



National College for
Teaching & Leadership

Ms Tuesday Nathan: Professional conduct panel outcome

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

April 2016

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	5
D. Summary of evidence	7
Documents	7
Witnesses	8
E. Decision and reasons	8
Panel's recommendation to the Secretary of State	17
Decision and reasons on behalf of the Secretary of State	20

Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Ms Tuesday Nathan

Teacher ref number: 0963382

Teacher date of birth: 1 July 1986

NCTL case reference: 13840

Date of determination: 15 April 2016

Former employer: Leventhorpe Business and Enterprise Academy

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 14 April 2016 at the Ramada Hotel, The Butts, Coventry CV1 3GG and at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH on 15 April 2016 to consider the case of Ms Tuesday Nathan.

The panel members were Mr Paul Bompas (lay panellist – in the chair), Mr Ian Carter (teacher panellist) and Mrs Susan Netherton (lay panellist).

The legal adviser to the panel was Ms Patricia D’Souza of Eversheds LLP.

The presenting officer for the National College was Ms Samantha Paxman of Browne Jacobson LLP.

Ms Tuesday Nathan was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 3 February 2016 (as amended see further below).

It was alleged that Ms Tuesday Nathan was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Leventhorpe Business and Enterprise Academy:

1. during 2012-15 she engaged in an inappropriate relationship with a student, Pupil A, in that she:
 - a. engaged in inappropriate physical contact, including hugging her in a darkened classroom on 15 December 2014;
 - b. gave her personal mobile telephone number and maintained regular communication, including after school and during weekends and school holidays;
 - c. gave her a lift in her car without parental permission on at least one occasion;
 - d. actively sought to maintain a mentoring relationship with her although she had no specific pastoral responsibilities;
 - e. continued to engage inappropriately with her despite advice and warnings about this conduct;
2. in so doing at 1a to 1e above, her conduct was sexually motivated.
3. during the investigation into her conduct with Pupil A she denied making any contact with her via personal email, texts phone or social media although Pupil A's itemised mobile telephone log detailed 34 occasions between September 2014 and February 2015 when her personal mobile number appeared;
4. in so doing 3, above, her conduct was dishonest.

In the Statement of Agreed Facts, Ms Tuesday admits the facts of particular 1, 3 and 4 of the allegations. She does also admit that her conduct in relation to such allegations amounts to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. However, as Ms Tuesday does not admit the facts of allegation 2, this matter is proceeding as a disputed case.

C. Preliminary applications

The presenting officer made an application for the hearing to proceed in the absence of Ms Nathan.

The panel is satisfied that the National College has complied with the service requirements of regulations paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012 ("the Regulations").

The panel is also satisfied that the Notice of Proceedings dated 3 February 2016 complies with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures").

The panel has determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of Ms Nathan. The panel understands that its discretion to commence a hearing in the absence of Ms Nathan has to be exercised with the utmost care and caution, and that its discretion is a constrained one.

The panel noted that Ms Nathan had returned the Notice of Referral form which was signed and dated 19 February 2016. She has also signed and returned the Statement of Agreed Facts which is dated 29 March 2016. The panel is therefore satisfied that Ms Nathan is actually aware of the proceedings.

In making its decision the panel has noted that Ms Nathan may waive her right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC 1. The panel considered that service of the Notice of Proceedings dated 3 February 2016 has been effective, as it was sent to Ms Nathan's last known email address (which Ms Nathan provided to the National College) and provided more than 8 weeks' notice of the hearing date.

The legal advisor advised the panel that there are a large number of cases that have proceeded without a professional being present. The legal advisor referred to the recent case of *GMC v Adeogba* 2016 EWCA Civ 162 in which the Court of Appeal indicated that after service has been established within the relevant rules (in this case the Procedures), whether to proceed in the absence of a professional must be by reference to the principles developed by criminal law in relation to trials taking place in the absence of a defendant. The legal advisor drew the panel's attention to the various factors relating to this outlined in the *Jones* case.

