



National College for
Teaching & Leadership

Mr Oscar Gibbon: Professional conduct panel outcome

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

May 2017

Contents

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

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

Teacher: Mr Oscar Gibbon

Teacher ref number: 1582636

Teacher date of birth: 15 January 1993

NCTL case reference: 15701

Date of determination: 22 May 2017

Former employer: Great Yarmouth VA High School, Norfolk (the “school”)

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 22 May 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Oscar Gibbon.

The panel members were, Mr John Matharu (lay panellist – in the chair) Ms Fiona Tankard (teacher panellist) and Mr Martin Greenslade (lay panellist).

The legal adviser to the panel was Ms Natascha Gaut of Eversheds Sutherland LLP solicitors.

The presenting officer for the National College was Ms Holly Quirk of Browne Jacobson LLP solicitors.

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 4 May 2017.

It was alleged that Mr Gibbon was guilty of unacceptable professional conduct and /or conduct that may bring the profession into disrepute in that whilst employed as a teacher at Great Yarmouth VA High School he:

1. Failed to follow guidance given to him by Great Yarmouth VA High School in relation to his behaviour and relationship with Year 11 girls, specifically Pupil A;
2. Had or is currently having an inappropriate relationship with Pupil A, in that he;
 - a. On 8 August 2016, accompanied Pupil A to Colchester Zoo;
 - b. Held hands with Pupil A;
 - c. Kissed Pupil A;
 - d. Contacted Pupil A via Facebook;
 - e. At some time before 19 August 2016, entered into a boyfriend/girlfriend relationship with Pupil A.

The particulars of the allegations were as set out in the Notice of Meeting, referring to the teacher in the third person.

In the Statement of Agreed Facts, dated 24 March 2017, Mr Gibbon 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 allegations should be considered at a public hearing 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, Mr Gibbon 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 were convened, there would be an additional 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, Anonymised Pupil List and List of Key People – pages 2 to 5

Section 2: Notice of Proceedings and Response – pages 7 to 12b

Section 3: Statements of Agreed Facts and Presenting Officer Representations – pages 14 to 19

Section 4: NCTL Documents – pages 21 to 249

Section 5: Teacher Documents – pages 251 to 256

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:

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 Gibbon had been employed at the School, as part of the Teach First training programme, since 1 September 2015.

In November 2015 concerns were raised in relation to Mr Gibbon's behaviour and relationship with Year 11 female pupils. Mr Gibbon was subsequently provided with advice from the School in relation to his own safety and appropriateness of professional relationships.

In January 2016, further concerns were raised in relation to rumours that Mr Gibbon was having a relationship with Pupil A. Mr Gibbon was provided with a further copy of

'Guidance for Safer Working Practices for those working with young children and young people in education' and was advised to not communicate with Pupil A.

On 26 July 2016, following allegations from a member of staff that there had been "lingering looks" between Mr Gibbon and Pupil A, Mr Gibbon was provided with a letter of advice from the School. Mr Gibbon was advised to refer to the Teacher's Standards.

On 23 June 2016, Pupil A left school following the completion of her GCSE's.

On 14 July 2016, Pupil A sent Mr Gibbon a message via Facebook. Mr Gibbon responded to this message and stated that he missed talking to Pupil A.

On 18 August 2016, the school received an email from an ex-member of staff stating that they had seen Mr Gibbon and Pupil A at Colchester Zoo on 8 August 2016 and they had been holding hands. Mr Gibbon admits when Pupil A left school they had developed a boyfriend/girlfriend relationship and had kissed and held hands.

Mr Gibbon was suspended from his post on 19 August 2016. Mr Gibbon's contract was due to come to an end on 31 August 2016.

Findings of fact

Our findings of fact are as follows:

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

- 1. Failed to follow guidance given to him by Great Yarmouth VA High School in relation to his behaviour and relationship with Year 11 girls, specifically Pupil A;**

Mr Gibbon admitted this allegation in the signed Statement of Agreed Facts dated 24 March 2017. This was further evidenced at the documentation found at pages 76 through to 81 of the bundle.

The panel therefore found the allegation proven.

- 2. Had or is currently having an inappropriate relationship with Pupil A, in that he;**
 - a. On 8 August 2016, accompanied Pupil A to Colchester Zoo;**
 - b. Held hands with Pupil A;**
 - c. Kissed Pupil A;**
 - d. Contacted Pupil A via Facebook;**

e. At some time before 19 August 2016, entered into a boyfriend/girlfriend relationship with Pupil A.

With regards to allegation 2, the panel relied on the documentation found within the bundle to make its decision. The panel specifically looked at the email received from an ex member of staff (page 118 of the bundle), photographic evidence of Mr Gibbon and Pupil A (page 164 of the bundle) and email correspondence from both the Police and LADO in relation to this relationship (pages 194-201 of the bundle).

These facts were admitted by Mr Gibbon in the signed Statement of Agreed Facts dated 24 March 2017.

Specifically referring to allegation 2.a. Mr Gibbon admitted that he went to the Zoo with Pupil A on the 8 August 2016. The Panel also reviewed the photographic evidence at page 118 of the bundle and the email received from an ex-member of staff on the 18 August 2016. Therefore the panel agreed that the allegation was proven.

Referring to allegation 2.b. Mr Gibbon admitted that he had held hands with Pupil A. The panel was satisfied that this allegation was proven.

Part c of allegation 2 was also admitted by Mr Gibbon in the statement of agreed facts dated 24 March 2017 and therefore the panel was satisfied that the allegation was proven.

Allegation 2.d. was again admitted by Mr Gibbon in the statement of agreed facts. However, the panel noted that Mr Gibbon did not make direct contact with Pupil A and was responding to a message that Pupil A had sent to him directly. After reviewing the evidence the panel found that the allegation was proven.

