



National College for
Teaching & Leadership

Mr Paul McNeil: Professional conduct panel outcome

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

January 2017

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

Teacher: Mr Paul McNeil

Teacher ref number: 8545106

Teacher date of birth: 31 October 1963

NCTL case reference: 13542

Date of determination: 16 January 2017

Former employer: Hartley Primary School, London

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 7 June 2016, 16 November 2016 and 16 January 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Paul McNeil.

The panel members were Ms Alison Walsh (teacher panellist – in the Chair), Dr Robert Cawley (teacher panellist) and Miss Polly O'Malley (lay panellist).

The legal adviser to the panel was Mr Nick Leale on 7 June 2016 and 16 November 2016 and Mr Graham Miles on 16 January 2017, both of Blake Morgan LLP solicitors.

The presenting officer for the National College was Miss Julia Faure-Walker of 2 Hare Court, instructed by Nabarro LLP solicitors.

Mr Paul McNeil did not attend the hearing in person, but participated by video link. Mr McNeil was represented by Miss Clare Haddon of Counsel, instructed by the National Union of Teachers.

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 February 2016.

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

While employed at Hartley Primary School, Hartley Road, East Ham, London, he:

1. Between 25 September 2008 and 14 December 2009, placed up to 6 orders for a total of up to 13 DVDs, which included:
 - a. an indecent image of a child or children, involving (non-penetrative) sexual activity;
 - b. 7 images of a child or children which were inappropriate or indecent;
2. In January 2012, arranged to transfer money, believing that in return he would have the opportunity to view sexual activity involving a child or children via the internet and/or to view indecent or inappropriate images of children;
3. During communications via Skype:
 - a. On a date recorded as being 11 June 2013:
 - i. pretended to be or played the role of a father, with another Skype user pretending to be or playing the role of a son;
 - ii. communicated, "U R HOT LET'S DO THIS FOR REAL YOU HAVE CAM?";
 - iii. communicated, "hope you take them off when you pleasure yourself" (after the other Skype user had communicated, "Just underpants but not naked");
 - iv. communicated, "hey why don't you get naked while u massage me";
 - v. communicated, "DO YOU WANNA MEET U SOUND SO HORNY I WANNA DO THIS FOR REAL";
 - b. On a date recorded as being 11 September 2013, after another Skype user had addressed him as, "Sir", referred to a private room, communicated, "I promise to do and show to you" and that he or she would look for a camera, he:
 - i. communicated, "ok chat tomorrow then";

- ii. believed that the other Skype user was or may have been under 18 years old;
 - c. On a date recorded as being 28 September 2013, after another Skype user had communicated that he was aged 15, he:
 - i. communicated, "Call me. So horny already"
 - ii. when communicating as set out in paragraph 3.c.i above, believed that the other Skype user was, or may have been, under 18 years' old;
 - iii. arranged to see the other Skype user, or parts of his body, via a web camera or similar device;
 - iv. communicated, "ass";
 - v. by communicating the above, were intending for the other Skype user to show you his bottom;
 - vi. communicated, "wanna fuck u";
 - vii. communicated, "moan baby";
 - viii. communicated, "so u free to meet tomorrow";
4. Before 20 May 2014, possessed images of school-children, in the following storage media:
 - a. 6 camcorder tapes;
 - b. 19 DVDs;
 - c. 21 VHS tapes;
 - d. over 1,000 images on an Acer computer;
5. Your actions in paragraphs 1, 2, 3 and/or 4 above were sexually motivated.

The facts of the allegations were not admitted.

C. Preliminary applications

Amendment of the allegation

The presenting officer made an application to amend the particulars of the allegations at paragraph 3.c.i. by deleting the words, "Call me. So horny already" and replacing them with, "One min, cam in other room."

Miss Haddon confirmed that there was no objection to the proposed amendment and the panel agreed to the application.

D. Summary of evidence

Documents

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

Section 1: Notice of Proceedings and response – pages 4 to 11

Section 2: Witness statements – pages 13 to 17

Section 3: NCTL documents – pages 19 to 123

Section 4: Teacher documents – pages 125 to 144

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 witness called by the presenting officer:

Witness A of the Metropolitan Police.

Mr McNeil also gave evidence on his own behalf.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Mr McNeil was the headteacher at Hartley Primary School and, at the material times, resided at an address in East Ham. Mr McNeil came to the attention of the Metropolitan Police in January 2014 through an operation instigated through Canadian Law Enforcement, which had been investigating a Canadian company called Azov Films. Information was disseminated to UK Law Enforcement which indicated that Mr McNeil was identified as one of the people who had purchased a number of DVDs from Azov Films. Canadian Law Enforcement provided information to the National Crime Agency's ("NCA") Child Exploitation Online Protection ("CEOP") team, which included copies of orders for the DVDs. These referred to six separate orders for 13 DVDs which were, or

were purported to have been, dispatched to Mr McNeil's address. Of those 13 DVDs, seven were category C indecent images and one was a category B indecent image.

