



National College for
Teaching & Leadership

John Holmes: Professional Conduct Panel outcome

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

July 2014

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

Teacher:	Mr John Holmes
Teacher date of birth:	27 January 1961
Teacher Reference no:	9501038
NCTL Case ref no:	10929
Date of Determination:	4 July 2014
Former employer:	Landau Forte College

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 4 July 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr John Homes.

The Panel members were Mrs Mary Speakman (Teacher Panellist – in the Chair), Mrs Carolyn Robson (Teacher Panellist) and Dr Geoffrey Penzer (Lay Panellist).

The Legal Adviser to the Panel was Ms Eve Piffaretti of Blake Morgan LLP Solicitors.

The Presenting Officer for the National College was Ms Michelle Lau of Browne Jacobson Solicitors.

Mr Holmes was present and was represented by Mr Nigel Turner of NASUWT.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 10 April 2014.

It was alleged that Mr John Holmes was guilty of unacceptable professional conduct and / or conduct that may bring the profession into disrepute, in that whilst employed at Landau Forte College between April 1992 and August 2013 he:

- a. Received a verbal warning on 29 April 2010 for *“failing to conduct yourself in a professional manner and in the best interests of the College”* in that Pupil A was injured after an

incident in which he admitted being heavy handed;

- b. In the academic year 2011/2012 he inappropriately held Pupil B with his arm around the pupil's neck, whilst holding a knife and made a pretend threat to kill him;
- c. Made contact with colleagues, in breach of the terms of his suspension, in that he sent an e-mail on 10 April 2013 commenting directly on the circumstances which led to his suspension despite instructions not to discuss the matter with any work colleague; and
- d. Received a caution on 2 August 2013 from Derbyshire Constabulary for "Possess Article with a Blade / Sharp Point on School Premises on 01/04/13 — 31/05/13."

The facts of Allegations a, b, c and d were admitted. Mr Holmes also admitted that the facts of Allegation a, b, c and d amounted to unacceptable professional conduct and conduct which may bring the profession into disrepute.

C. Preliminary applications

Submission of Late / Additional documents

Mr Turner requested the Panel to agree to the admission of a late document, being a reference from Mr Holmes's current employer. The Presenting Officer had no objection to the document being admitted.

The Panel decided that the document was relevant to these proceedings and that it should be admitted in the interests of a fair hearing. The document was numbered as page 74.

Amendment of allegation

The Presenting Officer applied for an amendment to Allegation b and confirmed that the Panel was entitled to allow an amendment as long as it is in the interests of justice. Mr Turner confirmed that he had no objection to the amendment sought.

The application related to amendment of the wording of Allegation b as presently drafted: -

b. In the academic year 2011/2012 placed Pupil B in a headlock whilst holding a knife and threatened to kill him for giving a wrong answer;

to the following:-

b. In the academic year 2011/2012 he inappropriately held Pupil B with his arm around the pupil's neck, whilst holding a knife, and made a pretend threat to kill him;

The Panel agreed to the amendments on the basis that there was no potential prejudice or unfairness to Mr Holmes caused by the proposed amendment. It did not extend the scope of Allegation b but rather it set the allegation out on a more specific basis. The Panel noted that

there was no objection to the amendment and decided it was in the interests of justice for the amendment to be allowed

D. Summary of evidence

Documents

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

- 1 Section 1: Chronology and Anonymised Pupil List – pages 2-3
- 2 Section 2: Notice of Proceedings and Response - pages 5-10
- 3 Section 3: NCTL Witness Statements - pages 12-13
- 4 Section 4: NCTL Documents, pages 15 -68
- 5 Section 5: Teacher Documents, pages 70-74

The Panel Members confirmed that they had read all of the documents in advance of the hearing, including the additional document (Section 5 page 74) admitted at the discretion of the Panel.

Witnesses

The Panel heard oral evidence from Individual A, School Principal of Landau Forte College, called by the Presenting Officer.

The Panel also heard oral evidence from Mr John Holmes, called by Mr Turner.

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.

