in the circumstances of Mr Barge attending if the hearing were to be adjourned, the delay which would likely follow if the matter were adjourned and the potential impact of that delay on the quality of evidence, and the impact on witnesses who were in attendance. Balancing the various factors outlined the Panel reached the conclusion that it was in the public interest to proceed with the hearing.

Amendment of Allegations

The Panel heard an application from the Presenting Officer for Allegation 1 to be amended so as to remove reference to 2011. The Panel received legal advice from the Legal Advisor. The Panel exercised caution in the knowledge that Mr Barge was not present to make representations. The Panel refused the application on the basis that it might cause prejudice to Mr Barge.

Additional Documents - Application

The Panel heard an application from the Presenting Officer for additional documents to be included in the evidence. Having received legal advice from the Legal Advisor, the Panel granted this application. The additional documents are detailed at D below.

Further Additional Document

The Presenting Officer made the Panel aware of a letter written by Mr Barge to the NCTL dated 18 July 2013, in which Mr Barge makes various points in relation to the allegations as then formulated. The Presenting Officer indicated that it had not been included in the case papers because it was not known whether the letter reflected Mr Barge's current position. The Panel, having received legal advice from the Legal Advisor, decided to include the letter as evidence on the basis that it provided a more detailed explanation of Mr Barge's position than other documents available to the Panel, and on the understanding that in considering the letter, the Panel would take into account the fact that it was unable to verify whether it represented Mr Barge's current position on the allegations.

Application for Part of the hearing to be held in Private

The Panel heard an application from the Presenting Officer for a DVD of a police interview with Student A to be heard in private. The Panel received legal advice and granted the application.

D. Summary of evidence

Documents

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

Section 1: Chronology and Pupil List	Page 1-5
Section 2: Notice of Proceedings and Response	Page 6-12B
Section 3: NCTL Witness Statements	Page 13-29D
Section 4: NCTL Documents	Page 30-304

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

In addition, during the course of the hearing, the Panel agreed to accept the following:

Transcript of interview of Student A by police	Page 268-304
Email from PC Lowsley	Page 305
Letter from Mr Barge to NCTL dated 18 July 2013	Page 306-307
Email dated 29 July 2014 from Mr Barge to Presenting Officer	Page 308-311
Kingsley Napley Attendance Note and email from Matthew Cassells to the Presenting Officer regarding discharge by the Magistrates' Court	Page 312-313

The final document above was admitted in evidence towards the end of the hearing following a request by the Panel for the Presenting Officer to clarify the status of the proceedings before the Magistrates' Court. The Panel considered it in the interests of fairness for the document to be included in the evidence.

Witnesses

The Panel heard oral evidence, on behalf of the NCTL, from:

- Witness A, a senior member of staff at the Priory School.
- Witness B, Headteacher at the Priory School since March 2013 and formerly Deputy Headteacher.
- Witness C, Headteacher at the Priory School since 3 February 2014 and formerly Deputy Headteacher.

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

Mr Barge was employed by the Priory School from September 2002. He was promoted to lead teacher for Modern Foreign Languages in September 2006, and Head of Faculty in 2010.

It was alleged that during 2010 and 2011, Mr Barge made inappropriate comments to Student A via Facebook. It was further alleged that between approximately 2008 and 2011, he made inappropriate physical contact with student A by touching his bottom. It was alleged that both these activities were sexually motivated. It was also alleged that Mr Barge had in his possession indecent images of children on a USB memory stick on 12 December 2011.

Mr Barge was suspended on 2 December 2011 and resigned in November 2012

Findings of Fact

Our findings of fact are as follows. We take the allegations in the order that they are stated on the Notice of Proceedings.

At the outset the Panel notes that neither Mr Barge nor any representative for him attended the hearing, and Mr Barge submitted no documents in response to the Notice of Proceedings. The Panel's scope for determining Mr Barge's position was therefore limited. Nevertheless, conscious of its duties, the Panel has sought wherever possible to take into account Mr Barge's perspective in relation to the alleged facts.

