



National College for
Teaching & Leadership

Ms Joanne Laura Clarke: Professional conduct panel outcome

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

April 2015

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	4
Documents	4
Witnesses	4
E. Decision and reasons	4
Panel's recommendation to the Secretary of State	7
Decision and reasons on behalf of the Secretary of State	10

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

Teacher:	Ms Joanne Laura Clarke
Teacher ref no:	0575109
Teacher date of birth:	16 March 1982
NCTL case ref no:	12598
Date of determination:	10 April 2015
Former employer:	Friesland School, Nottingham

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 10 April 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Joanne Laura Clarke.

The panel members were Robert Cawley (teacher panellist – in the chair), Nicolé Jackson (lay panellist) and Sharon Gimson (lay panellist).

The legal adviser to the panel was Patricia D’Souza (Eversheds LLP).

The presenting officer for the National College was Fiona Butler (Browne Jacobson LLP) and was not present.

Joanne Clarke was not present and was not represented.

The meeting took place in private and was not recorded, save for the public announcement of the panel’s decision on the facts and whether the facts amounted to unacceptable professional conduct which was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 25 March 2015.

It was alleged that Joanne Clarke was guilty of unacceptable professional conduct in that whilst employed at Friesland School, Nottingham you:

1. Engaged in an in appropriate relationship with Pupil A;
2. And in so doing, your actions were sexually motivated.

C. Preliminary applications

There were no preliminary applications.

D. Summary of evidence

Documents

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

Section 1:	Chronology and Anonymised Pupil List	Pages 1 – 3
Section 2:	Notice of Referral, response and notice of meeting	Pages 4 – 8b
Section 3:	Statement of Agreed Facts and Presenting Officer Representations	Pages 9 – 13
Section 4:	National College for Teaching and Leadership Documents	Pages 14 – 32
Section 5:	Teacher Documents	Pages 33 - 36

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

Witnesses

As this was listed as a meeting, the panel heard no oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel has read all the documents provided in the bundle in advance of the meeting.

Ms Clarke worked as a Sociology and Religious Studies teacher at Friesland School (“the school”) from 22 January 2007. Pupil A, an ex-pupil of the school contacted the headteacher in June 2014 by email to discuss a complaint. This led to Ms Clarke emailing the headteacher to confirm that a relationship with Pupil A had occurred in 2009 and following this Ms Clarke resigned from her position with effect from 31 August 2014.

Findings of Fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

1. Engaged in an inappropriate relationship with Pupil A;

Pupil A was a sixth form pupil at the school where Ms Clarke was employed as a teacher. In the statement of agreed facts, Ms Clarke admits that in June 2009 when Pupil A was 17 she suggested that Pupil A meet her dog. This she explained, in her written representations to the National College, came about because Pupil A had expressed sadness at losing his own dog and Ms Clarke had offered him the opportunity to meet her dog.

In the agreed statement of facts and her written representations, Ms Clarke admits that in July 2009 she arranged to meet Pupil A outside of the school premises and teaching hours, on multiple occasions to walk Ms Clarke’s dog. During this time they exchanged mobile numbers for the purpose of arranging further dog walks.

Ms Clarke also admits that in August 2009 she met Pupil A outside of school more regularly, including going to the cinema and restaurants, and exchanged text messages with Pupil A throughout this period. She admits that their relationship continued after Pupil A left the school to go on to college. The relationship developed into a sexual relationship when Pupil A was over the age of 18 and had left the school. In her written representations to the National College, Ms Clarke accepts, that their “growing friendship” may have contributed to Pupil A’s decision to leave school and go to college.

Ms Clarke indicates in her written representations that Pupil A’s family became aware of the relationship and accepted this, as Ms Clarke spent several nights at Pupil A’s mother’s house during Christmas in 2009.

In a note of Ms Clarke’s meeting with the school, included in the bundle of documents, it is stated that Pupil A had notified the police that he had been 18 when the relationship started. The panel regarded this reference to relate to the sexual relationship starting when Pupil A was 18.

The panel considered that Ms Clarke's relationship with Pupil A was inappropriate as it went beyond the professional boundaries of an appropriate pupil/teacher relationship. The panel considered the evidence indicated that the relationship started whilst Pupil A was aged 17. Although the relationship became sexual, when Pupil A had turned 18 and was no longer a pupil of the school, the relationship itself had begun when he was 17. However, the panel considered that Ms Clarke breached the position of trust placed upon her as a member of the teaching profession. In her written representations to the National College, Ms Clarke accepts that she held a position of trust and that she acted inappropriately in a position of power and abused that position of trust. For these reasons, the panel finds this allegation proven.

2. And in so doing, your actions were sexually motivated.

In the statement of agreed facts, Ms Clarke agrees that her conduct was sexually motivated. Since sexual intercourse took place between Ms Clarke and Pupil A (albeit when he was 18 and had left school), the panel considered that it was more likely than not that the activity referred to above under allegation 1 was sexually motivated. The panel therefore finds this allegation proven.

Findings as to unacceptable professional conduct

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 it refers to as the 'guidance'.

The panel is satisfied that the conduct of Joanne Clarke in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to part two, Ms Clarke 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, and maintain high standards in their own attendance and punctuality;
- 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 Joanne Clarke fell significantly short of the standards expected of the profession as conducting an inappropriate relationship with a

pupil, which was sexually motivated is a breach of the position of trust placed upon a teacher.

