



National College for  
Teaching & Leadership

# **Mr Andrew Green: Professional conduct panel outcome**

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

**April 2015**

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

<b>Teacher:</b>	Mr Andrew Green
<b>Teacher ref no:</b>	7560728
<b>Teacher date of birth:</b>	19 February 1956
<b>NCTL Case ref no:</b>	12439
<b>Date of Determination:</b>	20 April 2015
<b>Former employer:</b>	Shelley College, Huddersfield

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 20 April 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Andrew Green.

The panel members were Tony Heath (lay panellist – in the chair), Gill Goodswen (teacher panellist) and Colin Parker (teacher panellist).

The legal adviser to the panel was Mrs Claire Bertram of Eversheds Solicitors.

The presenting officer for the National College was Vivienne Tanchel of 2 Hare Court.

Mr Andrew Green 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 5 March 2015.

It was alleged that Mr Andrew Green was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that while he was employed at Shelley College, Huddersfield (“the College”):

1. On 14 July 2014, he:
  - a. provided a description to Pupil A of a sexual act and / or acts which he engaged in with:
    - i) Woman A
    - ii) Woman B
  - b. said to Pupil A:
    - i) “I don’t know if you know this about men but they can cum straight away”, or words to that effect
    - ii) in reference to the act(s) described at 1a above, he asked Pupil A if she thought “it would have been more enjoyable for you or for the woman/women?”, or words to that effect
    - iii) “had Pupil A got any stories?”, or words to that effect
    - iv) “so, you’re a good girl then?”, or words to that effect
    - v) “what about any fantasies?”, or words to that effect
    - vi) “what about stuff you’d like to do? I might be able to help you out”, or words to that effect
    - vii) “I’ve given you a story so you’ve got to give me one”, or words to that effect
    - viii) “why don’t you think about things you would do with your favourite maths teacher”, or words to that effect
  - c. made Pupil A promise not to tell anyone what he had said in relation to 1a above, on one or more occasions
  - d. placed his arms around Pupil A
  - e. placed his head on Pupil A’s shoulder, on one or more occasions
  - f. brushed Pupil A’s arm
  - g. grabbed Pupil A’s hand(s)
  - h. placed Pupil A’s hand(s) on top of the table

- i. touched and/or tapped Pupil A's hip
- j. by his actions set out above you caused Pupil A to feel:
  - a. distressed
  - b. unsafe
2. His comment(s) as set out at 1b above were sexual in nature
3. On 15 July 2014, he sent Pupil A an email stating "Sorry about yesterday, I don't know what came over me. I'll buy you a present tomorrow to say SORRY!!! And we can concentrate on the maths rather than my stories"
4. His actions set out at 1a and / or 1b and / or 1c and / or 1d and / or 1e and / or 1f and / or 1g and / or 1h and / or 1i and / or 1j and / or 2 above were:
  - a. Inappropriate
  - b. In breach of the School's requirement that you not talk to female pupils in private
  - c. Sexually motivated

In the Statement of Agreed Facts dated 8 January 2015, Mr Andrew Green admitted to all allegations set out within, save for the following:

- After you had described the sexual act which you engaged in with Woman A and Woman B, you asked Pupil A if she thought it would be more enjoyable for you or for the woman/women.
- You made comments to Pupil A whilst alone with her in the classroom including but not limited to:
  - "I don't know if you know this about men but they can cum straight away", or words to that effect
  - "had Pupil A got any stories?", or words to that effect
  - "so, you're a good girl then?", or words to that effect
  - "what about any fantasies?", or words to that effect
  - "what about stuff you'd like to do? I might be able to help you out", or words to that effect
  - "I've given you a story so you've got to give me one", or words to that effect
  - "why don't you think about things you would do with your favourite maths teacher", or words to that effect

- You made inappropriate physical contact with Pupil A whilst alone in the classroom in that you:
  - grabbed Pupil A's hand(s)
  - touched and/or tapped Pupil A's hip
- You knew and/or ought to have known that by speaking to Pupil A in the manner you did and / or making physical contact with her you would cause her to feel:
  - distressed
  - unsafe
- Your actions in relation to Pupil A were:
  - sexually motivated.

