



National College for
Teaching & Leadership

Mr Daniel Cochrane Professional conduct panel outcome

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

9 July 2015

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

Teacher: Mr Daniel Cochrane

Teacher ref number: 00/54896

Teacher date of birth: 1 November 1976

NCTL case reference: 10220

Date of determination: 9 July 2015

Former employer: Lord Lawson of Beamish Community School, Gateshead, Durham

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened between 6 and 9 July 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Daniel Cochrane.

The panel members were Mr John Pemberton (teacher panellist – in the chair), Mr Martin Pilkington (lay panellist) and Ms Nicole Jackson (lay panellist).

The legal adviser to the panel was Mr Stephen Murfitt of Blake Morgan solicitors.

The presenting officer for the National College was Ms Melinka Berridge of Kingsley Napley solicitors.

Mr Daniel Cochrane was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegation(s) set out in the Notice of Proceedings dated 15 April 2015.

It was alleged that Mr Daniel Cochrane was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he:

1. Engaged in inappropriate communication with Girl A, a child under the age of 16 years, in that he:

a) Sent sexually explicit text messages to Girl A;

b) Asked Girl A to send photograph messages of herself in her underwear to him;

c) Sent photograph messages of himself displaying his naked arms and chest to Pupil A.

2. Engaged in inappropriate physical contact with Girl A in that whilst they were alone together in his car he:

a) Kissed her;

b) Allowed her to touch and/or masturbate his penis;

c) Touched her over her clothing.

3. His conduct set out at paragraphs 1 and/or 2 was sexually motivated.

4. Whilst engaging in the conduct set out at paragraphs 1 and/or 2 above he knew that Girl A was under the age of 16.

Preliminary applications

At an earlier case management directions hearing it had been decided that Mr Cochrane's case would be heard with Mr Lord and Mr Green in accordance with rule 4.61 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession.

Mr Green applied for the case to proceed in private. That application was refused by the panel and the reasons are set out in the decision relating to Mr Green.

The presenting officer applied to proceed in the absence of Mr Cochrane and Mr Green and the panel gave the following reasons for its decision:

1. This was a preliminary application by the presenting officer to proceed in the absence of Mr Daniel Cochrane and Mr Andrew Green.

2. The panel has determined that the National College has complied with the service requirements of Regulation 19 a to c of The Teachers' Disciplinary (England) Regulations 2012 (the 'Regulations').
3. The panel has noted that the Notice of Proceedings was sent on 15 August 2015 by first class post. Mr Green has completed the Notice of Proceedings Form, and both Mr Cochrane and Mr Green have been in correspondence with the presenting officer when they have made it clear they are not attending the hearing.
4. The panel is satisfied that Mr Cochrane and Mr Green have been provided with the requisite length of notice of at least 8 weeks in accordance with paragraph 4.11 of the Procedures, and that the Notice of Proceedings contained the necessary details set out in paragraph 4.12 of the Procedures. The panel has reminded itself that it has discretion to proceed in absence; that discretion has to be exercised with utmost care and caution. The panel has been directed to the relevant case law (R v Jones) and has considered carefully the guidelines provided as to the exercise of discretion.
5. The panel has determined that Mr Cochrane and Mr Green have waived their right to participate in this hearing. There has been no indication that an adjournment might result in either of them attending voluntarily. The panel has also noted that these are serious matters and there is a public interest in the hearing taking place within a reasonable time of the events to which it relates.
6. Accordingly the panel has decided that the hearing should proceed in the absence of Mr Green and Mr Cochrane.

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 4

Section 2: Notice of Proceedings and Response – pages 5 to 11

Section 3: NCTL witness statements – pages 12 to 27

Section 4: NCTL documents – pages 28 to 345

Section 5: Teacher documents – pages 346 to 357

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

Witnesses

The panel heard oral evidence from:

Girl A called by the presenting officer.

Mother of Girl A called by the presenting officer.

David Lord

Witness A, headteacher at Elemore Hall School, called by the presenting officer

E. Decision and reasons

The panel announced its decision and reasons as follows:

We have now 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.

Findings of fact

Mr Cochrane was employed as a physical education teacher at Lord Lawson of Beamish Community School in September 2001. In August 2011 Mr Cochrane was arrested by the police in relation to an allegation of an inappropriate relationship with a 15 year old girl. Mr Cochrane was suspended from his post on 4 September 2011 and he resigned on 23 March 2012.

