



National College for
Teaching & Leadership

Mr Benedict John Probert Professional conduct panel outcome

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

May 2015

Contents

A. Introduction	3
B. Allegations	3
C. Preliminary applications	4
D. Summary of evidence	4
Documents	4
Statement of Agreed Facts	4
E. Decision and reasons	4
Panel's recommendation to the Secretary of State	6
Decision and reasons on behalf of the Secretary of State	7

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

Teacher:	Mr Benedict John Probert
Teacher ref no:	7642453
Teacher date of birth:	28 April 1954
NCTL case ref no:	10504
Date of determination:	29 May 2015
Formerly employed:	South West of England

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 29 May 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Benedict John Probert in a meeting.

The panel members were Ms Alison Walsh (teacher panellist – in the chair), Dr Robert Cawley (teacher panellist) and Ms Jean Carter (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP Solicitors.

The meeting took place in private. The announcement of the decision of the panel (as to facts and unacceptable professional conduct/conduct that may bring the profession into disrepute) was announced in public and recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Meeting dated 20 May 2015.

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

Whilst employed as a teacher at a school in the South West of England, he:

1. Abused his position of trust as a teacher by engaging in an inappropriate relationship with Pupil A whilst she was aged between 14 to 16 years old in that he:

- (a) gave Pupil A money on one or more occasions;
 - (b) texted and called Pupil A on numerous occasions;
 - (c) emailed Pupil A on numerous occasions;
 - (d) met with Pupil A outside of school on one or more occasions.
2. Engaged in an inappropriate sexual relationship with Pupil A shortly after she had left the school, when Pupil A was aged between 16 to 18, and his conduct in this regard was sexually motivated.

Mr Probert admitted the alleged facts and also admitted that they amount to unacceptable professional conduct/conduct that may bring the profession into disrepute.

C. Preliminary applications

None.

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, with page numbers 1 to 3
- Section 2 : Notice of Referral, Response and Notice of Meeting, with page numbers 4 to 8B
- Section 3 : Statement of Agreed Facts and presenting officer representations, with page numbers 9 to 14
- Section 4 : NCTL documents with page numbers 15 to 137
- Section 5 : Teacher documents with page numbers 138 to 150.

Statement of Agreed Facts

The panel was presented with a Statement of Agreed Facts signed by Mr Probert on 18 April 2015.

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.

Mr Benedict John Probert, born 28 April 1954, is a retired teacher who was employed at a school in the South West of England. The period to which these allegations relate is more than 10 years ago. It is alleged that, whilst he was a teacher at the school, Mr Probert developed an inappropriate relationship with Pupil A whilst she was in Year 11 at the school. It is further alleged that, during the course of the relationship, he gave Pupil A money, including on one occasion the sum of £30.00.

Mr Probert exchanged text messages with Pupil A using a personal mobile phone and telephoned her on numerous occasions. Mr Probert also exchanged email messages with Pupil A using a personal email address. It is alleged that the content of the communications with Pupil A was highly personal in nature. It is further alleged that Mr Probert met with Pupil A on one or more occasions whilst she was still a pupil at the school and that this included walking a dog together. Finally, it is alleged that, at some point after Pupil A left the school at the end of Year 11, and when Pupil A was at least 16 years old, their relationship became sexual in nature. This included allowing Pupil A to stay overnight at his home address and, on one or more occasions staying at a hotel with her.

Findings of fact

Our findings of fact are as follows:

Whilst employed as a teacher at a school in the South West of England, he:

- 1. Abused his position of trust as a teacher by engaging in an inappropriate relationship with Pupil A whilst she was aged between 14 to 16 years old in that he:**
 - (a) gave Pupil A money on one or more occasions;**
 - (b) texted and called Pupil A on numerous occasions;**
 - (c) emailed Pupil A on numerous occasions;**
 - (d) met with Pupil A outside of school on one or more occasions.**
- 2. Engaged in an inappropriate sexual relationship with Pupil A shortly after she had left the school, when Pupil A was aged between 16 to 18, and his conduct in this regard was sexually motivated.**

The panel noted that Mr Probert admits the alleged facts and that he has signed a Statement of Agreed Facts confirming his admission of each of the particulars. The

panel is satisfied that these admissions are clear and unequivocal. The panel finds the facts proved based on these admissions.

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

Mr Probert admits that his actions amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel noted these admissions, and made its own determination.

The panel noted that Mr Probert was in a position of trust when the inappropriate relationship started. He then took various steps to ensure that the relationship was able to continue through exchanging personal emails, communications by mobile phone and giving her money. The panel is satisfied that Mr Probert's actions were deliberate and aimed at sustaining what he knew was an inappropriate relationship with the pupil. After Pupil A left school and was at least 16, the relationship became sexual in nature. His actions were clearly sexually motivated and developed from the former position of trust that he had towards Pupil A as her teacher.

The panel is satisfied that Mr Probert's actions in both particulars of the allegation amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. This was misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The conduct displayed would have a negative impact on Mr Probert's status as a teacher and would damage the public's perception of teachers, thereby bringing the profession into disrepute.

Panel's recommendation to the Secretary of State

The panel is satisfied that Mr Probert's behaviour was incompatible with being a teacher for the following reasons. This was:

- a serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of a pupil, particularly where there is a continuing risk;
- abuse of a position of trust;
- sexual misconduct, which involved actions that were sexually motivated and of a sexual nature and that exploited the trust, knowledge or influence derived from his professional position.

No mitigation was offered by Mr Probert. It is clear that the actions were deliberate and were not carried out under duress. The panel is not aware of any previous adverse regulatory findings.

The panel is satisfied that a prohibition order is necessary to protect pupils, for the maintenance of public confidence in the profession and to declare and uphold proper standards of conduct. This is our recommendation.

The panel considered whether to recommend that Mr Probert be permitted to apply to have the prohibition order set aside, but concluded that there should be no such opportunity. This was serious sexual misconduct involving the abuse of Mr Probert's professional position. The panel believe that there is a continuing risk to pupils. The panel recommends that there be no opportunity to apply to have the prohibition order set aside.

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 all the allegations proven and consider that those facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The facts are that Mr Probert abused his position of trust by engaging in an inappropriate relationship with Pupil A and then subsequently engaging in a sexual relationship with Pupil A shortly after she had left the school.

No mitigation was offered by Mr Probert and it was clear to the panel that his actions were deliberate and were not carried out under duress.

In all the circumstances I agree with the panel's recommendation that prohibition with no opportunity to apply for the order to be set aside is an appropriate and proportionate sanction.

This means that Mr Benedict John Probert is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Benedict John Probert shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Benedict John Probert 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: 1 June 2015

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

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