On 19 May 2014, the Metropolitan Police executed a search warrant at Mr McNeil's home address. Upon searching his home, the police seized several DVDs but did not find any Azov DVDs or any other indecent images of children. As part of the investigation, a forensic examination of Mr McNeil's computers was undertaken. This included the internet history. When his Acer laptop was examined, a number of online Skype conversations were identified.

In addition to the investigation by the Canadian authorities, there was a separate NCA investigation in relation to payments made to the Philippines. Mr McNeil was identified as making two payments to a Filipino suspect believed to orchestrate live on-line child sex abuse. Mr McNeil was interviewed by the police on 19 May 2014 and again on 9 October 2014. Throughout both interviews, Mr McNeil exercised his right of silence. No criminal charges were brought against Mr McNeil.

Findings of fact

Our findings of fact are as follows:

While employed at Hartley Primary School, Hartley Road, East Ham, London, you:

- 1. Between 25 September 2008 and 14 December 2009, placed up to 6 orders for a total of up to 13 DVDs, which included:**
 - a. an indecent image of a child or children, involving (non-penetrative) sexual activity;**
 - b. 7 images of a child or children which were inappropriate or indecent;**

The panel has been presented with copies of six orders, which Witness A gave evidence were provided by Canadian Law Enforcement following an investigation into the Canadian company, Azov Films. The panel has also heard evidence that the DVDs referred to in those orders included one that contained a category B indecent image and seven that contained category C indecent images. The panel noted that Mr McNeil, while accepting that the orders contained his name, home address, email address and mobile phone number, denied any knowledge of these orders. However, the panel finds it implausible that Mr McNeil could have had no knowledge of these orders. All of the given personal details were consistent in a pattern of ordering over a period of six months.

The panel also noted that internet searches were identified by the police during the forensic examination of Mr McNeil's computer enquiring whether any customers of Azov Films had been arrested. Mr McNeil does not dispute this; he stated that he was just looking at information following news articles about Azov. The panel does not accept Mr McNeil's assertion that this was mere coincidence. The panel is satisfied, on the balance

of probabilities, that Mr McNeil placed up to six orders for the DVD's as outlined in allegation 1.a. and 1.b. Accordingly, allegations 1.a and 1.b. are proved.

2. In January 2012, arranged to transfer money, believing that in return you would have the opportunity to view sexual activity involving a child or children via the internet and/or view indecent or inappropriate images of children;

The panel has heard evidence that there was an NCA investigation, which was separate from the Canadian investigation, in relation to payments to the Philippines. Mr McNeil was identified paying a Filipino suspect believed to orchestrate live on-line child sex abuse and stream it to people around the world. Mr McNeil accepts that he made payments to this person in the Philippines using two different credit cards belonging to him. His explanation for making these payments is that he developed a relationship through chat forums with this person and that he offered that person money to pay for an exam and some books. He said that he met the person on a gay chat site. Mr McNeil also said that the person was studying for an education degree but that he had not asked or been provided with any proof of enrolment on a course. Mr McNeil stated that he was no longer in touch with this person so could provide no evidence whatsoever to support his version of events.

The panel did not find Mr McNeil to be a credible witness in relation to this allegation and felt his account of the reasons for his payments was implausible. The panel is satisfied that it is more likely than not that Mr McNeil transferred money believing that in return he would have the opportunity to view sexual activity involving a child or children via the internet and/or to view indecent or inappropriate images of children. Accordingly, allegation 2 is proved.

3. During communications via Skype:

a. On a date recorded as being 11 June 2013:

- i. pretended to be or played the role of a father, with another Skype user pretending to be or playing the role of a son;**
- ii. communicated, "U R HOT LET'S DO THIS FOR REAL YOU HAVE CAM?";**
- iii. communicated, "hope you take them off when you pleasure yourself" (after the other Skype user had communicated, "Just underpants but not naked");**
- iv. communicated, "hey why don't you get naked while u massage me";**

- v. communicated, "DO YOU WANNA MEET U SOUND SO HORNY I WANNA DO THIS FOR REAL";**

Mr McNeil admits that he did engage in the alleged Skype dialogue on 11 June 2013 and the panel has had the benefit of viewing the record of the Skype conversation. The panel finds allegation 3.a.i. to 3.a.v. proved.

