



National College for  
Teaching & Leadership

# **Mr Michael Browne: Professional conduct panel outcome**

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

**August 2016**

## Contents

A. Introduction	3
B. Allegations	3 - 4
C. Preliminary applications	4 - 5
D. Summary of evidence	5
Documents	5
Witnesses	5
E. Decision and reasons	6 - 9
Panel's recommendation to the Secretary of State	9 -10
Decision and reasons on behalf of the Secretary of State	11-12

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

<b>Teacher:</b>	Mr Michael Browne
<b>Teacher ref number:</b>	9503356
<b>Teacher date of birth:</b>	12 August 1960
<b>NCTL case reference:</b>	14381
<b>Date of determination:</b>	15 August 2016
<b>Former employer:</b>	Bournemouth & Poole College, Dorset

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 15 August 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Michael Browne.

The panel members were Mrs Fiona Tankard (teacher panellist – in the chair), Mr Aftab Zia (teacher panellist) and Mr Sathi Ariya (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP, solicitors.

The presenting officer for the National College was Ms Louisa Atkin of Browne Jacobson LLP, solicitors.

Mr Browne was present and was not represented.

The hearing took place in public and was recorded.

### **B. Allegations**

The panel considered the allegation set out in the Notice of Proceedings dated 12 May 2016.

It was alleged that Mr Michael Browne was guilty of unacceptable professional conduct and/or conduct that may bring the professions into disrepute, in that:

Whilst employed at Bournemouth & Poole College, he:

1. Engaged in inappropriate communication with Student A including:
  - a. giving her his personal email address;

- b. asking her to contact him using his personal email address;
- c. sending her emails including to the effect of:
  - i. calling her his *"future wife"* on multiple occasions;
  - ii. telling her that sleeping with her is on his *"bucket list"*;
  - iii. telling her *"I'd love to know how you taste, I'd love you to feel me enjoying your taste"*;
  - iv. asking her *"what are you wearing?"*;
  - v. asking her if she was wearing a thong;
  - vi. telling her that she is a *"naughty little girl"*;
  - vii. telling her that when she is older he wants her to come over, bring one of her long tee shirts and practise being his wife;
  - viii. telling her that she can sit on his lap if he is happy with the quality of her dusting;
  - ix. telling her *"fuck my career, I want to marry you"*.
- d. exchanging text messages with her using his personal mobile phone;
- e. speaking to her using his personal mobile phone;
- f. instructing her to delete her communications with him on or around 7 May 2015.

2. In doing 1.c. above, his conduct was sexually motivated.

Mr Browne admitted the facts alleged in 1 a to f and admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. Mr Brown denied allegation 2.

## **C. Preliminary applications**

### **Application to admit additional document**

The presenting officer made an application to admit an additional document consisting of a table setting out the content of emails between Mr Browne and Student A in chronological order. Mr Browne did not object to the admission of this document. The panel agreed to the admission of this document on the basis that it was not additional evidence, but a summary of evidence already in the bundle. This document was added to section 4 of the bundle as pages A 1 to A 28.

## **Application to exclude the public from a part of the hearing**

The presenting officer made an application to play the video recording of the police interview of Student A in private given that the recording refers to the pupil by name. Mr Browne did not object to the application. After receiving legal advice, the panel agreed to the video recording being played when the public were excluded on the basis that the exclusion of the public was necessary to protect the interest of Student A by preserving her anonymity.

The presenting officer also applied that two members of staff of the NCTL attending the hearing as observers could remain on the basis that they were not members of the public and that they would be subject to a duty of confidentiality in relation to any evidence presented. Mr Browne confirmed that he had no objection to this application. The panel agreed that the two members of NCTL staff could remain during the playing of the video of the interview.

## **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 1 to 2

Section 2: Notice of Proceedings and Response – pages 3 to 12

Section 3: Statement of agreed facts and disputed facts – pages 13 to 17

Section 4: NCTL documents – pages 18 to 252 and A1 to A28

Section 5: Teacher documents – pages 253 to 285

In addition, the panel agreed to accept a document prepared by the presenting officer containing a table of emails.

