



National College for
Teaching & Leadership

Mr Paul Lunn: Professional conduct panel outcome

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

May 2016

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

Teacher: Mr Paul Lunn

Teacher ref number: 1143615

Teacher date of birth: 2 October 1971

NCTL case reference: 0014269

Date of determination: 31 May 2016

Former employer: Oulder Hill Community School, Greater Manchester

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 31 May 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Paul Lunn.

The panel members were Dr Robert Cawley (teacher panellist – in the Chair), Mrs Fiona Tankard (teacher panellist), and Mr Rob Allan (lay panellist).

The legal adviser to the panel was Ms Eve Piffaretti of Blake Morgan LLP solicitors.

The presenting officer for the National College was Kayleigh Brooks of Browne Jacobson LLP solicitors.

Mr Lunn 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 7 February 2016.

It was alleged that Mr Paul Lunn is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

Whilst employed at Oulder Hill Community School, Mr Paul Lunn:

1. Engaged in an inappropriate relationship with former Pupil A.
2. Received inappropriate images from former Pupil A.
3. Engaged in sexual activity with former Pupil A.
4. In so doing 1-3 above, Mr Paul Lunn's actions were sexually motivated.
5. Failed to notify relevant safeguarding authorities about former Pupil A's self-harm and suicide risk.

The facts of the allegations were not admitted.

No admission was made as to whether the alleged facts amounted to unacceptable professional conduct or conduct that may bring the profession into dispute.

C. Preliminary applications

Proof of Service/Proceeding in the Absence of the Teacher

The panel considered proof of service of the Notice of Proceedings and an application from the presenting officer to proceed in the absence of Mr Lunn.

Having received legal advice, the panel announced its decision and reasons for that decision were as follows:

The panel has considered an application by the Presenting Officer for the hearing to proceed in the absence of Mr Lunn.

The panel was satisfied that the proceedings had been served on Mr Lunn in accordance with Paragraphs 4.11 of the Teacher Misconduct - Disciplinary Procedures for the Teaching Profession ("the Disciplinary Procedures"). The panel also noted the contents of Regulation 19 of the Teacher's Disciplinary (England) Regulations 2012. The Notice of Proceedings was sent to Mr Lunn's last known address on 7 February 2016 and we are satisfied that the Notice included the information required to be included in accordance with Paragraph 4.12.

The panel then considered whether it was appropriate to proceed in the absence of Mr Lunn.

The panel accepted the legal advice provided and considered carefully each of the criteria set out in *R v Jones and Tait v Royal College of Veterinary Surgeons*. The panel proceeded with great care and caution and with close regard to the overall fairness of the proceedings.

The panel took into account the seriousness of the case, the risk of reaching the wrong conclusion as a result of not being able to hear from Mr Lunn and the potential consequences for him. The panel took into account that they have been provided with the video interview given under caution by Mr Lunn to Greater Manchester Police at Bury Police Station on 26 September 2014. This interview was given in the presence of Mr Lunn's legal representative. The panel will, therefore, have the benefit of hearing Mr Lunn's verbatim account provided to the Police.

The panel was satisfied that Mr Lunn appears to have voluntarily absented himself and has waived his right to attend. The panel concluded that an adjournment would serve no purpose particularly as Mr Lunn has not, at any stage, engaged with the NCTL process or indicated that he wishes to be represented. Furthermore, the panel were not satisfied, on the balance of probabilities, that Mr Lunn would provide further evidence or attend on a future date.

The panel also noted that one witness had attended today to provide evidence to it. The panel decided that it is in the public interest for the proper regulation of the profession and the protection of the public that this case should proceed and that the hearing should take place without delay.

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 5

Section 2: Notice of Proceedings and Response – pages 6 to 22

Section 3: NCTL witness statements – pages 23 to 26

Section 4: NCTL documents – pages 27 to 127

In addition, the panel agreed to accept the following:

Video interview of Mr P Lunn (Greater Manchester Police): 26 September 2014

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

Witnesses

The panel heard oral evidence from Witness A, Headteacher at Oulder Hill Community School (“the School”).