We make the following findings of fact by reference to each of the allegations set out in the Notice of Proceedings.

This is a case where the panel is faced with conflicting evidence as to what actually took place on a number of key and relevant occasions. In making findings of fact the task of the panel involved an assessment of the credibility of the witnesses and in particular the evidence of Girl A and Mr Cochrane. The panel's task is to consider the evidence in relation to each allegation set out in the Notice of Proceedings, but it will be helpful to express the following with regard to the evidence of Girl A. Girl A gave clear answers to questions that were put to her at the hearing. She admitted that she had lied in her police interviews and gave reasons for so doing which the panel accepted. Girl A did not seek to avoid questions during the hearing and gave crisp and to-the-point answers. There were some inconsistencies in her evidence, but overall the panel determined that Girl A was a credible witness.

Mr Cochrane did not attend the hearing and therefore the panel has had to consider his hearsay evidence by reference to the documents in the hearing bundle. Neither the panel

nor the presenting officer have been able to ask Mr Cochrane questions and test his evidence. The panel has been able to test the evidence of Girl A, and in circumstances where the evidence of Girl A and Mr Cochrane conflict, the panel has preferred the evidence of Girl A.

The panel has decided it would be appropriate to consider the allegations in a different order to that set out in the Notice of Proceedings.

4. Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, at the time he engaged in the conduct in paragraphs 1 and/or 2, he knew that Girl A was under the age of 16 years.

Girl A in her evidence to the panel was clear that she had told Mr Cochrane in approximately May 2011 that she was 15 years old at the time. She also believed that her then boyfriend had told Mr Cochrane her correct age. In the criminal trial we have seen the summing up by Judge Prince in January 2013 when he told the jury that Girl A had said in evidence concerning Mr Cochrane 'I told Mr Cochrane I was in Year 10 at that school. I may have texted him...'

We have seen the texts passing between Girl A and Mr Cochrane when the matter of Girl A's age is discussed. By way of example on 14 June 2011 Girl A texts Mr Cochrane in the following terms 'Gna be dirty theb' (C245) to which he replies 'when you are 16 lol ! xx how was 'F'?' (C245) (F was her then current boyfriend.) Again on 15 June 2011 Girl A texts Mr Cochrane in the following terms 'U gna owe it up to me then?' (C250). Mr Cochrane replies 'would love too but gonna have to wait till your birthday xxx'.(C251)

In her police interview on 24 July 2011 Girl A was asked by the police officer how Mr Cochrane knew how old she was. Girl A replied 'Cos he asked us, but I knew that he knew so I went, I went to him aye I'm fifteen years of age'.

Mr Cochrane has not given evidence to the panel and therefore we have had to seek to understand his account from the papers in our hearing bundle. In an email to the presenting officer dated 6 July 2015 (the first day of the hearing) Mr Cochrane states he did not know Girl A's age and that he 'presumed her to be 18/19 years of age'. This was consistent with his evidence at the criminal trial. The panel noted Mr Cochrane's explanation at the criminal trial as to his text reply 'when you are 16' and consider the same to be unconvincing.

We are satisfied that Girl A has been consistent in her assertion that she told Mr Cochrane she was 15 years of age. Girl A made that statement in her police interview, as a witness at the criminal trial and the text messaging suggests that Mr Cochrane was aware that she was 15 years of age. The evidence of Girl A on this issue before the panel was consistent with previous statements and the panel prefers the evidence of Girl A to Mr Cochrane's. The panel is therefore satisfied that by considering all of the evidence that Mr Cochrane knew Girl A was under the age of 16.

Accordingly the panel finds allegation 4 proved.

1(a) Whilst he was employed as Teacher at Lord Lawson of Beamish Community School during 2011, he sent sexually explicit text messages to Girl A.

The panel has seen the record of text messages between Girl A and Mr Cochrane at pages 233 to 268 of the hearing bundle. The text messages are dated from 12 June 2011 to 24 June 2011; Girl A told the panel that her telephone had been wiped of previous messages on 10 June 2011. Girl A accepted in evidence that the texts had been sent and Mr Cochrane in his email of 6 July 2015 to the presenting officer stated 'a number of texts of a sexual nature were sent back and forwards between myself and Girl A'.