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

### **Witnesses**

No witnesses were called by the presenting officer, but the panel viewed and heard a video recording of the police interview of Student A.

The panel heard oral evidence from Mr Michael Browne.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

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

Mr Browne was employed at Bournemouth and Poole College, Dorset from 18 September 2009 until 14 July 2015 as an Applied ICT programme leader and teacher. Student A was a student at the College and was 17 years of age at the material time. In May 2015, friends of Student A reported to the College that they were aware that Student A had been having email conversations with her ICT teacher and tutor, Mr Browne. As a result of this report, the College conducted an investigation and the case was referred to the Local Authority Designated Officer (LADO) as a potential safeguarding issue. Student A was interviewed by the police. Although no criminal charges were brought, emails that had passed between Mr Browne and Student A were examined and disciplinary proceedings were conducted by the College.

### **Findings of fact**

The panel's findings of fact are as follows:

**It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the professions into disrepute, in that:**

**Whilst employed at Bournemouth & Poole College, you:**

- 1. Engaged in inappropriate communication with Student A including:**
  - a. giving her your personal email address;**
  - b. asking her to contact you using your personal email address;**
  - c. sending her emails including to the effect of:**
    - i. calling her your "future wife" on multiple occasions;**
    - ii. telling her that sleeping with her is on your "bucket list";**
    - iii. telling her "I'd love to know how you taste, I'd love you to feel me enjoying your taste";**
    - iv. asking her "what are you wearing?";**
    - v. asking her if she was wearing a thong;**

- vi. **telling her that she is a "naughty little girl";**
- vii. **telling her that when she is older you want her to come over, bring one of her long tee shirts and practise being your wife;**
- viii. **telling her that she can sit on your lap if you are happy with the quality of her dusting;**
- ix. **telling her "fuck my career, I want to marry you".**
- d. **exchanging text messages with her using your personal mobile phone;**
- e. **speaking to her using your personal mobile phone;**
- f. **instructing her to delete her communications with you on or around 7 May 2015.**

Mr Browne has admitted the facts alleged in 1 a to f and has signed a statement of agreed facts to that effect. The panel finds the facts of 1 a to f proved based on Mr Browne's admissions and the content of the agreed statement of facts.

## **2. In doing 1.c. above, your conduct was sexually motivated.**

Mr Brown has admitted that his email messages included sexual language and conversations of a sexual nature. However, Mr Browne has denied that his conduct was sexually motivated. The panel accepted the legal advice that, in order to find this allegation proved, the National College must establish that it is more likely than not that Mr Browne's conduct in sending some of the emails was for a purpose which included some form of sexual gratification.

The panel accepted Mr Browne's explanation that there was no plan or intention on his part to engage in a physical relationship with Student A and the National College has not put the case against Mr Browne on that basis. The panel took careful account of the video recording of Student A's interview with the police. The panel noted that Student A said that she had not been offended by the emails. Student A gave a clear indication that she did not feel Mr Browne had any intention of pursuing a physical relationship with her.

The panel has carefully considered the content of the emails and Mr Browne's own evidence. The panel accepted that a large proportion of the emails could be regarded as light-hearted banter (e.g the reference to 'future wife' at 1ci). Student A's evidence supported this. In the context of a teacher – student relationship, they were inappropriate, but the panel was not satisfied they were sexually motivated.

However, Mr Browne was unable to explain the content of, or why he had sent, some of the emails which had sexualised comments, including, in particular, the words at paragraphs 1cii and iii.

On the balance of probabilities, the panel concluded that Mr Browne must have been thinking about Student A in a sexual way and, on that basis, his conduct involved an element of sexual gratification. Accordingly, his conduct was sexually motivated and the panel finds allegation 2 proved on that basis.

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

Mr Browne has admitted that his conduct in relation to allegation 1 amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel took these admissions into account, but made its own determination.

