



National College for  
Teaching & Leadership

# **Mr Philip Henry: 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**

<b>Teacher:</b>	Mr Philip Henry
<b>Teacher ref no:</b>	11/44130
<b>Teacher date of birth:</b>	11 January 1989
<b>NCTL Case ref no:</b>	0011227
<b>Date of Determination:</b>	29 July 2014
<b>Former employer:</b>	Haydock Sports College, St Helens (the “College”)

### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 29 July 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Philip Henry.

The Panel members were Dr Geoffrey Penzer (Lay Panellist – in the Chair), Mrs Kulvinder Sandal (Teacher Panellist) and Mrs Ruth Winterson (Teacher Panellist).

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

The Presenting Officer for the National College was Ms Katie Henderson of Nabarro LLP Solicitors. Mr Philip Henry was not represented.

Convened as a meeting, neither the Presenting Officer nor Mr Henry were present.

The meeting took place in private and was not recorded save for the Panel’s announcement of its findings on fact, unacceptable professional conduct and conduct that may bring the profession into disrepute.

## B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 2 July 2014.

It was alleged that Mr Philip Henry was guilty of unacceptable professional conduct/ conduct that may bring the profession into disrepute, in that:

Whilst employed at Haydock Sports College (“the College”), St Helens:

1. On an unknown date during academic year 2013/2014 he submitted fabricated work for one or more students’ Cambridge ICT examination portfolios, to the examination board which included:
  - a. altering file names of work
  - b. altering file structures
  - c. in relation to screenshots in students’ PPT presentations:
    - i. adding shots
    - ii. replacing shots
    - iii. modifying shots
    - iv. removing shots
  - d. altering students’ reports to contain the correct information;
2. His actions as set out in paragraph 1 above were:
  - a. designed to improve students’ marks
  - b. done without the students’ knowledge
3. On 9 January 2014, when requested to provide the portfolio in relation to Student A, he:
  - a. stated that he did not have the work at the College as it was at home
  - b. subsequently printed the work at the College
4. On 10 January 2014, he attempted to cover-up his actions as described at paragraph 1 above, in that he:
  - a. deleted his recent document edited history from his computer

- b. encouraged students to state that they had accidentally deleted their work from the College's network
  - c. when asked about anomalies within the student portfolios he:
    - i. denied fabricating students' portfolios
    - ii. stated that he had stored work in a pen drive as there was no room in the students' area of the system
    - iii. stated that he must have dropped Student A's work into the folder of Student B when asked why the work submitted for Student B had Student A's name at the top when uncropped
    - iv. stated that Student B created and/or modified the work when Student B had not logged onto the network on that day
5. His actions as described at paragraphs 1 to 4 above were:
- a. misleading
  - b. dishonest

In a Statement of Agreed Facts signed by him on 17 May 2014 and by the Presenting Officer on 13 May 2014 ("Statement of Agreed Facts"), Mr Henry has admitted each of the allegations, save for allegation 4a and has admitted that his conduct constitutes unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

There were no preliminary applications.

## **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 2 – 3
Section 2: Notice of Referral and Response	Pages 4 – 8c
Section 3: Statement of Agreed Facts and Presenting Officer Representations	Pages 9 - 19

Section 4: National College for Teaching and Leadership Documents

Pages 20 – 91

Section 5: Assessment Documentation

Pages 92 - 260

Section 5: Teacher Documents

Page 261 - 262

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**

In the academic year 2013/2014, Mr Henry was employed as an ICT Teacher at the College. As part of the ICT course, students complete three portfolios of evidence and take one written examination. The examination marks from the portfolios are sent to the examination board who select a sample to review for moderation purposes. The College is then required to provide the printed file and an electronic copy of the sample to the examination board. In preparing the samples for submission to the examination board on 10 January 2014, colleagues identified concerns over some of the portfolios in the sample selected for Mr Henry's classes. The Deputy Head teacher met with Mr Henry that day to ask a number of questions and Mr Henry was interviewed again on 13 January 2014 and 17 January 2014. Mr Henry resigned from his post as from 17 January 2014.

## **Findings of Fact**

Our findings of fact are as follows:

We have found the following particulars of the allegations against Mr Henry proven, for these reasons:

**1** Whilst employed at Haydock Sports College (“the College”), St Helens, on an unknown date during academic year 2013/2014 Mr Henry submitted fabricated work for one or more students’ Cambridge ICT examination portfolios, to the examination board which included:

- a) altering file names of work**
- b) altering file structures**
- c) in relation to screenshots in students’ PPT presentations**
  - (i) adding shots**
  - (ii) replacing shots**
  - (iii) modifying shots**
  - (iv) removing shots**
- d) altering students’ reports to contain the correct information**

The College’s Investigation Report states that issues were raised that pieces of work submitted to the exam board did not match those which were in the students’ electronic folders.

