



National College for  
Teaching & Leadership

# **Mr Peter Clemenson: Professional conduct panel outcome**

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

**November 2016**

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

**Teacher:** Mr Peter Clemenson  
**Teacher ref number:** 9640948  
**Teacher date of birth:** 13 October 1968  
**NCTL case reference:** 14697  
**Date of determination:** 11 November 2016  
**Former employer:** Basildon Lower Academy

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 November 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Peter Clemenson.

The panel members were Mr Martin Greenslade (lay panellist – in the chair), Ms Kulvinder Sandal (teacher panellist) and Mr Paul Hawkins (teacher panellist).

The legal adviser to the panel was Miss Laura Ellis of Eversheds LLP.

The presenting officer for the National College was Mr Ben Rich of Nabarro LLP.

Mr Clemenson was 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 16 September 2016.

It is alleged that Mr Clemenson is guilty of having been convicted of a relevant offence, in that:

1. On 11 October 2007, at South East Essex Magistrates Court he was convicted of failing to provide a specimen for analysis (driving or attempting to drive) on 26 September 2007 contrary to the Road Traffic Act 1988 s.7(6). He was sentenced to disqualification from driving for two years (disqualification reduced by six months if by 11 February 2009 he had completed a rehabilitation course). He was fined £500 and ordered to pay costs of £95;
2. On 11 October 2007, at South East Essex Magistrates Court, he was convicted of failing to stop after an accident on 26 September 2007 contrary to the Road Traffic Act 1988 s.170(4). He was fined £250 and his driving licence was endorsed;
3. On 3 September 2012, at South Essex Magistrates Court he was convicted of driving a motor vehicle with excess alcohol on 7 June 2012 contrary to the Road Traffic Act 1988 s.5(1)(a). He was sentenced to disqualification from driving for three years, fined £450 and his driving licence was endorsed. He was ordered to pay costs of £85 and a victim surcharge of £15;
4. On 6 March 2015, at Basildon Crown Court, he was convicted of possession of a knife blade/sharp pointed article in a public place on 15 July 2014 contrary to the Criminal Justice Act 1988 s.139(1). On 1 April 2015 he was sentenced to imprisonment of eight weeks and ordered to pay a victim surcharge of £80 and costs of £500; and
5. On 1 April 2015, he was convicted at Basildon Crown Court of failing to surrender to custody at the appointed time on 6 March 2015 contrary to the Bail Act 1976 s.6(1). He was sentenced to imprisonment of two weeks (concurrent to the prison sentence set out at 4 above).

Mr Clemenson admits the facts of the allegations and that they amount to convictions of a relevant offence.

## C. Preliminary applications

The presenting officer made an application to amend allegation 3 as it appears in the Notice of Proceedings, so that the words 'You were sentenced to disqualification from driving *from* three years...' read 'You were sentenced to disqualification from driving *for* three years...', as the second 'from' in this sentence appears to be a typographical error.

In relation to allegation 4, the panel is also required to amend the date that the allegation of possessing a knife in a public place arose, from 15 *June* 2014 to 15 *July* 2014, as this also appears to be a typographical error. The panel made these amendments under paragraph 4.56 of the *Teacher Misconduct – Disciplinary Procedures for the Teaching Profession* (the “Procedures”). They do not change the nature, scope or seriousness of the allegations and therefore do not cause any prejudice to Mr Clemenson. Mr Clemenson was content with the amendment.

## **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 16

Section 3: NCTL documents – pages 18 to 37

Section 4: Teacher’s documents – pages 39 to 42

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

### **Witnesses**

The panel heard oral evidence from Mr Clemenson.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

We have carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

Mr Clemenson commenced employment as a teacher at South Essex College on 1 July 2006. On 11 October 2007 he was convicted of failing to provide a blood specimen for a test under s.7(6) of the Road Traffic Act 1988 (the “RTA”) and failing to stop his car after an accident under s.170(4) of the RTA. Mr Clemenson ended his employment at South Essex College on 1 July 2011 and subsequently took up employment as a teacher at Basildon Lower Academy (dates unknown).

