



National College for
Teaching & Leadership

Mr Ian Stuart: Professional conduct panel outcome

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

March 2018

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

Teacher: Mr Ian Stuart

Teacher ref number: 0342280

Teacher date of birth: 18 July 1981

NCTL case reference: 16503

Date of determination: 9 March 2018

Former employer: Broadlands Hall School, Suffolk and King Edwards VI School, Suffolk

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 9 March 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Stuart.

The panel members were Mr Peter Jones (teacher panellist – in the chair), Ms Hilary Jones (lay panellist), and Mr Melvyn Kershaw (former teacher panellist).

The legal adviser to the panel was Ms Surekha Gollapudi of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, the National College agreed to a request from Mr Stuart that the allegations be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Stuart provided a signed Statement of Agreed Facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Stuart or his representative.

The presenting officer for the National College was Mr Ian Perkins of Browne Jacobson LLP solicitors.

Mr Stuart was not represented.

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

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 25 September 2017.

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

1. Sent inappropriate messages to one or more pupils of King Edward VI School, his former employer, in or around May 2017 including but not limited to words to the effect of:
 - a. that they appeared older than their age
 - b. that they are a beautiful young lady
 - c. he would love to have them one on one
 - d. that they could do better than their boyfriend
 - e. asking them how far they have gone with a guy
 - f. that them being drunk intrigues him
 - g. asking that they delete his messages to them
2. His conduct as may be found proven at allegation 1 was sexually motivated
3. His conduct at allegation 1.g. above was dishonest in that he was attempting to conceal the fact that he had been communicating with pupils at his former employer

The teacher admits the facts and that they amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

C. Summary of evidence

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of Referral response and Notice of Meeting – pages 4 to 10b

Section 3: Statement of Agreed Facts and presenting officer representations – pages 12 to 17

Section 4: NCTL documents – pages 19 to 86l

Section 5: Teacher documents – pages 88 to 91

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

Statement of Agreed Facts

The panel considered a Statement of Agreed Facts which was signed by Mr Stuart on 18 January 2018.

D. Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the National College agreed to a request from Mr Stuart that the allegations be considered without a hearing. The panel has the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest.

The panel considered at the outset whether the allegation should be considered at a public hearing at which the parties would be entitled to attend, or a private meeting without the parties present. The panel considered the interests of justice and given that the facts of the allegations have been admitted, that Mr Stuart has requested a meeting and the panel has the benefit of Mr Stuart's representations, the panel was of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel, therefore, decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

At the time of the allegations, Mr Stuart had been employed at Broadlands Hall School from April/May 2017. Mr Stuart had previously been employed by King Edward VI School between 2013 and 2017.

It was alleged that whilst employed by Broadlands Hall School, Mr Stuart contacted students at his former employer, King Edwards VI School, and this contact was sexually motivated. It was also alleged that Mr Stuart behaved dishonestly by attempting to conceal the fact he had been communicating with pupils at his former school.

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:

- 1. Sent inappropriate messages to one or more pupils of King Edward VI School, your former employer, in or around May 2017 including but not limited to words to the effect of:**
 - a. that they appeared older than their age**
 - b. that they are a beautiful young lady**
 - c. you would love to have them one on one**
 - d. that they could do better than their boyfriend**
 - e. asking them how far they have gone with a guy**
 - f. that them being drunk intrigues you**
 - g. asking that they delete your messages to them**

The allegation was admitted by the teacher in the Statement of Agreed Facts dated 18 January 2018.

The panel had regard to documentary evidence of messages between Mr Stuart and a pupil at his former school in which Mr Stuart asked a number of inappropriate questions, and made a number of inappropriate comments including those listed within this allegation.

The panel noted that Mr Stuart had formerly taught this pupil and was aware that she was approaching her GCSE exams at the time of this communication.

The panel found allegation 1 proven on the balance of probabilities.

2. His conduct as may be found proven at allegation 1 was sexually motivated

The allegation was admitted by the teacher in the Statement of Agreed Facts dated 18 January 2018.

As with all findings of fact, the panel considered this question applying the balance of probabilities. The panel considered whether on the balance of probabilities reasonable persons would think the words and actions found proven could be sexual. The panel then considered whether, in all the circumstances of the conduct in the case, it was more likely than not that the teacher's purpose of such words and actions were sexual.

The panel considered whether, even in the absence of any direct evidence, sexual motivation should be inferred from all the circumstances of the case. The panel had in mind the evidence of the teacher's character and considered whether such evidence had any bearing on the teacher's credibility or propensity to have carried out the alleged facts or to the circumstances in which the teacher found himself.

The panel found that the tone and nature of the messages from Mr Stuart to his former pupil were more likely than not, sexually motivated.

The panel found allegation 2 proven on the balance of probabilities.

3. His conduct at allegation 1.g. above was dishonest in that he was attempting to conceal the fact that he had been communicating with pupils at his former employer

The allegation was admitted by the teacher in the Statement of Agreed Facts dated 18 January 2018.

The panel considered the test for dishonesty as set by the Supreme Court in the case of *Ivey v Genting Casinos (UK) Ltd*.

