



National College for
Teaching & Leadership

Ms Elena Lillian Eveleigh: Professional conduct panel outcome

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

April 2016

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

Teacher: Ms Elena Lillian Eveleigh

Teacher ref number: 0522042

Teacher date of birth: 27 January 1972

NCTL case reference: 13101

Date of determination: 21 April 2016

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 21 April 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Ms Eveleigh.

The panel members were Councillor Gail Goodman (teacher panellist - in the chair), Mr Martin Greenslade (lay panellist) and Mr Martin Pilkington (lay panellist).

The legal adviser to the panel was Mr Robin Havard of Blake Morgan LLP solicitors.

The presenting officer for the National College was Mr Tom Day, Counsel.

Ms Eveleigh 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 9 December 2015.

Ms Eveleigh is guilty of a conviction, at any time, of a relevant offence in that:

1. On 12 July 2012 at South East Surrey Magistrates Court Ms Eveleigh was convicted of the offence of theft, in that on 28 June 2012 Ms Eveleigh stole items to the value of £45.57 contrary to Section 1(1) and 7 of the Theft Act 1968. Ms Eveleigh was fined £50 and ordered to pay a victim surcharge of £15;

Ms Eveleigh is guilty of unacceptable professional conduct and/or conduct which may bring the profession into disrepute in that:

2. On 30 May 2012 at South London Magistrates Court, Ms Eveleigh was convicted of the offence of theft in that on 22 May 2012 Ms Eveleigh stole items to the value of £172.36, contrary to Section 1 of the Theft Act 1968. Ms Eveleigh was sentenced to a conditional discharge for a period of 18 months and to pay costs of £85;
3. On 20 August 2014 at Sussex Magistrates Court, Ms Eveleigh was convicted of the offence of theft, in that on 6 August 2014 Ms Eveleigh stole items to the value of £86.36, contrary to Section 1(1) and 7 of the Theft Act 1968. Ms Eveleigh was sentenced on 27 November 2014 to a conditional discharge for a period of 18 months, to pay costs of £330 and to pay a victim surcharge of £15;
4. On 27 November 2014 at Sussex Magistrates Court, Ms Eveleigh was convicted of the offence of assault on 6 August 2014, contrary to Section 39 of the Criminal Justice Act 1988. Ms Eveleigh was sentenced to a conditional discharge for a period of 18 months.

Ms Eveleigh admitted the facts in allegations 1, 2, 3 and 4. On 20 July 2015, Ms Eveleigh signed an agreed Statement of Facts. The Statement of Agreed Facts did not ask Ms Eveleigh to confirm that she admitted the conviction in allegation 1 was for a relevant offence although she did make this admission in her response to the Notice of Referral.

Within the Statement of Agreed Facts, Ms Eveleigh admitted that her conduct in relation to allegation 2 amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. However, in the same document, Ms Eveleigh denied that her conduct in relation to allegations 3 and 4 amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

This case was listed on 21 September 2015 to proceed as a meeting. However, the panel adjourned the meeting as the documentation before the panel, to include the Statement of Agreed Facts, did not invite Ms Eveleigh to make further submissions to

explain why she maintained that her conduct in allegations 3 and 4 did not amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

On 27 October 2015, the presenting officer wrote to Ms Eveleigh inviting her to make such representations both in terms of whether she admitted that allegation 1 amounted to a conviction of a relevant offence and if not, her full reasons and secondly her reasons for suggesting that her conduct in allegations 3 and 4 did not amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Ms Eveleigh responded to that letter by email of 7 December 2015 setting out her reasons.

In the Notice of Proceedings Form dated 10 December 2015, Ms Eveleigh stated that, whilst she admitted the facts, she did not accept such facts amount to either a relevant offence, or unacceptable professional conduct or conduct likely to bring the profession into disrepute.

In the circumstances, the panel approached the allegations on the basis that the facts of each of the allegations were admitted but that it was denied by Ms Eveleigh that the offence outlined in allegation 1 amounted to a relevant offence and it was also denied that the facts of allegations 2, 3 and 4 amounted to unacceptable professional conduct and/or conduct likely to bring the profession into disrepute.

C. Preliminary applications

Proceeding in Absence

The panel considered an application by the presenting officer for the hearing to proceed in the absence of Ms Eveleigh. The panel was satisfied that the proceedings had been served on Ms Eveleigh in accordance with Paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Disciplinary Procedures").

The Notice of Proceedings had been sent to Ms Eveleigh by letter dated 9 December 2015 and it was sent to the address provided to the NCTL by Ms Eveleigh. It 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 Ms Eveleigh. Ms Eveleigh had responded to the Notice of Proceedings by returning the Notice of Proceedings Form dated 10 December 2015. In that form, Ms Eveleigh confirmed that she did not intend to appear at the hearing. This is consistent with the approach outlined in her email to the presenting officer on 7 December 2015 in which she stated that she would not be attending any meeting and neither will any witnesses.

