



National College for  
Teaching & Leadership

# **Mr Jonathan Bath: Professional Conduct Panel outcome**

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

**March 2015**

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## **Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State**

<b>Teacher:</b>	Mr Jonathan Bath
<b>Teacher ref no:</b>	33/62464
<b>Teacher date of birth:</b>	11 March 1983
<b>NCTL Case ref no:</b>	0011909
<b>Date of Determination:</b>	23 March 2015
<b>Former employer:</b>	Skegness Academy

### **A. Introduction**

A Professional Conduct Panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 23 March 2015 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Jonathan Bath.

The panel members were Mr Martin Pilkington (Lay Panellist– in the Chair), Mr Stephen Oliver (Teacher Panellist) and Cllr Gail Goodman (Teacher Panellist).

The legal adviser to the panel was Mr Thomas Whitfield of Eversheds LLP solicitors.

The presenting officer for the National College was Mr Christopher Geering of counsel, instructed by Nabarro LLP solicitors.

Mr Jonathan Bath was present and was represented by Mr Andrew Faux of counsel, instructed by the NASUWT.

The hearing took place in public and was recorded.

## **B. Allegations**

The panel considered the allegations set out in the Notice of Proceedings dated 30 December 2014.

It is alleged that Mr Jonathan Bath is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Skegness Academy, during 2013 to 2014, he engaged in an inappropriate relationship with a sixth form student, Pupil A, in that:

1. He exchanged mobile telephone numbers with Pupil A;
2. On one or more occasions he communicated with Pupil A via:
  - a) text message,
  - b) telephone calls,
  - c) e-mail,
  - d) social media;
3. His communications as set out at 2 above included message(s) of a:
  - a) personal nature,
  - b) sexual nature;
4. On or around 21 December 2013 he purchased tickets for a social event for Pupil A;
5. On one or more occasions he:
  - a) met Pupil A socially outside school,
  - b) arranged for Pupil A to come to his classroom when there was no legitimate reason for her to do so;
6. He engaged in a sexual relationship with Pupil A;
7. His conduct as set out at 1 and / or 2 and / or 3 and / or 4 and / or 5 a and / or 5 b was sexually motivated;
8. He knew or ought to have known that his conduct as set out above was an abuse of his position of trust.

Mr Bath admits allegations 1 to 6 and 8 in their entirety.

In relation to allegation 7, Mr Bath admits that his conduct as set out in allegations 2, 3 and 5a was sexually motivated, but denies that his conduct as set out in allegations 1, 4

or 5b was sexually motivated. During the hearing, the NCTL did not pursue those elements of allegation 7 that were denied.

Mr Bath admits that the admitted facts amount to unacceptable professional conduct, but does not admit that they amount to conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

The panel considered an application on behalf of Mr Bath, that the name of the school not be disclosed. The panel considered that it would not be in the interests of justice for the name of the school not to be disclosed. The application was therefore refused.

## **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 from 2 to 3;

Section 2: Notice of Proceedings and response, with page numbers from 5 to 12;

Section 3: National College for Teaching & Leadership Witness Statements, with page numbers from 14 to 19;

Section 4: National College for Teaching & Leadership Documents, with page numbers from 21 to 76; and

Section 5: Teacher Documents, with page numbers from 78 to 93.

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

### **Witnesses**

The panel heard oral evidence from Mr Bath, after the panel had made its findings as to the facts of the allegations and whether they amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## **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 Jonathan Bath was employed as a Teaching Assistant at St Clement's College from September 2004 to July 2008. In July 2008 Mr Bath was appointed as an Instructor of Business Studies. In September 2010 St Clement's College became Skegness Academy (the "School") and Mr Bath continued to be employed there as an Instructor of Business Studies.

The events to which the allegations relate are said to have taken place, variously, between 2013 and 2014. At the time that the alleged conduct is said to have taken place, Pupil A was a student at the School and was aged 18 or over.

On 14 May 2014, allegations regarding the relationship between Pupil A and Mr Bath were reported to the Principal of the School. On 15 May 2014, Mr Bath was suspended from his position and on 19 May 2014 Mr Bath resigned.

### **Findings of Fact**

The panel finds the following allegations proven.

#### **1. Mr Bath exchanged mobile telephone numbers with Pupil A;**

Mr Bath admits the facts of the allegation and this admission is consistent with the rest of the evidence before the panel. The panel finds this allegation proven.

#### **2. On one or more occasions he communicated with Pupil A via:**

##### **a) text message,**

Mr Bath admits the facts of this allegation, a number of the text messages were shown to the panel and the admission is consistent with the rest of the evidence before the panel. The panel finds this allegation proven.

##### **b) telephone calls,**

Mr Bath admits the facts of this allegation and no evidence to the contrary was presented to the panel. The panel finds this allegation proven.

**c) e-mail,**

Mr Bath admits the facts of this allegation and a number of the e-mails were shown to the panel. The panel finds this allegation proven.

