



National College for
Teaching & Leadership

Mr Daniel Cooper: Professional conduct panel outcome

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

July 2016

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

Teacher: Mr Daniel Cooper

Teacher ref number: 1150219

Teacher date of birth: 16 January 1989

NCTL case reference: 14483

Date of determination: 1 July 2016

Former employer: Birkenhead High School Academy, Metropolitan Borough of Wirral

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 30 June to 1 July 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Daniel Cooper.

The panel members were Mr Phillip Riggon (teacher panellist – in the chair), Ms Jean Carter (lay panellist) and Mr Ryan Wilson (teacher panellist).

The legal adviser to the panel was Mr Peter Shervington of Eversheds LLP, solicitors.

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

Mr Cooper was present and was represented by Mr Tom Stevens, of Counsel.

The hearing took place in public, save for a portion of the evidence of Witness A and of Mr Cooper which related to the personal circumstances of a pupil. The panel decided that these parts of the evidence should be heard in private. The entire hearing was recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Proceedings dated 11 March 2016.

It was alleged that Mr Cooper was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Birkenhead High School Academy, Prenton, he:

1. Engaged in an inappropriate sexual relationship with Pupil A, whilst she was still on the roll at Birkenhead High School Academy.

Mr Cooper confirmed at the hearing that he admitted the facts of the allegation.

In the Statement of Agreed and Disputed Facts at pages 12 to 14 of the bundle, Mr Cooper denied that his conduct amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute. However, at the hearing, Mr Cooper confirmed that he accepted that the behaviour admitted amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 4

Section 2: Notice of Proceedings and response – pages 5 to 14

Section 3: NCTL witness statements – pages 15 to 21

Section 4: NCTL documents – pages 22 to 69

Section 5: Teacher documents – pages 71 to 73

The panel members confirmed that they had read all of the documents in advance of the hearing.

In addition, on the application of the teacher's representative, the panel agreed to accept a reflective statement produced by Mr Cooper into evidence prior to hearing Mr Cooper's evidence in relation to the questions of facts and unacceptable professional

conduct/conduct that may bring the profession into disrepute. This was added at pages 74 to 77 of the bundle.

Further, on the application of the teacher's representative, the panel agreed to accept the following documents prior to determining its recommendation as to sanction:

- Testimonial from Individual A – pages 78 to 79
- Testimonial from Individual B – page 80
- Testimonial from Individual C – page 81 to 82

Witnesses

The panel heard oral evidence from the following witnesses called by the presenting officer:

- Witness A, Vice Principal, Birkenhead High School Academy

The panel also heard oral evidence from Mr Daniel Cooper himself.

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 and the additional material provided during the course of the hearing.

Mr Cooper had been employed at Birkenhead High School Academy, Prenton ('the School') as a religious education teacher since 1 September 2012, initially on a part time basis, but full-time from 1 September 2013. It was alleged that he had engaged in an inappropriate sexual relationship with Pupil A, whilst she was still on the roll at the School.

Findings of fact

Our findings of fact are as follows:

Whilst employed at Birkenhead High School Academy, Prenton, you:

- 1. Engaged in an inappropriate sexual relationship with Pupil A, whilst she was still on the roll at Birkenhead High School Academy.**

The facts of the allegation were admitted by Mr Cooper. Nevertheless, the panel turned its own independent mind to the matter, considering all the evidence before it.

In the Statement of Agreed Facts at page 12 of the bundle, it was confirmed that Pupil A had been a pupil at the School and after completing her exams in the summer of 2014, she remained on the school roll until the 31 August 2014.

Mr Cooper admitted (page 13) that he had 'bumped into' Pupil A in August 2014 during a night out in a nearby town, after Pupil A had completed her exams. Pupil A was 18 years old at the time. They got talking and exchanged numbers, after which a sexual relationship developed. Mr Cooper stated that Pupil A had ended the relationship in September 2014. This was consistent with the evidence of Pupil A as shown in a record of her interview as part of the School's investigation, at page 40 of the bundle.

Mr Cooper stated that he was not aware of the fact that Pupil A remained on the school roll during August 2014 at the time of the relationship. He stated that he would not have entered into a relationship with her had he been aware that she was still on the school roll at the time (paragraph 12 of the Statement of Agreed and Disputed Facts at page 13).

Witness A, in her oral evidence, said that she felt staff would generally have been aware that pupils remained on the roll until the end of August. However, she accepted it was possible that Mr Cooper might not have known.

Witness A stated that she believed Mr Cooper was aware that Pupil A was a vulnerable individual. The panel was referred to an email at page 59 of the bundle, dated 27 November 2013, in which Mr Cooper reported concerns about Pupil A's welfare.

Mr Cooper acknowledged having provided pastoral support to Pupil A during her time at the School. In his statement at page 71 of the bundle, Mr Cooper stated that, 'During the school year [Pupil A] would sometimes come to speak to me about family problems, issues with friends and school stress. Many students did this from time to time as it was within my role as teacher to provide pastoral support to students and I was known as [sic] someone who was willing to offer support'.