The panel has also considered whether Ms Clarke's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the guidance. The panel finds that Ms Clarke's behaviour is associated with the offence of sexual activity. In particular, Ms Clarke's conduct towards Pupil A was sexually motivated whilst he was a pupil of the school and was aged 17, which led to them engaging in sexual activity at a later date. The guidance 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 circumstances relating to the allegations took place outside of school hours when Ms Clarke and Pupil A met to walk her dog and attend restaurants and led to the development of an inappropriate relationship. Ms Clarke's conduct was harmful to Pupil A as he should have been able to place trust in Ms Clarke as a teacher and she should not have let this situation occur. The breach of the position of trust affects the way Ms Clarke fulfils her teaching role or may lead to pupils being exposed to or influenced by the behaviour in a harmful way.

Accordingly, the panel is satisfied that Joanne Clarke is guilty of unacceptable professional conduct.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct, 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 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 Ms Clarke, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of an inappropriate sexually motivated relationship with Pupil A, which became sexual in nature after Pupil A had turned 18.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Clarke were 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 Ms Clarke was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations, 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 Ms Clarke.

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 Ms Clarke. 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 well-being 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
- 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 of the behaviour in this case.

The panel noted from Ms Clarke's written representations that at the time of the events reflected in the allegations above, she was undergoing personal and work related pressures. The panel did not consider that Ms Clarke was acting under duress. Ms Clarke indicates in her written representations, that she was the "responsible adult" and should have discouraged Pupil A from forming an interest in her.

There is no information in the bundle that attests to Ms Clarke's previous teaching history or character and therefore the panel assumes that she was not subject to previous disciplinary proceedings or warnings. However the panel noted Ms Clarke's

acknowledgment, in her written representations, that she accepts her behaviour had a negative impact upon Pupil A's life and that she acted inappropriately in a position of power and abused a position of trust.

Despite the mitigating factors that were present in this case, 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 Ms Clarke. Forming an inappropriate relationship with Pupil A which was sexually motivated, was the determining 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 it 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 2 years.

The guidance indicates that there are behaviours that, if proven, should lead the panel to consider recommending no review period. One of these behaviours is serious sexual misconduct, eg 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. The panel has found that Ms Clarke has been responsible for abusing her position of trust and forming an inappropriate relationship which was sexually motivated. Ms Clarke herself acknowledges the harmful effect her behaviour has had on Pupil A in that he is angry and may feel that he was taken advantage of.

Even though the panel had found that Ms Clarke's behaviour amounted to serious sexual misconduct, the panel considered the mitigation evidence rendered it disproportionate and punitive for a prohibition order to be imposed without a review period. The panel accepts that Ms Clarke has shown insight into her behaviour as she deeply regrets her actions and has expressed remorse for the "hurt and emotional damage" that she may have caused Pupil A. The panel accepted that Ms Clarke was of previous good character and there was no evidence of any other behaviour of this nature throughout her teaching career. Because of Ms Clarke's insight, and the lack of repetition, the public interest is served by the panel's finding of unacceptable professional conduct and recommendation that a prohibition order should be imposed. The panel considered that it would not be proportionate or in the public interest to recommend that no review period be imposed.

Therefore the panel considered this was 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 of 2 years.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to the findings and recommendations of the panel in this case. The panel have found the allegations proven in that Ms Clarke engaged in an inappropriate relationship with Pupil A and in doing so her actions were sexually motivated. The panel have concluded that Ms Clarke is guilty of unacceptable professional conduct.

In considering whether to recommend the imposition of a prohibition order the panel have balanced the interests of the public with those of Ms Clarke. They have found a number of public interest considerations 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. Whilst the panel have noted that Ms Clarke was undergoing personal and work related pressures at the time, there is no evidence to suggest she was acting under duress.

The panel have recommended that a prohibition order would be an appropriate and proportionate sanction and I agree with that recommendation.

In considering whether to recommend a review period the panel have referred to the Secretary of State's advice, *Teacher misconduct: The prohibition of teachers*. They have noted that serious sexual misconduct is a behaviour that should lead a panel to consider recommending no review period. However, the panel have balanced this with the mitigating factors present in this case. Ms Clarke has demonstrated insight into her behaviour and expressed remorse. She has acknowledged that she has abused a position of trust and also the harmful effect that her behaviour has had on Pupil A. The panel have accepted that Ms Clarke was of previous good character and that there was no evidence of repetition. The panel have recommended that Ms Clarke be allowed to apply to have the order set aside after a minimum period of two years has passed.

Whilst Ms Clarke has undoubtedly shown insight and remorse, her behaviour nevertheless amounted to serious sexual misconduct. The panel have referenced the Secretary of State's advice in relation to this category of behaviour as being behaviour that should lead to the consideration of an order with no review. Whilst accepting the mitigation offered by Ms Clarke and clearly outlined in the panel's recommendation, I am mindful of the harmful effect her behaviour has had on Pupil A and have decided that a review period of 5 years is both appropriate and proportionate in this case.

This means that Ms Joanne Laura Clarke is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 20 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 she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Joanne Laura Clarke remains prohibited from teaching indefinitely.

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

Ms Joanne Laura Clarke has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she 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: 14 April 2015

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