



National College for
Teaching & Leadership

Mr Michael Denton: Professional conduct panel outcome

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

November 2017

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

Teacher: Mr Michael Denton
Teacher ref number: 7637713
Teacher date of birth: 15 September 1957
NCTL case reference: 12287
Date of determination: 17 November 2017
Former employer: Cheam School, Headley ("the School")

A. Introduction

A professional conduct panel ("the panel") of the National College for Teaching and Leadership ("the National College") convened on 16 November 2017 to 17 November 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Michael Denton.

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

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

The presenting officer for the National College was Mr Ben Bentley of Browne Jacobson LLP.

Mr Michael Denton was present and was represented by Mr Michael Phillips of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 19 September 2017.

It was alleged that Mr Michael Denton was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or having been convicted of a relevant offence, in that:

He had been convicted, at any time, of the following relevant offences:

1. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 31 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to a supervision requirement community order, to pay costs of £85 and subject to a Sex offenders notice 5 years programme requirement forfeiture and destruction which was subsequently varied on 03/02/2016. Order to continue order varied programme requirement removed.
2. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 6 May 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to a supervision requirement community order until 27/07/18, subject to a sex offenders notice 5 years programme requirement subsequently varied on 03/02/2016. Order to continue order varied programme requirement removed.
3. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 31 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.
4. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 4 January 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.
5. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 17 June 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.
6. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 4 January 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.

7. On 28 July 2015 at North Hampshire Magistrates he was convicted of making indecent photograph or pseudo-photograph of children on 30 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.

In the Statement of Agreed and Disputed Facts, signed by both parties on 17 October 2017, Mr Denton admitted allegations 1 to 7 and also that for each allegation, it amounted to a conviction of a relevant offence. Mr Denton denied allegation 8 and therefore also denied unprofessional conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

The panel considered an application from Mr Bentley that allegation 8 be withdrawn in light of the admissions to allegations 1 to 7. Mr Bentley explained that when the facts behind the convictions was considered, allegation 8 did not take the National College's case any further forward and it was unnecessary. Withdrawing the allegation was a proportionate manner in which to move forward.

Mr Phillips did not object to the application and the panel, having considered matters, allowed the application in the interests of justice.

Mr Bentley confirmed that this case could now proceed as a fully admitted case and that the references to unacceptable professional conduct and conduct that may bring the profession into disrepute contained within the allegations could now be considered superfluous.

D. Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Chronology – page 2

Section 2: Notice of Proceedings, Response and Statement of Agreed and Disputed Facts – pages 4 to 16

Section 3: NCTL documents – pages 18 to 239

Section 4: Teacher documents – pages 241 to 251

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

Witnesses

The panel heard oral evidence from Mr Michael Denton.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case before us and reached a decision.

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Mr Michael Denton was employed by the School from 1985 until he resigned in 2014. At the time of his resignation, he held the position of head of IT and also taught religious education and mathematics.

In July 2014, Mr Denton was arrested for downloading a film called 'Wrestling Teens'. Following his arrest, the police seized a number of pieces of Mr Denton's electronic equipment and discovered 163 images of children, specifically of boys ranging in age from approximately 8 to 17.

Some of these photographs included photographs of children naked and at North Hampshire Magistrates' Court on 28 July 2015, Mr Denton pleaded guilty to a number of offences of making indecent photographs or pseudo-photographs of children.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

You have been convicted, at any time, of the following offences:

- 1. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 31 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to a supervision requirement community order, to pay costs of £85 and subject to a sex offenders notice 5 years programme requirement forfeiture and destruction which was subsequently varied on 03/02/2016. Order to continue order varied programme requirement removed.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

- 2. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 6 May 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to a supervision requirement community order until 27/07/18, subject to a sex offenders notice 5 years programme requirement subsequently varied on 03/02/2016. Order to continue order varied programme requirement removed.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

- 3. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 31 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

- 4. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 4 January 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission), the panel finds the allegation proven.

- 5. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 17 June 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

- 6. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 4 January 2010 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.**

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

7. On 28 July 2015 at North Hampshire Magistrates you were convicted of making indecent photograph or pseudo-photograph of children on 30 December 2009 contrary to the Protection of Children Act 1978 Section 1(a) and he was sentenced to the same as outlined above at 2.