In an investigatory interview on 17 January 2014, Mr Henry admitted changing file names to call the files “what I would call it”. In isolation, the Panel did not consider this necessarily amounted to fabricating work.

It was put to him in the investigatory interview on 17 January 2014 that he changed the folder structure for Student A so that although the content of work remained the same, it would get more marks. He responded “So I knew what I was doing”. It is ambiguous whether Mr Henry answered “Yes” to the question of whether the Student would have achieved as many marks if he had not changed the structure, or whether he was responding to a different question. However, in light of Mr Henry’s admission in the Statement of Agreed Facts, the Panel is satisfied that he did alter file structures.

The Panel also has in its Bundle screen shots which are annotated as follows: “This screen shot now shows the correct answer. [a student]’s original screenshot did not”; [a student’s original screenshot has been replaced by 2 created by P Henry”; “Again the original screenshot has been replaced”; “This is a new slide that has been added to the presentation”; “The spreadsheet in [a student]’s e-folder does not match the screenshots. They were taken from an amended spreadsheet on the pen drive. It was amended by P Henry on 27 December 2013”.

There is then a series of screenshots which it is stated, depict Student C having two versions of an Mstream IT movie in his e-portfolio on 18 December 2014 both of which were incomplete. It is stated that Student C was questioned on 19 January 2014 and he stated that he did not complete that part of the course. It is then stated that Mr Henry's pen drive contained a completed movie. "The screenshot shows it was modified at 11:50 on 9/1/14. Also note that it is in a folder named Cambridge Nationals – this folder does not exist in [Student C]'s e-folder".

The Panel Bundle then contains screenshots submitted as evidence in Student A's portfolio. There are two screenshots to evidence when the files were created which state they were last saved by Mr Henry. There is an annotation which states that the movie on which the screenshots were based was not present in the student's folder on 18 December 2013.

The Panel Bundle then contains a report which is stated to have been submitted in Student B's portfolio which contains the correct information. The annotation states that this was not present in that student's e-portfolio, but was present on Mr Henry's pen drive. Screenshots show that the file was last saved by Mr Henry. The version of the report found in Student B's e-portfolio is also included in the Panel Bundle which is stated to contain incorrect information.

These screenshots provide evidence of Mr Henry adding, replacing, modifying and removing PPT slides, and of altering students' reports to contain the correct information.

In the Statement of Agreed Facts, Mr Henry had not responded to whether he admitted the stem of this allegation, but admitted each of sub-paragraphs a b and c, including ci, ii, iii and iv and d. Mr Henry subsequently admitted the stem of this allegation in an email sent to the Presenting Officer on 9 June 2014. The stem and each of the sub-paragraphs of this allegation are therefore admitted in their entirety.

This allegation is found proven by the Panel in its entirety.

## **2 Mr Henry's actions as set out in paragraph 1 above were:**

- a) designed to improve students' marks**
- b) done without the students' knowledge**

It is apparent from the College's Investigation Report that at least Student A had been asked about the work submitted by Mr Henry and responded that it was not her work. Another investigation revealed that Student B could not have completed the work at the time the audit trail stated it had been modified (9 January 2014) which was after the deadline, because that student had not been logged on at that time.

This allegation including its sub-paragraphs is admitted by Mr Henry in the Statement of Agreed Facts. The Panel finds this allegation proven in its entirety.



**3 On 9 January 2014, when requested to provide the portfolio in relation to Student A, Mr Henry:**

- a) stated that he did not have the work at the College as it was at home**
- b) subsequently printed the work at the College**

The College's Investigation Report states that Mr Henry had been asked for this student's work on Thursday 9 January 2014. This was the day on which the sample had been identified by the Examination Board for external moderation. It is stated that Mr Henry had said it had been at his home and that he could not provide it. The report states that the activity log showed he had printed off the work from a folder in the College that evening but that he failed to pass it on at that time.

This allegation is admitted in its entirety. This allegation is found proven.

**4 Whilst employed at Haydock Sports College ("the College"), St Helens, on 10 January 2014, Mr Henry attempted to cover-up his actions as described at paragraph 1 above, in that he:**

- a) deleted his recent document edited history from his computer**

The College's Investigation Report shows that an audit of Mr Henry's computer activity in the morning of 10 January, revealed that he had deleted his recent items. Mr Henry was asked why he had deleted his recent items list from his computer that morning. He responded that he had no idea that he had deleted this list and was completely unaware that he had done it. The report notes that the "recent items list on a computer is not a routinely deleted item and is unlikely to be deleted by accident". At interview on 17 January 2014, Mr Henry was asked about this and replied "Hold my hands up to a lot of stuff but can't explain where that went" and "No idea how I've done it", then "I genuinely don't know how I've deleted them. What was deleted?". In his Statement of Agreed Facts, Mr Henry has denied this sub-paragraph.