- b. On a date recorded as being 11 September 2013, after another Skype user had addressed you as, "Sir", referred to a private room, communicated, "I promise to do and show to you" and that he or she would look for a camera, you**

- i. Communicated, "ok chat tomorrow then";**
- ii. Believed that the other Skype user was or may have been under 18 years old;**

Mr McNeil admits that he did engage in the alleged Skype dialogue on 11 September 2013 and the panel has had the benefit of viewing the record of the Skype conversation. The panel finds 3.b.i. proved.

As regards 3.b.ii., Mr McNeil states that this was a conversation between consenting adults. The panel is not satisfied that the use of the words, 'sir' and 'school' were necessarily indicative of a conversation with a person under 18 years of age, particularly as the conversation involved a person from a different culture where these words can carry different meanings. There is insufficient evidence to show that the other Skype user was under 18 years of age or that Mr McNeil believed that he was. Accordingly, allegations 3.b.ii. is not proved.

- c. On a date recorded as being 28 September 2013, after another Skype user had communicated that he was aged 15, you:**

- i. communicated, "One min. Cam in other room";**
- ii. when communicating as set out in paragraph 3.c.i above, believed that the other Skype user was, or may have been, under 18 years old;**
- iii. arranged to see the other Skype user, or parts of his body, via a web camera or similar device;**
- iv. communicated, "ass";**
- v. by communicating the above, were intending for the other Skype user to show you his bottom;**
- vi. communicated, "wanna fuck u";**

vii. communicated, "moan baby";

viii. communicated, "so u free to meet tomorrow";

The presenting officer accepted that allegation 3.c.viii. relates to a different person and the panel finds that allegation not proved.

Mr McNeil admits that he did engage in the alleged Skype dialogue on 28 September 2013 and the panel has had the benefit of viewing the record of the Skype conversation. Mr McNeil admits that the other Skype user said that they were 15 years old, but he says that he knew that the other user was an adult as he had exchanged photos and chatted with him earlier. Mr McNeil said that the dialogue concerned involved fantasy. There is insufficient evidence to show that the other Skype user was under 18 years of age or that Mr McNeil believed that he was. Accordingly, allegation 3.c.ii. is not proved. However, allegations 3.c.i., 3.c.iii., 3.c.iv., 3.c.v., 3.c.vi., and 3.c.vii. are proved.

4. Before 20 May 2014, possessed images of school-children, in the following storage media:

a. 6 camcorder tapes;

b. 19 DVDs;

c. 21 VHS tapes;

d. over 1,000 images on an Acer computer;

Mr McNeil did not dispute that he had the items referred to in allegations 4.a, 4.b. and 4.c. in his possession and that the images referred to in 4.d. were on his computer. It is not alleged that any of these items contained any indecent images. Mr McNeil's position is that these were photographs taken in the course of ordinary school business. The panel finds 4.a. to 4.d. proved.

5. Your actions in paragraphs 1, 2 and/or 3 above were sexually motivated.

It was initially also alleged that the actions in allegation 4 were sexually motivated. However, the presenting officer withdrew this allegation in relation to allegation 4. The panel is satisfied by Mr McNeil's account that he possessed these items and images for legitimate reasons, for example, producing copies of school trip videos for parents.

In relation to allegations 1 and 2, the panel is satisfied, on the balance of probabilities, that Mr McNeil actions were for the purpose of sexual gratification and, on that basis, were sexually motivated.

In relation to allegation 3.b.i, the panel did not find that the alleged dialogue, in itself, was sexually motivated.

In relation to allegations 3.a. and 3.c., Mr McNeil admits that his actions were for the purpose of sexual gratification and, therefore, sexually motivated. The panel is satisfied that Mr McNeil's actions in 3.a. and 3.c. were sexually motivated.

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

Having found a number 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 Mr McNeil in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr McNeil 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:
 - showing tolerance of and respect for the rights of others;
 - not undermining ... individual liberty and mutual respect...;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has also considered whether Mr McNeil's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found, on the balance of probabilities, that Mr McNeil's actions in allegations 1 and 2 were with the intention of viewing indecent images of children and/or viewing sexual activity involving a child. In relation to allegation 3.c., while the panel did not find that Mr McNeil was engaging with a 15-year-old boy, he did engage in a role-play fantasy involving sexual activity with a child of that age. Coupled with the panel's findings in relation to allegations 1 and 2, the panel is concerned that there appears to be a pattern of behaviour indicating an interest in sexual activity with persons aged under 18.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel notes that the allegations took place outside of the education setting. However, as a teacher (indeed a headteacher) the responsibility for safeguarding the interests and well-being of all children is paramount. His actions were fundamentally incompatible with this expectation of professionals working with children.

Accordingly, the panel is satisfied that Mr McNeil is guilty of unacceptable professional conduct in relation to allegations 1, 2 and 3.c.