The panel were mindful that the primary purpose of regulatory proceedings such as this, is the protection of the public and there is a need for hearings to proceed expeditiously, even in a teacher's absence, to serve the public interest and the profession.

The panel has had regard to the general principle that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place

without a teacher present. However, there is no indication in the written documents that an adjournment might result in Ms Nathan attending the hearing, particularly given, she had indicated on the response to the Notice of Proceedings form, that she did not intend to appear at the hearing. The presenting officer submitted that Ms Nathan has provided no specific reasons to the National College as to why she is not in attendance at today's hearing.

In addition, the panel noted from the bundle that the presenting officer notified Ms Nathan by email on 17 March 2016 that if she did not attend then the presenting officer would make an application for the hearing to proceed in her absence and whether any special measures would assist her attendance. In Ms Nathan's response email of 17 March 2016 she confirms that she is content for the hearing to proceed in her absence and there is "nothing to assist" her attendance. The panel considered that further steps had been taken to try to secure Ms Nathan's attendance and it was clear that she did not intend to attend.

The panel considers that Ms Nathan has voluntarily waived her right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The panel has had regard to the extent of the disadvantage to Ms Nathan in not being able to give her account of events, in the light of the evidence against her. The panel has the benefit of information in the bundle relating to the facts that formed the basis of the allegations. The panel is able to ascertain lines of defence in relation to whether Ms Nathan's conduct amounts to unacceptable professional conduct and/or conduct which may bring the profession into disrepute.

The panel can test the evidence presented by the presenting officer, considering such points favourable to Ms Nathan, that are reasonably available on the evidence. The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of reaching the wrong decision as a result of not having heard Ms Nathan's account.

The panel has had regard to the seriousness of the case, and the potential consequences for Ms Nathan. The panel understands that fairness is of prime importance. These are serious allegations and it is in the public interest that this hearing should proceed today.

The presenting officer applied to amend the wording of allegation 3 to ensure consistency with the content of the evidence in the bundle. The legal advisor drew the panel's attention to paragraph 4.56 of the Procedures. This paragraph of the Procedures indicates that at any stage before making its decision about whether the facts of the case have been proved, the panel may amend the allegations if it deems this is in the interests of justice.

Allegation 3 states that Pupil A's itemised telephone log details 32 occasions between the period October 2014 and February 2015 when Ms Nathan's personal mobile number

appeared. The telephone log details included in the bundle reflect 34 occasions between the period 13 September 2014 and 8 February 2015 when Ms Nathan's mobile number appeared. In Ms Nathan's Appendix C attached to her Case reference (included in the bundle) she reflects the telephone logs running from 12 September 2014 to 9 February 2015.

The panel considered whether it was in the interest of justice to amend the time period and number of occasions referred to in allegation 3 to ensure consistency with the telephone log and Ms Nathan's written representations. The panel was mindful that Ms Nathan was not present to provide her view on whether such amendment was necessary.

The presenting officer drew the panel's attention to two different pages in the bundle in which Ms Nathan suggests that only 10 out of the 34 occasions where her telephone number appears in the telephone log were occasions when conversations took place. This, in the panel's view, seems to be an implicit acceptance by Ms Nathan that her number has appeared on 34 occasions in Pupil A's telephone log.

The panel considered that the error in allegation 3 made no material difference to the nature of the allegations being considered by the panel. The panel was mindful that as Ms Nathan was not present, any amendment contemplated should not introduce a more serious allegation. The panel considered the amendment contemplated corrected inaccuracies in the drafting of allegation 3 rather than any substantive amendment and did not introduce a more serious allegation.

In view of the fact that the amendments would not cause prejudice to Ms Nathan, the panel decided that the number of occasions referred to in allegation 3 should be amended to 34 occasions and the time period should be amended to September 2014 to February 2015.