The Panel considered that there was clear evidence that his recent items from his computer had been deleted and considered that it was more likely than not that this had been deleted by Mr Henry. This allegation was therefore found proven.

**C i. when asked about anomalies within the student portfolios Mr Henry denied fabricating students' portfolios**

The College's Investigation Report shows that when Mr Henry was asked why Student A and Student B's folders did not match those submitted in the paper portfolios to the exam boards, he replied that he could not explain why Student A's film was different and that he couldn't explain where the new film might have come from. He stated that Student A had completed the film in the last couple of days before Christmas and could not explain

why Student A did not recognise the film as her own. The Panel considered this to be an implicit denial of having fabricated this portfolio.

Mr Henry has admitted this sub-paragraph in the Statement of Agreed Facts.

The Panel finds this sub-paragraph of this allegation proven.

**C ii when asked about anomalies within the student portfolios Mr Henry stated that he had stored work in a pen drive as there was no room in the students' area of the system**

The Report also stated that when Mr Henry was challenged on 10 January 2014 as to why Student C had no video in his folder, he showed Individual A a video which was on his pen drive, which he stated he had put there because Student C hadn't got sufficient space on the system.

Mr Henry has admitted this sub-paragraph in the Statement of Agreed Facts.

The Panel finds this sub-paragraph proven.

**C iii when asked about anomalies within the student portfolios Mr Henry stated that he must have dropped Student A's work into the folder of Student B when asked why the work submitted for Student B had Student A's name at the top when uncropped**

The Report states that Mr Henry was also asked why a piece of work submitted as Student B's had Student A's name on the top when uncropped. It is stated that Mr Henry said that he must have dropped Student A's work into the wrong file and that Student A had been working on the very last day of term at lunchtime to complete the work ready for submission and that he acted in haste.

Mr Henry has admitted the allegation in this sub-paragraph in the Statement of Agreed Facts.

The Panel finds this sub-paragraph proven.

**C iv when asked about anomalies within the student portfolios Mr Henry stated that Student B created and/or modified the work when Student B had not logged onto the network on that day**

The Report shows that Student B could not have modified her work on 9 January 2014 because she had not been logged on at the time. It is stated that he suggested to both Student A and Student B that they might have deleted their work by mistake. Although there is no comment recorded in the Report as to whether Mr Henry stated that Student B had modified or created the work, Mr Henry has admitted this sub-paragraph in the Statement of Agreed Facts. The Panel accepts that on the balance of probabilities it is

more probable than not that Mr Henry stated this since otherwise the College would not have had cause to check whether Student B was logged on at that time.

Since subparagraphs a, c(i), (ii), (iii) and (iv) are found proven for the reasons set out above, the Panel considers each of those sub-paragraphs are attempts to cover up Mr Henry's actions and therefore the stem of this allegation is also found proven.

## **5 Whilst employed at Haydock Sports College ("the College"), St Helens, Mr Henry's actions as described at paragraphs 1 to 4 above were:**

### **a) misleading**

The Panel has found proven that Mr Henry submitted fabricated work, that he falsely stated work was at home when he was able to print out the work at the College and that when questioned about what had happened, he attempted to cover up his actions. The Panel was satisfied that Mr Henry's actions were designed to mislead the Examination Board regarding the quality of the students' work and to mislead the College that he was not responsible for the anomalies identified.

### **b) dishonest**

The Panel received and accepted advice from the Legal Adviser that if it was satisfied on a balance of probabilities that any of the facts of allegations 1, 2, 3 or 4 were proven, then there was a further requirement to consider two questions when deciding whether Mr Henry's actions were dishonest. Firstly, is the Panel satisfied on the balance of probabilities that Mr Henry's actions would be regarded as dishonest according to the standards of ordinary, reasonable and honest people? If so, is the Panel satisfied on the balance of probabilities that Mr Henry himself must have realised that his actions would be regarded as dishonest by those standards. The Panel accepted that it is only if the answers to both those questions are yes, can the allegation of dishonesty be established in this case.

On the objective test, the Panel was satisfied that reasonable and honest people would consider it dishonest to alter students' work for submission to the Examination Board and to attempt to cover up those actions as found proven. The Panel went on to consider whether Mr Henry would have known that what he was doing was by those standards dishonest and the Panel considered that he should have known.

This allegation is therefore found proven.

