



National College for
Teaching & Leadership

Mr Mark David Lotsu: 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 Mark David Lotsu

Teacher ref number: 0052308

Teacher date of birth: 25 September 1978

NCTL case reference: 14603

Date of determination: 31 March 2016

Former employer: St John's School, Leatherhead

A. Introduction

A professional conduct panel ("the panel") of the National College for Teaching and Leadership ("the National College") convened on 31 March 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Mark Lotsu.

The panel members were Mr Michael Lewis (former teacher panellist – in the chair), Cllr Gail Goodman (teacher panellist) and Mr Martin Greenslade (lay panellist).

The legal adviser to the panel was Miss Eszter Horvath-Papp of Eversheds LLP.

The presenting officer for the National College was Ms Jessica Sharpe of Nabarro LLP.

As this was a meeting, the parties were not present.

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 meeting dated 3 March 2016.

It was alleged that Mr Lotsu was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at St John's School, Leatherhead (the "School"), as a biology teacher and the head of biology between 1 September 2010 and 17 September 2015;

In relation to the School's 2015 Investigative Skills Assignment ("ISA") AS Level and A Level Biology coursework, in particular BIO3T/Q and BIO6T/Q, he:

1. Assisted one or more pupils inappropriately in that he:
 - a. provided the pupils with revision sheets which were prepared using the ISA mark scheme;
 - b. provided the pupils with one or more answers to the ISA;
 - c. allowed the pupils to have access to the revision sheets and/or answers during the ISA;
 - d. encouraged the pupils to use the revision sheets and/or answers during the ISA;
 - e. allowed one or more pupils who had not scored high marks on the ISA paper to correct or rewrite some of their answers on to photocopied pages which he then re-stapled back into their original scripts;
2. Failed to be honest during the school's and/or AQA's investigation until AQA suspended him from involvement in all AQA examinations for 2 years following an AQA committee decision;
3. Asked and/or persuaded one or more pupils to inform the school's investigating officer that the only assistance provided to them was materials provided to all pupils by the department and textbooks, or words to that effect, during the school's and/or AQA's investigation;
4. Failed to comply with the school's policy and procedure for controlled assessment and/or the JCQ/AQA examination regulations;
5. His actions set out at allegations 1-4 were dishonest.

In the agreed statement of facts, Mr Lotsu admitted the facts of the allegations and that they amounted to unacceptable professional conduct and conduct which may bring the profession into disrepute.

C. Preliminary applications

Whilst there were no preliminary applications, the panel considered at the outset whether the allegation should be considered at a public hearing at which the parties would be entitled to attend, or a private meeting without the parties present. The panel considered the interests of justice and given that the facts of the allegation have been admitted, that Mr Lotsu had requested a meeting and the panel had the benefit of his representations, the panel was of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 2 to 3

Section 2: Notice of referral, response and notice of meeting – pages 5 to 8

Section 3: Statement of Agreed Facts and presenting officer representations – pages 12 to 19

Section 4: NCTL documents – pages 23 to 101

Section 5: Teacher documents – pages 103 to 111

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

Witnesses

The matter was convened as a meeting and no oral evidence was heard.

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 hearing.

Mr Lotsu was employed as a biology teacher and the head of biology at St John's School, Leatherhead (the "school"), since 1 September 2010. In March 2015, some pupils completed certain Investigative Skills Assignments ("ISAs"). In June 2015, the AQA carried out an investigation into the ISA results due to concerns that the candidates appeared to have seen the marking guidelines in advance of the assessments. On 4 August 2015, the AQA concluded Mr Lotsu had provided improper assistance to the candidates, and determined to impose a 2 year suspension on Mr Lotsu's involvement in AQA examinations. Mr Lotsu subsequently admitted that he had provided improper assistance and that he had asked the pupils not to reveal this to the school's investigators. On 17 September 2015 Mr Lotsu resigned, and on 18 September the school found him guilty of gross misconduct.

Findings of fact

Our findings of fact are as follows:

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

In relation to the School's 2015 Investigative Skills Assignment ("ISA") AS Level and A Level Biology coursework, in particular BIO3T/Q and BIO6T/Q, he:

1. Assisted one or more pupils inappropriately in that he:

a. provided the pupils with revision sheets which were prepared using the ISA mark scheme,

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). During the school's investigation, a number of pupils confirmed that Mr Lotsu had provided them with revision sheets and that the answers were similar to the mark scheme (p. 90-99).

The panel was therefore satisfied that this allegation was proven.

b. provided the pupils with one or more answers to the ISA,

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). During the school's

investigation, a number of pupils confirmed that Mr Lotsu had provided them with answers to the ISA (p. 90-99).

