



National College for
Teaching & Leadership

Mr John Stephen Berry: Professional Conduct Panel outcome

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

May 2014

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

Teacher:	Mr John Stephen Berry
Teacher date of birth:	26 October 1986
NCTL Case ref no:	10914
Date of Determination:	22 May 2014
Former employer:	Our Lady's RC High School, Manchester

A. Introduction

A Professional Conduct Panel ("the Panel") of the National College for Teaching and Leadership ("the National College") convened on 22 May 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr John Stephen Berry.

The Panel members were Mr Mike Carter, (Teacher Panellist – in the Chair) Mr Phil Lloyd, (Teacher Panellist) and Prof Janet Draper (Lay Panellist).

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

The meeting took place in private. The decision and reasons were announced in public and were recorded.

B Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 19 February 2014.

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

Whilst working at Our Lady's R.C. High School, Manchester, he:

- 1. engaged in inappropriate communication, including that of a sexual nature with pupils via a social networking website; and**
- 2. Sent invitations to female pupils to connect with you on a social networking website.**

C. Preliminary applications

None

D. Summary of evidence

Documents

In advance of the hearing, the Panel received the following documents:

- 1 Section 1: Chronology and anonymised pupil list and list of key people pages 2-4
- 2 Section 2: Notice of Referral, Response and Notice of Meeting, pages 6-10
- 3 Section 3: Statement of Agreed Facts and Presenting Officer Representations, pages 12-16
- 4 Section 4: NCTL Documents, pages 18-110
- 5 Section 5: Teacher Documents, pages 110-116

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

Statement of Agreed Facts

The Panel considered a Statement of Agreed Facts signed by Mr Berry on 16 April 2014.

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.

Between 12 April 2010 and 13 September 2013, Mr. John Stephen Berry was employed at Our Lady's R.C. High School ("the School") as a Cover Supervisor. He had his own tutor group and delivered lessons to classes when their usual teacher was absent.

The Year 11 School prom was held on Thursday 27 June 2013. Mr. Berry attended the prom, as did Pupil A. Later that evening Mr. Berry sent a friend request to Pupil A on the social networking site, Facebook. Pupil A accepted the friend request and Mr. Berry and Pupil A began to exchange private messages over the weekend. During these communications, Mr. Berry stated that Pupil A had looked "hot" and "fit" at the prom and had asked to exchange personal mobile numbers. Mr. Berry also asked Pupil A questions on her sexual preferences in a private message. Pupil A did not initiate these conversations.

On 1 July 2013, the Headteacher received a confidential child welfare concern which gave details of a phone call received from Pupil A. Pupil A had reported that Mr. Berry had contacted her by Facebook following the prom night. She reported that initially his messages referred to the prom night but that the messages had become inappropriate. Pupil A was distressed about this and was advised to tell her mother. Pupil A's mother subsequently reported that she had found inappropriate messages from Mr. Berry on Pupil A's phone. Pupil A's mother attended the School that afternoon to meet with the Assistant Headteacher and Safeguarding and Child Protection Officers.

On 2 July 2013 the Headteacher called Mr. Berry into his office to ask for his account of the communications. The Head teacher and Mr. Berry were able to access Mr. Berry's Facebook account and his recent activity log was printed from 2 June 2013 to 2 July 2013. This showed the occasions where Mr. Berry had searched Facebook for pupils and although messages had been deleted the Headteacher made a note of Facebook friends, which included Pupil B, a female pupil, aged 15 years. Mr. Berry had also searched for 12 female

pupils with intent for them to become friends prior to the prom. His Facebook page also showed multiple (22) searches against Pupil A.

Mr. Berry was suspended from work on 2 July 2013, pending a full investigation and the case was referred to the Safeguarding Body for Manchester. A strategy meeting was held on 16 July 2013 and Mr. Berry was interviewed by Greater Manchester Police on 24 July 2013.

Mr. Berry attended the School's investigation meeting on 13 September 2013, with his Trade Union representative. Mr. Berry confirmed that he was aware of the School's policy on E- Safety which covered safeguarding, social media usage and ICT. He had participated in staff briefings when this policy had been communicated. He made it clear that he did not feel it was inappropriate for him to be contacting children aged 16 to 18 years on Facebook. He gave no explanation as to the large number of friend requests. Mr. Berry withdrew from participation in the investigation proceedings during the interview and indicated his intention to resign from the School. He submitted his resignation to the School on 13 September 2013. On 17 October 2013, the School's Staff Discipline and Dismissal Committee met and decided that had Mr. Berry remained at the School then its recommendation would have been dismissal.

Findings of Fact

Our findings of fact are as follows:

We have found the particulars of the following allegations against Mr. Berry proven, namely:

Whilst employed at Our Lady's R.C. High School, Manchester, he:

- 1. engaged in inappropriate communication, including that of a sexual nature with pupils via a social networking website; and**
- 2. sent invitations to female pupils to connect with you on a social networking website.**

We find that facts alleged in allegation 1 proved based on the admissions made by Mr Berry in the Notice of Referral Form dated 23 February 2014 and the Statement of Agreed Facts signed by him and dated 16 April 2014.

