



National College for
Teaching & Leadership

Irfan Mahfooz: 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 Irfan Mahfooz
Teacher ref no:	0650790
Teacher date of birth:	10 February 1983
NCTL Case ref no:	10841
Date of Determination:	24 September 2014
Former employer:	St Michael's Roman Catholic School, Stockton on Tees

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 22 to 24 September 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Irfan Mahfooz.

The Panel members were Ms Margaret Simpson (Teacher Panellist – in the Chair), Mr Keith Jackson-Horner (Teacher Panellist) and Mr Nicholas Andrew (Lay Panellist).

The Legal Adviser to the Panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The Presenting Officer for the National College was Mr Steven Brassington of Counsel instructed by Nabarro LLP.

Mr Irfan Mahfooz was present and was represented by Mr John Small of Counsel instructed by 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 12 June 2014.

It was alleged that Mr Irfan Mahfooz was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed at St Michael's Roman Catholic School, Stockton on Tees (“the school”) between 1 September 2006 and 20 September 2012:

1. He failed to maintain appropriate professional boundaries with Pupil A, a former pupil of the School, between around July 2011 and May 2012 in that he:
 - (a) Provided Pupil A with his personal mobile telephone number,
 - (b) Sent Pupil A personal text messages from his personal mobile telephone,
 - (c) Added Pupil A as a "Friend" on Facebook,
 - (d) Sent Pupil A personal/private messages on Facebook,
 - (e) Gave Pupil A lifts in his car on one or more occasion,
 - (f) Made arrangements to meet Pupil A:
 - (i) outside of school time,
 - (ii) off school premises
 - (g) On one or more occasions made arrangements to meet Pupil A which he subsequently cancelled causing her to become:
 - (i) upset,
 - (ii) distressed
 - (h) Embraced Pupil A and/or allowed Pupil A to embrace him, on more than one occasion
 - (i) Took Pupil A out for food on one or more occasions
 - (j) Entered Pupil A's house with Pupil A:
 - (i) whilst Pupil A's mother was out of the house
 - (ii) he lay next to Pupil A on her bed
 - (k) Sent Pupil A personal and text messages from his personal mobile telephone which was of a sexual nature on one or more occasions
2. During February half term holiday, he permitted Pupil A to:
 - (a) Enter the School
 - (b) Access his on-line staff account
 - (c) Transfer School electronic folders
 - (d) Mark other pupils' work whilst using his on-line staff account

3. His conduct set out at 1(h), 1(j) and 1(k) above were sexually motivated
4. His actions set out at 2(d) above were dishonest.

Mr Mahfooz denied the factual particulars alleged in 1(g),(h),(j)(ii), and (k). He admitted the factual particulars alleged in 1(a),(b),(c),(d),(e),(f)(i) and(ii),(i) and (j)(i) but denied that he failed to maintain appropriate professional boundaries with Pupil A. Mr Mahfooz admitted the factual particulars alleged in 2(b) and (c) but denied those alleged in 2(a) and(d), 3 and 4. Mr Mahfooz denied 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 at pages 2 to 6

Section 2: Notice of Proceedings and Response at pages 7 to 19

Section 3: NCTL witness statements at pages 20 to 38

Section 4: NCTL documents at pages 39 to 242

Section 5: Teacher documents at pages 243 to 282

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

Witnesses

The Panel heard oral evidence from the following witnesses called by the Presenting Officer, namely:

- Pupil A
- Witness A
- Pupil B
- Mother of Pupil A.

The Panel also heard oral evidence from the following witness called by Mr Small, namely:

- Mr Irfan Mahfooz.

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. We are satisfied that we have considered all of the evidence and received appropriate legal advice throughout.

Mr Irfan Mahfooz was employed at St Michael’s Roman Catholic School (‘the school’), Stockton on Tees, as an Information and Communication Technology (ICT) Teacher from 1 September 2006. He had previously been employed at the school as an ICT technician between September 2003 and September 2004, prior to achieving qualified teacher status.