The panel, therefore, first considered the actual state of Mr Stuart's knowledge or belief as to the facts. The panel went on to consider whether Mr Stuart's conduct was dishonest, using the standards of ordinary decent people. The panel noted that there was no requirement that Mr Stuart must appreciate that what he has done is by those standards, dishonest.

Having found allegation 1.g. proven, the panel found that, applying the test in *Ivey v Genting Casinos (UK) Limited*, Mr Stuart's actions in attempting to conceal his contact with his former pupil, were dishonest. The panel had regard to the evidence of screenshots taken of messages exchanged with his former pupil in which he stated, "*Maybe a good idea to get rid of our chat*" and "*Probably best to get rid of this one too.*"

The panel found allegation 3 proven on the balance of probabilities.

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

Having found the allegations -to be 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.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

The panel is satisfied that the conduct of Mr Stuart in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Stuart 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 is satisfied that the conduct of Mr Stuart amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Stuart’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and found that the offence of sexual activity is relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The panel notes that the allegations took place outside of the education setting in that Mr Stuart was no longer teaching the pupils he was messaging.

The panel has taken into account how 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 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 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.

Accordingly, the panel is satisfied that Mr Stuart's conduct amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute, in particular as Mr Stuart had in 2009 been referred to the LADO and, therefore, must have had every opportunity to reflect on the requirements for safeguarding owed by a teacher towards pupils and former pupils.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it 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 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 Stuart which involved sending inappropriate private messages to former pupils, one of whom was under the age of 16, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate contact with former pupils. The panel considered that Mr Stuart's behaviour was exacerbated by using his private tutoring business as a means of contacting his former pupils.

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

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Stuart was outside that which could reasonably be tolerated.

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 Stuart.

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 Stuart. 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;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

There was no evidence that the teacher's actions were not deliberate. Mr Stuart stated that his actions were, "*a poorly judged moment of madness.*" The panel did not accept this explanation as the conversation persisted over several days. The panel also noted that Mr Stuart had previously been referred to the LADO for a safeguarding concern in 2009.

The panel had regard to the statement dated 26 July 2017 from Mr Stuart that [redacted]. The panel noted that there was no additional [redacted] evidence provided by Mr Stuart to support this.

The panel has seen evidence that shows the teacher was previously subject to advice in relation to safeguarding in 2009.

However, the panel was also provided with evidence from the headteacher of Broadlands Hall School that Mr Stuart was, "*hard working, flexible and his co-workers enjoyed his company*" and, "*I found him to be...enthusiastic, dependable and supportive.*"

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 is sufficient.

The panel is of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order is not 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 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 Stuart. 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 to recommend that a review period of the order should be considered. The panel was mindful that the Advice advises 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, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons and serious dishonesty. The panel found that Mr Stuart's actions were sexually motivated and capitalised on his previous professional relationship with pupils. The panel further found that Mr Stuart acted dishonestly in attempting to conceal his inappropriate messages with former pupils.

The panel noted that Mr Stuart demonstrated limited insight into his actions, and in particular, initially denied that his actions were sexually motivated until accepting responsibility within his Statement of Agreed Facts in January 2018.

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 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 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 Stuart should be the subject of a prohibition order, without any provision for a review period.

In particular the panel has found that Mr Stuart 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 is satisfied that the conduct of Mr Stuart amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Stuart's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and found that the offence of sexual activity is relevant.

The findings of misconduct are particularly serious as they include a finding of sexual misconduct.

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 Stuart, 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 “findings against Mr Stuart which involved sending inappropriate private messages to former pupils, one of whom was under the age of 16, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate contact with former pupils. The panel considered that Mr Stuart’s behaviour was exacerbated by using his private tutoring business as a means of contacting his former pupils.”

A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “Mr Stuart demonstrated limited insight into his actions, and in particular, initially denied that his actions were sexually motivated until accepting responsibility within his Statement of Agreed Facts in January 2018.”

In my judgement the lack of insight means that there is some risk of the repetition of this behaviour and this risks the future well-being of pupils. 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 that 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.”

I am particularly mindful of the finding of sexual misconduct and dishonesty 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 Stuart himself. The panel has observed, “ that Mr Stuart was, “hard working, flexible and his co-workers enjoyed his company” and, “I found him to be...enthusiastic, dependable and supportive.”

A prohibition order would prevent Mr Stuart from teaching 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 also said, “that Mr Stuart’s behaviour was exacerbated by using his private tutoring business as a means of contacting his former pupils.”

I have also placed considerable weight on the finding of the panel that Mr Stuart “acted dishonestly in attempting to conceal his inappropriate messages with former pupils.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Stuart 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. 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 that there should be no provision for a prohibition order.

I have considered the panel’s comments on this case which are set out above. I have also noted that “ Mr Stuart had previously been referred to the LADO for a safeguarding concern in 2009.”

I have considered whether allowing for no review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, there are three factors that in my view mean that allowing for no review period is necessary to achieve the aim of maintaining public confidence in the profession. These elements are the sexual misconduct, the dishonesty and the lack of appropriate insight or remorse.

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

This means that Mr Ian Stuart 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 Ian Stuart 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 Ian Stuart 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.

Handwritten signature of Alan Meyrick in grey ink.

Decision maker: Alan Meyrick

Date: 14 March 2018

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