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 1 to 4

Section 2: Notice of Proceedings and Response – pages 5 to 19

Section 3: National College's witness statements – pages 20 to 22

Section 4: National College's documents – pages 23 to 171

Section 5: Teacher documents – pages 172 to 239

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 – HR Manager of Leventhorpe Business and Enterprise Academy on behalf of the National College.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case before it and has reached a decision.

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Ms Nathan began working as an English Teacher at Leventhorpe Business and Enterprise Academy (“the Academy”) as a newly qualified teacher and had been working there for approximately 5-6 years. In October 2013, Ms Nathan began mentoring Pupil A, a Year 11 student, upon request by Pupil A’s tutor. This was not a formal mentoring arrangement. She subsequently began mentoring Pupil A again in October 2014. Ms Nathan’s line manager held a discussion with Ms Nathan about the inappropriate nature of Ms Nathan’s relationship with Pupil A in December 2014. At the end of January 2015, a formal investigation was commenced by the Academy following allegations that Ms Nathan had inappropriate physical contact with Pupil A. Following a disciplinary hearing, Ms Nathan was summarily dismissed on 24 March 2015.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Leventhorpe Business and Enterprise Academy

- 1. during 2012-15 you engaged in an inappropriate relationship with a student, Pupil A, in that you:**
 - a. engaged in inappropriate physical contact, including hugging her in a darkened classroom on 15 December 2014;**

In relation to the incident on 15 December 2014, Witness A stated in oral evidence that the classroom concerned was not large, there were desks around the perimeter of the room. There is a roller black-out blind which can cover a full length, ceiling to floor, window. The member of staff that entered room 29 when Pupil A and Ms Nathan were there, found them in the very narrow gap between the book case and teacher's desk. This location could not be seen from a visibility panel in the door. The room is not a full sized classroom and adapted for small group work as it was very small.

Witness A stated that the teacher who reported this issue was regarded by the Academy as a credible and factual witness.

Witness A further stated in oral evidence that the Academy's policy is that generally no physical contact should take place between staff and students. If physical contact does take place then a member of the senior leadership team needs to be informed.

The presenting officer submitted that a member of staff witnessing close physical contact between Pupil A and Ms Nathan in sitting close by each other with interlocking knees is also relevant to this allegation

In the Statement of Agreed Facts, Ms Nathan accepts that she hugged Pupil A on 15 December 2014. Ms Nathan and Pupil A were alone together in room 29 at around 8:25am in the morning. It was dark in the room.

The panel noted from the bundle that a member of staff at the Academy walked into the classroom and saw Ms Nathan and Pupil A hugging and they quickly separated when they realised she was in the room. Ms Nathan accepts, in the Statement of Agreed Facts, that her hugging of Pupil A was inappropriate. The panel had regard to the record of interview dated 10 February 2015 in which Ms Nathan is recorded as stating that Pupil A "was upset so I naturally hugged her".

The panel finds this allegation proven on the balance of probabilities.

b. gave her your personal mobile telephone number and maintained regular communication, including after school and during weekends and school holidays;

Ms Nathan admits in the Statement of Agreed Facts that she gave her personal mobile number to Pupil A and Pupil A called her on this on a number of occasions. Copies of Pupil A's phone records are included in the bundle which the presenting officer submitted indicate that calls between Pupil A and Ms Nathan took place at various times. The panel noted that some calls took place after school hours, namely after 3.30pm, during Saturdays and Sundays and during the Christmas holiday period on 22 December 2014.

The presenting officer submitted that it was inappropriate for Ms Nathan to provide her personal telephone number to a pupil as this was against the Academy's policy.

The panel finds this allegation proven.

c. gave her a lift in your car without parental permission on at least one occasion;

In the Statement of Agreed Facts, Ms Nathan admits that she gave Pupil A a lift, in her car, on two occasions. On the first occasion she “dropped” Pupil A home after an open evening on 24 September 2014. On this occasion, Ms Nathan had spoken to Pupil A’s mother who had given consent for her to drive Pupil A home.