It is also noted that in the Notice of Proceedings the following allegations were included which were not detailed in the Statement of Agreed Facts:

2. Your comment(s) as set out at 1b above were sexual in nature;

4. Your actions set out at 1a and/or 1b and/or 1c and/or 1d and/or 1e and/or 1f and/or 1g and/or 1h and/or 1i above were:

a. Inappropriate.

b. In breach of the School's requirement that you not talk to female pupils in private.

## **C. Preliminary applications**

### Proceeding in absence

The panel considered whether it should proceed in the absence of Mr Green. It was decided that the hearing could proceed in the absence of Mr Green on the basis that:

- the panel was satisfied that the College has complied with the service requirements of Regulation 19 a to c of the Teachers' Disciplinary (England) Regulations 2012;
- the panel was satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the procedures;
- Mr Green responded to the Notice of Proceedings to indicate that he had no intention of attending the hearing. Further correspondence from Mr Green has also made it clear that he would not be attending the hearing because he did not

want a hearing. His pre-stated non-attendance was not due to reasons of illness or unavailability;

- There is no suggestion that adjourning the hearing might result in Mr Green attending at a later date;
- Mr Green has confirmed in writing when responding to the Notice of Proceedings that he does not wish to be legally represented;
- The panel has the benefit of written representations from Mr Green to be able to ascertain any lines of defence and any mitigation; and
- Pupil A was attending the hearing so her evidence could be tested.

### Jurisdiction

The panel considered whether it had jurisdiction to consider the case in hand as Mr Green has now retired. The panel considered that it did have jurisdiction to deal with this matter on the basis that Parliament would have intended the regime to operate in a manner that was both certain and practical and this meant, on a common sense view, that the regime should apply to a teacher that was retired since he could return to teaching at any time.

### Application for a private hearing

The panel considered that the written correspondence from Mr Green should be treated as an application from him that the hearing should be held in private. It was decided that the public interest required that the hearing should be public. Pupil A confirmed that she was happy for the hearing to take place in public.

## **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 2 – 4
Section 2: Notice of Proceedings and Response	Pages 6 – 12
Section 3: National College for Teaching and Leadership Witness Statements	Pages 14 – 23
Section 4: National College for Teaching and Leadership Documents	Pages 25 – 57
Section 5: Teacher Documents	Pages 59 – 84

## Witnesses

The panel heard oral evidence from Pupil A.

## 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 Andrew Green was employed as a maths teacher at Shelley College, Huddersfield from 1 September 1991 until his retirement in July 2014.

It is alleged that during a one to one lesson on 14 July 2014 Mr Green inappropriately discussed with Pupil A matters of a sexual nature. It is also alleged that Mr Green touched Pupil A inappropriately, on or around the same time the comments were being made. During the course of this lesson the actions of Mr Green are alleged to have made Pupil A feel distressed and unsafe. It is also alleged that the actions of Mr Green were sexually motivated.

## Findings of Fact

On the balance of probabilities, the panel found the following facts to be proven:

**Particular 1(a) That you provided a description to Pupil A of a sexual act and / or acts which you engaged in with:**

**i) Woman A**

**ii) Woman B**

This allegation has been admitted by Mr Green and the allegation was supported by the written and oral evidence of Pupil A. This evidence was accepted by the panel.

**Particular 1 (b) That you said to Pupil A:**

**i) “I don’t know if you know this about men but they can cum straight away”, or words to that effect**

**ii) in reference to the act(s) described at 1a above, you asked Pupil A if she thought “it would have been more enjoyable for you or for the woman/women?”, or words to that effect**

**iii) “had Pupil A got any stories?”, or words to that effect**



**iv) “so, you’re a good girl then?”, or word to that effect,**

**v) “what about any fantasies?”, or words to that effect**

**vi) “what about stuff you’d like to do? I might be able to help you out”, or words to that effect**

**vii) “I’ve given you a story so you’ve got to give me one”, or words to that effect**

**viii) “why don’t you think about things you would do with your favourite maths teacher”, or words to that effect**

These allegations were denied by Mr Green. However, all of these allegations were supported by the written and oral evidence of Pupil A. The panel found the oral evidence of Pupil A to be very credible, cogent, honest and consistent. The evidence did not appear to be exaggerated in any way. Pupil A was very clear that these statements (or words along these lines) were made to her in a one to one lesson by Mr Green on 14 July 2014. The panel accepted the evidence of Pupil A.

