



National College for
Teaching & Leadership

Mr Mark Scott: Professional conduct panel outcome

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

August 2015

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

Teacher: Mr Mark Scott

Teacher ref number: 0783656

Teacher date of birth: 31 December 1964

NCTL case reference: 0012802

Date of determination: 18 August 2015

Former employer: Ash Manor School, Surrey

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 18 August 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Mark Scott.

The panel members were Ms Jean Carter (lay panellist – in the chair), Ms Nicolé Jackson (lay panellist) and Mr Mark Tweedle (teacher panellist).

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

The presenting officer for the National College was Ms Rachel Cooper of Nabarro LLP solicitors. The presenting officer was not present at the meeting.

Mr Mark Scott was not present and was not represented.

The meeting took place in private, save for the announcement of the panel's decision, which was announced in public and recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 27 July 2015.

It was alleged that Mr Mark Scott was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Ash Manor School, Surrey:

1. On 16 October 2014, he engaged in an inappropriate conversation with Pupil A in which he:
 - a. told her that he did not look at her as a student anymore, or words to that effect,
 - b. told her that he had feelings for her and/or found her attractive, or words to that effect,
 - c. told her that she was a distraction to him, or words to that effect,
 - d. told her that he would move her to another set, or words to that effect,
 - e. asked her not to tell anyone about the discussion, or words to that effect;
2. When asked by his colleague(s) whether Pupil A knew about his feelings towards her he inaccurately stated that she was not aware on:
 - a. one or more occasions on 16 October 2014,
 - b. 17 October 2014;
3. His conduct as set out at paragraph 2 above was dishonest.

Mr Scott admitted the facts of the allegations and admitted that they 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 meeting, the panel received a bundle of documents which included:

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of Referral, Response and Notice of Meeting – pages 5 to 9b

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 11 to 17

Section 4: The National College documents – pages 19 to 87

Section 5: Teacher documents – pages 89 to 94

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

Witnesses

The panel did not hear any oral evidence.

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 meeting.

Mr Mark Scott was employed as an English teacher at Ash Manor School, Surrey from January 2013, until he resigned on 4 November 2014. The allegations centre around a conversation between Mr Scott and a pupil, Pupil A, said to have taken place on 16 October 2014, and Mr Scott's discussion of that conversation with, variously, his line manager, an assistant headteacher and the headteacher, on 16 and 17 October 2014.

Findings of fact

The panel's findings of fact are as follows:

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

- 1. On 16 October 2014, you engaged in an inappropriate conversation with Pupil A in which you:**
 - a. told her that you did not look at her as a student anymore, or words to that effect,**
 - b. told her that you had feelings for her and/or found her attractive, or words to that effect,**

- c. told her that she was a distraction to you, or words to that effect,**
- d. told her that you would move her to another set, or words to that effect,**
- e. asked her not to tell anyone about the discussion, or words to that effect;**

Mr Scott has admitted the facts of this allegation. Moreover, that Mr Scott had a conversation with Pupil A containing the alleged elements a. to e. is consistent with the evidence of Pupil A. The panel also agrees with Mr Scott's admission that the conversation was inappropriate. On these bases, the panel finds this allegation proven.

2. When asked by your colleague(s) whether Pupil A knew about your feelings towards her you inaccurately stated that she was not aware on:

- a. one or more occasions on 16 October 2014,**
- b. 17 October 2014;**

Mr Scott has admitted the facts of this allegation. Moreover, they are consistent with the statements prepared by the colleagues in question, which were prepared within a few days of the conversations having taken place. On these bases, the panel finds this allegation proven.

3. Your conduct as set out at paragraph 2 above was dishonest.

Mr Scott has admitted this allegation. Mr Scott's assertions, that Pupil A was unaware of his feelings, were made to colleagues both on the same day that Mr Scott had in fact clearly communicated those feelings to Pupil A, and the following day. In these circumstances, the panel has ruled out the possibility of Mr Scott's having been mistaken as to whether Pupil A knew about Mr Scott's feelings, or his having forgotten the conversation with Pupil A. The panel finds instead that Mr Scott was acting dishonestly and in so doing was attempting to conceal his actions as detailed in allegation 1. In reaching that conclusion the panel is satisfied that by the standards of a reasonable and honest teacher, Mr Scott's conduct was dishonest and moreover that Mr Scott must have known this to have been the case.

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

Having found 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 is satisfied that the conduct of Mr Scott in relation to the facts found proven involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Scott 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 Scott's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice, but the panel has found none of these offences to be relevant.

Taking into account all of the above and the panel's own knowledge and experience of the teaching profession, the panel considers that the proven facts amount to misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

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

In considering whether the proven facts amount to conduct that may bring the profession into disrepute, the panel has taken into account how the teaching profession is viewed by others. It has also 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.

Having done so, the panel finds that Mr Scott's actions did 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 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 relation to the protection of pupils, the panel was particularly mindful that there was no allegation that Mr Scott's conversation with Pupil A, or his attempt to conceal that conversation from the School (or indeed any other aspect of his conduct) was sexually motivated. That does not mean however that there was no actual or potential harm to Pupil A. Mr Scott singled out Pupil A, placed her in a situation where she was alone with him and indicated that his feelings for her were such that she would have to transfer to another set. Indeed, the panel noted that Pupil A stated that Mr Scott's comments to her made her feel uncomfortable and sick at the time and that four days later, on 20 October 2014, Pupil A still felt sick about the event. Pupil A also stated on 20 October 2014 that she felt guilty, as if she had done something to make the event happen. Clearly this was not the case. In the view of the panel, Mr Scott's revelation about his feelings and stated intention to transfer Pupil A to another teaching group could have caused Pupil A significant distress, which could impact on both her emotional wellbeing and her educational performance.