1. During 2010 and 2011, you made inappropriate comments to student A via Facebook

The central evidence for this allegation comprised Facebook pages found at pages 39 to 43 of the bundle, which record exchanges between Mr Barge and Student A. Mr Barge's comments in July and August 2010 include, amongst others, references to 'poke away darling xx', 'thanks honey', 'night night xx', 'I'll still change your attitude, sexy boy', and 'I know your not that bad, sexy, you're a good boy really'. It is clear from the Facebook content that Mr Barge instigated the Facebook conversations on at least one occasion.

Although the Panel did not have the opportunity to hear oral evidence from Student A, it is clear to the Panel that the Facebook exchanges left Student A feeling uneasy and confused. The statement of Student A at page 47 of the bundle refers to him receiving messages on Facebook and them making him feel 'uncomfortable'. The Panel watched a DVD of a police interview with Student A, a transcript of which is at pages 268-304 of the bundle. During the interview, Student A refers to feeling awkward about the Facebook comments (transcript p9). The Panel found this evidence credible, and the reaction understandable.

In his oral evidence to the Panel, Witness B stated that he spoke to Mr Barge directly. Mr Barge stated that he 'could not deny' having written the Facebook comments shown to him.

The Panel were directed by the Presenting Officer to Facebook exchanges marked with dates from 1 to 3 November, which the Panel understands were comments exchanged in 2011. These appear to be an exchange relating to the provision of French work to Student A, who refers to being in 'Reachout'. The Presenting Officer explained that the National College's case in relation to the 2011 comments was not that the content was inappropriate, but that it was inappropriate for Mr Barge to have contacted Student A in this manner.

Witness A was asked about contact with pupils who are in 'Reachout'. Witness A explained that staff would sometimes provide a note with set work, sometimes they would pass a message to the staff member managing the Reachout. Witness B, in his oral evidence, also rejected Mr Barge's suggestion that Facebook was the only means by which he could communicate with Student A when he was in 'Reachout'.

The Panel notes the school's policies including those at page 205 and 211 of the bundle. The Panel heard oral evidence from Witness C who considered that it was implicit from the policies that the prohibition on use of the Internet to bring the school's name into disrepute applied to personal internet use by teachers. The Panel agrees with this view. Furthermore, Witness A explained to the Panel that every year in September there was a 2 or 3 hour session run by Witness B going through in detail the responsibilities of teachers regarding safeguarding, its meaning and how to deal with situations. Throughout the year there were CPD sessions. Both Witness C and Witness A said that the teachers were strongly advised at the training not to use social media inside *or outside* work to communicate with students. Witness A recalled Mr Barge being present at the training, which he said was compulsory, although no written evidence was provided of his attendance.

In his oral evidence, Witness B, who is the current child protection officer at the school, stated that the school categorically told teachers they should not contact students at any point through Facebook. Witness B said that teachers were told they were opening themselves up to a misconduct charge immediately if they were proven to have contacted students through any form of social media.

The Panel notes the comments made by Mr Barge in his statement at page 37 of the bundle, in which he refers to the 2011 Facebook contact and states 'I understand that this was not the correct way to go about it and I regret that this has caused [Student A] to feel uncomfortable, but will not offer any argument in my defence, other than saying that nothing sinister was meant by my initiating contact with this student'.

The Panel notes Mr Barge's comment that the trial Judge in his Crown Court prosecution advised the jury that communications through social media were foolish but not inappropriate. The Panel has received advice that it is not bound by this view and must draw its own conclusions on questions of fact. The Court in the criminal proceedings was considering specific criminal charges and applied a different standard of proof to that relevant in the present proceedings. The Panel was advised that it is recognised law that the double jeopardy rule does not apply to tribunals such as this. The character and purpose of the proceedings, and the consequences of the outcome, are quite different.