On the second occasion, she “dropped” Pupil A off at a Tesco on 05 February 2015, which was a distance from Pupil A’s home. It is stated in the Statement of Agreed Facts that Ms Nathan believed that Pupil A’s mother had given her consent for this lift. However, the panel noted that Pupil A admitted in an interview with the Academy on 23 February 2015 she falsely stated to Ms Nathan that her mother had given permission for a lift on this second occasion. Pupil A stated in interview that she pretended to speak to her mother.

The panel considered that Ms Nathan was not aware that Pupil A had pretended to speak to her mother and therefore she was not aware that she had given a lift to Pupil A on 05 February 2015 without Pupil A’s mother’s consent.

Nevertheless, the panel finds this allegation proven on the balance of probabilities.

d. actively sought to maintain a mentoring relationship with her although you had no specific pastoral responsibilities;

The Statement of Agreed Facts indicates that Ms Nathan started mentoring Pupil A in 2013-2014 when Pupil A was in Year 11. This was originally suggested by Pupil A’s form tutor but was not part of a formal school mentoring arrangement.

Witness A stated in oral evidence that Pupil A was quite a loner and that she had had friendship issues. Witness A confirmed that Pupil A was not considered by the Academy to be a vulnerable student and there was no need for any pastoral support, as far as the Academy could tell.

Further in her oral evidence, Witness A stated that if Ms Nathan had pastoral concerns for this pupil this should have been reported to the pastoral team. Witness A considered that Ms Nathan had created a controlling relationship with Pupil A to the exclusion of the involvement of other teaching staff and professionals at the Academy.

Ms Nathan admits in the Statement of Agreed Facts that in October 2014, when Pupil A was in Year 12, she continued to mentor Pupil A even though she had not been asked to, was not Pupil A’s form tutor nor engaged in a formal school mentoring programme.

Ms Nathan further admits, in the Statement of Agreed Facts, that she actively timetabled a meeting slot on a Wednesday period 6 to mentor Pupil A. If either Ms Nathan or Pupil A were unable to make this slot, Ms Nathan would mentor Pupil A after school. Such mentoring sessions took place approximately 5-10 times from October to December 2014.

The Statement of Agreed Facts reflects that neither the Academy's pastoral team nor Pupil A's parents were made aware of the mentoring which took place when Pupil A was in Year 12.

When questioned by the panel, Witness A stated that when Ms Nathan's line manager spoke to Ms Nathan about the nature of her contact with Pupil A, it was not suggested, at that time, that this informal mentoring arrangement should cease. Therefore it appears, to some extent, the Academy were content for this informal mentoring arrangement to continue even though the Academy considered there were no pastoral concerns relating to Pupil A.

The panel considered that Ms Nathan actively sought to maintain the mentoring relationship with Pupil A in Year 12 although she had no specific pastoral responsibilities for Pupil A in that Year. In fact, Witness A stated in oral evidence that the Academy did not, at that time, have any mentoring programmes for Year 12 students.

The panel finds this allegation proven.

e. continued to engage inappropriately with her despite advice and warnings about this conduct;

The panel had further regard to the Statement of Agreed Facts which reflects that an informal meeting took place between Ms Nathan and her line manager at the Academy on 15 December 2014 to discuss the relationship between Ms Nathan and Pupil A. Concerns had been raised by other members of staff.

Ms Nathan's line manager's notes of the meeting, included in the bundle, state that Ms Nathan "*accepted that she now saw how it could be misconstrued and agreed that she would no longer meet with [Pupil A] on her own apart from Wednesdays p6 in [Ms Nathan's line manager's office] (ie in a public space, with a constant flow of traffic outside the door, and with a glass panel in the door)*". Witness A's oral evidence was that Ms Nathan's line manager had stated this quite firmly to Ms Nathan. Witness A stated that a mentoring meeting between Ms Nathan and Pupil A took place only once in the line manager's office.

