



National College for
Teaching & Leadership

Mrs Sabina Marianne Lynch: Professional Conduct Panel outcome

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

12 January 2015

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

Teacher:	Mrs Sabina Marianne Lynch
Teacher ref no:	1383051
Teacher date of birth:	1 May 1980
NCTL Case ref no:	0011259/LYNCH
Date of Determination:	12 January 2015
Former employer:	St Benedict's School

A. Introduction

A Professional Conduct Panel ("the Panel") of the National College for Teaching and Leadership ("the National College") convened on 12 January 2015 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mrs Sabina Marianne Lynch.

The Panel members were Mr Mike Carter (Teacher Panellist – in the Chair), Professor Janet Draper (Lay Panellist) and Mr Michael Lewis (Teacher Panellist).

The Legal Adviser to the Panel was Mr Stephen Murfitt of Blake Morgan LLP, Solicitors.

The Presenting Officer for the National College was Ms Lucy Coulson of Browne Jacobson LLP, Solicitors.

Mrs Sabina Lynch was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 26 September 2015.

It was alleged that Mrs Sabina Lynch was guilty of unacceptable professional conduct in that on 4 December 2013 she acted dishonestly by fabricating a reference from St Benedict's School for her husband in relation to his application to teach at Focus School – Hindhead Campus. She received a police caution on 9 January 2014 for the offence of making false representations to make gain for self or another or cause loss to other/expose others to risk.

Mrs Sabina Lynch made no admissions.

C. Preliminary applications

There was an application by the NCTL for the hearing to proceed in the absence of Mrs Lynch.

The Panel carefully considered the application and determined to proceed in the absence of Mrs Lynch.

The Panel determined that the NCTL has complied with the service requirements of Regulation 19 of the Teachers Disciplinary (England) Regulations 2012 ("the Regulations"). The Panel noted that the Notice of Proceedings had been delivered by first class post and that the NCTL officer had endorsed the copy in the hearing bundle to that effect. The Panel was told by the Presenting Officer that the Notice of Proceedings had been sent to Mrs Lynch's last known address.

The Panel is satisfied that the Notice of Proceedings contains the details required by paragraph 4.11 of the Procedures and that the teacher had been provided with the requisite 8 weeks' notice.

In making its decision the Panel has noted that Mrs Lynch may waive her right to attend the hearing. The Panel reminded itself that its discretion to proceed with a hearing in the absence of Mrs Lynch has to be exercised with the utmost care and caution, and that the discretion is a severely constrained one.

The Panel has taken account of the guidance contained in the case of *R v Jones (2012) 1 AC1*. Mrs Lynch had failed to engage with NCTL and there had been no indication that she would attend if the case were adjourned to a later date. The evidence suggested that Mrs Lynch had waived her right to attend the hearing. The Panel noted that the allegations were serious and there was a public interest in the hearing taking place within a reasonable time of the events to which it relates.

D. Summary of evidence

Documents

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

Section 1: Chronology	Page 2
Section 2: Notice of Proceedings 08/05/14	Pages 3-7
Section 3: Statement of Witness A 21/08/14	Pages 8-10
Section 4: NCTL Documents	
1. Sabina Lynch's Application Form CC1.12/03/13	Pages 11-17
2. Email: Reference from Individual B CC2. 28/03/13	Pages 18-20
3. Email: Purported Reference for Individual C CC3. 04/12/13	Pages 21-25
4. Sabina Lynch's letter of resignation CC4	Pages 26-27
5. Witness A's letter accepting resignation CC5. 0901/14	Pages 28-30
6. Certificate of Caution 09/01/14	Pages 31-33
7. DBS Referral 04/02/12	Pages 34-40
8. Emails from Ealing Borough Council (Various)	Pages 41-47
9. PNC Report 15/04/14	Pages 48-50
Section 5: Teachers Documents (None)	

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

Witnesses

The Panel heard oral evidence from Witness A, Headmaster of St Benedict's School, who was called by the Presenting Officer and who gave evidence in accordance with his witness statement dated 21 August 2014.

E. Decision and reasons

The Panel announced its decision and reasons as follows:

The Panel members confirmed they had carefully considered the case before them and had reached a decision.

The Panel members confirmed that they had read all the documents provided in the bundle in advance of the hearing.