Having weighed all the evidence carefully, the Panel is content on the balance of probabilities that Mr Barge communicated via Facebook with Student A in 2010, that the content and tone of those communications was inappropriate, and the use of Facebook itself, was not an appropriate way for a teacher to communicate with a pupil.

The content and tone of the communications in 2011 was different. Nevertheless, in view of the clear evidence from Witness B, Witness A and Witness C that teachers were strongly advised in training not to use Facebook for safeguarding reasons, the Panel is satisfied that comments made in 2011 (which again appear to have been instigated by Mr Barge) were inappropriate. Mr Barge should have known that Facebook was not the appropriate medium through which to communicate with a pupil.

For the above reasons the Panel finds particular 1 proven.

2. Between approximately 2008 and 2011, you made inappropriate physical contact with student A by touching his bottom

In his police interview in December 2011 Student A stated that Mr Barge had been touching his bottom over the course of three years and that the last time was about a month prior to the interview.

Notes of a school interview in December 2011 (from page 57) record Student A stating 'it happened more than once, normally when I was standing to go out of the classroom', that 'it was just a slap and not a grope' and that 'it made me feel uncomfortable'. Witness C, who conducted this interview, gave oral evidence to the Panel. She told the Panel that Student A was embarrassed and uncomfortable at having to share his experiences, and had been reluctant to attend the meeting.

In his oral evidence, Witness A recalled that Pupil B corroborated the evidence of Student A that Mr Barge 'patted his bum'. Witness A did not consider that Pupil B was under pressure to agree with Student A. Pupil D's statement dated 6 February 2012 (page 187) refers to Mr Barge slapping Student A on the bottom 'around 10-15 times at once'. Pupil D stated that it added up 'to feel like it was not right'.

Asked whether he formed an impression as to how Student A reacted when he was slapped, Witness A said that Student A seemed to have felt uncomfortable but because of Mr Barge's demeanour he may not have felt able to raise his concerns.

Asked how clearly he remembered the language used by Student A regarding contact with his bottom, Witness B said that he recalled the word 'smacked' being used, but not in the sense of punishment.

The Panel has considered the accounts of Mr Barge set out in the documentation. During his police interview, Mr Barge denied having touched or tapped Student A on the bottom (page 123). However, the notes of Witness B's police interview on 22 March 2012 record (page 150) that Mr Barge accepted he "may have touched him on the bottom". In his statement to the school at page 37 of the Bundle Mr Barge states: "I also understand and regret that my behaviour in class has caused [Student A] to feel I was abusing his trust. I am, however, denying his use of the words "touching my bum" as I categorically refute any allegations of molesting suggested by his choice of vocabulary."

In his email account of 3 December 2011 at page 147 of the bundle Witness B records Mr Barge as stating that he had ‘probably slapped [Student A] on the behind but he has never touched him in an inappropriate sense!’ Witness B suggested to the Panel that this account was to be preferred as it was closer to the events. He stated that the exclamation mark in the email reflected Witness B’s surprise that Mr Barge should have tried to claim that contact with anyone’s posterior could be appropriate. The Panel agrees with this view and finds it surprising that Mr Barge should have attempted to justify touching a pupil’s bottom on the basis that it was not inappropriate.

The Panel understands that Mr Barge was found not guilty of the sexual offences for which he was tried by the Crown Court. The Panel notes Mr Barge’s comments in his letter of 18 July 2013 that ‘I find your comment that I am guilty of [inappropriate contact with Student A] absolutely outrageous, given the outcome of my trial’. The Panel was advised that the not guilty finding was not determinative of the Panel’s own findings of fact. The Court in the criminal proceedings was considering specific criminal charges and in reaching its verdict applied a different standard of proof to that applicable to the present proceedings. The Panel was advised that it is recognised law that the double jeopardy rule does not apply to tribunals such as this. The character and purpose of the proceedings, and the consequences of the outcome, are quite different.