**Particular 1 (c) That you made Pupil A promise not to tell anyone what he had said in relation to 1a above, on one or more occasions**

**Particular 1 (d) That you placed your arms around Pupil A**

**Particular 1 (e) That you placed your head on Pupil A’s shoulder, on one or more occasions**

**Particular 1 (f) That you brushed Pupil A’s arm**

The allegations at 1(c)–1(f) were admitted by Mr Green and supported by the written and oral evidence of Pupil A. This evidence was accepted by the panel.

**Particular 1 (g) That you grabbed Pupil A’s hand(s)**

The allegation at 1(g) was denied by Mr Green but supported by the written and oral evidence of Pupil A. As stated above, the oral evidence of Pupil A was extremely credible. Pupil A was able to physically demonstrate to the panel the actions undertaken by Mr Green in respect of this particular allegation. Pupil A’s evidence was accepted by the panel.

**Particular 1 (h) That you placed Pupil A’s hand(s) on top of the table**

The allegations at 1(h) were admitted by Mr Green and supported by the written and oral evidence of Pupil A. This evidence was accepted by the panel.

**Particular 1 (i) That you touched and/or tapped Pupil A’s hip**

The allegation at 1(i) was denied by Mr Green but supported by the written and oral evidence of Pupil A. As stated above, the oral evidence of Pupil A was extremely credible. Pupil A was able to physically demonstrate to the panel the actions undertaken

by Mr Green in respect of this particular allegation. Pupil A's evidence was accepted by the panel.

**Particular 1 (j) That by your actions set out above you caused Pupil A to feel:**

**a. distressed**

**b. unsafe**

This is denied by Mr Green. In oral evidence, Pupil A specifically commented that she felt unsafe. She referred to feeling scared as a result of the fact that she was on her own in an isolated classroom with Mr Green having an inappropriate conversation. She also referred to the fact that Mr Green was standing between her and the door to the classroom and she wondered what he would do if she tried to leave. Pupil A confirmed that she did not fully understand the concept of "distressed" but that she did feel upset and "beyond uncomfortable." Although Pupil A's distress may not have been visible to Mr Green in the classroom, the panel is satisfied that the actions of Mr Green did cause Pupil A to feel distressed and unsafe. Pupil A confirmed in oral evidence that the incident on 14 July 2014 is still something that she thinks about now.

**Particular 2 – That your comment(s) as set out at 1b above were sexual in nature**

The panel considers that, based on their ordinary meaning, the comments set out at 1b above were sexual in nature.

**Particular 3 – That on 15 July 2014, you sent Pupil A an email stating "Sorry about yesterday, I don't know what came over me. I'll buy you a present tomorrow to say SORRY!!! And we can concentrate on the maths rather than my stories"**

The allegation at particular 3 was admitted by Mr Green, is supported by Pupil A in written and oral evidence and there is documentary evidence showing that such an email was sent. This allegation is accepted by the panel.

**Particular 4 – That your actions set out at 1a and / or 1b and / or 1c and / or 1d and / or 1e and / or 1f and / or 1g and / or 1h and / or 1i and / or 1j and / or 2 above were:**

**a. Inappropriate**

**b. In breach of the School's requirement that you not talk to female pupils in private**

**c. Sexually motivated**

In relation to particular 4(a), the panel finds that the words and actions of Mr Green on 14 July 2014 were inappropriate, particularly taking into account the teacher/pupil relationship, and would be viewed as such by any "reasonable man".

In relation to allegation 4(b), the panel is satisfied that Mr Green was in breach of the School's requirement not to talk to female students in private. In a written warning letter dated 22 September 2003 (page 31 of the bundle), the school clearly stated: "At no time are you to have one to one conversations with female students in school, in any area that would be considered private, e.g. classrooms with doors closed". It is accepted that the written warning itself was to remain live for a period of 12 months only, but the panel was of the view that the instructions contained within the letter were not time limited.