Ms Nathan admits that the meeting with her line manager took place and that her line manager provided this advice to her. The notes of this meeting also reflect that Ms Nathan agreed that it was not appropriate to hug, sit so close to any student or be in a dark room with a student.

However, the Statement of Agreed Facts reflects Ms Nathan's belief that the meeting was informal and she did not realise the seriousness of the situation.

Witness A's oral evidence was that Ms Nathan's line manager saw Pupil A and Ms Nathan around the Academy after the line manager had provided the advice referred to above. The line manager considered that Ms Nathan had not heeded her advice satisfactorily. The presenting officer submitted that telephone contact between Pupil A and Ms Nathan continued around this period (as reflected by the telephone log), despite the warning about how her behaviour could be misinterpreted.

Ms Nathan admits that she continued to speak to Pupil A on the phone and gave her a lift in her car after such advice had been given and such contact was inappropriate. The panel finds this allegation proven on the balance of probabilities.

2. in so doing at 1a to 1e above, your conduct was sexually motivated.

Ms Nathan denies this particular of the allegations.

The panel was advised by the legal advisor that the first question the panel needs to ask itself is whether reasonable persons would think the facts found proven against Ms Nathan could be motivated by sexual desire i.e. an objective test. If so, the panel would then need to go on to ask itself a second question: whether, in all the circumstances of the conduct in the case, Ms Nathan's conduct or purpose towards Pupil A was sexually motivated, i.e. the subjective test.

Witness A confirmed in her oral evidence that the Academy did not investigate sexual motivation as part of its disciplinary process as it considered that it was too difficult to prove that the motivation behind Ms Nathan's behaviour was sexual. However, Witness A stated that the close physical contact between Pupil A and Ms Nathan with interlocking knees, location of the hug in the corner of a small room, the lifts by car, and the frequent telephone contact caused the Academy concern that such behaviour was sexually motivated. The panel noted that two character statements included in the bundle from NUT representatives suggest that little or no evidence of sexual misconduct was presented during the course of the Academy's investigation.

The panel considered that the records of interviews included in the bundle demonstrate Ms Nathan assertively stating that whilst her conduct was inappropriate it was not sexually motivated. Witness A stated in oral evidence that she found that during the Academy's investigation, Ms Nathan was vociferous in her criticism around the disciplinary process undertaken by the Academy and the credibility of witnesses. Witness A considered this approach to be an attempt to deflect the investigation. Ms Nathan was evasive about the extent of her contact with Pupil A, and the Academy considered that she was not being truthful. She would not volunteer information and would only answer specific direct questions asked of her.

Witness A also stated in oral evidence that the Academy considered Ms Nathan to have spent a disproportionate amount of time with Pupil A in this informal mentoring role. The presenting officer further submitted the location of the hug in room 29 (in a corner of a darkened room which could not be seen by the visibility panel in the door) is suggestive of a secretive meeting or relationship.

The panel noted that Ms Nathan has stated in documentary evidence that the motivation of her behaviour towards Pupil A was purely professional, in order to see Pupil A succeed. The presenting officer asks the panel to treat such a view with caution in light of the fact that she did not volunteer that she had had frequent telephone contact with Pupil A. Ms Nathan did not seek to be upfront with the Academy about the nature of her relationship with Pupil A. The panel noted from Witness A's oral evidence that Ms Nathan failed to share any concerns about Pupil A and her mentoring with her colleagues. The presenting officer also suggested that giving lifts to Pupil A without parental consent was also relevant.

Witness A considers that Ms Nathan had multiple opportunities to tell the Academy about the nature of her contact with Pupil A prior to and during the investigation. Witness A indicated that the Academy believed that Pupil A was infatuated with Ms Nathan.

Witness A was present during the majority of the Academy's investigation interviews and she was questioned by the panel in respect of issues raised by Ms Nathan (as reflected in the documents). The panel found Witness A to be credible.