Mrs Lynch is a qualified teacher. She was employed as a History Teacher and Environment Committee Representative at St Benedict's School Ealing, London. She commenced her employment on 1 September 2013 and resigned on 7 January 2014. It is alleged that Mrs Lynch provided a fabricated reference from St Benedict's School for her husband in relation to his application to teach at Focus School – Hindhead Campus.

On 9 January 2014 Mrs Lynch was made the subject of a Police Caution for false representation to make gain for self or another or cause loss to other/expose others to risk contrary to section 1 of the Fraud Act 2006.

Findings of Fact

The Panel's findings of fact are as follows:

The Panel has found the following particulars of the allegation(s) against Mrs Lynch proven, for these reasons:

Acted dishonestly by fabricating a reference from St Benedict's School for your husband in relation to his application to teach at Focus School – Hindhead Campus.

The Panel has considered the written witness statement of Witness A and the exhibits attached to the statement. On page 45 of the bundle is a reference purportedly written by Individual D (senior school deputy headmaster of St Benedict's School) for Individual E who is Mrs Lynch's husband. The reference was addressed to Individual F of the Focus School – Hindhead Campus.

Witness A's oral evidence to the Panel is that Individual E has never been employed in any capacity at St Benedict's School. His previous application for a post at the school was unsuccessful. When a representative of Focus School telephoned to ask about the reference Witness A set in progress a number of inquiries. On 6 January 2014 Witness A met with Mrs Lynch for a meeting that lasted for about five minutes. It is the evidence of Witness A that Mrs Lynch confessed that she had written the false reference to Focus School. She told Witness A that she was very sorry and had let everyone down by her act. The Panel found Witness A to be a credible and truthful witness.

On 7 January 2014 Mrs Lynch resigned with immediate effect. On 9 January 2014 Mrs Lynch also consented to the imposition of a simple police caution which is further evidence of her admittance of the preparation of a false reference on the part of her husband.

The Panel reviewed the reference provided by Mrs Lynch and noted the following matters:

- An email account on behalf of Individual D had been set up by Mrs Lynch with an incorrect spelling of his name.
- The reference came from a blackberry which, Witness A told the Panel, Individual D did not possess.

The Panel reminded itself as to the test for dishonesty and accepted the advice of the Legal Adviser in this respect. The Panel was satisfied on the evidence that Mrs Lynch acted as factually alleged. The Panel then asked itself whether it was satisfied, on the balance of probabilities, as to whether Mrs Lynch's action would be regarded as dishonest according to the ordinary standards of reasonable, honest people. The Panel concluded that it was satisfied and went on to consider whether, on the balance of probabilities, Mrs Lynch must have realised that her actions would be regarded as dishonest by those standards. The Panel determined that the planned set up of the email and the early confession by Mrs Lynch on the part she played in fabricating the reference is evidence of her understanding. The Panel determined that Mrs Lynch must have had that realisation.

Received a Police Caution on 9 January 2014 for the offence of making false representation to make gain for self or another or cause loss to other/expose others to risk.

The Panel has in the hearing bundle a Record of Simple Police Caution administered on 9 January 2014 and signed by Mrs Lynch. Witness A told the Panel that he considered the signature on the caution to be that of Mrs Lynch.

The Panel has found this allegation proved.

Findings as to unacceptable professional conduct

In considering the allegation, which the Panel has found proven, the Panel has had regard to the definitions in 'Teacher Misconduct – The Prohibition of Teachers' advice, which the Panel refers to as the 'Guidance'.

The Guidance states that a Panel should draw on its own knowledge and experience of the teaching profession and the personal and professional conduct elements of the Standards published by the Secretary of State ('The Teachers' Standards').

The Guidance (Teacher Misconduct – The Prohibition of Teachers) suggests that a Panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct where they are found to have displayed behaviours associated with any of the offences listed in the guidance, but were not convicted of the offence.

One of the offences listed is 'Fraud or serious dishonesty'. Mrs Lynch was not convicted of an offence of fraud, but she accepted a caution for the offence of fraud by false representation.

The Panel is satisfied that the conduct of Mrs Lynch in relation to the facts found proven involved a breach of Teachers' Standards, namely that teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school. The School policy required that any reference must be countersigned by the Head and Mrs Lynch was in breach of that policy.

The Panel is satisfied that the conduct of Mrs Lynch fell significantly short of the standards expected of the profession. There is a significant possibility that dishonest acts place at risk the reputation of the profession. The Panel determines that the facts found proven amount to unacceptable professional conduct.