In light of the Certificate of Conviction and the Statement of Agreed Facts (that included an unequivocal admission) the panel finds the allegation proven.

Findings as to conviction of a relevant offence

The panel noted Mr Denton's unequivocal admissions that the offences to which he pleaded guilty at North Hampshire Magistrates' Court amounted to relevant offences. Nevertheless, the panel did deliberate this with a clear mind.

The panel is satisfied that the conduct of Mr Denton in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Denton is in breach of the following standard:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.

The panel noted that the individual's actions were relevant to teaching, working with children and working in an education setting. Whilst Mr Denton's convictions did not take place in the School, they involved the making of indecent photographs of children on a number of occasions over a period of months.

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

The panel noted that Mr Denton's behaviour did not lead to a sentence of imprisonment, which is indicative that the offence was at the less serious end of the possible spectrum.

Nevertheless, this is a case involving offences involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, which the Advice states is likely to be considered a relevant offence.

The panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of Mr Denton's convictions of relevant offences, 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 had regard to 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 maintenance of public confidence in the profession as well as declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Denton, which involved seven convictions of relevant offences, there was a strong public interest consideration in ensuring that public confidence in the profession be maintained and therefore the conduct of Mr Denton had to be treated with the necessary seriousness.

In light of the serious convictions, the panel similarly found that a strong public interest consideration in declaring proper standards of conduct in the profession was present. The conduct found against Mr Denton 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 Denton.

In carrying out the balancing exercise the panel has had regard to the public interest considerations both in favour of and against prohibition. Although Mr Denton had indicated that he had no desire to return to teaching, his future interests were also taken into account including that he may wish to teach again.

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 the serious departure from the personal and professional conduct elements of the Teachers' Standards including:

- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents;

- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

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 the appropriateness and proportionality of a prohibition order. The panel took particular account of the nature and severity of the behaviour in this case. Mr Denton did have a previously good history and the panel accepted that his teaching career included a period of nearly 30 years teaching at Cheam School. The panel had before it correspondence from the School confirming this length of service and also that no concerns had been raised regarding Mr Denton during this period.

The panel was directed to a number of character references from friends, family, church members and a work colleague of Mr Denton that were contained within the bundle, including one from his wife. The panel noted from the dates of these references that these must have been prepared for his criminal matter rather than the proceedings before them (save for his wife's) but drew no inference from this.

The panel did accept that the images that Mr Denton 'made' by downloading from the internet (now to be referred to as downloaded) were, on the 'inappropriate images spectrum', at the lower end of the scale. This was reflected in Mr Denton's sentence and the risk scores stated in the OASys assessment contained within the bundle.

Despite being at the lower end of the spectrum, the offences that Mr Denton was convicted of were serious and his actions took place on a number of occasions over a number of months. Mr Denton explained to the panel the circumstances surrounding the downloads, specifically that he had been researching naturism. He stated that he had downloaded the images from the same website but had been unaware of their content as they were contained within zip files.

The panel appreciated that whilst this could explain a one-off download that had been 'stumbled across', Mr Denton's own explanation meant that he had accessed the same website and downloaded images on repeated occasions from 2009 to 2010. The panel could not therefore accept his explanation as mitigating the seriousness of these offences and this was a significant factor in forming the opinion that a prohibition order was necessary.

Mr Denton also explained the difficulties that a prohibition order would cause for his wife who is herself a teacher. The panel had sympathy for his wife but considered it irrelevant to their consideration as to whether Mr Denton's actions required a prohibition order.

Taking all of the above into account, the panel is of the view that prohibition is both proportionate and appropriate. The public interest considerations outweigh the interests

of Mr Denton and therefore 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 it 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 the recommendation of a review period. One of these behaviours includes any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child.

The panel has found Mr Denton to be responsible for downloading a number of images of children over a number of months on a number of occasions and it is inherent that this causes concern as to his position as a teacher.

The panel had before it confirmation that the Probation Service had applied to the court for Mr Denton's attendance requirement on them to be withdrawn due to the progress made in appreciating his behaviour was unacceptable. In addition to this, the panel also noted the frank answers provided by Mr Denton in his police interviews and the guilty pleas entered by Mr Denton at the first opportunity. This would suggest Mr Denton had some insight into his actions.

