



National College for
Teaching & Leadership

Mr Grant Andrew Foyle: 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	11
Decision and reasons on behalf of the Secretary of State	13

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

Teacher: Mr Grant Andrew Foyle

Teacher ref number: 3451486

Teacher date of birth: 7 January 1988

NCTL case reference: 14441

Date of determination: 31 May 2017

Former employer: Brighton Hill Community School, Brighton

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 30 May 2017 at The Study Inn, 165 Corporation Street, Coventry, CV1 1DL to consider the case of Mr Grant Andrew Foyle.

The panel members were Ms Fiona Tankard (teacher panellist – in the chair), Mr Chris Rushton (lay panellist) and Professor Roger Woods (former teacher panelist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the National College was Ms Kayleigh Brooks of Browne Jacobson LLP.

Mr Grant Foyle was not 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 3 April 2017.

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

Whilst employed at Brighton Hill Community School he:

1. During the academic year 2014/2015 engaged in an inappropriate relationship with Pupil A in that you:
 - a. Sent inappropriate messages via text and/or WhatsApp to Pupil A including:
 - i. messages of a sexual nature;
 - ii. messages containing personal information;
 - iii. messages referring to Pupil A as his 'son';
 - b. Sent inappropriate photographs via WhatsApp to Pupil A including photographs of a sexual nature;
 - c. Attempted to arrange meeting(s) with Pupil A outside of School on one or more occasions.
2. His conduct in regard to allegation 1(a) – (c), as may be found proven, was sexually motivated.

In the absence of a response from Mr Foyle, the panel considered his response to the Notice of Referral form to be his most recent position on the allegations and have therefore taken the allegations to not be admitted.

C. Preliminary applications

The panel considered an application from Ms Brooks to proceed in the absence of Mr Foyle.

The panel had consideration to the Notice of Proceedings dated 9 January 2017 in relation to the previously adjourned hearing in March 2017 and the subsequent Notice of Proceedings sent to both Mr Foyle and his legal representatives on 3 April 2017. The panel was satisfied that the necessary service had been properly effected.

The panel considered an email dated 18 May 2017 from Janes Solicitors, who represented Mr Foyle, to the Presenting Officer. This email confirmed that whilst Mr Foyle would not be in attendance before the panel, he was aware of the hearing date and was anxious for the proceedings to conclude as they were having a detrimental impact on his health.

Having considered this email and the Presenting Officer's representations that it was in the interests of justice that the matter proceed in Mr Foyle's absence, the panel determined that Mr Foyle had deliberately absented himself and it was in the interests of all parties that the matter proceed in his absence.

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 2 to 4

Section 2: Notice of Proceedings and Response – pages 6 to 58

Section 3: NCTL witness statements – pages 60 to 62

Section 4: NCTL documents – pages 64 to 536

Section 5: Teacher documents – pages 538 to 550

In addition, the panel agreed to accept the email from Janes Solicitors of 18 May 2017 and included it as page 551.

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

Witnesses

The panel did not hear oral evidence from any witness.

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 Foyle had been employed at Brighton Hill Community School (the "School") since April 2013 as a drama teacher. In July 2015, Pupil A's mother became concerned about a change in her son's mood and because he was behaving suspiciously. She was so concerned that she looked at Pupil A's phone and found a number of WhatsApp messages between her son and Mr Foyle. She continued to monitor her son's phone over the next few days and subsequently raised her concerns with the school in respect of contact being made by Mr Foyle that appeared to be of a sexual nature.

As a result of Pupil A's mother's concerns, an investigation was instigated by the police and School, which led to Mr Foyle's interview under caution by the police and also by the school.

Whilst no criminal charges were brought against Mr Foyle, he was suspended by the School in September 2015 and subsequently tendered his resignation in November 2015.

Findings of fact

Our findings of fact are as follows:

For clarity, before determining any of the allegations, we first considered whether evidence had been put forward to show between whose phones the text and WhatsApp messages had been exchanged. We noted that an itemised mobile phone invoice from Vodafone in Mr Foyle's name was present in the bundle that confirmed his mobile phone number, which was the same number as shown in the WhatsApp extracts provided by the police.

We further considered useful evidence on this point from Pupil A's mother who, in her signed witness statement, confirmed she recognised Mr Foyle's mobile phone number on her son's mobile phone and that a photo of Mr Foyle accompanied the WhatsApp messages along with the name 'Grant Foyle' as the contact name. The panel had sight of a series of photographs taken by Pupil A's mother of Pupil A's WhatsApp conversations with Mr Foyle.

Mr Foyle accepted in his written representations of 23 September 2016 that messages had been sent by him to Pupil A.

Taking all of the above into account, we are content that the messages were between Mr Foyle and Pupil A's phones.