On 3 September 2012 Mr Clemenson was convicted at South East Essex Magistrates Court of driving a motor vehicle after consuming excess alcohol under s. 5(1)(a) of the RTA.

On 6 March 2015 Mr Clemenson was convicted at Basildon Crown Court for possession of a knife in a public place and on 1 April 2015 he was convicted of failing to surrender to police custody at an appointed time.

## **Findings of fact**

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

**You are guilty of a conviction, at any time, of a relevant criminal offence in that:**

- 1. On 11 October 2007, at South East Essex Magistrates Court you were convicted of failing to provide a specimen for analysis (driving or attempting to drive) on 26 September 2007 contrary to the Road Traffic Act 1988 s.7(6). You were sentenced to disqualification from driving for two years (disqualification reduced by six months if by 11 February 2009 you had completed a rehabilitation course). You were fined £500 and ordered to pay costs of £95;**

This is supported by the PNC report (page 35 of the bundle) and Memorandum of Entry in the South East Essex Magistrates' Court (page 18).

- 2. On 11 October 2007, at South East Essex Magistrates Court, you were convicted of failing to stop after an accident on 26 September 2007 contrary to the Road Traffic Act 1988 s.170(4). You were fined £250 and your driving licence was endorsed;**

This is supported by the PNC report (page 35 of the bundle) and Memorandum of Entry in the South East Essex Magistrates' Court (pages 18 to 19 of the bundle).

- 3. On 3 September 2012, at South Essex Magistrates Court you were convicted of driving a motor vehicle with excess alcohol on 7 June 2012 contrary to the Road Traffic Act 1988 s.5(1)(a). You were sentenced to disqualification from driving for three years, fined £450 and your driving licence was endorsed. You were ordered to pay costs of £85 and a victim surcharge of £15;**

This is supported by the PNC report (page 35 of the bundle) and Memorandum of Entry in the South Essex Magistrates' Court (pages 20 to 21 of the bundle).

- 4. On 6 March 2015, at Basildon Crown Court, you were convicted of possession of a knife blade/sharp pointed article in a public place on 15 July**

**2014 contrary to the Criminal Justice Act 1988 s.139(1). On 1 April 2015 you were sentenced to imprisonment of eight weeks and ordered to pay a victim surcharge of £80 and costs of £500; and**

This is supported by the PNC report (page 35 of the bundle), Certificate of Conviction (page 22 of the bundle), Police Report (pages 23 to 26) and Sentencing Remarks of Judge Lodge dated 6 March 2015 and 1 April 2015 (pages 27 to 32 of the bundle).

**5. On 1 April 2015, you were convicted at Basildon Crown Court of failing to surrender to custody at the appointed time on 6 March 2015 contrary to the Bail Act 1976 s.6(1). You were sentenced to imprisonment of two weeks (concurrent to the prison sentence set out at 4 above).**

This is supported by the PNC report (page 35 of the bundle), Certificate of Conviction (page 22 of the bundle), Police Report (pages 23 to 26) and Sentencing Remarks of Judge Lodge dated 6 March 2015 and 1 April 2015 (pages 27 to 32 of the bundle).

The panel is required to accept the convictions as having proved the facts of the cases that relate to the convictions.

The panel also heard evidence from Mr Clemenson, who admitted the facts of these allegations. In addition, in the Notice of Proceedings form dated 15 October 2016, Mr Clemenson indicated that he admitted the allegations set out in the Notice of Proceedings. In the Notice of Referral form dated 12 March 2016, Mr Clemenson indicated that he admitted allegations 1 to 3. Mr Clemenson also appears to have admitted the facts of some of the allegations in his letter to Ms Morgan (undated) at pages 39 to 40 of the bundle.

As a result of the above, the facts of these allegations are found to be proven.

## **Findings as to conviction of a relevant offence**

The panel is satisfied that the conduct of Mr Clemenson in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Clemenson 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
  - ... not undermining... the rule of law.

The panel considered that Mr Clemenson's actions were relevant to teaching, working with children and working in an education setting, because although the incidents behind the convictions themselves did not take place within an education setting, their nature is indicative of a poor attitude towards authority figures (such as the police), which risks providing a poor example of behaviour for the pupils/students in his care.