The panel considered that the objective test for sexual motivation was met. A reasonable person would believe that the conduct found proven in relation to each of particulars 1(a) to 1(e) of the allegations was sexually motivated. Particularly, as Ms Nathan was not mentoring another pupil in a similar way.

The panel also considered that, subjectively, Ms Nathan's behaviour in relation to those same particulars of the allegations was sexually motivated. Ms Nathan was dismissive of the Academy's safeguarding procedure and she did not heed the advice that she had received from her line manager which followed the inappropriate physical contacts between Pupil A and Ms Nathan. She also continued the relationship with Pupil A in a secretive manner and was evasive during the Academy's investigation about the level of contact she had had with Pupil A. The panel noted that Ms Nathan had only given Pupil A her mobile telephone number and not any other pupils. The fact that Pupil A's mother was not aware of the informal mentoring arrangement in Year 12 is further suggestive that Ms Nathan wished to conduct this relationship in a secretive manner. This, in the panel's view, meant the subjective test was met.

The panel considered this allegation proven on the balance of probabilities.

3. during the investigation into your conduct with Pupil A you denied making any contact with her via personal email, texts phone or social media

although Pupil A's itemised mobile telephone log detailed 34 occasions between September 2014 and February 2015 when your personal mobile number appeared;

The panel noted that this allegation has not been admitted in full in the Statement of Agreed Facts and therefore the panel regard this allegation as being disputed.

The presenting officer drew the panel's attention to the note of the meeting with her line manager in which it is recorded that Ms Nathan's line manager asked her if she had emailed or texted Pupil A and Ms Nathan indicated that they only had a few work related emails. The panel noted that the phone calls continued even after Ms Nathan received the advice from her line manager about future dealings with Pupil A.

The panel noted that during an interview with the Academy on 23 February 2015, Ms Nathan was asked direct questions about whether she had ever had contact with Pupil A outside of the Academy. This included texting Pupil A, emailing her or contacting her on social media. Ms Nathan accepts, in the Statement of Agreed Facts, that she informed the investigating officer that there had been no contact between herself and Pupil A via personal email, texts, phone or social media. The panel only regard this as a partial admission of the allegation.

The phone records included in the bundle show that Pupil A phoned Ms Nathan on 34 separate occasions during the period September 2014 and February 2015. The panel noted that Ms Nathan did not provide a copy of her own mobile telephone log during the Academy's investigation and has not submitted this to the National College either.

Upon questioning by the panel, Witness A confirmed that Ms Nathan was asked at the Academy's disciplinary hearing why she had not provided a copy of her own telephone logs to refute the suggestion that she had actively sought to contact Pupil A. Ms Nathan indicated that she did not realise she was able to provide such evidence. Witness A's oral evidence was that when asked in the disciplinary hearing if Ms Nathan would like to provide her mobile telephone log she said no.

In the Statement of Agreed Facts Ms Nathan accepts that she was calling Pupil A at this time. The panel finds that Pupil A's telephone log indicates that Pupil A contacted Ms Nathan 34 times during the period September 2014 and February 2015.

The panel noted that there is no reference in the bundle or any of the documents submitted on behalf of Ms Nathan that Ms Nathan took any action to ensure that Pupil A's telephone calls to her stopped. Therefore, on the balance of probabilities, the panel finds this allegation proven.

4. in so doing 3. above, your conduct was dishonest.

The legal advisor advised the panel that the relevant test for dishonesty was established by the case of R v Ghosh. In accordance with the Ghosh case, the first question the

panel must ask itself is, were Ms Nathan's actions dishonest by the standards of reasonable and honest persons. The case of Hussain v GMC from November 2014 updated the objective test so that the question the panel should ask itself was: whether according to the standard of reasonable and honest doctors, in that case, what was done dishonest. The corollary in these proceedings would be the standard of reasonable and honest teachers.

