



Teaching
Regulation
Agency

Mr Paul Kaufman: Professional conduct panel meeting 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 Paul Kaufman

Teacher ref number: 9638504

Teacher date of birth: 9 October 1972

TRA case reference: 16476

Date of determination: 8 March 2018

Former employer: [Redacted]

A. Introduction

From 1 April 2018 the National College for Teaching and Leadership (NCTL) has been re-purposed to form the Teaching Regulation Agency (TRA). The panel in this case has made its recommendation as an NCTL panel, however the decision has been made on behalf of the Secretary of State, by a decision maker in the TRA.

There has been no material change to the way this hearing was handled and the TRA works on the same legislative basis as the NCTL.

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 8 March 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Paul Kaufman.

The panel members were Ms Ann Walker (Former Teacher Panellist – in the Chair), Mr Peter Cooper (Teacher Panellist) and Mr John Elliott (Lay Member Panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP, solicitors.

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

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

B. Allegations

It was alleged that Mr Kaufman was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed as a teacher at [Redacted]:

1. He displayed inappropriate behaviour towards one or more students, including:
 - a. by touching students' hair on one occasion or more;
 - b. by discussing his personal relationships on one occasion or more and making reference to matters of a sexual nature;
 - c. by commenting on students' personal appearances and/or dress on one occasion or more;
 - d. that in relation to Student A he:
 - i. told her that he missed her while she was off school;
 - ii. told her that she would be able to go for a drink with him in the future;
 - iii. asked her to show him her stomach, and/or showed her his stomach;
 - iv. kicked her in the lower back or bottom;
 - v. told her "you have to be good at oral for this job" or made a comment to that effect;
 - vi. told her that she was "fucking ugly" or made a comment to that effect;
 - vii. told her that "girls who chew gum don't have standards" or made a comment to that effect;
 - e. that in relation to Student C, he:
 - i. asked Student C to buy him tobacco;
 - ii. touched Student C's anklet.

Mr Kaufman admitted the facts of all of the allegations and that those facts amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

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 3

Section 2: Notice of Referral, response and Notice of Meeting – pages 5 to 12

Section 3: Statement of Agreed Facts and Presenting Officer representations – pages 14 to 19

Section 4: NCTL documents – pages 21 to 340

Section 5: Teacher documents – page 342

The panel members read all of the documents in advance of the hearing.

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Kaufman on 30 January 2018.

E. 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 Kaufman 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 did not determine that such a direction is necessary or appropriate in this case.

The panel proceeded to carefully consider the case, having read all the documents within the bundle in advance of the meeting, and reached a decision.

Mr Kaufman was employed at [Redacted] ("the School") from 1 January 2010 until his resignation on 30 April 2017. During his time at the School he performed a number of senior roles, including latterly the Director of Studies SEND. He had previously been assistant headteacher at another school.

On 3 March 2017, the mother of Student A, a female [Redacted] pupil at the School, raised concerns about Mr Kaufman with the deputy headteacher. The deputy headteacher spoke with Student A that morning. A formal meeting between the headteacher, Student A and Student A's mother subsequently took place on 13 March 2017. The notes of that meeting were included within the papers.

As a result of this, the School commenced an investigation and an investigatory meeting was held on 24 March 2017. On 27 March 2017, Mr Kaufman was suspended and a disciplinary process commenced. Prior to the conclusion of the disciplinary process, Mr Kaufman resigned.

The School's disciplinary process continued notwithstanding Mr Kaufman's resignation. On 5 June 2017, a panel of governors held a disciplinary meeting and concluded that had Mr Kaufman still been employed, he would have been summarily dismissed on the grounds of gross misconduct. He was subsequently referred to the National College.

In considering the allegations against Mr Kaufman in these proceedings, the panel has not relied upon any findings made or opinions expressed in papers which formed part of the documentation for the investigation undertaken by the School. It has formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

Our findings of fact are as follows:

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

1. You displayed inappropriate behaviour towards one or more students, including:

a. By touching students' hair on one occasion or more;

Mr Kaufman admitted the facts of this allegation. The evidence considered by the panel was consistent with the admission.

Mr Kaufman accepted that he had touched students' hair on more than one occasion. This had first been raised by Student A during the course of her meeting with the headteacher of the School on 13 March 2017. Student B and Student C also provided written accounts to the School confirming that Mr Kaufman had touched their hair. Their evidence was corroborated by the accounts provided by other students.

Mr Kaufman accepted that his conduct was such that he had displayed inappropriate behaviour towards students.

The panel agreed. The physical contact with students was certainly inappropriate and was such that Mr Kaufman had failed to maintain appropriate professional boundaries and standards.