**d) social media;**

Mr Bath admits the facts of this allegation and no evidence to the contrary was presented to the panel. The panel finds this allegation proven.

**3. His communications as set out at 2 above included message(s) of a:**

**a) personal nature,**

Mr Bath admits the facts of this allegation and the panel has had the opportunity to review some of the communications in question. On these bases the panel finds this allegation proven.

**b) sexual nature;**

Mr Bath admits the facts of this allegation and the panel has had the opportunity to review some of the communications in question. On these bases the panel finds this allegation proven.

**4. On or around 21 December 2013 he purchased tickets for a social event for Pupil A;**

Mr Bath admits the facts of this allegation and it is consistent with the rest of the evidence before the panel, including contemporaneous text messages regarding the purchase. The panel finds this allegation proven.

**5. On one or more occasions he:**

**a) met Pupil A socially outside school,**

Mr Bath admits the facts of this allegation and it is consistent with the rest of the evidence before the panel. The panel finds this allegation proven.

**6. He engaged in a sexual relationship with Pupil A;**

Mr Bath admits the facts of this allegation and it is consistent with the rest of the evidence before the panel, including that of Pupil A. The panel finds this allegation proven.

**7. His conduct as set out at 1 and / or 2 and / or 3 and / or 4 and / or 5 a and / or 5 b was sexually motivated;**

Mr Bath admits that his conduct as set out at 2, 3 and 5a was sexually motivated. The panel finds these elements of the allegation proven.

Mr Bath denies that his conduct as set out at 1, 4 or 5b was sexually motivated and the NCTL did not pursue these elements of the allegation during the hearing. The panel finds these elements of the allegation not proven.

**8. He knew or ought to have known that his conduct as set out above was an abuse of his position of trust.**

Mr Bath admits the facts of this allegation. The panel also considers, on the basis of all of the other facts that it has found proven, that Mr Bath knew or ought to have known that his conduct was an abuse of his position of trust. The panel therefore finds this allegation proven.

The panel finds the following allegation not proven.

**5. On one or more occasions he:**

**b) arranged for Pupil A to come to his classroom when there was no legitimate reason for her to do so;**

Mr Bath admits the facts of this allegation. The panel notes however that, although the remainder of the evidence before it is consistent with Pupil A coming to Mr Bath's classroom, it is not consistent with there being no legitimate reason for her to do so.

In particular, where Mr Bath's own statement deals with Pupil A coming to his classroom, he presents legitimate reasons for her to do so. Mr Bath states that in December 2013 during lunch times, as the weather was getting much colder, four sixth form students, including Pupil A, asked if they could sit in his classroom to keep out of the cold. Mr Bath goes on to describe the attendance of Pupil A at an open evening and again there appears to the panel to be a legitimate reason for Pupil A being in Mr Bath's classroom during that open evening. Pupil A's witness statement supports Mr Bath's position, save for a slight discrepancy in timing, and also states that it was Pupil A's decision to attend Mr Bath's classroom during self supported study time.

For these reasons, the panel is not satisfied that there was no legitimate reason for Pupil A to go to Mr Bath's classroom. Accordingly, the panel finds this allegation not proven.

## **Findings as to unacceptable professional conduct and/or 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, referred to hereafter as the ‘guidance’.

The panel is satisfied that the conduct of Mr Bath, in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Bath 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 has also considered whether Mr Bath’s conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the guidance but has found none of these offences to be relevant.

The panel notes that the guidance provides that misconduct outside of the education setting will only amount to unacceptable professional conduct if it affects the way the person fulfils their teaching role or if it may lead to pupils being exposed to or influenced by the behaviour in a harmful way. It is clear to the panel that the relationship between Mr Bath and Pupil A started within the education setting and that the majority of the allegations took place, in whole or in part, in the education setting. The panel accepts that there could be some argument as to whether some of the misconduct, in particular that particularised in allegations 4, 5a and 6, took place outside the education setting. However, the panel has been mindful that in deciding whether Mr Bath is guilty of unacceptable professional conduct, it is to look at all of the proven facts in the round. Given the severity of Mr Bath’s conduct that fell firmly within the education setting, the panel is satisfied, on the basis of that conduct alone, that Mr Jonathan Bath is guilty of misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. On these bases, the panel finds Mr Bath guilty of unacceptable professional conduct.

The panel has gone on to consider, separately, whether the facts it has found proven amount to conduct that may bring the profession into disrepute. In doing so, 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 panel notes that misconduct outside of the education setting may be considered to be relevant if it is serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception of them, therefore bringing the profession into disrepute. Again, the panel has been mindful of the potential for argument as to whether any of Mr Bath's conduct took place outside the education setting. The panel finds that the facts of the allegations it has found proven are serious and that the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception of them, therefore bringing the profession into disrepute. On this basis, whether or not any of Mr Bath's conduct can properly be viewed as outside the education setting, the panel is satisfied that it does amount to 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 guidance and having done so has found a number of them to be relevant in this case, namely, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Bath were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also considers that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Bath 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 Bath.

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 Bath. 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;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils; and
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to 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.