When he was questioned as part of the school investigation (page 44), Mr Cooper accepted that there had been a sexual relationship. Mr Cooper explained initially that he didn't think that Pupil A was vulnerable when the relationship happened, although when asked whether he was aware of certain personal issues she faced he stated (page 45), 'yes, I had a conversation with Individual D at the start of the academic year when [Pupil A] was a student here. Individual D told me that [Pupil A] had issues and I needed to be careful.' In her statement (page 20) Individual D, head of the faculty for communications recalls warning Mr Cooper to be 'very careful' as regards Pupil A and stating words to the effect of 'you have to watch that you don't let students too close – particularly those who are vulnerable such as Pupil A'.

Mr Cooper was asked in oral evidence about his contention during the disciplinary investigation that Pupil A had not been vulnerable at the time of the relationship.

Reflecting on this, he stated the investigation came as a shock to him at the time. He said that he thought he had meant that she wasn't vulnerable 'in the sense that she was able to give informed consent'. Asked how he saw the position now, Mr Cooper said that he accepted Pupil A had been vulnerable. Indeed, he stated that any sexual relationship between a student and a teacher was one in which the student was potentially vulnerable, and that any student who was known to be dealing with emotional difficulties or stress should be regarded as vulnerable.

Mr Cooper stated at paragraph 18 of his statement at page 73, 'I honestly believed I was entering into a relationship with a person who now had no further academic connection to the School, no need to return and was moving on to university where she had secured a placement. I recognise that this was a serious error of judgement on my part and it is one that I deeply regret. But I can honestly say that this was not done with wilful disregard of the policies and procedures that are in place.' In his oral evidence, Mr Cooper said that, having had time to reflect on the situation his judgment had shifted, and he now felt that for him as a teacher to have had a sexual relationship with someone who had recently been a pupil at the School was inappropriate, regardless of whether or not she was on the roll.

Mr Cooper also acknowledged that the relationship may have had a detrimental impact on Pupil A, stating that he had not appreciated that at the time. In his 'reflective statement' at page 77 paragraph 10 he stated: 'having met [Pupil A] in the context of a school environment it was wholly irresponsible to engage in a sexual relationship with her'.

Having considered all the evidence carefully, the panel was satisfied that the facts of the allegation had been proved. The fact that the sexual relationship occurred was clear. The panel was also satisfied, after careful consideration, that this relationship was inappropriate. Pupil A remained on the school roll. As such, both the School, and Mr Cooper, as a teacher at the School, had a duty of care towards her which was breached by his actions. More fundamentally, it was inappropriate for Mr Cooper to engage in a sexual relationship in circumstances where he had met Pupil A in the context of the school environment in which he was a teacher, and where she had completed her examinations at the School only a short while before. Further, whilst no suggestion has been made of 'grooming' or pre-meditation, the irresponsibility of his actions was compounded by the fact that he had been assisting her previously in a pastoral capacity and had been advised by senior staff to be careful in the way he related to her. In all the circumstances he should have known she was, or might have been, in a vulnerable position.

For all of the reasons described, the panel have concluded that the sexual relationship was inappropriate. The panel finds the allegation to have been proved on the balance of probabilities.

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

Having found the allegation proven, the panel has gone on to consider whether the facts of the proven allegation amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel noted that Mr Cooper has admitted both elements. Nevertheless it turned its independent mind to the question.

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 Cooper in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Cooper 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.

The panel is satisfied that the conduct of Mr Cooper fell significantly short of the standards expected of the profession. He had been specifically advised to be careful in relation to Pupil A, and was aware that she had experienced personal difficulties, yet he proceeded to engage in a sexual relationship with her within weeks of her exams being completed. In doing so he showed a significant failure to recognise and observe the proper boundaries appropriate to a teacher’s professional position, and a disregard for the need to safeguard her well-being.

The panel has considered whether Mr Cooper’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. We have found that none of these offences are relevant.

In-so-far as the facts found proven can be said to have taken place outside of the education setting, the panel was satisfied that they might lead to pupils being exposed to or influenced by the behaviour in a harmful way. Pupil A remained on the school roll at the time of the relationship. She appears to have been a vulnerable individual, and her well-being may well have been put at risk by involvement in a relationship with Mr Cooper, a teacher upon whom she had previously relied for pastoral support.

Accordingly, the panel is satisfied that Mr Cooper 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 Mr Cooper's status as a teacher, potentially damaging the public's perception.

The panel considers that Mr Cooper's behaviour in embarking upon a sexual relationship with a pupil who had only recently completed her final exams and who he knew, or should have known, was in a vulnerable position, risked damaging the public's perception of the profession and the status of teachers as role models. The panel therefore finds that Mr Cooper's actions constitute conduct that may bring the profession into disrepute.