The panel had considered carefully each of the criteria set out in *R v Jones* and *Tait v Royal College of Veterinary Surgeons*.

Ms Eveleigh was aware of the nature of the allegations against her, and she had not requested an adjournment despite being aware of today's hearing.

In the circumstances, the panel was satisfied that Ms Eveleigh had voluntarily absented herself and had waived her right to attend. The panel concluded that an adjournment would serve no purpose particularly because Ms Eveleigh had not, at any stage, indicated that she wished to be represented.

The panel decided that it was in the public interest that this case should proceed and that it was able to reach proper decisions on the information available to it.

Public/Private hearing

The panel was satisfied that it was in the public interest for the hearing to be in public.

None of the grounds on which a hearing should be held in private applied in this case.

There was a presumption that NCTL hearings should be held in public and, even if the hearing were to be held in private, the decision of the panel had to be announced in public, to include the identity of Ms Eveleigh.

Consequently, the application of Ms Eveleigh for the hearing to be in private was refused.

D. Summary of evidence

Documents

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

Section 1: Chronology - page 2

Section 2: Notice of Proceedings and Response - pages 4 to 11D

Section 3: NCTL witness statements - pages 13 to 43

Section 4: NCTL documents - pages 45 to 53

Section 5: Teacher documents - pages 55 to 70

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

Witnesses

No witnesses were called to give evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirmed that it had read all the documents provided in the bundle in advance of the hearing.

Brief Summary

On 1 September 2007, Ms Eveleigh began employment at Fulbrook School as a drama teacher and became head of drama at the school at the start of the next academic year on 1 September 2008.

On 17 May 2009, Ms Eveleigh left her employment at Fulbrook School.

Subsequently, Ms Eveleigh set up her own business but, between 30 May 2012 and 27 November 2014, Ms Eveleigh was convicted of four separate criminal offences, three for offences of theft and one for an offence of assault.

Findings of fact

Our findings of fact are as follows:

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

- 1. On 12 July 2012 at South East Surrey Magistrates Court you were convicted of the offence of theft, in that on 28 June 2012 you stole items to the value of £45.57 contrary to Section 1(1) and 7 of the Theft Act 1968. You were fined £50 and ordered to pay a victim surcharge of £15;**
- 2. On 30 May 2012 at South London Magistrates Court, you were convicted of the offence of theft in that on 22 May 2012 you stole items to the value of £172.36, contrary to Section 1 of the Theft Act 1968. You were sentenced to a conditional discharge for a period of 18 months and to pay costs of £85;**
- 3. On 20 August 2014 at Sussex Magistrates Court, you were convicted of the offence of theft, in that on 6 August 2014 you stole items to the value of £86.36, contrary to Section 1(1) and 7 of the Theft Act 1968. You were sentenced on 27 November 2014 to a conditional discharge for a period of 18 months, to pay costs of £330 and to pay a victim surcharge of £15;**
- 4. On 27 November 2014 at Sussex Magistrates Court, you were convicted of the offence of assault on 6 August 2014, contrary to Section 39 of the**

Criminal Justice Act 1988. You were sentenced to a conditional discharge for a period of 18 months.

The facts of the allegations were admitted by Ms Eveleigh and the panel also relied on the Memoranda of the convictions produced by the NCTL. The panel found the facts of the allegations 1 to 4 proved.

Findings as to conviction of a relevant offence and/or unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found the facts of the allegations proved, the panel deliberated on whether, in respect of allegation 1, this amounted to a relevant offence and whether, in respect of allegations 2, 3 and 4, the facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the published Teachers Standards and also the guidance contained in the document entitled Teacher Misconduct; The Prohibition of Teachers which the panel referred to as "the Advice".

The panel was satisfied that the conviction based on the facts of allegation 1 amounted to a relevant offence. Therefore, the panel found Ms Eveleigh guilty of a conviction of a relevant offence.

Ms Eveleigh had committed an offence of dishonesty and had thereby acted contrary to the standards of personal and professional conduct expected of a teacher. Teachers were expected to behave as role models and acting dishonestly would be likely to affect public confidence in the teaching profession. Such a conviction was relevant, in the panel's judgment, to Ms Eveleigh's ongoing suitability to teach.

With regard to particulars 2, 3 and 4, the panel concluded that, both individually and together, the facts of the particulars were such that Ms Eveleigh was guilty of unacceptable professional conduct and conduct likely to bring the profession into disrepute. The facts represented misconduct of a serious nature, falling significantly short of the standards of behaviour expected of a teacher.

Again, two of the offences were offences of dishonesty and the most recent conviction was for assault. The panel noted that the offences were committed over a period of in excess of two years.