Mr Holmes was employed as a Geography teacher at Landau Forte College (“the School”) from April 1992 to 31 August 2013. He initially led the Geography team at the School. In 1997 Mr Holmes joined the Leadership Team as Director of Studies for Key Stage 3 and primary school liaison. In 2010, Mr Holmes was asked to resume the leadership of Geography and held this responsibility alongside primary school liaison until 31 August 2013.

On 26 March 2010, a Year 8 pupil, Pupil A, alleged that Mr Holmes had pushed him from behind and that as a result Pupil A had injured himself on a door as he was attempting to leave the learning base. The School referred the allegation to the Local Authority Designated Officer (LADO) in accordance with Area Child Protection and Safeguarding procedures. On 8 April 2010, a Strategy Meeting was held at which it was agreed that if Pupil A's mother wished the matter to be dealt with internally by Individual A, the School Principal, a full investigation should proceed with the LADO being informed on any outcome.

During the School's investigation, Mr Holmes's account of the alleged incident differed from Pupil A's in terms of what took place in the room and how Pupil A came to collide with the door. Pupil A acknowledged that his collision with the door could have been the result of Mr Holmes trying to prevent him from leaving rather than a push. Mr Holmes admitted that he had been heavy handed with Pupil A. The incident was witnessed by other students.

On 29 April 2010 Mr Holmes received an oral warning from the School for failing to conduct himself in a professional manner and in 'the best interests of the College'.

A historic incident involving Mr Holmes and Pupil B, a Year 8 pupil, came to light in April 2013. The incident had occurred in the summer term of the academic year 2011/12. Pupil B stated that Mr Holmes had placed him in a headlock during a Geography lesson whilst holding a knife and threatening to kill him for giving the wrong answer. The incident was reported to the LADO and an investigation was undertaken by the School. During the course of investigation Mr Holmes admitted to the alleged conduct but explained that the incident occurred in a jovial manner. Two Strategy Meetings were held on 12 April and 13 May 2013. At the 13 May 2013 Strategy Meeting the police reported that the matter had been passed to a Detective Inspector following voluntary interviews with Mr Holmes and Pupil B and it remained a possibility that Mr Holmes could be charged with a criminal offence. Mr Holmes was suspended from duty on 10 April 2013 whilst the School investigation took place. On 10 April 2013, Mr Holmes sent an Email to staff at the School, entitled "absence", apologising for them having to cover for his lessons. He commented on the incident which had led to his suspension and the School's approach to the investigation.

Mr Holmes attended the School's Disciplinary Meeting on the 8 May 2013. He admitted that his actions and behaviour towards Pupil B had been inappropriate and amounted to misconduct. Mr Holmes maintained that his actions occurred in a jovial manner as part of a light-hearted quiz at the end of a lesson and that, as pupils had not reported the incident at the time, he suggested that those present were not concerned by what took place.

The School's Disciplinary Hearing decided to dismiss Mr Holmes for gross misconduct. Mr Holmes appealed the decision and the School's Appeal hearing was held in early July 2013. It decided that Mr Holmes should be allowed to leave the School's employment, by mutual consent, on 31 August 2013 with an agreed reference.

On 2 August 2013, Mr Holmes was cautioned for the offence “possess article with blade/sharp point on school premises on 1 April 2013 to 31 May 2013” contrary to the Criminal Justice Act 1988 section 139A(1) by Derbyshire Constabulary.

The School completed a referral to NCTL in respect of Mr Holmes on 14 November 2013.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proved, for these reasons:

- a. **Received a verbal warning on 29 April 2010 for *"failing to conduct yourself in a professional manner and in the best interests of the College"* in that Pupil A was injured after an incident in which you admit being heavy handed;**

Mr Holmes admits this fact and the Panel find it proved. Individual A's oral evidence and written evidence confirmed that she issued a verbal warning to him on 29 April 2010 in relation to an incident on 26 March 2010 in which he had placed his hand on pupil A. Following this she arranged for him to receive additional training to avoid repetition in similar circumstances. The Panel noted the content of the letter confirming that Mr Holmes had received a verbal warning from the School following his contact with Pupil A in 2010. Mr Holmes accepted that he was heavy handed with the pupil and that he had subsequently undertaken further safeguarding training.