Lastly, Mr Gibbon admitted that a boyfriend/girlfriend relationship had developed and therefore the panel agreed that allegation 2.e. was proven.

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

Having found all the allegations 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, which the panel referred to as “the Advice”.

The panel was satisfied that the conduct of Mr Gibbon in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mr Gibbon 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
 - 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.

The panel was satisfied that the conduct of Mr Gibbon fell significantly short of the standards expected of the profession.

In respect of allegation 1, the panel considered the information given to Mr Gibbon and concluded that Mr Gibbon had failed to follow this guidance. The panel considered that after these warnings were given Mr Gibbon should have been aware of his actions and changed his behaviour to reflect the standards expected from a teacher.

In respect of Mr Gibbon's relationship with Pupil A, the panel considered that this was borne out of the position of trust that Mr Gibbon was in, as a teacher in Pupil A's school, despite her having recently left the School. The panel considered that the expectations of the obligations upon Mr Gibbon would not have changed overnight and concluded that he had failed to maintain appropriate professional boundaries with Pupil A.

The panel has also considered whether Mr Gibbon's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found that none of these offences were relevant.

The panel noted that allegation 2 took place outside of the education setting. However, a relationship with Pupil A had the potential for her to be exposed to harm.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel 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.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Mr Gibbon's actions constitute conduct that may bring the profession into disrepute.

Having found the facts of the allegations proved, we further found that Mr Gibbon's conduct amounted to both unacceptable professional conduct and 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/conduct that may bring the profession into disrepute, it was 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 considered whether it would be an appropriate and proportionate measure, and whether it would be 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 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 against Mr Gibbon, which involved an inappropriate relationship with a pupil, protection of pupils is an important factor, given the boundary issues identified. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Gibbon were not treated with the utmost seriousness when regulating the conduct of the profession.

In view of 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 Gibbon.

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

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

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 evidence (pages 251-252 of the bundle) that Mr Gibbon understood that his actions were wrong and that he fully understood that the nature of the job meant the highest standards must be maintained. Mr Gibbon also stated that he, "made a genuine mistake".

The panel also considered that Mr Gibbon admitted the relationship but noted that the relationship was denied in the first instance. The panel agreed that whilst there were no references to sexual motivation within the allegations, Mr Gibbon had abused a position of trust.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order would not be a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

The panel was of the view that prohibition is both proportionate and appropriate. The panel decided that the public interest considerations outweigh the interests of Mr Gibbon. The abuse of position of trust was a significant factor 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 considered whether or not it would be appropriate to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice states 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 panel considered that the behaviour, whilst serious, was at the lower end of the scale and noted that Mr Gibbon understood that his behaviour was not acceptable and had acknowledged and apologised for his actions. The panel decided that Mr Gibbon's age and naivety had played a strong role in the set of events and the recommendation should be reflective of the fact that no actual harm occurred.

The panel therefore considered 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 for the minimum period of 2 years.

Decision and reasons on behalf of the Secretary of State

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

In considering this case I have given very careful attention to the advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case the panel has found the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr Gibbon should be the subject of a prohibition order, with a review period of two years.

In particular the panel has found that Mr Gibbon 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
 - 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.

The panel was also satisfied that the conduct of Mr Gibbon fell significantly short of the standards expected of the profession.

In respect of the first allegation, the panel considered the information given to Mr Gibbon and concluded that Mr Gibbon had failed to follow this guidance. The panel considered

that after these warnings were given Mr Gibbon should have been aware of his actions and changed his behaviour to reflect the standards expected from a teacher.

In respect of Mr Gibbon's relationship with Pupil A, the panel considered that this was borne out of the position of trust that Mr Gibbon was in, as a teacher in Pupil A's school, despite her having recently left the School. The panel considered that the expectations of the obligations upon Mr Gibbon would not have changed overnight and concluded that he had failed to maintain appropriate professional boundaries with Pupil A.

The panel has also considered whether Mr Gibbon's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found that none of these offences were relevant.

The panel has also noted that the second allegation took place outside of the education setting. However, a relationship with Pupil A had the potential for her to be exposed to harm.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Gibbon, and the impact that will have on him, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed that Mr Gibbon's proven conduct "involved an inappropriate relationship with a pupil, protection of pupils is an important factor, given the boundary issues identified."

A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "Mr Gibbon understood that his actions were wrong and that he fully understood that the nature of the job meant the highest standards must be maintained. Mr Gibbon also stated that he, "made a genuine mistake."

In my judgement although Mr Gibbon has shown some insight, his conduct is nonetheless serious, involving as it did a breach of trust. I have therefore given this element some weight in reaching my overall decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observed, “the public interest considerations outweigh the interests of Mr Gibbon. The abuse of position of trust was a significant factor in forming that opinion.”

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Gibbon himself. There was no evidence in this case to suggest that Mr Gibbon was an outstanding teacher who had made a significant contribution.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Gibbon has made and is making to the profession. In my view it is necessary to impose a prohibition order in order to maintain public confidence in the profession.

For these reasons I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel has recommended a 2 year review period.

I have considered the panel’s comments “decided that Mr Gibbon’s age and naivety had played a strong role in the set of events and the recommendation should be reflective of the fact that no actual harm occurred.”

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case I agree. Two years is also the minimum period allowed in law.


I consider therefore that a two year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Oscar Gibbon 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 6 June 2019, 2 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 Oscar Gibbon remains prohibited from teaching indefinitely.

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

Mr Oscar Gibbon 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 grey ink, appearing to read 'Alan Meyrick', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 26 May 2017

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