Pupil A was a pupil at the school until July 2011, when she left to attend a sixth form college. On 1 May 2012, Pupil A made a disclosure to a member of staff at the sixth form college that she had been in a relationship with Mr Mahfooz and this allegation was then reported to the school. Mr Mahfooz was suspended whilst a disciplinary investigation was undertaken by the school. Pupil A was interviewed as part of that investigation and stated that the trigger for her contact with Mr Mahfooz was around the date of the school prom in July 2011 when Mr Mahfooz put a message on Facebook saying how amazing all of the girls looked in their dresses, particularly Pupil A. During her interview, Pupil A described the relationship between her and Mr Mahfooz following her leaving the school, which form the basis of the allegations before the Panel.

Findings of Fact

Our findings of fact are as follows:

Whilst employed at St Michael’s Roman Catholic School, Stockton on Tees (“the school”) between 1 September 2006 and 20 September 2012:

1. He failed to maintain appropriate professional boundaries with Pupil A, a former pupil of the School, between around July 2011 and May 2012 in that he:

(a) Provided Pupil A with his personal mobile telephone number,

Mr Mahfooz admits that he and Pupil A exchanged personal mobile telephone numbers. Mr Small challenged Witness A to point to a policy prohibiting the

exchange of mobile telephone numbers. She was unable to do so. The Panel considered whether it was acceptable for Mr Mahfooz to have exchanged personal mobile numbers with Pupil A. The Panel concluded that it is so widely accepted in the teaching profession that this is inappropriate as to render the question of inclusion in school policies superfluous. Moreover, the Panel notes that Mr Mahfooz's own account appears to recognise that this is highly unusual and only for particular reasons. The issue then is the reason for Mr Mahfooz having Pupil A's number. Mr Mahfooz said that it was so that he could assist in organising driving lessons for Pupil A. This seems implausible. If that was the purpose, all that was necessary was for Mr Mahfooz to give his friend's number to Pupil A.

(b) Sent Pupil A personal text messages from his personal mobile telephone,

Mr Mahfooz admits sending Pupil A personal messages whilst on a trip to London. Pupil A said in her evidence that the exchange of texts with Mr Mahfooz became very frequent and often late at night. We found Pupil A to be a very credible witness in this regard.

(c) Added Pupil A as a "Friend" on Facebook,

(d) Sent Pupil A personal/private messages on Facebook,

The Panel considered (c) and (d) together. Mr Mahfooz admits that he added Pupil A as a 'Friend' in or around November 2011. He also admits that he used Facebook to send her personal/ private messages and that these messages were as early as 3 July 2014. The Panel has looked carefully at the transcripts of the messages exchanged between 3 July 2011 and 18 April 2012 and noted that these were clearly personal in their content and included inappropriate references to other former pupils and members of staff.

(e) Gave Pupil A lifts in his car on one or more occasion,

Mr Mahfooz admits that he gave Pupil A a lift in his car on more than one occasion, including July 2011 and December 2011.

(f) Made arrangements to meet Pupil A:

(i) outside of school time,

(ii) off school premises

Mr Mahfooz admits to this allegation on the basis that he arranged to meet Pupil A on 9 December 2011. The Panel noted that Facebook messages on 3 July 2011 and 26 July 2011 both refer to meeting. By Mr Mahfooz's accounts, the lifts he

provided were after Pupil A had left school and, therefore, must have involved arranging meetings.

(g) On one or more occasions made arrangements to meet Pupil A which he subsequently cancelled causing her to become:

(i) upset,

(ii) distressed

Mr Mahfooz denies this allegation. The Facebook message of 3 July clearly refers to 're-scheduling again'. On 26 July 2011, Mr Mahfooz refers to a possible trip to a restaurant in South Shields, which appears never to have taken place. This makes Pupil A's evidence that meetings were arranged and cancelled plausible. Given her feelings for Mr Mahfooz it is likely that she would have been upset and distressed by this and we accept her evidence on this. Accordingly we find this particular proven.

