



National College for
Teaching & Leadership

Mr Ian McLean: Professional conduct panel outcome

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

March 2016

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

Teacher: Mr Ian McLean
Teacher ref number: 0664012
Teacher date of birth: 2 May 1985
NCTL case reference: 11953
Date of determination: 15 March 2016
Former employer: Rainhill High School Media Arts College

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 17 June 2015 and 14 to 15 March 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Ian McLean.

The panel members were Mr Tony James (teacher panellist – in the chair), Ms Jean Carter (lay panellist) and Ms Sheba Joseph (teacher panellist).

The legal adviser to the panel was Mr Nick Leale of Blake Morgan solicitors.

The presenting officer for the National College was Ms Sarah Pryzbylksa on 17 June 2015 and Mr Peter Lownds on 14-15 March 2016, both of 2 Hare Court Chambers and instructed by Nabarro Solicitors.

Mr Ian McLean was present and was represented by Mr Robert Young of 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 2 April 2015.

It was alleged that Mr Ian McLean was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, whilst employed as a teacher at Rainhill High School Media Arts College and/or later at The County High School, Leftwich, in 2013:

1. He engaged in inappropriate communication via Facebook with the following pupils from Rainhill High School Media Arts College:
 - a. Pupil A,
 - b. Pupil B,
 - c. Pupil C,
2. The Facebook communications which are referred to at (1) above were inappropriate and included messages of a sexual nature;
3. His conduct as set out at 1 and/or 2 above was sexually motivated.

All of the allegations were denied.

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 – page 2.

Section 2: Notice of Proceedings and Response – pages 4 to 9.

Section 3: NCTL witness statements – pages 11 to 23.

Section 4: NCTL documents – pages 25 to 50.

Section 5: Teacher documents – pages 52 to 74.

In addition, the panel agreed to accept the following documents into the bundle:

1. Signed witness statement of pupil C – added to section 3 at pages 20 to 23;
2. Safety and welfare concern form dated 15 May 2014 – added to section 4 at pages 50a to 50b;
3. Signed witness statements of Witness A, Witness B and Witness C – added to section 5 at pages 75 to 77;
4. Transcript of proceedings on 17 June 2015 – new section 6 (Transcripts) pages TR1 to TR53.

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

Witnesses

The panel heard oral evidence from:

1. Pupil B;
2. Pupil A;
3. Pupil C;
4. Mr Ian McLean;
5. Witness A;
6. Witness B;
7. Witness C.

E. Decision and reasons

The panel announced its decision and reasons as follows:

We have 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.

This is a case in which it was alleged that the teacher Mr McLean had embarked on Facebook exchanges with three pupils at his former school that were inappropriate and included messages of a sexual nature. In doing so it was alleged that he had acted with sexual motivation. The messages had been sent at night soon after Mr McLean had added the relevant pupils as friends on his Facebook account. The messages written by Mr McLean had included comments as to the size of one pupil's breasts and enquiries as

to whether the pupils had a 'mischievous' or 'naughty' side. One pupil was asked to send photos of herself to Mr McLean.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

1. You engaged in inappropriate communication via Facebook with the following pupils from Rainhill High School Media Arts College:

a. Pupil A,

b. Pupil B,

c. Pupil C.

We find these factual particulars proved. We reject Mr McLean's suggestion that the messages may have been written by one of his social group. We are satisfied on the balance of probabilities that Mr McLean sent all of the messages as described by pupils A, B and C. Mr McLean and his witnesses stated that the social group sent messages from each other's Facebook accounts. We do not believe that this is what happened in this case. The limited examples given of such behaviour were in a context of individual messages of a nature that could be described as 'banter', put forward with the intent to embarrass. The communications described by the pupils were not so light-hearted in tone and were of a communication/conversational nature. The exchanges with pupil A in particular were lengthy (over 100 messages) and must have been exchanged over a lengthy period of time. This removes any likelihood that they were written quickly by someone on Mr McLean's phone/account, without his knowledge, even if the content had been indicative of this, which it was not. Furthermore, we have seen that following the exchanges with pupil A, Mr McLean apologised for his behaviour. Although struggling to remember what he had written he clearly accepts that the messages must have been written by him. A different explanation only followed later when suggested by pupil A. The various communications with the three pupils contained consistencies between them with regard to the language used. For example, reference to the pupils' 'naughty side'. This is further evidence in support of the contention that all of the messages were written by the same person and that person was Mr McLean.

2. The Facebook communications which are referred to at (1) above were inappropriate and included messages of a sexual nature.

We find this factual particular proved. The fact that Mr McLean was befriending his former students and/or students who were pupils at his former school as his friends on Facebook, and communicating with them through that social media platform was

inappropriate in itself. The content of the various messages speaks for itself. Clearly they included messages of a sexual nature as well as being simply inappropriate in nature. Examples include asking pupils A and B if they had a 'naughty side' and asking pupil A if she had a 'mischievous side' and whether she was a girl 'who had fun'. Furthermore, Mr McLean stated to pupil B that he had seen that she 'had big boobs at the prom' and asked pupil C to send him photographs of herself, a request that was followed by a winking face.