The panel finds the content of some of the text messages to be sexually explicit.

The panel is satisfied that particular (a) of allegation 1 is proved.

1(b) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, he asked Girl A to send photograph messages of herself in her underwear to him.

Mr Cochrane made a request of Girl A by text for a photograph of herself. Girl A understood the request to be asking for a naked photograph of her and she gained this impression from the nature of the recent texts from Mr Cochrane. Girl A sent to Mr Cochrane a photograph of herself in her underwear. The panel is satisfied that Mr Cochrane did not make a request for a photograph of Girl A in her underwear. The presenting officer in her submissions accepted that the evidence on this aspect of her case did not come up to proof.

The panel therefore finds particular(b) of allegation 1 not proved.

1(c) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, he sent photograph messages of himself displaying his naked arms and chest to Girl A.

Girl A told the panel that Mr Cochrane had sent her topless pictures of himself showing his arms and chest. In her police interview on 24 July 2011 Girl A was asked whether there were any pictures exchanged between them. Girl A replied 'yeah I seen his chest and his arms and he seen me'. Mr Cochrane was interviewed by the police on 31 August 2011 and he was asked whether he had sent any images to Girl A and he replied 'erm I think I sent her one of just my sort of body, sort of thing my face and my body'. In his email to the presenting officer dated 6 July 2015 Mr Cochrane stated that 'I responded with slightly tamer messages including pictures of my chest and arms'.

The panel is satisfied on the evidence that particular (c) of allegation 1 is proved.

1. Whilst he was employed as Teacher at Lord Lawson of Beamish Community School during 2011 he engaged in inappropriate communication with Girl A, a child under the age of 16 years.

The panel is satisfied having regard to finding particular (a) and (c) proved that Mr Cochrane engaged in inappropriate communications with Girl A, a child under the age of 16 years.

Accordingly the panel finds allegation 1 proved.

2(a)(b)(c) Whilst he was employed as Teacher at Lord Lawson of Beamish Community School during 2011 he engaged in inappropriate physical contact with Girl A in that whilst they were alone together in his car he kissed her, he allowed her to touch and/or masturbate his penis, and he touched her over her clothing.

The particulars at (a) (b) and (c) relate to one alleged incident and it is therefore appropriate to consider them together. Girl A gave evidence to the panel that sometime in May 2011 she met with Mr Cochrane. Girl A's evidence was that he picked her up in his car and drove to a site of an old factory. Girl A said that they kissed. She then masturbated Mr Cochrane for approximately 5 minutes and he then ejaculated. Girl A said that he touched her intimately over her clothing. It was the evidence of Girl A that this was the only time she met with Mr Cochrane and it was the only occasion that sexual touching had taken place between them.

Mr Cochrane always maintained that he never met Girl A. That was his position at the criminal trial and Judge Prince captured the issue in these words to the jury, 'He says I never met [Girl A]. [Girl A] says we did meet in the car. So in this case you will have to decide has he lied to us or not?'

As there is a conflict in the evidence the panel has carefully examined the exchange of texts between Mr Cochrane and Girl A and those in particular at C255 to 256. The panel has concluded on the balance of probabilities that on 15 June 2011 Girl A and Mr Cochrane arranged to meet on that day. From the text messages sent later on 15 June 2011 it is evident that a sexual encounter had occurred and it is the panel's view that, on the balance of probabilities, Girl A performed oral sex on Mr Cochrane. Whilst there appears to be an inconsistency on the date, in the panel's view, the text exchange corroborates the evidence of Girl A to the panel.

The presenting officer and the panel have not had the opportunity of putting questions to Mr Cochrane as to this issue. Girl A gave evidence as to the incident and in the view of the panel she gave a detailed and truthful account of what happened at the meeting. The panel accepts her evidence as truthful and therefore finds the allegation proved.

2. Whilst he was employed as Teacher at Lord Lawson of Beamish Community School during 2011 he engaged in inappropriate physical contact with Girl A.

The panel has found particulars (a) (b) and (c) proved and accordingly is satisfied that Mr Cochrane engaged in inappropriate physical contact with Girl A, a child under the age of 16 years.

Accordingly the panel finds allegation 2 proved.