(h) Embraced Pupil A and/or allowed Pupil A to embrace him, on more than one occasion

Mr Mahfooz disputes this allegation. Pupil A was adamant that an embrace was normal as they parted. Although there is no corroborative evidence for either version of events, there is no indication that Pupil A exaggerated the physical contact and the Panel found her evidence to be credible, consistent and measured. On the balance of probabilities, we find this proven.

(i) Took Pupil A out for food on one or more occasions

Mr Mahfooz admits this allegation in that he took Pupil A out for a takeaway pizza on 9 December 2011.

(j) Entered Pupil A's house with Pupil A:

(i) whilst Pupil A's mother was out of the house

Mr Mahfooz admits to entering Pupil A's house on 9 December 2011 at a time when Pupil A's mother was not in the house. Whether or not Mr Mahfooz knew in advance that Pupil A's mother would not be present does not alter the fact that he was alone in the house with Pupil A.

(ii) he lay next to Pupil A on her bed

Mr Mahfooz accepts that he was on the bed, but disputes the position that he was in. He describes his position as sitting or leaning, but always with one foot on the floor. The Panel noted that Mr Mahfooz admitted to lying on the bed when interviewed by Witness A. Pupil A, in her written and oral evidence refers to his

lying on the bed. We found Pupil A credible and measured and accept her version of events. Accordingly, we find this particular proven.

(k) Sent Pupil A a personal text message from his personal mobile telephone which was of a sexual nature on one or more occasions

Mr Mahfooz denies this allegation. Pupil A alleged that there were three text messages of a sexual nature. One of these was when Mr Mahfooz is alleged to have said in a text 'I bet you have a better body than mine'. Another was when Mr Mahfooz was in London and referred to him wishing that he had company in his room. The third was in the period between December 2011 and February 2012 when Pupil A asked him what he wanted from her and he allegedly replied 'good sex in lots of different positions'. Pupil B testified that she had seen this last message and corroborated Pupil A's account of what it said. The content of this text, in particular, was of a sexual nature. The Panel found Pupil B to be a credible witness and could find no reason for her to lie. Accordingly we find this particular proven.

In conclusion, in relation to allegation 1, the Panel found proven all of the factual particulars set out in each of the paragraphs (a) to (k). The Panel then considered whether the actions of Mr Mahfooz, as referred to in each of those paragraphs, represented a failure to maintain an appropriate professional boundary with Pupil A. Some of the allegations, taken individually, might not constitute failing to maintain appropriate professional boundaries. Others are significantly more serious. Taken together, we conclude that they represent a clear failure to maintain appropriate professional boundaries with Pupil A. Pupil A was aged 16 to 17 during the relevant period and had been a pupil at his school. In his statement to the NCTL, Mr Mahfooz says 'I was aware that there are legal guidelines on developing relationships with ex-students under the age of 18...' Mr Mahfooz admits to there being a relationship, which he describes as platonic. However, it is clear to the Panel that Pupil A's view of the relationship was not platonic, and it is clear from the record of his interview on 31 May 2012 that he was aware of this even while she was still a pupil. In the Panel's view, he clearly failed to have regard to norms of teacher behaviour and good safeguarding practice.

2. During February half term holiday, he permitted Pupil A to:

(a) Enter the School

Mr Mahfooz denies this allegation. However, Pupil A came to the school at his invitation. Even though he did not let her into the school physically, it is clear that he was responsible for her being there. Accordingly we find this particular proven.

(b) Access his on-line staff account

(c) Transfer School electronic folders

The Panel considered (b) and (c) together. Mr Mahfooz admitted that he logged onto his own account and then allowed Pupil A to assist him under the cover of this account. Mr Mahfooz also admitted that he allowed Pupil A to transfer some electronic folders.