The panel also viewed the video interview under caution of Mr Lunn by Greater Manchester Police which took place on 26 September 2014 in its entirety.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Brief summary

Mr Lunn commenced working at the School as a maths teacher on 1 September 2012. In September 2014 the Headteacher was informed of an allegation that Mr Lunn was having a relationship with a 16 year old former student (Pupil A). The Headteacher met with Mr Lunn on 17 September 2014 to advise him of the allegation, which Mr Lunn denied. Pupil A disclosed that she had been in a relationship with Mr Lunn and later provided a statement to the Police, on 15 October 2014. She stated that the relationship had started 2 weeks after the school Prom, which had taken place on 28 June 2014. The Police interviewed Mr Lunn on 26 September 2014 and he admitted to being in a relationship with Pupil A. Mr Lunn was suspended from duty by the Headteacher on 29 September 2014. The allegation was also referred to the Local Authority and a Strategy Meeting was held on 1 October 2014. On 2 February 2015, the Police confirmed that the school should continue its disciplinary process. A disciplinary hearing was held on 15 May 2015 following which Mr Lunn was summarily dismissed. The Police took no further action.

Findings of fact

Our findings of fact are as follows:

Whilst employed at Oulder Hill Community School, Mr Paul Lunn:

1. Engaged in an inappropriate relationship with former Pupil A.

The panel heard evidence from Witness A, Headteacher, whom the panel considered to be a credible witness. He stated that Mr Lunn had taught Pupil A for two years, whilst she

was a pupil in Years 10 and 11. He had taught her 4 lessons per week in maths. The panel noted that Mr Lunn had attended safeguarding training at the school, which included guidance on power and positions of trust and appropriate reporting procedures.

The panel noted that Mr Lunn and Pupil A met up on 22 July 2014 and commenced a relationship. When questioned by the Headteacher on 17 September 2014 about his relationship with Pupil A, Mr Lunn denied the allegation and stated that Pupil A just had a crush on him. Mr Lunn subsequently admitted in his interview with the Police on 26 September 2014 that he was in a relationship with Pupil A. Mr Lunn stated that he had first met Pupil A on 22 July 2014 but that prior to this, at the school Prom on 28 June 2014, he had discovered that Pupil A had a crush on him. He also stated that about two weeks after this, he and Pupil A started to exchange messages on Facebook. After having met up on 22 July 2014 he and Pupil A exchanged mobile phone numbers. Mr Lunn also told the Police that he considered Pupil A to be his girlfriend and that they did the normal activities that couples do in the early stages of a relationship, including going for walks and going to the cinema. He also admitted that he and Pupil A had spent the night together in a hotel when they had slept in the same bed and had cuddled and kissed.

Mr Lunn again admitted the relationship with Pupil A during the School's disciplinary hearing. He stated that the relationship was admitted but that he had not been in a position of trust with Pupil A, as at the time the relationship started, she was no longer on the school roll. Mr Lunn accepted that some people would think that the relationship was inappropriate.

Pupil A told the Police during her interview that she and Mr Lunn had kissed and held hands and dated on more than 10 occasions, which had included trips to the cinema, a night spent together in a car and a night spent in a hotel.

In respect of Mr Lunn's relationship with Pupil A, the panel considered that this was borne out of a position of trust that Mr Lunn was in, as a teacher in Pupil A's school, despite her having very recently left the School. The panel considered that the expectation of the obligations upon Mr Lunn would not have changed overnight. Since the relationship originated from a situation where Mr Lunn was in a position of trust, the panel considered this to be inappropriate. For these reasons, therefore, the panel finds this allegation proven.

2. Received inappropriate images from former Pupil A.

The panel is satisfied that Mr Lunn provided Pupil A with his mobile phone number and communicated with her on social media. In his interview with the Police, Mr Lunn accepted that he had received images of Pupil A in her underwear. Pupil A also disclosed to the Police at interview that she had sent images to Mr Lunn of her in her underwear. She stated that she had sent him approximately 5 to 10 photographs of herself in her

underwear. The panel is satisfied that Mr Lunn received inappropriate images of Pupil A and therefore finds this allegation proven.