The legal advisor also advised the panel that if it considered that Ms Nathan's actions were dishonest by those standards then, and only then, must the panel ask itself the second stage of the test, the subjective test. The panel has to consider whether Ms Nathan must have known that what she did was dishonest by those standards, although a person should not escape a finding of dishonesty because she sets her own standards of dishonesty.

Witness A stated in oral evidence that the Academy considered that Ms Nathan was evasive in her answers about the type and frequency of contact with Pupil A and it was considered that Ms Nathan had been untruthful in her answers.

The panel considered that objectively, by the standards of reasonable and honest teachers, that Ms Nathan acted dishonestly when she failed to reveal that she had had frequent telephone contact with Pupil A, in her interview with the Academy.

In the Statement of Agreed Facts, Ms Nathan admits that by denying she had frequent telephone contact with Pupil A when asked directly by the Academy she acted dishonestly. Therefore, the panel considered that subjectively, as demonstrated by her admission, that Ms Nathan knew or must have known that her actions (as referred to in allegation 3) was dishonest by those standards.

This allegation is therefore found proven.

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

Having found all of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice".

The panel is satisfied that the conduct of Ms Nathan in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Ms Nathan is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms Nathan fell significantly short of the standards expected of the profession. The presenting officer submitted that it was against Academy policy to have physical contact with a pupil.

The panel considered that Ms Nathan's actions showed a disregard for safeguarding procedures. She did not heed or follow the warning or advice given to her by her line manager. She did not observe appropriate professional boundaries by giving Pupil A lifts in her car, when her mother had not consented and conducting telephone contact with Pupil A via personal mobile telephones, fell significantly short of the sections of the Teachers' Standards referred to above.

The panel notes that one or two of the allegations took place outside of the education setting particularly telephone contact outside of school hours, during weekends and school holiday periods. The panel considered that such conduct affects the way Ms Nathan fulfils her teaching role or may lead to pupils being exposed to or influenced by her behaviour in a harmful way. Pupils should not be contacted by members of teaching staff via their personal mobiles. Witness A in particular considered that Ms Nathan had developed a controlling kind of relationship with Pupil A to the exclusion of everybody, including pupils and staff. The panel considered that Ms Nathan sought to isolate Pupil A and this exposed her to harmful behaviour.

Accordingly, the panel is satisfied that Ms Nathan 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.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on Ms Nathan's status as a teacher, potentially damaging the public

perception. The panel therefore finds that Ms Nathan's actions constitute conduct that may bring the profession into disrepute.

The panel noted that Ms Nathan has admitted in the Statement of Agreed Facts that her conduct overall has amounted to unacceptable professional conduct and conduct which 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 Advice and having done so has found a number 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 Ms Nathan, which involved inappropriate and sexually motivated conduct towards Pupil A, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Nathan 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 Ms Nathan was outside that which could reasonably be tolerated.

Notwithstanding the 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 Ms Nathan.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Ms Nathan. The panel took further account of the Advice, 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 in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;

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 mitigate 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 that Ms Nathan's behaviours were deliberate and the panel could find no evidence that she was acting under duress.

Further, in her written representations, Ms Nathan suggests that during her suspension from the Academy she received several emails from her former students indicating that they missed her and had concern for her welfare. Teaching had never been just a job for her and she made it her life which colleagues could confirm. In the case reference included in the bundle, Ms Nathan states that her students routinely commented how dedicated she was to their studies and that she would give any time to a student that needed or wanted it.

Ms Nathan considers that she is an outstanding teacher and she achieved outstanding results for her students and school. This was corroborated by Witness A's oral testimony. Witness A stated that Ms Nathan was held in high regard by both students and staff. The panel considered Ms Nathan was of previous good record.

Also, in her written representations in the bundle, Ms Nathan stated that neither her teaching nor her conduct had ever been brought into question before. In addition, the panel has seen no evidence that shows Ms Nathan was previously subject to disciplinary proceedings (other than those referred to in this decision). The presenting officer confirmed to the panel there are no previous disciplinary orders relating to Ms Nathan.