In evidence, Mr Denton stated that, at the time, he believed the children within the images were Eastern European where attitudes to nudity were more relaxed than in England and Wales and that public attitude to child nudity in photographs had narrowed in recent years – by example, a parent taking a photo of their naked child on a beach or in a bath is now at greater risk of complaint than in the past. Mr Denton also drew an analogy to Michaelangelo's statue of David to explain his appreciation of the male form.

Mr Denton was now aware that any of the relevant images were not acceptable and he would behave in a different manner were the events to happen today. Despite this, the panel felt there was a lack of remorse on his behalf and noted within his statement, no apology had been offered in any respect nor a suggestion as to his appreciation of the damage that such images cause. During his evidence, Mr Denton did express remorse but only after direct questioning and the panel was not convinced by the 'different attitude' explanation considering the images included a boy holding his penis and a 15 to 17 year old boy lying on top of another boy with a third boy's hand on the anus of one of the others. These were not photographs of children on a beach taken by a parent and, in the panel's view, would not have derived from genuine research into naturism.

The panel accepted that some insight had been demonstrated by Mr Denton, that the downloads were of 7 to 8 years ago and at the lower end of the seriousness spectrum for indecent images. Nevertheless, the panel felt that Mr Denton continually tried to distance himself from the offences and was disappointed by the lack of remorse shown. Whilst there had been some insight, this was limited and deeper exploration is required by Mr Denton into his behaviour.

In order to allow Mr Denton the necessary time to carry out the appropriate reflection on his behaviour and the opportunity to explain his more detailed insight to a future panel, this panel considered the findings indicated a situation in which a review period would be suitable. It would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period after 5 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 five year review period.

In considering this case, I have also 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 conviction, at any time of a relevant offence. The panel has made a recommendation to the Secretary of State that Mr Denton should be the subject of a prohibition order, with a review period of five years.

In particular the panel has found that Mr Denton is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.

The panel considered this to be a serious departure from the personal and professional conduct elements of the Teachers' Standards.

The findings of misconduct are particularly serious as they include a finding of offences which include activity outlined in the Advice as being incompatible with being a teacher, namely any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child.

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 conviction of a relevant offence, 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 Denton 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 the individual’s actions were relevant to teaching, working with children and working in an education setting.” 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, “.. the panel felt there was a lack of remorse on his behalf and noted within his statement, no apology had been offered in any respect nor a suggestion as to his appreciation of the damage that such images cause.” The panel has also noted that Mr Denton showed “some insight” but went on to say that, “the panel felt that Mr Denton continually tried to distance himself from the offences and was disappointed by the lack of remorse shown.” In my judgement the lack of insight means that there is some risk of the repetition of this behaviour. 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 found, “a strong public interest consideration in declaring proper standards of conduct in the profession was present. The conduct found against Mr Denton was outside that which could reasonably be tolerated.” I am particularly mindful of the finding of a relevant conviction involving the making of an indecent photograph or pseudo-photograph of children 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 a conviction of a relevant offence, 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 Denton himself. I note that he has worked in the teaching profession for 30 years and the panel comment “ Mr Denton did have a previously good history”.

A prohibition order would prevent Mr Denton from continuing in the profession should he decide he would like to do so. A prohibition order 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 it, "was disappointed by the lack of remorse shown." The panel went on to say, "Whilst there had been some insight, this was limited and deeper exploration is required by Mr Denton into his behaviour."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Denton 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 full 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 a 5 year review period.

I have considered the panel's comments, that, "Mr Denton did express remorse but only after direct questioning and the panel was not convinced by the 'different attitude' explanation considering the images".

The panel has also said that a 5 year review period would "allow Mr Denton the necessary time to carry out the appropriate reflection on his behaviour and the opportunity to explain his more detailed insight to a future panel.."

I have considered whether a 5 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 do not believe a 5 year review period is sufficient to achieve the aim of maintaining public confidence in the profession. I am of the view that a conviction of a relevant offence which involves activity involving the making of an indecent photograph or pseudo-photograph of children with the lack of full insight or remorse is incompatible with being a teacher.

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

This means that Mr Michael Denton 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 Denton 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 Denton 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 'D. Dandy', with a stylized flourish at the end.

Decision maker: Dawn Dandy

Date: 24 November 2017

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