3. Engaged in sexual activity with former Pupil A.

In his interview with the Police Mr Lunn admitted that he and Pupil A had spent the night together in a hotel when they had slept in the same bed and had cuddled and kissed. He also told the Police that he considered Pupil A to be his girlfriend and that they did the normal activities that couples do in the early stages of a relationship.

The panel is satisfied that in these circumstances, the kissing and cuddling between Mr Lunn and Pupil A was sexual in nature and constitutes sexual activity. When asked by the Police why he had not engaged in sex with Pupil A in the hotel he said it was because it was "that time of the month". This is consistent with the statement which Pupil A gave to the Police. She also stated that prior to staying the night in the hotel with Mr Lunn, she and Mr Lunn had spent a night sleeping in his car. She stated that during that night, she and Mr Lunn touched each other sexually for the first time.

The panel is satisfied, on the balance of probabilities, that Mr Lunn did engage in this sexual activity and therefore, the panel finds this allegation proven.

4. In so doing 1-3 above, Mr Paul Lunn's actions were sexually motivated.

In relation to allegations 1 and 3 which the panel has found proved, the panel considered that it was more likely than not that the inappropriate relationship and sexual activity with Pupil A were sexually motivated.

However, the panel is not satisfied that there is sufficient evidence to establish that the passive receipt of inappropriate images was sexually motivated and therefore finds this allegation not proven in relation to allegation 2.

The panel does find this allegation proven in relation to allegations 1 and 3 only.

5. Failed to notify relevant safeguarding authorities about former Pupil A's self-harm and suicide risk.

The panel noted that in his interview under caution, Mr Lunn stated that he was aware of Pupil A's self-harming behaviour and that she had sent a picture of her self-harming to him. He also stated that he believed that Pupil A was a suicide risk citing that Pupil A's self-harming and threats of suicide prevented his breaking off the relationship with her. He told the Police that he should have reported Pupil A's self-harming and his concern that Pupil A was suicidal and that not doing so was "deeply unprofessional". Witness A also told us that Mr Lunn should have notified the relevant safeguarding authority about Pupil A's potentially harmful behaviour, regardless of her having recently left the school.

The panel is satisfied that this allegation is proved.

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

Having found a number 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 the panel refers to as “the Advice”. The panel also noted that at several points in his interview under caution Mr Lunn stated that his conduct with Pupil A was unprofessional and morally incorrect albeit, in his opinion at the time of his Police interview, not illegal.

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

The panel is satisfied that the conduct of Mr Lunn fell significantly short of the standards expected of the profession.

In relation to Mr Lunn's relationship with Pupil A , the panel considered that this originated from a situation in which Mr Lunn was in a position of trust, as a teacher in Pupil A's former school. Given the findings in relation to allegation 5, the panel is particularly concerned that Mr Lunn failed to notify relevant safeguarding authorities about Pupil A's self-harm and suicide risk.

The panel has taken into account the way in which 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 the individual’s status as a teacher, potentially damaging the public perception.

The panel also noted that Mr Lunn admitted in the school disciplinary hearing that his conduct would have been likely to bring the school into disrepute.

The panel therefore finds that Mr Lunn's actions 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.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found them all to be relevant in this case, namely 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 Lunn which involve an inappropriate relationship with a former pupil and engaging in sexual activity with her, both of which were sexually motivated, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships.

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

The panel 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 Lunn 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 Lunn.

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 Lunn. 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 set out below:

- 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, 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 the appropriateness of a prohibition order, the panel went on to consider whether or not there were sufficient mitigating factors to militate against the appropriateness of a prohibition order and whether it would be a proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

There was no evidence that Mr Lunn's actions were not deliberate and Mr Lunn has not shown insight or expressed remorse regarding his relationship with Pupil A. He did not seem to appreciate that his own actions had created the situation with Pupil A. There was no evidence to suggest that the teacher was acting under duress, and in fact the panel found the teacher's actions to be calculated and motivated.

However, Mr Lunn does appear to have a previously good history.