The panel was therefore satisfied that this allegation was proven.

c. allowed the pupils to have access to the revision sheets and/or answers during the ISA;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). During the school's investigation, a number of pupils confirmed that Mr Lotsu had turned a blind eye when he saw that pupils had their revision sheets out on the table in front of them during the ISA (p. 90-99).

The panel was therefore satisfied that this allegation was proven.

d. encouraged the pupils to use the revision sheets and/or answers during the ISA;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016.

The panel was satisfied that this allegation was proven.

e. allowed one or more pupils who had not scored high marks on the ISA paper to correct or rewrite some of their answers on to photocopied pages which he then re-stapled back into their original scripts;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). During the school's investigation, some pupils confirmed that Mr Lotsu had allowed them to see their ISA again and improve some of their answers (p. 91, 99).

The panel was therefore satisfied that this allegation was proven.

2. Failed to be honest during the school's and/or AQA's investigation until AQA suspended him from involvement in all AQA examinations for 2 years following an AQA committee decision;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). It was evident from the minutes of the school's meetings with Mr Lotsu on 12 and 15 June 2015 that he did not reveal that he had improperly assisted pupils with their ISAs.

The panel was therefore satisfied that this allegation was proven.

3. Asked and/or persuaded one or more pupils to inform the school's investigating officer that the only assistance provided to them was materials provided to all pupils by the department and textbooks, or words to that effect, during the school's and/or AQA's investigation;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016 and in his letter to the headmaster dated 9 September 2015 (p.56). During the school's investigation, a number of pupils confirmed that Mr Lotsu had asked them not to mention the revision sheet and to say that they only had generic questions to help them prepare (p. 90-99).

The panel was therefore satisfied that this allegation was proven.

4. Failed to comply with the school's policy and procedure for controlled assessment and/or the JCQ/AQA examination regulations;

Mr Lotsu admitted this allegation in the agreed statement of facts dated 3 February 2016. It was self-evident that, by improperly assisting pupils with their examinations, Mr Lotsu had failed to comply with the school's policies for controlled assessments.

The panel was therefore satisfied that this allegation was proven.

5. His actions set out at allegations 1-4 were dishonest.

Mr Lotsu admitted that he had been dishonest in his response to the notice of referral (p.10). Nevertheless, given the seriousness of this allegation, the panel turned its own independent mind to considering whether or not this allegation was proven.

The panel firstly considered whether Mr Lotsu's actions would be considered to have been dishonest on an objective basis. The panel was satisfied that it would. It was clear that interfering with the proper conduct of examinations, lying to a subsequent investigation, and asking pupils to lie on his behalf were all actions that would objectively be judged as dishonest.

On a subjective basis, the panel was satisfied that Mr Lotsu did know that all the above actions were dishonest. He acknowledged that he had lied in his letter to the headmaster on 9 September 2015 (p.56) and in his letter to the NCTL dated 8 January 2016 (p.103-104).

In the circumstances, the panel was satisfied that Mr Lotsu's actions were dishonest.

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 went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document *Teacher Misconduct: The Prohibition of Teachers* (the “advice”).

The panel was satisfied that Mr Lotsu’s conduct in dishonestly interfering with national examinations and asking pupils to lie on his behalf was misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The panel also had regard to the Teachers’ Standards, and considered that the following standards had been breached:

- 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...;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

In the panel’s view, Mr Lotsu had clearly failed to uphold public trust in the profession or maintain high standards of ethics and behaviour. He had also failed to treat pupils with dignity or build relationships rooted in mutual respect, given that he had asked them to compromise their own integrity in order to cover up his own dishonesty. Some of the students had been distressed by the experience, and Mr Lotsu’s actions demonstrably had a detrimental impact on their well-being. This was a clear disregard by Mr Lotsu of the ethos, policies and practices of his school and the statutory framework of his professional duties and responsibilities.

Accordingly, the panel was satisfied that Mr Lotsu was guilty of unacceptable professional conduct.

The panel also considered the allegation of conduct that may bring the profession into disrepute. The panel took into account how the teaching profession was viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel took 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. In the circumstances, the panel was satisfied that Mr Lotsu's actions also constituted 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 was necessary for the panel to go on to consider whether it would be appropriate and proportionate to recommend the imposition of a prohibition order by the Secretary of State. The panel was mindful that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they would be likely to have punitive effect.

The panel considered the particular public interest considerations set out in the Advice, and having done so found a number of them to be relevant in this case, namely:

- public confidence in the profession could be seriously weakened if conduct such as that found against Mr Lotsu were not treated with the utmost seriousness when regulating the conduct of the profession; and
- there was also a strong public interest consideration in declaring proper standards of conduct in the profession, as Mr Lotsu's dishonest conduct was outside that which could reasonably be tolerated.

The panel took further account of the Advice, which suggested that a prohibition order might be appropriate if certain behaviours of a teacher have been proven. These behaviours (listed on page 10 of the Advice) included:

- 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.