(d) Mark other pupils' work whilst using his on-line staff account

Mr Mahfooz denied this allegation. Pupil A was able to tell Witness A in detail how she accessed student material. Mr Mahfooz accounted for this by explaining that Pupil A had witnessed him doing this. The Panel was unconvinced by this explanation. The Panel noted that Witness A confirmed that the work was marked on 13 February 2012. Pupil A's identification of a difference in the style and substance of the feedback comments between those which she says she marked and those which she says Mr Mahfooz marked, suggests to the Panel that she marked other pupils' work. The Panel accepted that Pupil A and Witness A were credible witnesses. Accordingly, on the balance of probabilities, we find this allegation proven.

3. His conduct set out at 1(h), 1(j) and 1(k) above were sexually motivated

Although we found the allegation relating to embracing proven, both Pupil A and Mr Mahfooz are adamant that there was no intimate physical contact between them. The Panel accepts this. It is, however, possible to envisage sexual motivation that does not involve physical contact: viewing pornographic images is an obvious, if extreme, example, not directly relevant to this case.

The Panel concludes that Mr Mahfooz must have been aware of Pupil A's feelings and that he would not have continued with the relationship if he had not drawn some pleasure from her attention. At the least, there was a sexual undercurrent that became overt on occasions and it is clear to the Panel that the relationship involved actions of a sexual nature. However, on balance, the Panel is not fully satisfied that Mr Mahfooz's actions were sexually motivated. Accordingly, we find this allegation not proven.

4. His actions set out at 2(d) above were dishonest.

Mr Mahfooz accepted that, if allegation 2(d) were proven, this would be dishonest. Mr Small reminded the Panel that there is both an objective and subjective test for dishonesty. The Panel is satisfied that allowing Pupil A to mark under Mr Mahfooz's name was dishonest by the ordinary standards of reasonable and honest people and that Mr Mahfooz must have realised that it was dishonest by those standards. Accordingly we find this allegation proven.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In respect of allegation 1, Mr Mahfooz has received training during a time when safeguarding issues are paramount. Training has a high priority and is consistently updated. Mr Mahfooz was himself involved in this process.

Pupil A has submitted that the effects of her relationship were seriously detrimental to her continuing studies. This was conduct that led to Pupil A being exposed to or influenced by the behaviour in a harmful way.

In respect of allegations 2 and 4, Mr Mahfooz behaved both unprofessionally and dishonestly. Allowing an unauthorised person access to other pupils' records is a very grave matter in its own right. To permit an inappropriate person to undertake marking and to treat it as one's own is dishonest.

Mr Mahfooz breached the Personal and Professional Conduct elements of the Teachers' Standards. He failed to demonstrate consistently high standards of personal and professional conduct.

He also failed to uphold public trust and confidence in the profession and maintain high standards of ethics and behaviour within and outside school in that he did not:

- treat Pupil A with dignity and respect or build a relationship with her rooted in mutual respect and at all times observe proper boundaries;
- have regard to the need to safeguard Pupil A's well-being, in accordance with statutory provisions;
- have regard to the ethos, policies and practices of the school in which he taught.

Given the above the Panel finds that the actions of Mr Mahfooz in allegations 1, 2 and 4 to constitute misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. Accordingly, we find that his conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

The Panel considered all of the submissions put forward on behalf of Mr Mahfooz in mitigation and the character references put forward on his behalf.

In considering our recommendation in this case we found that:

- this was a serious departure from the personal and professional conduct elements of the Teachers' Standards
- the misconduct seriously affected the education and/or well-being of Pupil A
- this involved an abuse of a position of trust
- the allegations involved dishonest behaviour
- the actions were not sexually motivated but did involve conduct of a sexual nature

On the basis of these findings, the Panel considers the behaviour to be incompatible with being a teacher.