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 Lunn. 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 states 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 Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. The behaviours include serious sexual misconduct, including where the act was sexually motivated and resulted in or had the potential to result in, harm to a person, particularly where the individual has used their professional position to influence or exploit a person. However, we took into account Mr Lunn's good previous history, that he was going through a difficult period in his personal life and that although he was engaged in an inappropriate relationship in sexual activity this was not at the higher end of the scale of sexual misconduct. Whilst inappropriate, the relationship with Pupil A did not take place when Pupil A was a pupil. There is no evidence that Mr Lunn engaged in sexual intercourse with Pupil A. Pupil A was aged 16 years at the time

and the relationship was consensual albeit inappropriate. The panel has had no evidence to suggest that Mr Lunn has a deep seated attitude that leads to harmful behaviour.

The panel therefore considers that 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 Mr Lunn to be able to apply to have the prohibition order reviewed after a period of six years. The panel considers that this six year period is an appropriate period of time for Mr Lunn to reflect on the impact of his behaviour and gain insight into his wider professional responsibilities, in particular with respect to maintaining professional boundaries and duties with regard to safeguarding.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations made by the panel in respect of both sanction and review. I note the allegations that the panel have found proven, and those that have not been found proven I have put from my mind.

The panel have found that Mr Lunn's actions constitute unprofessional conduct and conduct that may bring the profession into disrepute.

I note that the panel is satisfied that the conduct of Mr Lunn in relation to the facts found proven involved breaches of the Teachers' Standards, namely:

- 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.

The panel is satisfied that the conduct of Mr Lunn fell significantly short of the standards expected of the profession.

I note that in relation to Mr Lunn's relationship with Pupil A, the panel considers this originated from a situation in which Mr Lunn was in a position of trust. I also note that the panel is particularly concerned that Mr Lunn failed to notify relevant safeguarding authorities about Pupil A's self-harming.

I have taken into account the public interest considerations in this case. I agree with the panel that there is a strong public interest consideration in respect of the protection of pupils, given the findings against Mr Lunn which involved an inappropriate relationship with a former pupil and engaging in sexual activity with her, both of which were sexually motivated.

I note the panel have considered the particular public interest considerations set out in the Advice, and have found them all 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.

I note that the panel considered the public interest considerations both in favour of and against prohibition. There was no evidence that Mr Lunn's actions were not deliberate and Mr Lunn has not shown insight or expressed remorse regarding his relationship with Pupil A.

I have taken into account the need to be proportionate. I have also balanced the public interest with the individual interests of Mr Lunn.

The panel has decided that the public interest considerations outweigh the interests of Mr Lunn. I agree with the recommendation of the panel that Mr Lunn should be prohibited from teaching. I consider this to be both proportionate and appropriate.

I turn now to the issue of a review period. I have read with great care the thinking of the panel and have given this matter a great deal of consideration.

Mr Lunn has been found guilty of serious sexual misconduct, although I note the panel found that this was not at the higher end of the scale of sexual misconduct.

I have read carefully the panel's thinking in relation to Mr Lunn's good previous history and their consideration that the relationship with Pupil A did not take place when she was a pupil. On this basis, the panel have recommended a review period of six years.

I differ in my view from that of the panel. I consider that the panel have given greater weight to these issues than I believe is appropriate. Mr Lunn's relationship with Pupil A clearly originated from a situation in which Mr Lunn was in a position of trust, as a teacher at Pupil A's former school. In addition, Mr Lunn failed to notify relevant safeguarding authorities about Pupil A's self-harm and suicide risk.

In my judgement this is a case where, having considered the guidance published by the Secretary of State, no review is proportionate and appropriate. That guidance indicates that no review may be appropriate where there is, "serious dishonesty" and serious sexual misconduct e.g. where the act was sexually motivatedwhere the individual has used their professional position to ..exploit a person". In my view, this case meets that description.

For the reasons set out above, I have decided that no review period should be allowed.

This means that Mr Paul Lunn 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 Lunn 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 Lunn 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 be 'J. Millions', written on a light-colored background.

Decision maker: Jayne Millions

Date: 3 June 2016

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