Accordingly, in light of the admission made and the evidence, the panel found the facts of allegation 1(a) proven.

b. By discussing your personal relationships on one occasion or more and making reference to matters of a sexual nature;

Mr Kaufman admitted the facts of this allegation. The evidence considered by the panel was consistent with the admission.

Mr Kaufman accepted that he discussed his personal relationships on more than one occasion with students and that he had discussed matters of a sexual nature during those conversations.

Mr Kaufman also accepted that this conduct was such that he had displayed inappropriate behaviour.

The panel considered that Mr Kaufman's behaviour was clearly inappropriate and was such that he failed to maintain appropriate professional boundaries and standards. The panel notes the written account of the headteacher's meeting with Student A on 13 March 2017 records her stating that Mr Kaufman "is so sexual you believe everything he says is going to be rude". Another student's written account to the School during the investigation recorded that during a class discussion on eyebrows he said words to the effect that "he liked/preferred his women fully waxed", which she took to be a sexual reference.

Accordingly, in light of the admission made and the evidence, the panel found the facts of allegation 1(b) proven.

c. By commenting on students' personal appearances and/or dress on one occasion or more;

Mr Kaufman admitted the facts of this allegation. The evidence considered by the panel was consistent with the admission.

Mr Kaufman accepted that he commented on students' personal appearances and dress.

Mr Kaufman also accepted that this conduct was such that he had displayed inappropriate behaviour towards the students in question.

The panel concluded that Mr Kaufman's behaviour was inappropriate and was such that he failed to maintain appropriate professional boundaries. One specific occasion referred to within the papers concerned comments made by Mr Kaufman in relation to Student A's appearance in the course of a discussion about her use of make-up. There were also various references to Mr Kaufman commenting on students' clothing.

Accordingly, in light of the admission made and the evidence, the panel found the facts of allegation 1(c) proven.

d. That in relation to Student A you:

i. Told her that you missed her while she was off school;

ii. Told her that she would be able to go for a drink with you in the future;

iii. Asked her to show you her stomach, and/or showed her your stomach;

iv. Kicked her in the lower back or bottom;

v. Told her "you have to be good at oral for this job" or made a comment to that effect;

vi. told her that she was "fucking ugly" or made a comment to that effect;

vii. told her that "girls who chew gum don't have standards" or made a comment to that effect;

A written account of these matters, signed by Student A, was included within the papers and carefully considered by the panel. Student A's account was corroborated at least in part by the signed accounts of other students taken during the course of the School's investigation.

Mr Kaufman admitted the facts of allegation 1(d) in its entirety and accepted that his conduct was such that he had displayed inappropriate behaviour towards Student A.

The panel considered that the incident where Mr Kaufman had kicked Student A was one of the matters of particular concern. Mr Kaufman accepted during the course of his investigation interview that "this was one of the most stupid things he had ever done." There was a suggestion that Student A was both upset and hurt as a consequence of this incident.

Considered both individually and together, the panel considered that Mr Kaufman's conduct in relation to each of the sub-particulars of allegation 1(d) was inappropriate.

The panel accordingly found allegation 1(d) proven.

e. That in relation to Student C you:

i. Asked Student C to buy you tobacco;

ii. Touched Student C's ankle.

The panel noted that allegation 1(e) was not included in the copy of the Notice of Meeting dated 20 February 2018 within the papers. However, the allegation was set out in the Notice of Referral dated 30 October 2017 and in the Statement of Agreed Facts signed by Mr Kaufman on 30 January 2018. In those circumstances the panel has made a determination in relation to this allegation. The panel is satisfied there is no unfairness to Mr Kaufman.

Mr Kaufman also admitted the facts of allegation 1(e) in its entirety. He accepted that his conduct in relation to this allegation was such that he had displayed inappropriate behaviour.

The evidence the panel received was consistent with Mr Kaufman's admission. Notes of the account provided by Student C were included within the papers. With reference to allegation 1(e)(i) emails from Mr Kaufman asking Student C to purchase more "Amber" for him were also included. The notes of Mr Kaufman's investigation interview record Mr Kaufman accepting that he had acted as alleged and stating that, "this is something I say with great shame as its crossing the line and unprofessional behaviour".

The panel accordingly found the facts of allegation 1(e) proven.

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, 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.

Mr Kaufman admitted that the facts found proved in relation to all of the allegations amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Whilst the panel took this admission into account, it formed its own judgment.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Kaufman in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Kaufman 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;
 - showing tolerance of and respect for the rights of others;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ... ; and
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Kaufman's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. It found that none of these offences were relevant.

The panel was satisfied that the conduct of Mr Kaufman amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel noted that Mr Kaufman was the Senior Leader SEND and had previously been the named person responsible for child protection. As such he must have been aware of fundamental safeguarding practices. Despite this knowledge, he breached the boundaries that must exist between teachers and pupils and his conduct was contrary to all safeguarding protocols. The conduct found proven included inappropriate sexual references and physical contact.

