



National College for
Teaching & Leadership

Mr John Boothby Professional conduct panel outcome

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

January 2016

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

Teacher: Mr John Boothby
Teacher ref number: 3532233
Teacher date of birth: 24 April 1988
NCTL case reference: 14053
Date of determination: 6 January 2016
Former employer: Canford School, Wimborne

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 6 January 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr John Boothby.

The panel members were Mr Mark Tweedle (teacher panellist – in the chair), Ms Sarah Evans (teacher panellist) and Mr Ian Hughes (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 Rachel Morgan of Nabarro solicitors.

Mr Boothby was not present and was not represented.

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

B. Allegations

The panel considered the allegation set out in the notice of meeting dated 11 December 2015.

It was alleged that Mr Boothby was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that he:

1. failed to maintain appropriate professional boundaries and/or breached his position of trust in that he engaged in a sexual relationship with Pupil A.

Mr Boothby has admitted the facts of the allegation, but he has not expressly admitted that they amount to unacceptable professional conduct.

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 Boothby has 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 meeting, the panel received a bundle of documents which included:

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

Section 2: Notice of referral, response and notice of meeting – pages 5 to 9b

Section 3: Statement of agreed facts and presenting officer representations – pages 11 to 17

Section 4: NCTL documents – pages 19 to 73

Section 5: Teacher documents – pages 75 to 85

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

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 carefully considered the case before it and reached a decision.

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

Mr Boothby had been a teacher at Canford School (the “school”) since September 2010. It was alleged that he engaged in a sexual relationship with Pupil A, whilst she was still a pupil at the school.

Findings of fact

The panel’s findings of fact are as follows. The panel noted Mr Boothby’s admissions of the facts of the allegation. However, the panel also turned its own independent mind to considering whether or not the facts of the allegation have been proven.

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

1. failed to maintain appropriate professional boundaries and/or breached his position of trust in that he engaged in a sexual relationship with Pupil A.

The panel noted that in the record of the police interview with Pupil A dated 17 July 2014, Pupil A confirmed that she was in a relationship with Mr Boothby. She said that “It started about 2 months ago; it was consensual and not forced.” (see page 38). She explained that they initially became close, they kissed, they gradually became more comfortable around each other and eventually “a sexual relationship did develop, but not that rapidly” (see page 39). Pupil A also confirmed that she had “ended up in a B and B” with Mr Boothby during half term, where he had told her that he loved her. She added that “I told him I loved him a week later.” (see page 39).

The panel also noted Mr Boothby’s submissions to the school’s investigation dated 3 August 2014, in which he acknowledged the affair with Pupil A and acknowledged that “I

was well aware at the time that the affair constituted a serious breach of school policies” (see page 52).

In addition, the panel took account of Mr Boothby’s representations to the NCTL dated 4 August 2015, in which he stated: “I accept the central charge here [i.e. that he had an inappropriate sexual relationship with Pupil A]. In engaging in a sexual relationship with [Pupil A], I was entirely unprofessional, and fully deserve the termination of employment and procedures that have followed. ... my behaviour is something I hugely regret: it has caused more pain to my family and close friends than I would ever have wished to bring anyone, and was a huge breach of the standards that were, rightly, expected of me as a teacher.” (see page 77).

Further, Mrs Boothby’s statement confirmed that Mr Boothby had told her that he had been having an affair and she subsequently became aware that this was with Pupil A (see pages 19 and 20).

The panel was of the view that Mr Boothby’s relationship with Pupil A amounted to a failure by him to maintain appropriate professional boundaries and was a breach of his position of trust.

The panel was therefore satisfied that there was sufficient evidence to support Mr Boothby’s admission and it found this allegation proven.

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

Having found the allegation proven, the panel went on to consider whether these 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 document Teacher Misconduct: The Prohibition of Teachers (“the Advice”).

The panel was satisfied that the conduct of Mr Boothby in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mr Boothby 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
 - 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Boothby fell significantly short of the standards expected of the profession and this amounted to misconduct of a serious nature.

In particular, the panel noted Pupil A's comment in her interview with the police that "I had confided in him as part of his teaching role. I don't really know how a friendship developed." (see page 38). She also said that after they had kissed "We talked about what had happened. We knew that we shouldn't be doing it, knew the risks – you know teacher/pupil." (page 38). She added that "he was in a position of trust" (page 39). The panel was of the view that this demonstrated that Mr Boothby had been aware of his special position as Pupil A's teacher, but nevertheless actively decided to pursue the relationship with her. This was a clear failure by Mr Boothby to observe proper boundaries, and was also a serious breach of the school's policies and national requirements.

The panel also considered whether Mr Boothby's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and found that behaviours associated with offences involving sexual activity were relevant. The Advice indicated that where behaviours associated with such an offence exist, a panel would be likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel saw no reason to depart from the Advice, and was satisfied that Mr Boothby was guilty of unacceptable professional conduct.