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

- 1. During the academic year 2014/2015 you engaged in an inappropriate relationship with Pupil A in that you:**
 - a. Sent inappropriate messages via text and/or WhatsApp to Pupil A including:**
 - i. messages of a sexual nature;**

We reviewed the WhatsApp conversation between Mr Foyle and Pupil A in detail and in particular had reference to the following comments or areas of comment made by Mr Foyle to Pupil A:

- a) there were clear references to Mr Foyle's sexuality and questions regarding Pupil A's sexuality and possible experimentation in this area;
- b) mention was made of a potential 'threesome' with Mr Foyle, Pupil A and another person including reference by Mr Foyle to Pupil A's seeing him naked;
- c) comments regarding Mr Foyle's 'getting action'.

To a lesser extent, we found the summary of Pupil A's record of interview with the police of some assistance. Pupil A had stated that messages of a sexual nature were exchanged. However, in the absence of any other evidence from Pupil A, we placed less evidential weight on this material and considered it corroborative of the type of messages evidenced by the WhatsApp extracts.

We noted that Mr Foyle's position on the content of the messages was inconsistent. He both denied that any messages were of a sexual nature and also gave an explanation that the subject matter was prompted by Pupil A's questions regarding his relationship with his girlfriend. However, we found both his explanations implausible in light of the evidence which clearly showed Mr Foyle's persistent instigation of conversations of this nature.

Whilst we accept there could be instances when a teacher and pupil can properly exchange messages, this was clearly not the case on this occasion and we found this allegation proved in relation to the WhatsApp messages.

We noted the evidence of four text messages from Mr Foyle to Pupil A as shown in the itemised Vodafone invoice. Whilst we accepted there can be legitimate reasons for text messages to be exchanged between a teacher and pupil and we did not see any evidence that they were of a sexual nature, we found these to be inappropriate considering they were sent at night and, on one occasion, at a weekend.

ii. messages containing personal information;

[redacted]

iii. messages referring to Pupil A as your 'son';

We again made specific reference to the WhatsApp messages that were before us in evidence and were satisfied that the term was used by Mr Foyle in messages to Pupil A.

We considered Mr Foyle's position on this allegation as set out in his representations:

"...careful analysis of the dialogue clearly illustrates the messages were in every way a 2 way dialogue and Pupil A is seeking contact and an element of comfort and reassurance from Grant Foyle. The very fact that it is Pupil A who refers to Grant Foyle as "Dad" is symptomatic of his desire to look upon a teacher as a father figure. A curt dismissal or discontinuance of the dialogue could have had an adverse emotional impact on Pupil A and would be considered the reaction of a callous and unfeeling person".

We did not accept this explanation. The relationship between a teacher and pupil must always retain appropriate boundaries. Further, we noted that on each occasion related to this allegation, it was Mr Foyle who instigated the messages that referenced Pupil A as his 'son', including messages that asked Pupil A what family member he thought of Mr Foyle as being.

There was no effort by Mr Foyle to distance himself from these messages.

b. Sent inappropriate photographs via WhatsApp to Pupil A including photographs of a sexual nature;

Within the evidence, we considered a number of photographs and the summary of the police interview with Pupil A that took place on 27 July 2015. Whilst the actual questions asked of Pupil A are not provided, we noted that this interview took place at an early stage of proceedings and Pupil A volunteered information including that a photo of an open condom wrapper had been sent to him by Mr Foyle along with a comment with reference to the wrapper.

Whilst a photo of this open condom wrapper was not in evidence, during the school's disciplinary proceedings, Mr Foyle accepted sending such a photo. He said it could have been sent to friends who were part of a WhatsApp group and therefore if Pupil A had been sent the photo, this could only have happened in error.

On the basis that Pupil A volunteered this specific information when it would be expected his phone be checked for photos, and that Mr Foyle admitted taking and sending such a photo to other contacts on WhatsApp, on balance we found that this photo was sent to Pupil A.

We also considered a number of photographs from Pupil A's phone that appeared to be of Mr Foyle's head. We noted that Mr Foyle accepted sending photographs of himself to Pupil A but did not accept that they were of a sexual nature.

Whilst there was nothing overtly sexual about the photos of Mr Foyle's head, there was no professional reason for these to be sent by him to Pupil A and we found that these were inappropriate, albeit not of a sexual nature.

However, a photo of an open condom wrapper must be inherently sexual because of its use and we found all elements of this allegation proved for this photograph.

c. Attempted to arrange meeting(s) with Pupil A outside of School on one or more occasions.

Whilst Mr Foyle's position was that he never "envisaged..[meeting] Pupil A outside of the school premises unless the meetings took place at the theatre school" we could not accept this position because of the persistent suggestions put forward by him within the WhatsApp messages that this should happen.

In particular we were concerned as to the offers made by Mr Foyle that Pupil A "come over" followed by questions as to what Pupil A would say to his mother and an offer to "pick u [sic] up" on more than one occasion.

Further references to meeting were made by Mr Foyle such as:

- "We don't have to chat at school we can go some where else";
- "Should we meet and talk this weekend";
- "When are we going to meet to chat";
- "Fancy coming over and chilling...that's not meant to be in a creepy way"; and
- "I would happily pick you up son".

Whether or not a meeting did take place, it was clear from the WhatsApp messages that efforts were made by Mr Foyle for this to happen as corroborated by Pupil A's account to the police.

Having found all sub-paragraphs of allegation 1 proved we also found the head of allegation 1 proved.

