



National College for
Teaching & Leadership

Mr Julian Barrett : 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 Julian Barrett

Teacher ref number: 9435042

Teacher date of birth: 16 August 1964

NCTL case reference: 0016568

Date of determination: 29 March 2018

Former employer: Roman Fields School (“the School”)

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 their 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 29 March 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Julian Barrett.

The panel members were Mr Ian Hughes (lay panellist – in the Chair), Mr Tony James (former teacher panellist) and Ms Gail Goodman (teacher panellist).

The legal adviser to the panel was Ms Eve Piffaretti of Blake Morgan LLP solicitors.

In advance of the meeting, the National College agreed to a request from Mr Barrett that the allegations be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Barrett 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 Barrett 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

The panel considered the allegations set out in the Notice of Referral dated 19 October 2017.

It was alleged that Mr Barrett was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that: whilst employed as a Teacher at the Roman Fields School from September 2014 until July 2017:

1. Between 9th December and 15th December 2016, he engaged in conduct of a sexual nature, in that he accessed and/or viewed material of a sexual and/or pornographic nature;
 - a. during school hours and whilst on school premises on more than one occasion;
 - b. when at least one pupil was working in the classroom whilst he was accessing and/or viewing such material on more than one occasion;
2. In undertaking allegation 1, he was sexually motivated.

Mr Barrett admitted the facts 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.

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of Referral, Response to Notice of Referral and Notice of Meeting – pages 4 to 9b

Section 3: Statement of Agreed Facts and Presenting Officer Representations– pages 11 to 13b

Section 4: NCTL documents – pages 15 to 208

Section 5: Teacher documents – pages 210

The panel also viewed selections of CCTV footage from 9 December 2016 to 15 December 2016.

The panel members confirmed that they had 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 Barrett on 26 January 2018 [dated 2017 in error].

D. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

In advance of the meeting, the National College agreed to a request from Mr Barrett 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.

Mr Barrett was employed as a teacher at the Roman Fields ('the School') from September 2014 until 12 July 2017. The allegations relate to Mr Barrett's viewing of explicit sexual footage on his computer, whilst within the school premises between 9 December 2016 and 15 December 2016 on a regular basis. On a number of occasions it is alleged that pupils were present in the classroom when such material was on Mr Barrett's screen. In particular on 12 December 2016 after 11.12am a pupil went up to Mr Barrett's desk whilst he was viewing two individuals having sexual intercourse.

The panel also viewed selections of CCTV footage from 9 December 2016 to 15 December 2016 taken from the CCTV camera positioned in the left hand corner of the class room where Mr Barrett was teaching. The CCTV footage provides a comprehensive view of the room layout including Mr Barrett's computer screen .

The panel disregarded the findings of the School's disciplinary process and has made its own decision based on the evidence presented.

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 are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher at the Roman Fields from September 2014 until July 2017;

- 1. Between 9th December and 15th December 2016, you engaged in conduct of a sexual nature, in that you accessed and/or viewed material of a sexual and/or pornographic nature**
 - a. during school hours and whilst on school premises on more than one occasion;**
 - b. when at least one pupil was working in the classroom whilst you were accessing and/or viewing such material on more than one occasion;**

Mr Barrett admits that he viewed the material of sexual and/or pornographic nature on 9, 12, 13 and 14 December 2016. He acknowledges that on these specified dates he viewed the material on a regular basis. Mr Barrett acknowledges that on or around 12 December 2016 at around 11am a pupil came up to his desk when he was viewing two individuals having sexual intercourse.

Mr Barrett admits that on 12, 13 and 14 December 2016 he viewed material of sexual and/or pornographic nature when one or more pupils were in the classroom.

Mr Barrett admits that the material he viewed and/or accessed included videos of naked adults and adults participating in sexual activity. Mr Barrett acknowledges that he should not have been viewing this type of material within the School's premises and when pupils were in the classroom.

Mr Barrett's admission is supported by the evidence in the case papers including the statement of Individual A. The panel has viewed a selection of CCTV footage and noted the CCTV log contained in the case papers. The CCTV log clearly shows Mr Barrett accessing and viewing videos of a sexual nature on school premises on more than one occasion between 9 December 2016 to 14 December 2016 and viewing videos of a sexual nature whilst pupils were present from 12 December 2016 to 14 December 2016.

- 2. In undertaking allegation 1, you were sexually motivated.**

Mr Barrett admits that in undertaking allegation 1 he was sexually motivated. He accepts that, on an objective basis, based on his admitted conduct at allegation 1 above, an

ordinary and reasonable member of the teaching profession would view his conduct as sexually motivated.

Mr Barrett also accepts that subjectively he was aware that his conduct was sexually motivated and that he sought some form of sexual gratification when viewing the material described at allegation 1 above.

The panel is aware that no alternative explanation for Mr Barrett's viewing of the material has been put forward and in the absence of such evidence the panel can see no alternative explanation other than sexual motivation.