The panel also considered whether Mr Boothby was guilty of conduct that could bring the profession into disrepute.

The panel considered how the teaching profession is viewed by others and 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. By any measure, Mr Boothby's actions in engaging in a sexual relationship with a pupil under his care, would in the panel's view bring the teaching profession into disrepute. This remains the case even in these circumstances where the pupil was over the age of 18 at the time of the admitted conduct. In light of this, the panel found that Mr Boothby's conduct would likely have a negative impact on the public's perception of teachers, and it therefore constituted conduct that would 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 to recommend the imposition of a prohibition order by the Secretary of State.

The panel considered whether this would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. 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:

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

In light of the panel's findings that Mr Boothby had engaged in an inappropriate sexual relationship with Pupil A, the panel was of the view that there was a strong public interest consideration in respect of the protection of pupils to prevent future contravention of appropriate professional boundaries. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Boothby were not treated with the utmost seriousness when regulating the conduct of the profession. Further the panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Boothby was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Boothby.

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 Boothby. The panel took further account of the Advice, which suggested that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils; and
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

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. There was no evidence that Mr Boothby's actions were not deliberate or that he was acting under duress. However, the panel accepted that Mr Boothby did have a previously good history. In particular, the panel noted the numerous positive comments in Mr Boothby's appraisal of April 2014, regarding his teaching abilities, impact on pupils' results and his rapport with pupils (see pages 83 to 85).

Taking all of the circumstances into account, in particular given the sexual nature of Mr Boothby's conduct, the panel saw no reason to depart from the guidance contained in the Advice and was of the view that prohibition would be both proportionate and necessary. The panel decided that the public interest considerations outweighed the interests of Mr Boothby, who himself acknowledged that an appropriate sanction would be prohibition.

Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to recommend a review period for the prohibition order. The panel was mindful that the Advice stated 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 indicated that there were behaviours that, if proven, would militate against a review period being recommended. These behaviours included 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. The panel was of the view that Mr Boothby's sexual misconduct was serious and had the potential to result in harm to Pupil A.

The panel took into account evidence of some insight and remorse by Mr Boothby, including in his submissions to the school's investigation (see page 51), and his representations to the NCTL (see pages 79, 81 and 82). However, the panel was of the view that, whilst Mr Boothby was clearly remorseful about the events, he had not expressed sufficient insight into the role of a teacher and the importance of maintaining professional boundaries in order to prevent such a situation arising at all. He did not

appear to appreciate the distinction between teachers being friendly towards pupils as opposed to being friends with them. The panel did not see any evidence that he was aware of the need to be able to control his own emotions when dealing with pupils. Further, the panel noted that Mr Boothby showed no insight into the potential impact of the affair on Pupil A. He regarded her as an adult on an equal standing as himself, rather than a pupil under his care. Given this lack of insight, the panel was not persuaded that Mr Boothby would not make this same mistake again in the future.

In the circumstances, the panel did not see any reason to depart from the guidance in the Advice, and considered that in order to protect pupils in the future, maintain public confidence in the profession, and declare and uphold proper standards of conduct, it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given careful consideration to the findings and recommendations of the panel in this case. The panel has found the allegation proven and judge that the facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Mr Boothby had engaged in an inappropriate sexual relationship with a pupil.

The panel was of a view that there was a strong public interest consideration in respect of the protection of pupils to prevent future contravention of appropriate professional boundaries.

I have noted that the panel considered these public interest considerations both in favour of and against prohibition as well as the interests of Mr Boothby. The panel considered whether there were sufficient mitigating factors against a prohibition order, taking into account the nature and severity of the behaviour in this case. There was no evidence that Mr Boothby's actions were not deliberate or that he was acting under duress. The panel accepted that Mr Boothby did have a previously good history, and noted numerous positive comments in Mr Boothby's appraisal of April 2014. The panel decided that the public interest considerations outweighed the interests of Mr Boothby, who himself acknowledged that an appropriate sanction would be prohibition. I agree with their recommendation.

For the reasons set out, I support the view of the panel that the sexual nature of Mr Boothby's conduct means prohibition is both proportionate and necessary.

I have considered the matter of a review period. Mr Boothby's sexual misconduct was serious and had the potential to result in harm to Pupil A. Taking into account evidence of some insight and remorse by Mr Boothby, the panel was of a view that he had not

expressed sufficient insight into the role of a teacher and the importance of maintaining professional boundaries. The panel were not persuaded that Mr Boothby would not make this same mistake in the future.

I agree with the panel, that the prohibition order be recommended without provision for a review period.

This means that Mr John Boothby is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegation found proved against him, I have decided that Mr Boothby shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Boothby 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: 11 January 2016

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