3. Whilst he was employed as Teacher at Lord Lawson of Beamish Community School during 2011 his conduct set out at paragraphs 1 and/or 2 was sexually motivated.

The panel has accepted the advice of the legal adviser to consider whether there is direct evidence of motive or whether the panel is satisfied on the balance of probabilities that sexual motivation can be inferred from all the circumstances. The panel is satisfied that on a plain reading of the admitted communications passing between Girl A and Mr Cochrane, the conduct was plainly sexually motivated.

Accordingly the panel finds allegation 3 proved.

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

Having found a number of the allegations 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.

The conduct found proved is outside of the education setting. It is very serious and in the view of the panel certainly brings the profession into disrepute. The conduct displayed would be likely to have a negative impact on Mr Cochrane's status as a teacher, potentially damaging the public's perception of teachers, and therefore bringing the profession into disrepute. 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 the misconduct to be of a serious nature falling significantly short of the standard expected of a teacher. Although this happened outside of the education setting the panel considers that it may lead to pupils being exposed to or influenced by the behaviour in a harmful way.

The panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which we refer to as "the Advice". The panel finds evidence of the the following factors:

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

- Teachers are expected to demonstrate consistently high standards of personal and professional conduct.
 - Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school.
 - Observing proper boundaries appropriate to a teacher's professional position.
- Sexual activity.

Having found the facts of allegations 1, 2, 3 and 4 proved we further find that Mr Cochrane's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

The panel has made findings of unacceptable professional conduct and conduct that may bring the profession into disrepute. It is now necessary for the panel 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 a proportionate measure and if 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 public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

The panel has considered the Advice on teachers' misconduct in relation to the prohibition of teachers, and has concluded that the following are relevant:

- Serious departure from the personal and professional conduct elements of the latest Teachers' Standards, as published by, or on behalf of, the Secretary of State;
- Sexual misconduct involving actions that were sexually motivated.

The panel considers that public confidence in the profession could be weakened if such conduct, as the panel has found proved, were not treated with seriousness when regulating the conduct of the profession. The factual findings against Mr Cochrane raise important public interest considerations in declaring proper standards of conduct for the teaching profession. Teachers are at all times role models and are expected to act with integrity.

Notwithstanding the public interest considerations that were present, the panel has to consider carefully whether or not it would be proportionate to impose a prohibition order.

The panel notes his actions were deliberate and he has not acted under duress. The panel has noted his previous good history.

The panel has taken careful note of the contents of the email to the presenting officer dated 6 July 2015 which contains no evidence of insight or remorse for his action. Mr Cochrane makes reference to glowing references from teaching staff, but he has chosen not to share those with the panel save as to a reference from a former headteacher which was not signed, dated or on headed note paper. Mr Cochrane did not attend the hearing and therefore was unable to advance any mitigating circumstances on his own behalf.

In carrying out the balancing exercise the panel has decided that the public interest considerations outweigh by some margin the interests of Mr Cochrane. Accordingly a consideration of the public interest requires the panel to make a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel then went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel has been mindful that the advice given is that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate for a review period of not less than 2 years to be recommended in order for the teacher to apply to set aside the order. The panel is satisfied that the panel's findings are incompatible with Mr Cochrane being a teacher and that in those circumstances a review period would not be appropriate. Accordingly the panel recommends a prohibition order without a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to the findings and recommendations of the panel in this case.

The panel has found a range of allegations proven and consider that those facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has considered the public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

Mr Cochrane's actions were deliberate and he was not acting under duress. He has chosen not to attend and has therefore not been able to put forward any mitigation on his behalf. There is nothing in the papers to suggest he has shown any insight or remorse.

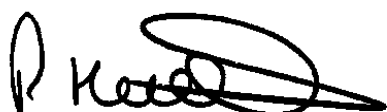
I agree with the panel's recommendation that prohibition is an appropriate and proportionate sanction.

The proven facts include sexual misconduct and actions that were sexually motivated. I agree that the order should be without the opportunity to apply to have it set aside in the future.

This means that Mr Daniel Cochrane 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 allegations found proved against him, I have decided that Mr Daniel Cochrane 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 Daniel Cochrane 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 'P Heathcote', with a large, sweeping flourish at the end.

Decision maker: Paul Heathcote

Date: 10 July 2015

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