In relation to allegation 4(c), the panel considered the two stage test for sexual motivation – firstly whether the words/actions could be sexual and secondly whether the words/actions of Mr Green were sexual in all of the circumstances of the case. The panel was satisfied, as a result of the combination of the content of the discussion that took place together with the variety of physical contact, that Mr Green's words and actions could be viewed as sexually motivated and indeed were.

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

Having found the facts of Particulars 1 to 4 proved, we further find that your actions in having inappropriate conversations and physical contact with Pupil A amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering the allegations that the panel has found proven, the panel has had regard to the definitions in the *Teacher Misconduct – Prohibition of Teachers Advice*, which we refer to as the 'Guidance'.

The panel is satisfied that the conduct of Mr Green in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Green 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; and
- 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 Mr Green fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Green's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance and found the sexual motivation of Mr Green's actions could be classified as sexual activity, which appears on the list of offences.

Accordingly, the panel is satisfied that Mr Green 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. Accordingly, the panel is satisfied that Mr Green is guilty of conduct bringing 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 *Teacher Misconduct – The Prohibition of Teachers 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 Mr Green, which involved inappropriate and sexually motivated comments and physical contact, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children. Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Green were not treated with the utmost seriousness when regulating the conduct of the profession. In addition, 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 Green 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 Green.

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 Green. The panel took further account of the guidance, 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
- misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils; and
- sexual misconduct, e.g. 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 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.

It is noted that Mr Green specifically states that he is offering no mitigation. He maintains that the incident on 14 July 2014 was simply a "silly story" that he has subsequently regretted and has apologised on various occasions to Pupil A. Whilst noting the apologies, the panel does not accept that this was simply a silly story and has found that Mr Green's actions were sexually motivated and deliberate. The panel does not consider that Mr Green has shown an appropriate level of insight in respect of what has happened or any awareness of the impact of his behaviour on Pupil A.

The panel also considered the following points: (1) there was no evidence to suggest that Mr Green was acting under duress, and in fact the panel found the teacher's actions to be deliberate and motivated; and (2) the panel has seen evidence that shows the teacher was previously subject to disciplinary proceedings/warnings.

The panel is of the view that prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Mr Green. 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 were mindful that the *Teacher Misconduct – The Prohibition of Teachers 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 two years.

The *Teacher Misconduct – The Prohibition of Teachers Advice* indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. The panel has found that Mr Green's actions were sexually motivated and he has used his professional position to influence/exploit Pupil A. Whilst the panel could not be sure that Mr Green's actions on 14 July 2014 would have resulted in harm to Pupil A, the panel cannot be sure that they would not have resulted in harm. As a result of the previous actions of Mr Green and his lack of insight in relation to the current incident, the panel considers there to be an ongoing risk associated with Mr Green and his behaviour.

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 provisions for a review period.

## **Decision and reasons on behalf of the Secretary of State**

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

The panel have found all the allegations proven in respect of Mr Green's inappropriate conversations and physical contact with Pupil A. They have further found that those facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering whether to recommend prohibition as an appropriate and proportionate sanction they have properly balanced the public interest with the interests of Mr Green. The panel have found a number of public interest considerations to be relevant, namely the maintenance of public confidence in the profession, the protection of pupils and the declaring and upholding of proper standards of conduct.

Mr Green has shown no insight into his behaviour, passing it off as silly story that he has subsequently regretted. There was no evidence to suggest that Mr Green was acting under duress, and in fact the panel found the teacher's actions to be deliberate and motivated. In addition the panel has seen evidence that shows the teacher was previously subject to disciplinary proceedings/warnings.

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

In considering whether to recommend a review period the panel have reflected on their finding that Mr Green's actions were sexually motivated and he has used his professional position to influence/exploit Pupil A. As a result of the previous actions of Mr Green and his lack of insight in relation to the current incident, the panel considers there to be an ongoing risk associated with Mr Green and his behaviour. Accordingly they recommend that the order should be without the opportunity for Mr Green to apply to have it set aside. I agree with their recommendation.

**This means that Mr Andrew Green 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 Andrew Green 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 Andrew Green 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.

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

**NAME OF DECISION MAKER: Paul Heathcote**

**Date: 21 April 2015**

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