There was no evidence that Mr Bath's actions were not deliberate. Nor was there any evidence to suggest that he was acting under duress.

The panel understands however that Mr Bath has a previously good history. The panel also took into account the fact that Mr Bath admitted his misconduct from the outset and resigned almost straight away.

The panel also found Mr Bath's evidence in mitigation to be convincing, at least in part, in that the panel was satisfied that Mr Bath has developed insight into his actions. This impression, which the panel developed from Mr Bath's oral evidence, was also consistent with the letters of support put forward in evidence, which referred to Mr Bath's remorse for his actions.

The panel has also considered the evidence of Pupil A herself. Pupil A has indicated that she has suffered no harm as a result of the relationship with Mr Bath, quite the contrary. Pupil A was an adult throughout the events giving rise to the allegations and her evidence to the panel shows a significant level of maturity. Notwithstanding this, the panel is wary of placing too much weight on the evidence of Pupil A, given the student-teacher relationship that existed between them.

Taking all of the above into consideration, the panel is of the view that prohibition is both proportionate and appropriate. The panel decided that the public interest considerations outweigh the interests of Mr Bath. Mr Bath's abuse of the position of trust in which he was placed was a significant factor in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for them to recommend that a review period of the order should be considered. The panel was mindful that the guidance 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 guidance indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these is serious sexual misconduct.

The guidance gives the following example of serious sexual misconduct – *“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”*.

It is clear to the panel that Mr Bath is guilty of sexual misconduct and indeed the panel has already found that some of Mr Bath's conduct was sexually motivated. In terms of harm, Pupil A, who is an adult (and was at the time), has given evidence that she has suffered no harm as a result of the relationship with Mr Bath, indeed she is very positive about her relationship with Mr Bath, which, at the time of the hearing, continues.

The panel notes that Mr Bath was placed in a position of trust in respect of Pupil A, who was a student at the School at which Mr Bath taught. The breach of this trust has been of significant concern to the panel throughout this process. At this stage however, the panel is tasked with considering whether Mr Bath has gone further that this, to abuse his position to influence or exploit Pupil A. The panel has not been satisfied that Mr Bath has taken this further step. The panel is mindful that Pupil A was not in any of Mr Bath's classes and there was no indication in the evidence that Mr Bath had pursued Pupil A or attempted to use his professional position to influence or exploit Pupil A.

Against this background, the panel has considered where this case falls on the spectrum between sexual misconduct and serious sexual misconduct – the distinction drawn in this part of the guidance. Clearly all sexual misconduct is a serious matter, but given that Pupil A was aged 18 or over throughout the alleged events and given the evidence from Pupil A to the effect that she has suffered no harm as a result of the relationship with Mr Bath, the panel concluded that Mr Bath's conduct did not lie at the serious end of this spectrum between sexual misconduct and serious sexual misconduct. The panel therefore concluded that Mr Bath has not been engaged in serious sexual misconduct.

As noted above, the panel has been satisfied that Mr Bath has shown insight into his actions. When giving oral evidence, Mr Bath took the opportunity to apologise for his conduct, which he described as “foolish”. The panel accepted this as a genuine expression of remorse.

In addition, every indication to the panel has been that Mr Bath shows real passion for teaching and has worked extremely hard to reach his position as an instructor.

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 provision for a review period.

Given Mr Bath’s insight, remorse and recognition of the impropriety of his actions, the panel recommends that Mr Bath should be given the opportunity to make representations to a future panel to set aside any prohibition order when five years have elapsed.

The panel believes that it is only once Mr Bath has had time to reflect further on his actions and the impact it could have had on Pupil A, that he will stand any real prospect of satisfying a future panel that he is a person who can again be given the trust that is required in a teaching role.

## **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 a range of allegations proven in respect of his relationship with Pupil A and have found that the proven facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

In deciding whether to recommend a prohibition order as an appropriate and proportionate sanction, the panel have judged that Mr Bath’s actions bring to the fore a number of public interest considerations namely:

- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

Even though there were behaviours that would point to a prohibition order being imposed, the panel have considered potential mitigating factors. There is no evidence to suggest that his actions were anything other than deliberate and he was not acting under duress. Mr Bath had a previously good history and admitted his misconduct from the outset, resigning almost immediately. The panel is persuaded that Mr Bath has developed insight into his actions and he has shown remorse. Pupil A has been clear that she has suffered no harm as a result of the relationship and she was aged 18 or over throughout the alleged events.

In all the circumstances I agree with the panel’s recommendations that it is both appropriate and proportionate for Mr Bath to be prohibited from teaching, but that he

should be allowed to apply to have the order set aside after a minimum period of 5 years has elapsed.

**This means that Mr Jonathan Bath 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 1 April 2020, 5 years from the date of this order at the earliest.** This is not an automatic right to have the prohibition order removed. If he/she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Jonathan Bath remains prohibited from teaching indefinitely.

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

Mr Jonathan Bath 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**

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

**Date: 25 March 2015**

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