- b. **In the academic year 2011/2012 you inappropriately held Pupil B with your arm around the pupil's neck, whilst holding a knife and made a pretend threat to kill him;**

Mr Holmes admits the fact and the Panel find it proved. We noted the content of the written statements from Year 8 pupils contained within the case papers, including the statement from Pupil B. These corroborate that this incident took place. Mr Holmes accepts that using a knife in class is totally inappropriate. Mr Holmes made physical contact with Pupil B by placing his arm around Pupil B's neck, and then took his knife from his pocket and pushed it open so that the blade locked into place. Mr Holmes then made a pretend threat to kill Pupil B.

- c. **Made contact with colleagues, in breach of the terms of your suspension, in that you sent an e-mail on 10 April 2013 commenting directly on the circumstances which lead to your suspension despite instructions not to discuss the matter with any work colleague;**

Mr Holmes admits the fact and the Panel find it proved. Mr Holmes accepts that, following his suspension, he sent an e-mail to staff colleagues intended to be an apology to colleagues who were required to cover his lessons during his absence. We noted the contents of Mr Holmes e-mail to colleagues at page 35 of the case papers. The e-mail comments directly on the alleged incident and circumstances

which gave rise to Mr Holmes's suspension. We also accepted the evidence provided by Individual A. She confirmed that Mr Holmes was given instructions not to discuss the circumstances which led to his suspension, being the incident involving Pupil B, with any work colleague. We also noted the contents of Mr Holmes's suspension letter dated 10 April 2013 at page 34, which states that he "must not discuss this matter with any work colleagues".

d. Received a caution on 2 August 2013 from Derbyshire Constabulary for "Possess Article with a Blade / Sharp Point on School Premises on 01/04/13 - 31/05/13".

Mr Holmes admits the fact and the Panel find it proved. We note the contents of the Police National Computer (PNC) print out at pages 62 to 64 of the case papers which confirms that Mr Holmes was cautioned on 2 August 2013 by Derbyshire Constabulary for "Possess Article with a Blade / Sharp Point on School Premises on 1 January 2013 to 31 May 2013". Mr Holmes told us that the dates on the PNC are incorrect and that these have been amended on his Disclosure and Barring Service records with the correct date of his caution for possession being the same dates period but in the year 2012. However, the police record of the caution remains as set on the PNC.

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

Mr Holmes admits that he is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute in relation to **Allegations a, b, c and d**, but we are required to make our own decision.

We are not satisfied that Mr Holmes is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in relation to the fact proved in **Allegation a**. Although Mr Holmes's conduct was unprofessional and fell below the standards of behaviour expected of a teacher, we do not have sufficient independent evidence to satisfy ourselves that his conduct was of a sufficiently serious nature to be significantly short of the standard of behaviour expected of a teacher.

We are satisfied that, in respect of the facts found proved in **Allegations b and d**, taken together, Mr Holmes is guilty of unacceptable professional conduct and conduct which brings the profession into disrepute. The Panel consider the facts proved to be of a serious nature. The carrying of a bladed/ pointed article on school premises is a serious offence. There is a strong public interest in deterring the carrying and use of knives in schools. In addition, Mr Holmes has made inappropriate physical contact by placing his arm around the Year 8 pupil's neck, whilst holding the knife and making a pretend threat to kill him. We accepted that there was no intention to cause the pupil harm and that Mr Holmes's actions were not intended as a genuine threat to kill.

We are not satisfied that Mr Holmes is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in relation to the fact proved in

Allegation c when taken on its own. However, when considered with the facts proved in **Allegations b and d** and in the context of the police and safeguarding investigation which was on-going at the time, we do consider that Mr Holmes's conduct fell seriously short of the standards of behaviour expected of a teacher and is therefore, in our judgement, conduct which brings the profession into disrepute.

The conduct displayed by Mr Holmes in the facts proved in **Allegations b, c and d** would be likely to have a negative impact on his status as a teacher, potentially damaging the public's perception of teachers.

In making this determination, we find that Mr Holmes has breached the personal and professional conduct elements of the latest Teachers' Standards. In particular,

"Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside the 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.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities."