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

Having found the allegations to have been 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 the statement of agreed facts, Mr Barrett accepts that his admitted conduct amounts to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel is satisfied that the conduct of Mr Barrett in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Barrett 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
 - 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
- 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 Barrett 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 Barrett's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found that the offence of sexual activity is relevant given that Mr Barrett engaged in conduct of a sexual nature for some form of his own sexual gratification.

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 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.

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

Having found the facts of particulars 1, and 2 proved, the panel further finds that Mr Barrett'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 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 protection of other members of the public, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct, confidence in the regulatory process and the interest of retaining the teacher in the profession.

In light of the panel's findings against Mr Barrett, which involved engaging in conduct of a sexual nature which was sexually motivated, there is a strong public interest consideration in the protection of pupils given the serious finding of serious sexual misconduct. Mr Barrett accessed and viewed materials of a sexual and/or pornographic

nature during schools hours, whilst on school premises, whilst, on more than one occasion, at least one pupil was working in the classroom.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Barrett 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 Barrett was outside that which could reasonably be tolerated.

The panel considered that there was a strong public interest consideration in retaining an experienced teacher in the profession.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Barrett.

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 Barrett. 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;
- sexual misconduct, e.g. 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 Barrett has admitted that his conduct amounts to unacceptable professional conduct and conduct which may bring the profession into disrepute. However, he has not shown insight into the impact of his actions on colleagues, in particular, one colleague who was exposed to the materials he was viewing, albeit inadvertently.

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, motivated and repeated, in particular the panel noted that he had the materials ready to access on his computer during school hours and that, on occasions, he drew the curtains in the classroom whilst viewing the materials. He also accessed and viewed sexual and pornographic materials whilst pupils were present in the classroom.

The teacher did have a previously good history and admitted the allegations consistently. The panel carefully considered his letter to the National College and reference made to his teaching abilities contained in the case papers. The panel noted that no professional references had been provided by Mr Barrett that attested to his professional abilities. The panel noted Mr Barrett's health condition and that this pre-dated the conduct found proved.

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 Barrett. The serious sexual misconduct 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 to recommend that a review period of the order should be considered. The panel was mindful of the Advice 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. One of these behaviours includes serious sexual misconduct, given that Mr Barrett's conduct was sexually motivated and had the potential to result in harm to a person or persons, including pupils and colleagues who could have inadvertently viewed material of a sexual and pornographic nature. Furthermore, Mr Barrett has been responsible for engaging in conduct of a sexual nature whilst on school premises, on more than one occasion and whilst, on occasion, at least one pupil was working in the classroom and which was sexually motivated.

Mr Barrett has expressed regret but the panel has no evidence of insight. The panel noted that Mr Barrett is receiving treatment for his health condition but given the long-standing nature of his condition, the panel has no evidence to satisfy it that such treatment will address the deep seated attitude which resulted in the behaviours found proven. Consequently, Mr Barrett presents a continuing risk in terms of repetition of his conduct.

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

In particular the panel has found that Mr Barrett 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
 - 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
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The panel has found that the offence of sexual activity is relevant given that Mr Barrett engaged in conduct of a sexual nature for some form of his own sexual gratification.

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 Barrett, 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 “Mr Barrett accessed and viewed materials of a sexual and/or pornographic nature during schools hours, whilst on school premises, whilst, on more than one occasion, at least one pupil was working in the classroom.”

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 Barrett has expressed regret but the panel has no evidence of insight.” The panel also noted that “Mr Barrett is receiving treatment for his health condition but given the long-standing nature of his condition, the panel has no evidence to satisfy it that such treatment will address the deep seated attitude which resulted in the behaviours found proven. Consequently, Mr Barrett presents a continuing risk in terms of repetition of his conduct.”

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 given that the panel found that, “Mr Barrett has been responsible for engaging in conduct of a sexual nature whilst on school premises, on more than one occasion and whilst, on occasion, at least one pupil was working in the classroom and which was sexually motivated.”

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 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 Barrett himself. I have considered the comments of the panel, “The teacher did have a previously good history and admitted the allegations consistently. The panel carefully considered his letter to the National College and reference made to his teaching abilities contained in the case papers. The panel noted that no professional references had been provided by Mr Barrett that attested to his professional abilities.”

A prohibition order would prevent Mr Barrett 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.

I have also placed considerable weight on the finding of the panel that Mr Barrett’s, “behaviours includes serious sexual misconduct, given that Mr Barrett’s conduct was sexually motivated and had the potential to result in harm to a person or persons, including pupils and colleagues who could have inadvertently viewed material of a sexual and pornographic nature.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Barrett 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 appropriate 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 no provision for a review period should apply.

I have considered the panel’s comments concerning the behaviour and in particular that “Mr Barrett presents a continuing risk in terms of repetition of his conduct.”

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 found, the lack of insight and the ongoing risk of repetition.

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

This means that Mr Julian Barrett 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 Julian Barrett 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 Julian Barrett 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 blue ink, appearing to read 'Alan Meyrick', is written over the printed name.

Decision maker: Alan Meyrick

Date: 9 April 2018

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