2. Your conduct in regard to allegation 1(a) – (c), as may be found proven, was sexually motivated.

From the times shown on the photographs taken by Pupil A's mother of the WhatsApp messages, and the references made by Pupil A during those WhatsApp messages about needing to sleep and about getting up in the morning, it was clear that the messages were sent late at night.

Mr Foyle did not put forward any credible explanation for the sustained contact with Pupil A over a significant period of time. In addition, we saw evidence of Mr Foyle's extensive efforts to secure the communication between himself and Pupil A. We had sight of a

coding system used by Mr Foyle to verify the identity of the sender and also saw references to deleting the messages and ensuring no-one else was present while the messages were being sent. This went directly to the question of whether the messages were appropriate.

Throughout the exchange of WhatsApp messages, there were constant references to matters of a sexual nature. Pupil A repeatedly tried to divert the topic of the conversation away from that of a sexual nature onto more normal topics; Mr Foyle repeatedly made reference to matters of sexuality including experimentation, threesomes and sexual practices and preferences. We found the persistence and suggestiveness of Mr Foyle's correspondence with a pupil very disturbing.

Taking all of the above into account, we found the facts of allegation 1, both individually and collectively, to be sexually motivated and therefore found this allegation proved.

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

Having found all of the allegations to have been proven, we have 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.

In doing so, we have had regard to the document Teacher misconduct: The prohibition of teachers, which we refer/the panel refers to as "the Advice".

We are satisfied that the conduct of Mr Foyle in relation to the facts found proven, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Foyle 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, and maintain high standards in their own attendance and punctuality.

We are satisfied that the conduct of Mr Foyle fell significantly short of the standards expected of the profession.

Accordingly, we are satisfied that Mr Foyle is guilty of unacceptable professional conduct.

We have taken 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. We have also 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 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.

We therefore find that Mr Foyle's actions also constitute 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 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 a 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;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Foyle, which involved sustained and persistent inappropriate phone contact with a pupil and repeated attempts to meet in person, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of an inappropriate relationships with a child.

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

The panel concluded that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Foyle 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 Foyle.

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 Foyle. 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;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- 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 the appropriateness of a prohibition order, 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.

In light of the panel's findings, there was no evidence that the teacher's actions were not deliberate.

There was no evidence to suggest that the teacher was acting under duress, and in fact the panel found the teacher's actions to be calculated and motivated.

The teacher did have a previously good history and the panel noted the positive references from the headteacher and the head of performing arts in January 2013 at his previous school where he was employed for four years. The panel considered, however, that Mr Foyle's previous good history did not mitigate the serious impact of his conduct.

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 Foyle.

The need to safeguard pupils 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 went on to consider whether or not it would be appropriate for them 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 Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, eg 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 has found that Mr Foyle's behaviour was sexually motivated and clearly directly affected a pupil.

Not only has Mr Foyle shown no insight into his behaviour, but also the position he put forward to explain his actions has been proved to be false. He also sought to apportion blame on the pupil.

The panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

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 Foyle should be the subject of a prohibition order, with no provision for a review period.

In particular the panel has found that Mr Foyle 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, and maintain high standards in their own attendance and punctuality.

The panel has said that it is satisfied that the conduct of Mr Foyle fell significantly short of the standards expected of the profession.

The panel has also taken 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.

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 Foyle, 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 Foyle's behaviour "involved sustained and persistent inappropriate phone contact with a pupil and repeated attempts to meet in person". The panel has also found "there is a strong public interest consideration in respect of the protection of pupils given the serious findings of an inappropriate relationships with a child."

A prohibition order would therefore clearly 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, "Not only has Mr Foyle shown no insight into his behaviour, but also the position he put forward to explain his actions has been proved to be false. He also sought to apportion blame on the pupil."

In my judgement the lack of insight means that there is considerable risk of the repetition of this behaviour and this risks future pupils' well-being. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Foyle was outside that which could reasonably be tolerated."

I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

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 Foyle himself. The panel has said, "The teacher did have a previously good history and the panel noted the positive references from the headteacher and the head of performing arts in January 2013 at his previous school where he was employed for four years. The panel considered, however, that Mr Foyle's previous good history did not mitigate the serious impact of his conduct."

A prohibition order would prevent Mr Foyle from continuing his teaching role and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. The panel has said that it, "found the teacher's actions to be calculated and motivated." Taken with the comments already set out on lack of insight I have given considerable weight to this.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Foyle has made to the profession. In my view it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by remorse or insight does not in my view satisfy the public interest requirement concerning 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 that there should be no review period. I have considered all of the panel's comments in this case. The behaviours found are set out below :

- 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;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- 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;

The panel has also said that there should be no provision for a review period.

I have considered whether that 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, there are three factors that in my view mean that the prohibition should be with no provision for a review period. These are the sexual misconduct found, the lack of either insight or remorse, and the deliberate nature of the behaviour.

I consider therefore that a prohibition with no review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Grant Foyle 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 Grant Foyle 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 Grant Foyle 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.



Decision maker: Alan Meyrick

Date: 7 June 2017

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