3. Your conduct as set out at 1 and/or 2 above was sexually motivated.

We find this factual particular proved. It must follow from the above that sending messages of a sexual nature to female pupils was sexually motivated.

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

Having found all of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which we refer to as “the Advice”.

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

The panel is satisfied that the conduct of Mr McLean fell significantly short of the standards expected of the profession. Furthermore, his behaviour clearly impacted on pupils within the school. The facts were widely discussed within the school and an investigation took place. Pupils were exposed to and influenced by Mr McLean's behaviour in a harmful way.

Accordingly, the panel is satisfied that Mr McLean is guilty of unacceptable professional conduct.

The panel notes that there was a significant negative impact on pupil well-being and the relevant educational setting. However, in this case, the actual conduct took place outside of the education setting. In the circumstances the panel has also 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 that they behave.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore finds that the actions of Mr McLean constitute 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.

In light of the panel's findings against Mr McLean, which involved sending social media messages to female pupils of a sexual nature, as explained above, there has clearly been a serious departure from the personal and professional conduct elements of the Teachers' Standards. This case involves sexual misconduct. However, the panel believes it is at the lower end of the scale of such cases.

These events occurred at a very difficult time in Mr McLean's life. He was, at the time, suffering significant personal upheaval, including divorce and the imminent arrival of his first child with whom he would initially have no contact. The circumstances had resulted in him moving back in with his mother.

It is in the above context that the panel has taken account of the relevant public interest considerations and weighed them against the interests of the teacher. The panel has considered all of the mitigation present which includes the state of Mr McLean's personal life at the time and his previous good character. There is no doubt, as the testimonial evidence clearly shows it, that Mr McLean is a highly rated and committed member of the teaching profession. He had high standing within the local community through his involvement in the local football club.

Taking all of the above as well as our factual findings into account, the panel has concluded that the public interest is sufficiently protected by the serious findings of

unacceptable professional conduct/bringing the profession into disrepute that the panel has made.

The panel therefore recommends against the imposition of a prohibition order in this case. In the panel's view such an order would be disproportionate in the context of this case. The panel does not believe there is any risk of a repeat of such behaviour given the personal context in which the relevant events occurred. Everyone, including the panel, is agreed that these actions were out of character.

The panel is satisfied that public confidence in the profession will be maintained without such an order being made, taking into account the personal circumstances that presented at the relevant time, the less serious nature of the sexual misconduct and the earlier imposition of an interim prohibition order that has run for nearly two years. Mr McLean is apologetic, has demonstrated clear insight into the risks of social media and no longer uses such modes of communication.

Decision and reasons on behalf of the Secretary of State

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

This is a case in which the teacher has been found to be engaging in inappropriate communication with three pupils. That communication has been found to be sexually motivated.

The panel say that they “reject Mr McLean's suggestion that the messages may have been written by one of his social group. We are satisfied on the balance of probabilities that Mr McLean sent all of the messages as described by pupils A, B and C.”

I have noted that the panel considers that by reference to part two of the standards, Mr McLean 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;

The panel set out in their findings that they are satisfied that the conduct of Mr McLean fell significantly short of the standards expected of the profession. The panel also find that Mr McLean's behaviour clearly impacted on pupils within the school. The panel found that “the facts were widely discussed within the school and an investigation took place. Pupils were exposed to and influenced by Mr McLean's behaviour in a harmful way.”

The panel go on to say that the findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore finds that the actions of Mr McLean constitute conduct that may bring the profession into disrepute.

The panel go on to say that "there has clearly been a serious departure from the personal and professional conduct elements of the Teachers' Standards."

The panel has gone on to consider the mitigation put forward by Mr Mclean. I have also given careful consideration to that. I note the panel's comments that "these events occurred at a very difficult time in Mr McLean's life."

I have taken into account the need to balance the public interest and the interest of Mr Mclean. I have noted the need to be proportionate. A prohibition order should not be punitive although its effect may be punitive.

In my judgement the panel has not taken sufficient account of the seriousness of these actions and has given a greater degree of weight to the mitigation offered than I feel is appropriate. In my judgement Mr McLean's behaviour is very serious. He sent these messages to 3 pupils over a period of time. He initially tried to deny his personal involvement. His behaviour had "a significant negative impact on pupil well-being." His conduct was sexually motivated and he "asked pupil C to send him photographs of herself, a request that was followed by a winking face."

In my view it is therefore in the public interest, proportionate and in line with the guidance set out by the Secretary of State to impose a prohibition order. In this particular case and in all of the circumstances as set out I do not feel that it is sufficient simply to declare in public a finding of unacceptable professional conduct.

I now turn to the issue of a review period. Clearly there is no recommendation of the panel on this matter.

Taking into account this case and recognising the various elements of mitigation, it does seem to me that in this case a 2 year review period would be appropriate and proportionate.

This means that Mr Ian McLean 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 25 March 2018, 2 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 Ian McLean remains prohibited from teaching indefinitely.

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

Mr Ian McLean 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 'Alan Meyrick', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 21 March 2016

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