Further, in acting in the way he did he failed to have regard to the specific advice and instructions given to him in 2014 to avoid placing himself in vulnerable situations with pupils. He also failed to adhere to behavioural protocols agreed at that time which were based on the School's Code of Professional Conduct policy.

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

When considering whether Mr Kaufman's conduct may bring the profession into disrepute, the panel took 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.

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

Having found the facts of the allegations proven, the panel further concluded that Mr Kaufman's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, the panel went 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 is an appropriate and proportionate measure, and whether it was 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; and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Kaufman, which involved inappropriate sexual references and physical contact, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate behaviour with children.

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

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

The panel did not consider that there was a public interest consideration in retaining Mr Kaufman in the profession. In any event, he had expressly confirmed that he did not intend to return to teaching in the future.

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 Kaufman.

In carrying out the balancing exercise the panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Kaufman. 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; and
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues.

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.

The panel considered that the following mitigating factors were present:

- Mr Kaufman had previously been a successful teacher who had held responsible and senior roles in two schools. Although Mr Kaufman has not provided any character references and there are no recent references to his abilities as a teacher, it nevertheless appeared that he had been highly regarded at the School and at his previous school. The panel noted a positive reference from June 2009.
- Mr Kaufman admitted the allegations and had cooperated with the National College.

In terms of aggravating factors, the panel considered that:

- Given his experience and as a senior leader with specific responsibility for safeguarding and vulnerable pupils, Mr Kaufman should have set the highest standards and been an exemplary role model.

- By making their concerns known to the School, as set out in their signed accounts, the pupils appeared to understand the proper boundaries better than Mr Kaufman.
- Pupils describe a pattern of behaviour. These were not isolated incidents.
- Mr Kaufman was not acting under duress.
- Mr Kaufman had demonstrated limited regret and remorse. The focus has been on how events have affected him and not how they have affected pupils, the School and the profession.

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 would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Kaufman of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate. It concluded that the public interest considerations outweigh the interests of Mr Kaufman. The lack of insight shown by Mr Kaufman was a significant factor in forming that opinion. His conduct was serious and there was a detrimental impact on pupils and learning. Given that he had failed to heed prior advice and instruction about similar behaviour and was in a senior position, the panel could not be sufficiently satisfied that there was no risk of repetition.

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. None of these behaviours were present in this case.

Given the serious nature of the conduct found proven and the apparent lack of insight shown by Mr Kaufman, 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 provision 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 all of 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 Kaufman should be the subject of a prohibition order, with no provision for a review period.

In particular the panel has found that Mr Kaufman 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;
 - showing tolerance of and respect for the rights of others;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ... ; and
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has gone on to set out that it finds that the conduct of Mr Kaufman fell significantly short of the standards expected of the profession.

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 Kaufman, 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, “he breached the boundaries that must exist between teachers and pupils and his conduct was contrary to all safeguarding protocols. The conduct found proven included inappropriate sexual references and physical contact.”

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 Kaufman had demonstrated limited regret and remorse. The focus has been on how events have affected him and not how they have affected pupils, the School and the profession.”

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, “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 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 Kaufman himself. I have considered the panel’s comments that, “Mr Kaufman had previously been a successful teacher who had held responsible and senior roles in two schools. Although Mr Kaufman has not provided any character references and there are no recent references to his abilities as a teacher, it nevertheless appeared that he had been highly regarded at the School and at his previous school. The panel noted a positive reference from June 2009.

I also note that Mr Kaufman admitted the allegations and has co-operated with the National College.

A prohibition order would prevent Mr Kaufman from continuing to teach. 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, "Mr Kaufman had demonstrated limited regret and remorse. The focus has been on how events have affected him and not how they have affected pupils, the School and the profession."

I have also placed considerable weight on the finding of the panel that Mr Kaufman was "a senior leader with specific responsibility for safeguarding and vulnerable pupils, Mr Kaufman should have set the highest standards and been an exemplary role model."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Kaufman 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 a three prohibition order should make no provision for a review period.

I have considered the panel's comments " the serious nature of the conduct found proven and the apparent lack of insight shown by Mr Kaufman, the panel felt the findings indicated a situation in which a review period would not be appropriate".

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 a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession and that a no review period is appropriate and proportionate. These elements are; the finding by the panel concerning the "incident where Mr Kaufman had kicked Student A" and which the panel say "was one of the matters of particular concern"; the pattern of behaviour and the lack of 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 Paul Kaufman 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 Paul Kaufman 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 Paul Kaufman 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 'Alan Meyrick', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 6 April 2018

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