Panel's recommendation to the Secretary of State

The Panel has considered the mitigating factors in this case very carefully. Mr Holmes is an experienced and successful teacher who was valued by the School and many of its pupils. We have also received a positive testimonial from his current employer. The Panel noted that Mr Holmes had admitted the facts of the allegations against him and expressed remorse. We have already accepted that there was no intention to cause Pupil B harm, that Pupil B was indeed unharmed and that Mr Holmes's actions were not intended as or perceived as a genuine threat by Pupil B or other pupils in the class. He was in possession of a small knife on school premises, contrary to law, out of carelessness not aggressive intent.

In deciding whether to recommend the imposition of a Prohibition Order to the Secretary of State the Panel had to consider the issues of the public interest and proportionality. The Panel has carefully considered the relevant factors set out in the guidance on the Prohibition of Teachers.

By majority, the Panel has decided to recommend that the Secretary of State should make a Prohibition Order in the public interest in this case and is satisfied that this is a proportionate sanction.

Mr Holmes's behaviour was incompatible with being a teacher for the following reasons:

- His conduct represented a serious departure from the personal and professional conduct elements of the Teacher's Standards (as explained in our 'Findings' above).
- He was in possession of a bladed/ pointed article on school premises which is a serious offence. There is a strong public interest in deterring the carrying and use of knives in schools and teachers need to be role models in this regard.
- Mr Holmes has failed to recognise the full implications of his action in the context of today's teaching environment. The expectation of teacher is that they play an influential role in the formation of pupils' views and behaviour. He has not shown the Panel any persuasive evidence of clear insight into the wider implications of his inappropriate behaviour. Although he accepted that his conduct was unacceptable and spoke to Pupil B around the time of the incident, he did not report what had occurred to colleagues or to his line manager.

Whilst the Panel believes that Mr Holmes's conduct was sufficiently seriously unprofessional that a Prohibition Order is appropriate, we have not concluded that there should be no provision for him to apply for it to be set aside.

Having regard to the mitigating circumstances in this case, the Panel has decided to recommend that Mr Holmes should be able to apply for the Prohibition Order to be set aside after a minimum period of two years. This is in principle sufficient time for him to reflect on and appreciate the levels and types of conduct now expected of teachers and to access further professional development training that he may not have had access to at Landau Forte College.

In addition, the Panel consider that this time period will provide Mr Holmes with sufficient opportunity to reflect further on his conduct and develop his insight into the standards now expected of a teacher and the appropriate boundaries of behaviour when dealing with pupils. He would need to convince a future Professional Conduct Panel that he has properly internalised such insight before it could be agreed that the Prohibition Order might be set aside.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case. Mr Holmes has admitted the facts and that those facts amount to

unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel considered each allegation in turn and found all the allegations proven. With regard to particulars b and d the panel found Mr Holmes to be guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute. With regard to particular c the panel found Mr Holmes guilty of conduct that may bring the profession into disrepute.

The panel have considered carefully whether a prohibition order is an appropriate and proportionate sanction in the public interest. They have accepted that there was no intention to cause harm to Pupil B and indeed Pupil B was unharmed. Mr Holmes actions were not perceived by Pupil B or other pupils in the class to be a genuine threat. Mr Holmes is an experienced and successful teacher, valued by the school and many of its pupils. His current employer has provided a positive testimonial.

However, his conduct represents serious departure from the personal and professional conduct elements of the Teachers' Standards. He was in possession of a bladed/pointed article on school premises and there is a strong public interest in deterring the carrying and use of knives in schools. He has not shown clear insight into the implications of his behaviour. On balance the panel have recommended that a prohibition order is an appropriate and proportionate sanction and I agree with that recommendation.

The panel have gone on to consider whether there should be provision for Mr Holmes to apply to have the order set aside after a period of time. They have recommended that a period of two years should be sufficient for him to properly reflect on the conduct expected of teachers and to develop appropriate insight into his behaviour. It will also allow him sufficient time to access further professional development. I agree with this recommendation.

This means that Mr John Holmes is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the Prohibition Order to be set aside, but not until 15 July 2016, 2 years from the date of this order at the earliest. If he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr John Holmes remains barred from teaching indefinitely.

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

Mr John Holmes has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this Order.

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

NAME OF DECISION MAKER: Paul Heathcote

Date: 8 July 2014

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