Moreover, Mr Scott's dishonest conduct in seeking to conceal the conversation from the School jeopardised the School's ability to address Mr Scott's past and future conduct, thereby undermining the protection of pupils.

Given these facts, the panel considered that there was a strong public interest consideration in respect of the protection of pupils.

In relation to the maintenance of public confidence in the profession, again the panel was mindful that there was no allegation of sexual misconduct. Nonetheless, the inappropriate nature of the conversation with Pupil A meant that public confidence in the profession could be seriously weakened if Mr Scott's conduct were not treated seriously when regulating the conduct of the profession.

The panel found that Mr Scott had informed his line manager of the feelings he had towards Pupil A and attempted to move Pupil A into another set either to avoid further misconduct by him, or to avoid disruption to classes including Pupil A. Without detracting from the seriousness of allegation 1, the panel recognises that, having been guilty of that misconduct, Mr Scott did at least try to address his misconduct in part by raising its foundation with the School and taking steps to avoid further misconduct. However,

having raised the cause of his misconduct (ie his feelings for Pupil A) with his line manager, he then acted dishonestly in denying that he had communicated those feelings to Pupil A. Whatever credit might be given to Mr Scott for approaching his line manager, nevertheless public confidence in the profession could be seriously undermined if Mr Scott's subsequent dishonesty were not treated seriously by the panel.

The panel also considered that a strong public interest consideration in declaring proper standards of conduct in the profession was present, as Mr Scott's conduct 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 Scott.

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 Scott. 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;
- 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; and
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

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.

The panel has found that Mr Scott's actions were deliberate and there is no indication that he was acting under duress.

There was however evidence before the panel which suggested that at the time of the incident, Mr Scott had recently suffered from a series of stressful events and that his medical state (particularly a history of [redacted]) may have impacted upon his judgement, particularly as to how to deal with his feelings towards Pupil A.

The panel was not aware of Mr Scott having previously been subject to any adverse disciplinary findings and accordingly treated him as having a previously good record.

Moreover, the panel was not aware of any indication that Mr Scott may have acted inappropriately at any time before or after the facts giving rise to the allegations before the panel.

In all of the circumstances, 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 Scott. Mr Scott's dishonesty, regarding an inappropriate conversation with a pupil, 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 it to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice 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 Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours is fraud or serious dishonesty. The panel has therefore considered whether Mr Scott's dishonesty amounted to serious dishonesty.

The panel has exercised particular care in this area, as it is mindful that all dishonesty is a serious matter for a teacher. However, the panel is required to consider, within the range of possible dishonesty, whether this falls at the more serious end of the possible spectrum of dishonesty. In doing so, the panel recognises that any attempt to conceal potential safeguarding issues through dishonesty is a matter of the utmost seriousness. However, the panel recognises that the dishonesty occurred over a narrow period of time when Mr Scott was clearly in a stressful situation. Moreover, Mr Scott's communication with his line manager was at least an attempt to alert the School to the problem and one which ultimately prevented any actual harm arising from his dishonesty.

Mr Scott's dishonesty was clearly unacceptable professional conduct and was a significant factor in leading the panel to conclude that Mr Scott should be prohibited from teaching. Nonetheless, the panel finds that the dishonesty was not so serious as to amount to "serious dishonesty" such that no review period at all should be set.

In all of the circumstances, the panel felt the findings indicated a situation in which a review period would be appropriate and proportionate.

Mr Scott has shown some remorse for his actions. This remorse and Mr Scott's insight has developed over time. However, the panel considers that Mr Scott has some way to go before he stands any prospect of persuading a future panel that he has developed

sufficient insight into his misconduct and its impact. For example, the panel notes the recent reference by Mr Scott to Pupil A's harm being "embarrassment".

Similarly, the panel notes Mr Scott's indication that his failure to identify the worsening of his medical condition and the resulting need to seek medical assistance contributed to his misconduct. At the time of the meeting there was no evidence that this had been adequately addressed.

A period of 2 years would give Mr Scott an opportunity to develop further insight and provide evidence that he has addressed his failings.

As such, the panel recommends a prohibition order with provision for a review period of two years.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the findings and recommendations of the panel in this case.

The panel has found the facts proved and judged that those facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The proven facts relate to Mr Scott engaging in inappropriate conversations with Pupil A and denying to colleague(s) on more than one occasion that Pupil A was aware of his feelings towards her. The panel has further judged that those denials amounted to dishonesty.

In considering whether to recommend a prohibition order the panel has properly balanced the interests of Mr Scott with those of the public. The panel has found a number of those considerations to be relevant in this case namely:

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

The panel has found that Mr Scott's actions were deliberate and found no evidence that he was acting under duress. They did however see evidence that he had suffered a series of stressful events and that his medical state might have impacted upon his judgement.

In all the circumstances I agree with the panel's recommendation that prohibition is both appropriate and proportionate in this case.

Whilst the panel has found dishonesty it is clear that it judges the dishonesty to be at the less serious end of the scale. Mr Scott has shown a degree of insight and remorse albeit the panel considers that he still has some way to go.

I agree with the recommendation that Mr Scott should be allowed to apply to have the order set aside after a minimum period of 2 years has passed.

This means that Mr Mark Scott 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 27 August 2017, 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 Mark Scott remains prohibited from teaching indefinitely.

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

Mr Mark Scott 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 'P Heathcote', with a large, stylized loop at the end.

Decision maker: Paul Heathcote

Date: 20 August 2015

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