The panel noted that the behaviour involved in committing the offences could have had an impact on the safety of members of the public, particularly in relation to driving whilst under the influence of excess levels of alcohol.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Clemenson's behaviour in committing the offences could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has noted that Mr Clemenson's behaviour has ultimately led to him receiving a sentence of imprisonment which is indicative of the seriousness of the offences committed.

This is also a case involving what the panel considers to be serious driving offences (those involving alcohol) and possession of a prohibited knife, which the *Teacher misconduct: The prohibition of teachers – Advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession* (the "Advice") states are likely to be considered relevant offences. In this regard, the panel notes that section 5(ii)(c) of the Advice states that '*An offence can be considered relevant even if it did not involve misconduct in the course of teaching*'.

In relation to allegation 2, the panel considers that Mr Clemenson's conviction for failing to stop his car after an accident indicates a lack of consideration for other members of the public. The panel is also concerned by the fact that Mr Clemenson has to date received 5 criminal convictions, which is indicative of a repetitive pattern of behaviour.

The panel has taken into account Mr Clemenson's oral evidence surrounding the convictions, the letters from Mr Clemenson at pages 39 to 40 and 42 of the hearing bundle and the letter from Mr Clemenson's brother at page 41 of the bundle. The panel also notes that Mr Clemenson appears to acknowledge that these convictions are of relevant offences and are not minor in nature.

However, the panel has found that the seriousness of the offending behaviour that led to the convictions is relevant to Mr Clemenson's ongoing suitability to teach. The panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of a conviction of a relevant offence, 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 and 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 Clemenson, which involved five criminal convictions that are deemed to be of relevant offences, the panel considers that there is a strong public interest consideration in prohibiting Mr Clemenson from the teaching profession at the current time, in order to protect pupils from poor examples of behaviour (of the type that led to the convictions), maintain public confidence in the profession and uphold proper standards of conduct within the profession.

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

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was present as the conduct found against Mr Clemenson (some of which is relatively recent) was outside that which could reasonably be tolerated in the teaching profession.

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 Clemenson.

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 Clemenson. 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:

- a serious departure from the personal and professional conduct elements of the Teachers' Standards;
- actions or behaviours that undermine... the rule of law...;
- possession of a knife;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant

matters' for the purposes of The Police Act 1997 and criminal record disclosures. Relevant offences in this context are those that will always be disclosed on a criminal record certificate or an enhanced criminal record certificate issued by the Disclosure and Barring Service (DBS). In this case, none of the offences appear on the prescribed list of offences that will not be filtered from a DBS certificate. However, Government Guidance (the DBS filtering guide dated 13 December 2013) states that all convictions resulting in a custodial sentence (such as in allegations 4 and 5) will remain subject to disclosure, in addition to all convictions where more than one conviction is recorded against an individual. This consideration is therefore relevant in the current case.

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.

Mr Clemenson's actions could be considered to have been deliberate, although the panel acknowledges that Mr Clemenson states that this was the result of ill health at the time. The panel notes Mr Clemenson's submissions that he is currently taking action to recover from these health issues which he contends led to the offences, to avoid a repetition of similar behaviour in the future. The panel also notes Mr Clemenson's submissions that he is undertaking educational courses to prevent similar behaviour from occurring in the future. However, other than Mr Clemenson's own submissions and the email from Mr Clemenson's brother at page 41 of the bundle, no corroborating evidence has been produced by third parties regarding these courses (such as certificates of completion or references of good character), which the panel considers would have been helpful.

In addition, no evidence has been provided to indicate whether Mr Clemenson previously had a good record in the teaching profession, such as references from previous colleagues, which the panel also considers would have been helpful. The panel notes that no evidence was produced by the presenting officer that suggested that Mr Clemenson did not previously have a good teaching record.

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 Clemenson in this instance. The number and seriousness of the criminal convictions, together with the issues considered above, were significant factors 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 them to decide to recommend that a review period of the prohibition order should be considered. The panel were 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. None of the behaviours on that list (section 7 of the Advice) apply in the current case. However, the panel notes that this list is stated not to be exhaustive.