The Panel has considered carefully the various accounts given in relation to Mr Barge’s behaviour in the classroom. Whilst Student A has not given oral evidence, the Panel finds his evidence wholly credible, not least given the clear evidence of his embarrassment and reluctance to come forward. The fact that it was some time before he reported the incident is not significant in the Panel’s view. Having reviewed his police interview and heard the accounts of Witness B and Witness A regarding their conversations with Student A and other pupils at the school, the Panel prefers their largely consistent references to touching to the different accounts given by Mr Barge at various stages of the process. The Panel is satisfied on the balance of probabilities that Mr Barge touched Student A’s bottom. The Panel also considers that this behaviour was an inappropriately familiar way for a teacher to interact with a 15 year old pupil. Such behaviour is unacceptable on any level. The particular is therefore found proven.

3. Had in your possession indecent images of children on a USB memory stick on 12 December 2011

The key evidence for this allegation comprised statements of Police Constable Lowsley from page 172 of the Bundle. These refer to a search of Mr Barge’s home on 12 December 2011 and identify that a USB memory stick (‘SEL/8’) was removed from his effects. At page 172 PC Lowsley records that Mr Barge became agitated when PC Lowsley found the USB device in his house, a fact which

suggests to the Panel that Mr Barge was aware of its contents. At page 181 of the bundle PC Lowsley identifies that SEL8 contained 4 indecent images. PC Lowsley did not give oral evidence to the Panel, nor has she provided a direct written statement to the Panel. However, the Panel has considered the statement of Charlotte Judd of Kingsley Napley LLP, at page 29A of the bundle. This identifies amongst the documents provided by PC Lowsley a schedule detailing the indecent images found on SEL/8. This schedule is exhibited as Exhibit 25, on page 159 of the Bundle.

The Panel were referred to a Police statement at page 145 of the Bundle which refers to 'Possessing an Indecent Photograph or Pseudo-Photograph of a Child', and states 'Appeared at South East London Magistrates Court on 29/08/12'. It appears from enquiries made by the Presenting Officer that these charges were discharged under the provisions of the Magistrates' Court Act. The Panel was provided with legal advice that they needed to apply their own minds to the evidence before them, since the burden of proof, procedures and focus of the current proceedings is not the same as for criminal charges.

Having taken account of this legal advice and considered the evidence before it, the Panel is satisfied on the balance of probabilities both (i) that the memory card identified as SEL/8 was in the possession of Mr Barge on 12 December 2011 and (ii) that the images were of children. The Panel is also satisfied that the images must properly be considered indecent, given the descriptions provided and taking account of the levels of seriousness as described at page 160 of the bundle.

The Panel therefore finds this particular proved.

4. Your actions at particulars 1 and 2 above were sexually motivated

In the transcript of his Police interview, at page 133 of the bundle, Mr Barge is recorded as stating that references to 'sexy boy' were *"just the way I do it... I'm described as lively I guess"*.

The Panel considers Mr Barge's behaviour to have been inappropriate and unacceptable. It is clear and understandable that it had a significant impact on Student A, who was uncomfortable about the experience. However, the Panel considers it a possibility that Mr Barge's actions reflected a misguided judgment as to the appropriate way in which a teacher should communicate with pupils. The National College has put forward no clear evidence to demonstrate that Mr Barge's behaviour was actually sexually motivated. This allegation is therefore found not 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 Barge in relation to the facts found proven, involved breaches of the Teachers’ Standards. The Panel considers that by reference to Part Two, Mr Barge 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

The Panel is satisfied that the conduct of Mr Barge fell significantly short of the standards expected of the profession. His failure to develop and maintain appropriate boundaries in his relationship with Student A show a lack of insight into his position and responsibilities as a teacher and gave rise to a significant safeguarding issue.