The Panel considered the following mitigating factors:

- The opportunities for intimate physical contact with Pupil A were not taken. Whilst Mr Mahfooz may have enjoyed the attention that he received from Pupil A, having considered all of the evidence, the Panel does not believe that there was an intention on the part of Mr Mahfooz to have intimate physical contact with Pupil A. This was the basis of the Panel's conclusion that the actions of Mr Mahfooz were not sexually motivated. This does not excuse the behaviour of Mr Mahfooz or its impact on Pupil A. The Panel was, however, conscious that in this case the sexual element was generally oblique, even when clear opportunities presented themselves, and implicit. Even where explicit, the sexual element was non-physical. The Panel took the view that it is appropriate for a distinction to be drawn between such a case and cases in which the conduct in question is accompanied by intimate physical contact or a clear intention to achieve such contact.
- Other professionals, parents and pupils have considered him to be a good teacher and have written in support of him.
- In the time since the events under consideration, Mr Mahfooz's personal circumstances have changed considerably, in that he is now married and will soon become a father.

However, we do not accept that Mr Mahfooz has shown significant insight into the events in question at this juncture. In particular, we are concerned that the lack of policies was being cited as a reason for the behaviour when we would regard what is appropriate as self-evident.

The Panel has concluded that it is necessary in the public interest to recommend a Prohibition Order for the protection of pupils, the maintenance of public confidence in the profession and to uphold proper standards of conduct.

In all the circumstances, the Panel considers this to be a proportionate recommendation.

The Panel then considered whether to recommend that a prohibition order be imposed with a provision for Mr Mahfooz to be able to apply to set it aside or that there should be no such provision.

Given the relative inexperience of Mr Mahfooz, the findings that his actions were not sexually motivated and the support of other professionals, parents and pupils, the Panel believe that he should have the opportunity to demonstrate the necessary insight that would warrant the Prohibition Order being reviewed in a period of two years.

In making this recommendation, the Panel had regard to the factors set out in the guidance. For the reasons given earlier, the Panel did not consider this to be a case involving serious sexual misconduct. Furthermore, the dishonesty could not be described as having serious consequences or having been repeated.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to both the findings and recommendations of the panel in this case.

This case involves a range of allegations relating to Mr Mahfooz's relationship with pupil A and also of allowing pupil A to mark other pupils work whilst using his on-line staff account.

All of the particulars relating to his failure to maintain proper boundaries have been found proven. The panel have found there to have been a sexual undercurrent to the relationship and that it involved actions of a sexual nature. However the panel, on balance, were not fully satisfied that Mr Mahfooz's actions were sexually motivated.

Despite Mr Mahfooz's denial, the panel have found proven on the balance of probabilities that pupil A marked other pupils work using his on-line staff account. The panel also found that in allowing pupil A to do so he had acted dishonestly.

The panel have judged Mr Mahfooz's actions against the Teachers' Standards and have found a number of them to be relevant in this case. They have concluded that his actions constitute misconduct of a serious nature, falling significantly short of the standards of behaviour expected of a teacher. Accordingly they have found that his conduct amounts to both 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 the public interest has to be balanced with the interests of Mr Mahfooz. All the

public interest considerations outlined in the Secretary of State's advice '*Teacher misconduct: the prohibition of teachers*' are 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.

The panel have recognised that Mr Mahfooz did not take the opportunities for sexual contact and that he has been recognised as being a good teacher. Mr Mahfooz's personal circumstances have changed considerably since the events under consideration. However, he has continued to show little insight into his behaviour.

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

I have also considered the panel's recommendation as to a 2 year review period. Whilst the panel have not found Mr Mahfooz's behaviour to be sexually motivated, there was a sexual undercurrent and involved actions of a sexual nature. Mr Mahfooz also acted dishonestly in allowing pupil A to mark other pupils work. Together the facts found proven are serious and Mr Mahfooz has shown little insight.

In the circumstances I believe that a period of 5 years would be a more appropriate length of time to allow Mr Mahfooz to reflect fully on the range of misconduct that has been found proven against him and the affect his actions had on pupil A.

This means that Mr Irfan Mahfooz 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 3 October 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 Irfan Mahfooz remains barred from teaching indefinitely.

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

Mr Irfan Mahfooz 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: 26 September 2014

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