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 provisions for a review period after five years. This would provide Mr Clemenson with further time to recover from the long standing health issues which he contends led to the offences, whilst upholding the public interest considerations described above. The panel considers that should Mr Clemenson decide to apply to set aside the prohibition order after this period, this will provide him with a further opportunity to present the type of evidence in support of a return to the profession which the panel considers is currently missing to justify this. Examples of this would be corroboration from third parties regarding his alleged recovery from his illness and abilities as a teacher.

## **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 both in respect of sanction and review.

Having found all of the facts in relation to the allegations proven, Mr Clemenson has been found guilty of relevant offences. The panel has accepted the convictions as having proved the facts of the case that relate to the convictions. I note the panel also heard evidence from Mr Clemenson, who admitted the facts of these allegations.

I have noted that the panel has made reference to part two of the Advice published by the Secretary of State, and they found Mr Clemenson 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
  - ... not undermining... the rule of law.

The panel considered that Mr Clemenson's actions were relevant to teaching, working with children and working in an education setting, because although the incidents behind the convictions themselves did not take place within an education setting, their nature is indicative of a poor attitude towards authority figures (such as the police), which risks providing a poor example of behaviour for the pupils/students in his care. I agree with the panel's view.

I agree with the panel that the behaviour involved in committing the offences could have had an impact on the safety of members of the public, particularly in relation to driving whilst under the influence of excess levels of alcohol.

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

I have taken into account the guidance published by the Secretary of State. I have taken into account the need to balance the public interest with the individual interests of Mr Clemenson. I have also taken into account the need to be proportionate.

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:

- a serious departure from the personal and professional conduct elements of the Teachers' Standards;
- actions or behaviours that undermine... the rule of law...;
- possession of a knife;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

I have considered the panel's deliberations around the mitigating factors in this case. Mr Clemenson's actions could be considered to have been deliberate, although the panel acknowledges that Mr Clemenson states that this was the result of ill health at the time. I see that the panel also notes Mr Clemenson's submissions that he is undertaking educational courses to prevent similar behaviour from occurring in the future. However, no corroborating evidence has been produced by third parties regarding these courses. I also note that no evidence has been provided to indicate whether Mr Clemenson previously had a good record in the teaching profession, such as references from previous colleagues. However, the panel also notes that no evidence was produced by the presenting officer that suggested that Mr Clemenson did not previously have a good teaching record.

I have considered the public interest in this case. The panel has decided that the public interest considerations outweigh the interests of Mr Clemenson in this instance.

The panel is of the view that prohibition is both proportionate and appropriate. I agree with the panel – that the number and seriousness of the criminal convictions, together with the issues considered above, were significant factors in forming that opinion.

I have considered the matter of a review period carefully. I have taken into account the Advice. I have weighed the public interest and the interests of Mr Clemenson, and have taken into account the need to be proportionate.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. However, that list is not exhaustive and I have reflected and considered the deliberations of the panel in this case. The panel felt the findings indicated a situation in which a review period would be appropriate, and have recommended prohibition with provisions for a review period after five years. I agree with the panel's view. I agree such a period would provide Mr Clemenson with further time to recover from the long standing health issues which he contends led to the offences, whilst upholding the public interest considerations. Should Mr Clemenson decide to apply to set aside the prohibition order after this period, he should present the type of evidence in support of a return to the profession which the panel considers is currently missing to justify this. I agree with the panel's view that examples of such evidence would be corroboration from third parties regarding his alleged recovery from his illness, and evidence supporting Mr Clemenson's abilities as a teacher.

For the reasons I have set out above, I support the recommendation of the panel that this prohibition order should be made with provision for review after five years.

**This means that Mr Peter Clemenson 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 November 2021, five 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 Clemenson remains prohibited from teaching indefinitely.

A handwritten signature in black ink, appearing to be 'J. Millions', written on a light background.

**Decision maker: Jayne Millions**

**Date: 14 November 2016**

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