The Panel has also considered whether Mr Barge’s conduct displayed behaviours associated with any of the listed on page 8 and 9 of the Guidance. We have found that his behaviour included the possession of indecent photographs of children. The Guidance indicates that where behaviours associated with such an offence are found, even if there is no conviction, a Panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The Panel notes that some or all of allegation 1 and 3 may have taken place outside of the education setting. However, the Panel considers that both behaviours may lead to pupils being exposed to or influenced by the behaviour in a harmful way. In relation to allegation 1, Mr Barge’s Facebook communications impacted upon his relationship with a current pupil. In relation to allegation 3, the Panel considers that the possession of indecent images of children in concert with the other allegations found proven, raises concerns that Mr Barge’s behaviour may expose pupils to harm.

Accordingly, the Panel is satisfied that Mr Barge 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 pupil's lives and that pupils must be able to view teachers as role models in the way they behave. Mr Barge's possession of indecent images of children and his approach to the pupil-teacher relationship in the case of Student A is incompatible with this professional standard.

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 Barge'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.

The Panel has heard from the Presenting Officer that the teacher is of previous good character.

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 Teacher Misconduct – Prohibition of Teachers advice 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.

In light of the Panel's findings against Mr Barge, which involved inappropriate touching of, and communications with, a pupil, and possession of indecent images of children, there is a strong public interest consideration in respect of the protection of

pupils given the serious findings of inappropriate relationships with children and possession of indecent images of children.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Barge was 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 Barge 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 Barge. In forming a judgement in this respect, the Panel took particular account of the evidence that was presented to it by Witness B, Witness A and Student A who have all indicated their view that Mr Barge was a good teacher. The Panel was also mindful of the fact that prior to these findings being made against him, Mr Barge was considered to be a person of good character with no criminal or disciplinary sanctions record against him.

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 Barge. The Panel took further account of the Teacher Misconduct – Prohibition of Teachers advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours 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
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents

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. The Panel notes that there is no suggestion concerns had been raised about Mr Barge's behaviour before 2011. However the

Panel has found no evidence that Mr Barge was acting under duress, and there has been no suggestion that Mr Barge's actions were other than deliberate.

The Panel is of the view that Prohibition would be both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Mr Barge, particularly given the sustained nature of his behaviour in relation to Student A and the seriousness of the images found in his possession. 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 Teacher Misconduct – Prohibition of Teachers advice 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 Teacher Misconduct – Prohibition of Teachers advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity. The Panel has found that Mr Barge was in possession of indecent images of children. The Panel has been provided with no clear evidence to indicate insight on the part of Mr Barge in relation to his actions.

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.

The Panel wishes to draw the attention of the Secretary of State to the letter dated 18 July 2013 (page 306-307) in which Mr Barge indicated that he did not intend to return to teaching children '*under the age of 17*'. Over and above that the Panel has no evidence before it as to his future intentions.

Decision and reasons on behalf of the Secretary of State

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

The panel have found proven the allegations in respect of inappropriate comments to a student via Facebook, inappropriate physical conduct with a student and possession of indecent images of children. The panel have also found that Mr Barge's behaviour amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In determining whether or not to recommend a prohibition order, the panel have properly balanced the public interest with those of Mr Barge. The panel have found clear public interest considerations present in this case. There is evidence that Mr Barge was a good teacher who, prior to these findings, was considered to be of good character. However the panel have found no evidence that Mr Barge was acting under duress and there is no suggestion that his actions were other than deliberate.

I agree with the panel's recommendation that a prohibition order is both an appropriate and proportionate sanction.

In determining whether to recommend a period after which Mr Barge might apply to have the order set aside, they have properly referred to the Secretary of State's advice, Teacher Misconduct – The Prohibition of Teachers. The advice suggests certain behaviours that would militate against a review period being set. These behaviours include any activity involving the possession of indecent images of children. The panel have found that Mr Barge was in possession of such images and there is no clear evidence to suggest that he has shown any insight into his behaviour.

I agree with the panel's recommendation that the prohibition order should be without the opportunity to apply for it to be set aside.

This means that Mr Arnaud Barge 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 Arnaud Barge 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 Arnaud Barge 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



Date: 10 September 2014

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