The panel is not satisfied that the actions found proved in allegation 3.b or 4 amount to 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 Mr McNeil's status as a teacher, potentially damaging the public perception.

The panel therefore finds that Mr McNeil's actions constitute conduct that may bring the profession into disrepute in relation to allegations 1, 2 and 3.c.

The panel finds the actions in allegations 3.a. and b and 4 do not amount to unacceptable professional conduct or conduct that 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 protection of other members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr McNeil, which involved an intention to view indecent images of children and viewing sexual activity involving a child, 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 Mr McNeil was 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 Mr McNeil was outside that which could reasonably be tolerated.

Notwithstanding the clear 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 Mr McNeil.

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 Mr McNeil. 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;
- Actions or behaviours that undermine...individual liberty, and mutual respect;
- Sexual misconduct, involving actions that were sexually motivated;
- Any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents;

The particulars of the allegations found proved are, in the view of the panel, fundamentally incompatible with being a teacher.

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 militate 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.

The panel noted that Mr McNeil has a previously good record, as demonstrated by the nine positive character references provided from a range of people that Mr McNeil has worked with and the absence of any previous disciplinary proceedings against him.

However, the panel has found that his actions were deliberate and there was no evidence to suggest that he was acting under duress.

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 Mr McNeil. The need to protect children and to maintain public confidence in the teaching profession

were significant factors 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 to recommend that a review period of the order should be considered. The panel was mindful that a prohibition order applies for life, but there may be circumstances that 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. These behaviours include serious sexual misconduct and activity connected with the viewing, taking, making, possessing, distributing or publishing of any indecent photograph or image or pseudo photograph or image of a child.

Mr McNeil has demonstrated limited insight into the consequences of his actions.

The panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

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

I have noted the amendments that were made to part of the allegation. I have also noted the findings of the panel across all of the allegations including those where the particulars were not found proven. I have also noted that no criminal charges were brought against Mr McNeil.

I have taken careful account of those facts that the panel has found proven. These are set out clearly in the decision of the panel on these matters.

I note that the panel is satisfied that the conduct of Mr McNeil in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr McNeil 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:
 - showing tolerance of and respect for the rights of others;
 - not undermining ... individual liberty and mutual respect...

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has also considered whether Mr McNeil's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found, on the balance of probabilities, that Mr McNeil's actions in allegations 1 and 2 were with the intention of viewing indecent images of children and/or viewing sexual activity involving a child. In relation to allegation 3.c., while the panel did not find that Mr McNeil was engaging with a 15-year-old boy, he did engage in a role-play fantasy involving sexual activity with a child of that age. Coupled with the panel's findings in relation to allegations 1 and 2, the panel is concerned that there appears to be a pattern of behaviour indicating an interest in sexual activity with persons aged under 18.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

I have also noted that the panel took into account that the allegations took place outside of the education setting. The panel explain that the responsibility for safeguarding the interests and well-being of all children is paramount. The panel found Mr McNeil's actions were fundamentally incompatible with this expectation of professionals working with children.

I note therefore that the panel is satisfied that Mr McNeil is guilty of unacceptable professional conduct in relation to allegations 1, 2 and 3.c.

I have also been clear that the panel is not satisfied that the actions found proved in allegation 3.b. or 4 amount to unacceptable professional conduct.

I have taken into account the advice published by the Secretary of State 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;
- Actions or behaviours that undermine...individual liberty, and mutual respect;
- Sexual misconduct, involving actions that were sexually motivated;
- Any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents;

The particulars of the allegations found proved are, in the view of the panel, and in my view, fundamentally incompatible with being a teacher.

I have taken into account the need to balance the interests of the teacher and the interests of the wider profession and public. I have also taken into account the need to be proportionate. In doing so I conclude that in this case Mr McNeil should be prohibited from teaching.

I have gone on to consider the matter of a review period. I have observed that the panel noted that Mr McNeil has a previously good record, as demonstrated by the nine positive character references provided from a range of people that Mr McNeil has worked with and the absence of any previous disciplinary proceedings against him.

However, the panel has found that his actions were deliberate and there was no evidence to suggest that he was acting under duress.

The Advice indicates that there are behaviours that, if proven, would militate against a review period. These behaviours include serious sexual misconduct and activity connected with the viewing, taking, making, possessing, distributing or publishing of any indecent photograph or image or pseudo photograph or image of a child.

The panel has also commented that Mr McNeil has demonstrated limited insight into the consequences of his actions.

I therefore consider that it is proportionate and in the public interest to accept the recommendation of the panel that there be no review period.

This means that Mr Paul McNeil 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 Paul McNeil 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 Paul McNeil 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.



Decision maker: Alan Meyrick

Date: 18 January 2017

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