A character reference included in the bundle from a former colleague at the Academy states that Ms Nathan was trustworthy, reliable and altruistic. Ms Nathan was held in high regard by her form tutor group because she genuinely cared for the educational needs of each and every student in her care. This former colleague considered that Ms Nathan

worked tirelessly to ensure that she planned engaging lessons for her students, which would help them make great progress in English. The teaching techniques she developed for the school were invaluable and all of her work helped to enable the students she taught to gain excellent exam results. Students still ask after Ms Nathan and comment that Ms Nathan was the “best teacher they had ever had”.

Notwithstanding the above, the panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Ms Nathan. Developing and maintaining an inappropriate relationship with Pupil A in a secretive manner was a significant factor in forming that opinion. 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 was mindful that the Advice 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 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. It is arguable that Ms Nathan’s behaviours included serious dishonesty and serious sexual misconduct. The panel has found that Ms Nathan has been responsible for conducting an inappropriate relationship with Pupil A and that Ms Nathan acted dishonestly in denying continuing telephone contact with Pupil A in the course of the Academy’s investigation. However, the panel considered that Ms Nathan’s behaviour, on the whole, was at the less serious end of the possible spectrum. Accordingly, the panel considered that a recommendation for a prohibition order without a review period would be disproportionate in this case and this would not be in the public interest, particularly due to the high regard both pupils and colleagues had for Ms Nathan’s teaching ability.

The panel were mindful that Witness A’s oral evidence was that Ms Nathan was immature for her age and she tried to be too “matey” with pupils. The panel considered that in time, Ms Nathan may be able to reflect on events and acquire sufficient insight and maturity to learn how to develop appropriate relationships with pupils and heed advice provided.

The panel felt the findings in this case indicated a situation in which a review period would be both reasonable and appropriate. As such the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a review period of 5 years.

Decision and reasons on behalf of the Secretary of State

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

The panel have made findings of fact and found all allegations proven. The panel has also found unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel is satisfied that the conduct of Ms Nathan involved breaches of the Teachers' Standards.

There is a strong public interest consideration in respect of the protection of pupils, in the light of the panel's findings against Ms Nathan, which involved inappropriate and sexually motivated conduct towards Pupil A.

I agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Nathan were not treated with the utmost seriousness when regulating the conduct of the profession.

I have taken into account the need to balance the public interest with the interests of the Ms Nathan. I have also taken into account the need to be proportionate. I have read and taken into account the guidance published by the Secretary of State.

The panel has decided that the public interest considerations outweigh the interests of Ms Nathan. Developing and maintaining an inappropriate relationship with Pupil A in a secretive manner was a significant factor in forming that opinion. The panel is of the view that prohibition is both proportionate and appropriate.

Taking all of the facts into account I support the recommendation of the panel that Ms Nathan be prohibited. This seems to me to be proportionate and appropriate.

I have also considered the matter of a review period. The panel has found that Ms Nathan has been responsible for conducting an inappropriate relationship with a pupil, and that Ms Nathan acted dishonestly in denying continuing telephone contact with that pupil in the course of the Academy's investigation. However, the panel considered that Ms Nathan's behaviour, on the whole, was at the less serious end of the possible spectrum. I agree with that view.

The panel considered that a recommendation for a prohibition order without a review period would be disproportionate in this case and this would not be in the public interest; particularly due to the high regard both pupils and colleagues had for Ms Nathan's teaching ability. I agree with the panel's consideration that in time, Ms Nathan may be able to reflect on events and acquire sufficient insight and maturity to learn how to develop appropriate relationships with pupils and heed advice provided.

The panel has recommended a review period of 5 years. For the reasons set out above, I agree with the panel's decision.

This means that Ms Tuesday Nathan 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 26 April 2021, 5 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, Ms Nathan remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Ms Nathan 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 'J. Millions', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date: 19 April 2016