Having found allegation 1 and 2 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 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 Browne 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
  - ....observing proper boundaries appropriate to a teacher’s professional position;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

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

The panel has also considered whether the conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that none of these offences are relevant.

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



In regards to conduct that may bring the profession into disrepute, the panel has 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 they behave.

The panel finds that Mr Browne'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, the panel considered 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 a 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel concluded that the public interest consideration of the protection of pupils and other members of the public was not relevant in this case.

In carrying out the balancing exercise, the panel has had regard to the public interest considerations both in favour of and against prohibition as well as the interests of Mr Browne. 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;
- sexual misconduct, e.g. involving actions that were sexually motivated;

Even though there were behaviours that would point to a prohibition order as being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order as being an appropriate and proportionate measure to impose, particularly taking into account the nature of the behaviour in this case.

Mr Browne's actions were deliberate and he was not acting under duress. However, Mr Browne has a previous good history. The panel found Mr Browne engaged fully with the NCTL proceedings and demonstrated considerable remorse for his actions which he described as 'very stupid'. He presented an impressive number of references and testimonials from a number of colleagues who had worked with him for several years and were fully aware of the circumstances of the case.

However, 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 Browne. 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 to recommend that a review period of the order should be considered. The panel was mindful of the Advice 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. These behaviours include serious sexual misconduct, e.g. 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 or persons. As already stated, the panel is satisfied that the conduct of Mr Browne in sending some of the emails involved sexual misconduct on the basis that these were sexually motivated. However, the panel is not satisfied that this could be described as serious sexual misconduct as the conduct did not result in any harm and there is no evidence that Mr Browne used his professional position to exploit any person.

The panel noted Mr Browne's expressions of remorse, which the panel regarded as genuine, and accepted his assurances that he would not engage in email exchanges of a similar nature with pupils in the future.

The panel felt 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 provision for a review period. The panel, therefore, recommends that Mr Browne be permitted to apply for the prohibition order to be set aside after the minimum period, no less than 2 years.

## Decision and reasons on behalf of the Secretary of State

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

In this case the panel has found that all of the allegations proven.

The panel has found that the behaviours exhibited by Mr Browne involved breaches of the Teachers' Standards. The panel considered that Mr Browne was 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
  - .....observing proper boundaries appropriate to a teacher's professional position;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel also took into account the Advice published by the Secretary of State, 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 the panel found to be relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- sexual misconduct, e.g. involving actions that were sexually motivated.

I have taken into account the recommendation made by the panel. I have also taken into account the guidance published by the Secretary of State. I have taken into account the need to balance the interests of the public with those of Mr Browne. I have also taken into account the need to be proportionate.

I note that the panel found Mr Browne engaged fully with the NCTL proceedings and demonstrated considerable remorse for his actions which he described as 'very stupid'. I note Mr Browne presented an impressive number of references and testimonials from a number of colleagues.

In my judgement the panel's recommendation is the right one. Mr Browne's behaviour is such that a prohibition order is appropriate and proportionate.

I have gone on to consider the matter of a review period. The panel has given this matter careful consideration. I note that whilst the panel is satisfied that the conduct of Mr Browne in sending some of the emails involved sexual misconduct, this could not be described as serious sexual misconduct as the conduct did not result in any harm. There is no evidence that Mr Browne used his professional position to exploit any person.

I have noted the panel's comments about Mr Browne's expressions of remorse, which the panel regarded as genuine. I note the panel also accepted Mr Browne's assurances that he would not engage in email exchanges of a similar nature with pupils in the future.

Although this is a prohibition order for life, I support the recommendation that Mr Browne be able to apply for a review after two years, the minimum review period.

**This means that Mr Michael Browne 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 August 2018, two 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 Browne remains prohibited from teaching indefinitely.

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

Mr Michael Browne 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 'J. Millions', with a small dot at the end of the signature.

**Decision maker: Jayne Millions**

**Date: 18 August 2016**

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