We have found the following particulars of allegations not proven for the following reasons:

## **4 b Whilst employed at Haydock Sports College ("the College"), St Helens, on 10 January 2014, Mr Henry attempted to cover-up his actions as described at**

**paragraph 1 above, in that he encouraged students to state that they had accidentally deleted their work from the College's network.**

The College's Investigation Report states that on 10 January 2014, Mr Henry had started trying to help the students locate their missing electronic portfolio work. It is stated he kept suggesting to both girls that they might have deleted their work by mistake. Both girls were quite sure they had not deleted anything recently. Mr Henry has admitted suggesting to Student A and Student B that they may have deleted their work by mistake. Although Mr Henry accepts that he suggested to Student A and Student B that they may have deleted work, the Panel noted that it has not been put to him that he encouraged those students. Since the Panel considers "suggesting" to be different from "encouraging", this allegation is not found 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 Henry in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mr Henry has failed to uphold public trust in the profession and maintain high standards of ethics and behaviour. He failed to have regard for the need to safeguard pupils' well-being, by compromising students' results in public examination, putting some at potential risk if they were relying on this qualification for entry into further study. Mr Henry also failed to have proper and professional regard for the ethos, policies and practices of the College in which he taught and failed to act within the frameworks setting out his professional duties and responsibilities.

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

The Panel has also considered whether Mr Henry's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance and we have found that the offence of serious dishonesty is relevant, aggravated by Mr Henry's initial attempts to cover up his actions. 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.

Accordingly, the Panel is satisfied that Mr Henry 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. Mr Henry has damaged the reputation and credibility of the College as an examinations centre and has provided a poor example to the students who should be taught that cheating is wrong.

The Panel therefore finds that Mr Henry'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 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 Henry, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of dishonesty which disadvantaged the students. Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Henry 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 Henry 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 Henry. In carrying out the balancing exercise 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 are:

- serious departure from the personal and professional conduct elements of the teachers' standards
- misconduct seriously affecting the education and/or wellbeing of pupils
- dishonesty especially where there have been serious consequences, and it has been covered up.

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, the Panel considered Mr Henry's actions to have been deliberate and there was no evidence that he was acting under duress. Although the teacher has a previously good record, the Panel noted that his professional experience was limited given that he is relatively new to the profession.

The Panel noted Mr Henry's explanation to the College that he had altered work and had done so because he had lost a pen drive over the Christmas holidays. He said that he had panicked and had copied files over and that the practice he had experienced in other schools had led him to believe that this was acceptable, albeit that he had known it was not acceptable at the College. The Panel considered that this was a sign of Mr Henry's inexperience, but that it did not excuse his actions.

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 Henry. Mr Henry was dishonest in the course of his duties and his actions had a serious impact on the students, which would have been foreseeable to him. 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 dishonesty. However, the Panel had in mind that Mr Henry was an inexperienced teacher who has shown a serious error of judgment and demonstrated significant immaturity. The Panel felt the findings indicated a situation in which a review period would be appropriate in order to allow Mr Henry the opportunity to have sufficient time to reflect on his actions and develop a more grounded understanding of the professional standards expected of a teacher. As such the Panel decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended with provisions for him to be

able to apply to have the prohibition order reviewed with a view to having it set aside after a period of 5 years.

## **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 all the allegations proven (except for allegation 4b) relating to fabricating course work and subsequently trying to cover up his actions. The panel also found Mr Henry's actions to be both misleading and dishonest.

The panel were satisfied that Mr Henry's conduct represented a departure from the Teachers' Standards in that he failed to uphold public trust in the profession and maintain high standards of ethics and behaviour. He has also failed to have proper and professional regard to the ethos, policies and practices of the school and failed to act within the frameworks that set out professional duties and responsibilities. The panel took account of how the profession is viewed by others and the influential role that teachers hold in pupils lives. Mr Henry's actions served as a poor example to pupils who should understand that cheating is wrong.

The panel have found that Mr Henry's actions amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering whether a prohibition order would be an appropriate and proportionate sanction they have considered the public interest considerations in this case, specifically the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel noted Mr Henry's previous good record but also that he was relatively new to the profession. The panel also noted Mr Henry's explanation as to why he had altered the work. They determined that whilst this was a sign of his inexperience, it did not excuse his actions. I agree with the panel's recommendation that a prohibition order is an appropriate and proportionate sanction.

In considering whether a review period would be appropriate the panel have taken account of Mr Henry's inexperience. He has shown a serious error of judgement and demonstrated significant immaturity. The panel are of the view that a period of 5 years would be sufficient to allow Mr Henry to reflect upon his actions and develop a more grounded understanding of the standards expected of a teacher. I agree with this recommendation.

**This means that Mr Philip Henry 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 6 August 2019, 5 years from the date of this order at the earliest. This is not an automatic right to have the Prohibition Order removed. If he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Philip Henry remains barred from teaching indefinitely.

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

Mr Philip Henry 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: 30 July 2014**

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