In summary, having found the facts of the allegation proved, the panel further finds that Mr Cooper's conduct amounts to both unacceptable professional conduct and 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/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: 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 Cooper, which involved a sexual relationship with a vulnerable pupil who had only recently completed her exams and was still on the

school roll, 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 Cooper 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 Cooper 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 Cooper.

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 Cooper. 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;
- 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.

The panel acknowledges that Mr Cooper did not appreciate at the time of the relationship that Pupil A was still on the school roll. Nevertheless, he knew Pupil A as a result of being a teacher at the School. Further, he had been in a position of offering her pastoral support in the same academic year, and at the time the relationship took place she had only recently left. The panel is drawn to the conclusion that, although he did not appreciate it to be so, Mr Cooper's relationship with Pupil A was inescapably connected to his role as a teacher at the School.

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. In this case, there was no evidence to suggest that Mr Cooper was acting under duress. There was also no evidence that his actions were not deliberate. Although the panel accepts that he had not appreciated that Pupil A remained on the roll, he was or should have been aware that she was a vulnerable individual, she

had only recently completed her exams, and he had previously assisted her in a pastoral capacity as a teacher.

The panel accepts that Mr Cooper did have a previously good history and the panel accepts that the incident was out of character. Indeed, the panel has heard evidence to suggest that he was a promising teacher, a view which was endorsed by Witness A in her evidence. The panel has also seen references (added at pages 78 to 82) of the bundle, which provide a positive account of Mr Cooper as a person.

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 Cooper. The fact that he decided to pursue a sexual relationship with a pupil so soon after her final exams and in circumstances where he had assisted her pastorally in the recent past 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 for them to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice suggests 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. One of these behaviours is 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.

In this case, whilst, as we have indicated, Mr Cooper's relationship with Pupil A cannot be disconnected from his role as a teacher, the panel does not see his actions as amounting to the abuse of his professional position to exploit her. In reaching this conclusion, the panel has had particular regard to the fact that their initial meeting in August 2014 appears to have been accidental, and that Mr Cooper was not aware Pupil A was still on the school roll.

The panel considers Mr Cooper's misconduct, although serious, is towards the lower end of the possible scale. Although the pupil involved, who was 18 years old, was still on the roll, she had in a practical sense left the School at the time of the relationship. Whilst she was acknowledged to be a vulnerable person there is no suggestion that that she did not consent, or that she was incapable of consenting to the relationship. This is not a case involving any predatory behaviour or 'grooming'. Mr Cooper has also shown very significant insight into his behaviour. He acknowledged as soon as he was confronted by the School with the facts that he had entered into a sexual relationship. He has further

recognised his behaviour as inappropriate and unprofessional. He has identified the ways in which his actions fell short of the proper standards expected of teachers and the need for him to avoid a similar incident occurring again. The panel is satisfied that the lessons have been learnt.

Accordingly, the panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period. In this case the panel suggests that a prohibition order should be made with the opportunity being given for Mr Cooper to apply for a review after 4 years. Mr Cooper is an enthusiastic young teacher who has shown considerable insight into his actions, but the panel considers that such a period is needed for there to be confidence that he has equipped himself to avoid similar situations arising in the future. Further, the panel considers that the public confidence in the profession would be damaged if any lesser period were sanctioned.

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 has found the allegation proven, and that Mr Cooper's conduct amounts to unacceptable professional conduct, and conduct that may bring the profession into disrepute.

The panel is satisfied that the conduct of Mr Cooper involved breaches of the Teachers' Standards.

I have considered the public interest considerations. There are a number of relevant public interest considerations in this case, namely: the protection of pupils; protection of other members of the public; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Cooper, which involved a sexual relationship with a vulnerable pupil who had only recently completed her exams and was still on the school roll, there is a strong public interest consideration in the respect of protection of pupils.

I have taken into account the need to balance the public interest with the interests of the teacher. I note that the panel, in mitigation, considered that Mr Cooper did have a previously good history, and the panel accepts that the incident was out of character. The panel heard evidence to suggest Mr Cooper was a promising teacher.

The panel has decided that the public interest considerations outweigh the interests of Mr Cooper. The panel is of the view that prohibition is both proportionate and appropriate.

I agree with the panel's view that prohibition is both proportionate and appropriate.

I now turn to the matter of a review period.

I note that the panel have considered the Advice, which indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes serious sexual misconduct. The panel has found that Mr Cooper's misconduct, although serious, is at the lower end of the possible scale. I agree with the panel's view.

I note the panel has found that this is not a case involving any predatory behaviour or 'grooming'. Mr Cooper has also shown very significant insight into his behaviour. He has further recognised his behaviours as inappropriate and unprofessional. The panel believes that a review period of four years is appropriate. I agree with the panel's view, that such a review period would allow Mr Cooper to develop the confidence to equip himself to avoid similar situations in the future.

I agree with the panel's view that a four year review period is appropriate.

This means that Mr Daniel Cooper is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 14 July 2020, four years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Cooper remains prohibited from teaching indefinitely.



Decision maker: Jayne Millions

Date: 7 July 2016

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