This was contrary to the standards of personal and professional conduct expected of a teacher. As stated, teachers should at all times, whether in or out of the school environment, act as role models and the behaviour of which Ms Eveleigh had been convicted would be likely to affect public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

In assessing whether the panel should recommend to the Secretary of State that a prohibition order was both necessary and proportionate, and whether it was in the public interest, the panel considered both its findings as set out above but also any mitigation presented by Ms Eveleigh.

With regard to mitigation, there was no criticism of Ms Eveleigh as a teacher.

The panel had also read what Ms Eveleigh had sent to the NCTL regarding the circumstances that prevailed when she committed the offences giving rise to the convictions. The panel noted Ms Eveleigh's outline of the difficult circumstances which prevailed in her life at the time the conduct took place which gave rise to the convictions.

Finally, the panel had noted the character reference which was included in the bundle which had been produced for the purpose of the criminal proceedings but the panel felt that this was of limited assistance and relevance to her position as a teacher.

Finally, whilst Ms Eveleigh had made reference to certain medical problems she had experienced, she had not produced any evidence in support to assist the panel in having a greater understanding of any effect this may have had on her behaviour at the material time.

The panel repeated that Ms Eveleigh's behaviour illustrated a serious course of criminal conduct. Whilst the offences themselves may not lie at the most serious end of the spectrum, the panel was very concerned that this conduct did not arise out of an isolated incident. The offences spanned a period of in excess of two years. On three occasions, twice in 2012 and once in 2014, Ms Eveleigh had acted dishonestly and had stolen items from third parties.

On the last occasion, whilst again the panel had read Ms Eveleigh's explanation for what took place, she had nevertheless been convicted of assault when being apprehended for the third offence of theft.

The panel had balanced the public interest against those of Ms Eveleigh. The panel had found that she had failed, repeatedly, to maintain the high standards of conduct expected of a teacher and had acted in a way which put at risk the trust the public placed in the profession.

The conduct was repeated; there appeared to be little or no insight into the seriousness of her conduct and Ms Eveleigh had also shown little remorse.

The panel concluded that it was proportionate, necessary and in the public interest to recommend to the Secretary of State that a prohibition order should be made in respect of Ms Eveleigh. The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Eveleigh were not

recognised with the appropriate level of gravity. As stated, any conviction recorded against a teacher for theft and/or assault were serious. It was true that, when looking at each offence, they fall at the lower end of seriousness, but the panel was particularly concerned that over a period of over two years, Ms Eveleigh had been convicted on four separate occasions for four separate offences.

The panel went on to consider whether Ms Eveleigh should be permitted to apply for the prohibition order to be set aside after a certain period.

On balance, the panel recommended that, taking account of the nature and seriousness of the conduct giving rise to the allegations and on the basis of all of the circumstances and reasons outlined above, Ms Eveleigh should be permitted to apply for the prohibition order to be set aside after a period of 4 years has elapsed.

The panel concluded that this length of time was sufficient to mark to the general public and the profession that such behaviour was wholly unacceptable. It would also provide Ms Eveleigh with a period of time to reflect further on, and recognise, the inappropriate nature of her conduct.

Decision and reasons on behalf of the Secretary of State

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found all of the facts of the allegations proved. Ms Eveleigh has been convicted as alleged of a relevant offence, and found guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute. The facts represented misconduct of a serious nature, falling significantly short of the standards expected of a teacher.

Ms Eveleigh's behaviour illustrated a serious course of criminal conduct. Whilst the offences themselves may not lie at the most serious end of the spectrum, I note that the panel was very concerned that this conduct did not arise out of an isolated incident. The offences spanned a period in excess of two years.

I have considered the public interest considerations in this case. I note the panel had balanced the public interest against those of Ms Eveleigh. The panel found that Ms Eveleigh had failed, repeatedly, to maintain the high standards of conduct expected of a teacher and had acted in a way which put at risk the trust the public placed in the profession.

I agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Eveleigh were not recognised with the appropriate level of gravity. As stated, any conviction recorded against a teacher for theft and/or assault is serious. Ms Eveleigh's conduct was contrary to the standards of personal and professional conduct expected of a teacher.

The panel concluded that prohibition is both proportionate and appropriate.

I have considered the public interest in this case and agree with the panel that prohibition is both proportionate and necessary.

I now turn to the matter of a review period.

The panel has recommended that, on balance, taking into account the seriousness of the conduct giving rise to the allegations, Ms Eveleigh should be permitted to apply for the prohibition order to be set aside after a period of 4 years has elapsed. I note that the panel concluded that this would be sufficient time to mark to the general public and the profession that such behaviour was wholly unacceptable. It would also provide Ms Eveleigh with time to reflect on, and recognise, the inappropriate nature of her conduct.

For the reasons set out above, I agree with the panel's recommendation that a review period of 4 years is appropriate.

This means that Ms Eveleigh 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 5 May 2020, 4 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 Eveleigh remains prohibited from teaching indefinitely.

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

Ms Eveleigh 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.

A handwritten signature in black ink, appearing to read 'JM', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date: 26 April 2016

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