In relation to allegation 2, we also find the facts proved based on the admissions made by Mr Berry in the Notice of Referral Form dated 23 February 2014 and the Statement of Agreed Facts signed by him and dated 16 April 2014. In the Statement of Agreed Facts,

Mr Berry admits that he searched for 12 pupils with the intent for them to become friends. We note that the searches date back to 2 June 2013 and that one of the pupils concerned was Pupil B, a female pupil aged 15 years. We further noted that the Facebook screenshots within the case papers demonstrate that Mr Berry attempted to befriend pupils over at least a four week period, between 2 June 2013 to 2 July 2013.

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

We are satisfied that the conduct of Mr Berry in relation to the facts found proved amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The Panel have found that the nature and content of Mr. Berry's communications with a 16 year old female pupil were inappropriate and of a sexual nature. We noted that Pupil A was distressed about the communications she had received from Mr. Berry. He also attempted to contact other female pupils outside the education setting, via social media, when there was a clear school policy, of which he was aware, instructing members of staff to have no contact with pupils on personal social media sites.

We are satisfied that this was conduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. Mr. Berry abused his position of trust and blurred the boundaries appropriate to a teacher's professional position. In addition, the conduct displayed would be likely to have a negative impact on his status as a teacher, potentially damaging the public's perception of teachers.

Mr. Berry breached the Personal and Professional Conduct elements of the Teachers' Standards in that he failed to uphold public trust in the profession and maintain high standards of ethics and behaviour in that he failed to:

- build relationships rooted in mutual respect and trust and at all times observe proper boundaries appropriate to a teacher's professional position;
- have regard for the need to safeguard pupils' well-being;

In addition, Mr Berry failed to have proper and professional regard for the ethos, policies and practices of the School.

Panel's recommendation to the Secretary of State

This was a serious departure from the personal and professional conduct elements of the Teachers' Standards and an abuse of a position of trust. In addition, this was misconduct that could seriously affect the well-being of pupils.

We noted that Mr Berry is not currently working as a teacher. We have carefully considered Mr Berry's letter, at page 112 of the case papers and the character references at page 115 and 116 of the case papers, being a personal reference dated 24 March 2014 and an Email from a former colleague, also dated 24 March 2014 respectively. We also noted that the Headteacher told the City of Manchester Safeguarding Meeting on 11 September 2013 that Mr Berry been a "good member of staff" (at page 92 of the case papers).

Mr Berry, in his letter, states that did not intend to forge relationships with pupils outside of the school environment and thereby still seeks to minimise the seriousness of his behaviour. However, the facts of this case demonstrate that in addition to Mr Berry's conduct towards Pupil A, he attempted to befriend pupils over a four week period between 2 June 2013 to 2 July 2013. We consider Mr Berry's actions to be deliberate and to demonstrate a pattern of behaviour. Additionally Mr Berry has shown limited awareness of professional boundaries. We are concerned that this indicates a continuing lack of insight on his part, which presents an on-going risk. We were also concerned that in relation to Pupil A, Mr Berry's communications included content of a sexually explicit nature.

The Panel takes the view that safeguarding and child protection are of paramount importance and they are a core feature of a teacher's professional duties. There is a public expectation that a teacher promotes the well-being of their pupils by maintaining appropriate professional boundaries at all times, within and outside school. We have concluded that it is necessary to recommend a Prohibition Order in this case in order to protect pupils and maintain public confidence in the profession. We consider this to be a proportionate sanction.

A Prohibition Order applies for life and means that Mr Berry would not be permitted to undertake unsupervised teaching work in schools, including academies, local authority maintained schools, non-maintained schools, independent schools, sixth form colleges, relevant youth accommodation and children's homes. However, we have decided to recommend that Mr Berry be allowed to apply for the Prohibition Order to be set aside after a period of 4 years. If he does apply, Mr Berry would need to demonstrate to that he is suitable to teach again and the National College for Teaching and Leadership may require documents or other material evidence to be submitted in order for his application to be considered. Without a successful application, Mr Berry will remain prohibited from teaching.

Our reasons are that, although the conduct was so serious that a Prohibition Order should be imposed, we could not conclude that there should be no provision for him to apply. We consider that this period of time for reflection may enable Mr Berry to develop insight and a deeper understanding of the importance of maintaining professional boundaries in a teaching role.

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 the facts proved in respect of both allegations and have judged that those facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Mr Berry entered into inappropriate communications of a sexual nature with a 16 year old female pupil. He also attempted to contact other female pupils outside the education setting through social media, in direct contravention of school policy.

Mr Berry has abused his position of trust and blurred the boundaries appropriate to a teacher's professional position.

Whilst Mr Berry admitted the allegations he sought to minimise the seriousness of his behaviour. The panel consider his actions to be deliberate and demonstrating a pattern of behaviour. He has shown limited awareness of professional boundaries and a lack of insight into his behaviour. The panel have concluded that it is necessary, in order to protect pupils and maintain public confidence in the profession, to recommend that a prohibition order is an appropriate and proportionate sanction. I agree with this recommendation.


The panel have considered whether it would be appropriate to recommend a period after which Mr Berry could apply to have the order set aside. They have concluded that a period of 4 years may enable Mr Berry to reflect upon his behaviour and develop a deeper insight and understanding of the importance of maintaining professional boundaries. I agree with this recommendation.

This means that Mr John Stephen Berry 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 2 June 2018, 4 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 Stephen Berry remains barred from teaching indefinitely.

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

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

NAME OF DECISION MAKER: Paul Heathcote

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

Date: 27 May 2014

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