Panel's recommendation to the Secretary of State

The Panel has made factual findings as to unacceptable professional conduct and 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 a proportionate measure and if 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 a punitive effect.

The Panel has considered the public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

The Panel has considered the advice on teacher misconduct in relation to the prohibition of teachers, and has concluded that the following are relevant:

- Serious departure from the personal and professional conduct elements of the latest Teachers' Standards, as published by, or on behalf of, the Secretary of State;

- Dishonesty especially where there have been serious consequences;
- Deliberate behaviour that undermines the profession, the school or colleagues.

The Panel has found that the allegation against Mrs Lynch involved an act of dishonesty which may affect the reputation of the teaching profession. Similarly, the Panel considers that public confidence in the profession could be weakened if such conduct, as the Panel has found proved, was not treated with seriousness when regulating the conduct of the profession. The factual findings against Mrs Lynch raise important public interest considerations in declaring proper standards of conduct for the teaching profession. Teachers are at all times role models. This case concerns an attempt to make a gain for Mrs Lynch or her husband.

Notwithstanding the public interest considerations that were present, the Panel has to consider carefully whether or not it would be proportionate to impose a Prohibition Order. In forming that judgement the Panel has been unable to consider mitigating circumstances because Mrs Lynch has not engaged with the process and in particular has not advanced any mitigating circumstances on her own behalf for consideration by the Panel. Witness A in giving evidence was able to assist to a limited extent as to the reasons given by Mrs Lynch for her actions, and that Mrs Lynch had expressed regret.

In carrying out the balancing exercise the Panel has decided that the public interest considerations outweigh by some margin the interests of Mrs Lynch. Accordingly a consideration of the public interest requires the Panel to make 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 to recommend that a review period of the order should be considered. The Panel was mindful that the advice given is that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate for a review period of not less than two years to be recommended, in order for the teacher to apply to set aside the Order.

The Panel has not been assisted by the lack of engagement on the part of Mrs Lynch in assessing her insight as to her actions and possible consequences. The Panel considers that a period of time for reflection on the part of Mrs Lynch may allow her to demonstrate that she has acquired an insight as to the impact and possible consequences of her actions, and the changes she needs to adopt in order to make a future contribution to the teaching profession. Accordingly, the Panel makes a recommendation to the Secretary of State that Mrs Lynch be allowed a review in three years from the date of this decision.

Decision and reasons on behalf of the Secretary of State

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

The panel have found the allegations proven and determined that the proven facts amount to unacceptable professional conduct.

Mrs Lynch acted dishonestly by fabricating a reference from St Benedict's School for her husband in relation to his application to teach at Focus School. Subsequently she accepted a police caution for the offence of making false representation to make gain for self or another or cause loss to other/expose others to risk.

The panel have properly considered both the public interest and the interests of the teacher. The Panel has found that the allegation against Mrs Lynch involved an act of dishonesty which may affect the reputation of the teaching profession. Similarly, the Panel considers that public confidence in the profession could be weakened if such conduct was not treated with the utmost seriousness.

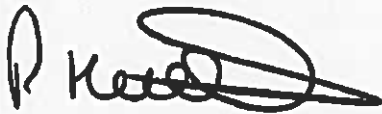
The panel has been unable to consider mitigating circumstances because Mrs Lynch has not engaged with the process and has not advanced any mitigating circumstances on her own behalf. In the circumstances I agree that a prohibition order is an appropriate and proportionate sanction.

Whilst the panel has not been assisted by the lack of engagement on the part of Mrs Lynch in assessing her insight as to her actions and possible consequences, it considers that a period of time for reflection on the part of Mrs Lynch may allow her to demonstrate that she has acquired an insight as to the impact and possible consequences of her actions, and the changes she needs to adopt in order to make a future contribution to the teaching profession. In the circumstances I agree that Mrs Lynch should be allowed to apply to have the order set aside after a minimum of 3 years has elapsed.

This means that Mrs Sabina Marianne Lynch is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the Prohibition Order to be set aside, but not until 20 January 2018, 3 years from the date of this order at the earliest. This is not an automatic right to have the Prohibition Order removed. If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mrs Sabina Marianne Lynch remains prohibited from teaching indefinitely.

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

Mrs Sabina Marianne Lynch has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she 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: 13 January 2015

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