Notwithstanding the clear public interest considerations that were present, as well as the guidance set out in the Advice, 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 Lotsu and his current school. In carrying out the balancing exercise the panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Lotsu.

The panel found that Mr Lotsu's actions were deliberate, and indeed, as he later acknowledged, he was "compounding wrong with wrong" (p.103).

The panel acknowledged Mr Lotsu's representations that he had been under pressure to achieve continuous improvement in the pupils' grades. However, the panel was of the view that such pressure was normal across the education sector and other teachers were able to avoid improperly assisting students with their examinations. Such pressure was in no way a justification for his actions or a reason to lessen their severity. Indeed, the panel noted that Mr Lotsu had been Head of Biology, and this role as a team leader made it all the more important that he demonstrated consistently high standards of personal and professional conduct.

Nevertheless, the panel noted that Mr Lotsu had a number of glowing references and had a previously good history. Indeed, he was currently teaching at a new school and his current headteacher stated that "We have been incredibly lucky to find Mark and would be devastated to lose someone of his knowledge and talent" (p.106).

In the circumstances, the panel concluded that the public interest considerations outweighed the interests of Mr Lotsu and that of his new school and prohibition was both proportionate and appropriate. This was a case of serious interference with public examinations, a protracted period of dishonestly misleading two separate investigations and asking pupils to lie on his behalf. In the panel's view this was serious misconduct, and a prohibition order was appropriate to uphold proper standards of conduct and maintain public confidence in the profession.

The panel went on to consider whether or not it would be appropriate for it to recommend that a review period of the order should be considered. The panel was mindful that the Advice stated that a prohibition order applies for life, but there might be circumstances in any given case that might 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 panel noted that Mr Lotsu had demonstrated some insight into his actions and stated that "I am shocked at how quickly it progressed and I wrongly felt I had no choice but to maintain my deceit throughout the whole investigation ... through my dishonesty I did in fact potentially end up doing more damage to [the pupils'] future chances than good. This is something that will always remain with me" (p.104).

However, the panel also noted that Mr Lotsu has sought to deflect some of his responsibility on the basis of the pressures he perceived he was under. The panel was of the view that Mr Lotsu would need to accept that the profession is inevitably under continuing pressure to achieve improving results, and he would need to find a way to manage these pressures while maintaining high standards of conduct. The panel considered that Mr Lotsu would benefit from a period of further reflection to enable him to demonstrate to a future panel that he has developed the insight and resilience to manage

those pressures appropriately. In the circumstances, the panel was satisfied that a period of 2 years would be sufficient to enable him to do this.

The panel therefore recommended that a prohibition order be imposed with a review period of 2 years.

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 the allegations proven, and the panel is satisfied that Mr Lotsu is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute.

I note that the panel was satisfied that Mr Lotsu's conduct in dishonestly interfering with national examinations and asking pupils to lie on his behalf was misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. I agree with the panel's view that the following Teachers' Standards had been breached:

- 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...;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

I have noted the panel's consideration of the public interest in this case, and that public confidence in the profession could be seriously weakened if the conduct found proved in this case was not treated with the utmost seriousness. The panel found that Mr Lotsu's dishonest conduct was outside of that which could be reasonably tolerated. I note the panel's careful consideration of the public interest both in favour of and against prohibition as well as the interests of Mr Lotsu. The panel found Mr Lotsu's actions were deliberate.

The panel concluded that the public interest considerations outweighed the interests of Mr Lotsu and that of his new school, and that prohibition is both proportionate and appropriate. I agree with that view. I agree with the panel that this is a case of serious

interference with public examinations, a protracted period of dishonesty leading to two investigations and asking pupils to lie on his behalf.

I now turn to the matter of the review period. The panel has set out very clearly their thinking on this matter, and has recommended a review period of 2 years.

The panel has argued that Mr Lotsu had demonstrated some insight into his actions.

I differ in my view from that of the panel. I believe that the panel has not taken sufficient account of the public concern that would arise were a review of the prohibition order be allowed after two years. The panel was of a view that Mr Lotsu failed to treat pupils with dignity, and he had asked some of them to compromise their own integrity in order to cover up his dishonesty. Some of the students had been distressed by the experience. The panel considered Mr Lotsu had breached the regard for the need to safeguard pupils' well-being, in accordance with statutory provisions. Mr Lotsu has also sought to deflect some of his responsibility on the pressures he perceived he was under. For these reasons, I have decided to extend the review period to three years.

This means that Mr Mark Lotsu 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 12 April 2019, 3 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 Lotsu remains prohibited from teaching indefinitely.

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

Mr Lotsu 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.

NAME OF DECISION MAKER: Jayne Millions

Date: 5 April 2016

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