

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Stefan Kazimierz Musiol

Teacher ref no: 01/48305

Teacher date of birth: 26 December 1978

TA Case ref no: 5068

Date of Determination: 10 May 2013

Former Employer: St Bede's College, Whalley Range, Manchester
Queensbury School, Dunstable

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership convened on 9 and 10 May 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Stefan Musiol.

The Panel members were Ms Lynn O'Malley (Lay Panellist– in the Chair), Dr Melvyn Kershaw (Teacher Panellist) and Mr John Speller (Teacher Panellist).

The Legal Adviser to the Panel was Ms Sarah Ellson of Field Fisher Waterhouse LLP Solicitors.

The Presenting Officer for the National College for Teaching and Leadership was Ms Louisa Atkin of Browne Jacobson LLP Solicitors.

Mr Stefan Musiol was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 18 February 2013.

It was alleged that Mr Musiol was guilty of unacceptable professional conduct, in that:

Whilst employed at St Bede's College, Whalley Range, Manchester between 1 September 2005 and 31 May 2006, he:

1. displayed inappropriate behaviour towards Pupil A, aged 14 years, in that:

- a) in or around December 2005 he gave Pupil A a Christmas card and inside the card he wrote 'Dear [Pupil A] Hope you have a wonderful Christmas and New Year (I hope we get to see each other too)...I just want you to know that I think you are brill and I love you loads...lots and lots of Christmas kisses and loads of love from Stefan'.
 - b) in or around January 2006 he gave Pupil A a birthday card and inside the card he wrote 'happy birthday, loads of love BBZ Stefan', and signed the card with kisses.
2. between 1 September 2005 and 31 May 2006 he had an inappropriate relationship with Pupil A and abused his position of trust, in that he:
- a) allowed Pupil A to take and retain a photograph of him;
 - b) put himself in a position whereby he was alone with Pupil A on 1 December 2005 and at other times in the Regis and outside of school premises;
 - c) allowed Pupil A to get into his car with him at various times and in particular he picked her up from a party on or around 15 December 2005 and allowed her to stay in his car alone with him;
 - d) exchanged mobile telephone numbers with Pupil A and arranged to meet using text messages;
 - e) engaged in a discussion with Pupil A about looking up girls' skirts and asked Pupil A to step into a large elastic band;
 - f) on or around 3 December 2005 at the Christmas Fair he sat next to Pupil A and shared her ipod.
 - g) kissed Pupil A on a number of occasions and in particular on or around 15 December 2005;
 - h) allowed Pupil A to wear his watch.

In the course of obtaining employment and whilst employed at Queensbury School, Dunstable, Bedfordshire between 22 April 2009 and 11 January 2010, he:

3. Failed to disclose all relevant information:
- a) in that he did not include his period of employment at St Bede's College, Whalley Range, Manchester on his Curriculum Vitae which he submitted during the job application process;
 - b) in that he did not provide details of his most recent substantive employment involving children at St Bede's College, Whalley Range, Manchester at any time during the recruitment process;

- c) in that he did not disclose salient facts pertaining to a child protection allegation which occurred whilst he was employed at St Bede's College, Whalley Range, Manchester in 2006;
- d) he did not disclose that the allegation in point 2 above was referred to the Secretary of State for Education by St Bede's College, Whalley Range, Manchester;
- e) and in doing so, acted dishonestly.

There was no admission as to the facts or the allegation of unacceptable professional conduct.

C. Preliminary Applications

Proof of Service

The Presenting Officer referred the Panel to the Notices of Proceeding at pages 4 and 8 of the bundle. She submitted that the last known address for Mr Musiol was 15 Farm Close in Stockport and referred the Panel to page 18 from an Investigations Consultant. She submitted that the address in Northampton was a previous address thought to belong to a family member which is why the Notice was sent "care of" the address.

The Presenting Officer submitted that the requirements for a Notice had all been complied with.

The Panel invited further submissions in particular as to how the Notices complied with the requirements of paragraph 4.10 of The Disciplinary Procedures for the regulation of the teaching profession and in particular set out the requirements of paragraph 4.12 and 4.18-4.25.

The Presenting Officer provided the Panel with the proforma response forms that were appended to the Notice which she submitted addressed rule 4.12. She submitted that the letter included references to the provision of evidence at least four weeks before the hearing and the intention of agreeing a bundle. She indicated that other references to the procedures could be found via the website link detailed in the letter.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

- Under paragraph 4.26 of The Disciplinary Procedures for the regulation of the teaching profession, where a teacher against whom an allegation is made does not attend and is not represented at a panel hearing, the chair will:
 - request evidence that the Notice of Proceedings has been sent to the teacher in line with paragraph 4.10; and
 - enquire whether any reasons for the teacher's absence have been communicated to the Teaching Agency or the presenting officer.
- The first stage is therefore establishing proof of service

- The Notice of Proceedings for today's hearing appears at pages 4-7 and 8-11 of the bundle and is dated 18 February 2013. The Notice was therefore apparently sent at least 8 weeks before the hearing and it contains the information required by paragraph 4.10.
- Regulation 19 of The Teachers' Disciplinary (England) Regulations 2012 requires that the Notice either be delivered personally to the teacher or "sent to or left at the teacher's last known address".
- The Notices in the bundle appear to have been sent to two addresses, his parents' address in Stockport and an address in Northampton.
- There is no evidence that Mr Musiol has necessarily received the Notices but at this stage the Panel is considering whether the NCTL can establish it can prove service in compliance with the Regulation.
- Under paragraph 4.27 and 4.28, where the Panel is not satisfied that the details of paragraph 4.10 have been complied with, the panel will adjourn the hearing. If the Panel is satisfied, it has a discretion to decide whether to proceed.

The Panel announced its decision and reasons for that decision as follows:

Since Mr Musiol has not attended the hearing and is not represented the Panel has had regard to paragraph 4.26 of the Disciplinary Procedures for the regulation of the teaching profession. The Panel has been addressed by the Presenting Officer and has requested evidence that the Notice of Proceedings has been sent to the teacher in line with paragraph 4.10; and enquired about any reasons for the teacher's absence.

The Panel has looked very carefully at the Notice of Proceedings for today's hearing which appears at pages 4-7 and 8-11 of the bundle, dated 18 February 2013.

The Panel is satisfied that the Notice complies with the requirements of paragraph 4.10 although it has required the Presenting Officer to address them further on how it complies with the need to set out the "requirements of paragraph 4.12 and 4.18-4.25". It was assisted by seeing the Notice of Proceedings Form which sets out the matters in paragraph 4.12. In relation to the paragraphs which deal with service and inspection of documents the Panel is just persuaded that some of the information about the need to provide documents in advance and seek to agree the contents of the bundle was explicit in the Notice, and that the Procedures were made known and available to the teacher through the reference to the website in the body of the Notice of Proceedings.

The Panel is satisfied that the National College for Teaching and Leadership has complied with Regulation 19 of The Teachers' Disciplinary (England) Regulations 2012 in that it sent the Notice to Mr Musiol's last known address which, according to searches undertaken most recently in early February 2013, was 15 Farm Close, Stockport, Cheshire SK4 5LU. It notes that the Notice was also sent c/o of an address in Northampton thought to be the address of his wife or former wife.

The Panel has concluded that it is satisfied as to proof of service.

Proceeding in the Absence of the Teacher

The Presenting Officer invited the Panel to exercise its discretion to proceed in the absence of Mr Musiol. She outlined the history of the matter and provided the Panel with an additional document (the decision document from an earlier hearing on 7 February 2013). She noted the referral to the GTCE in 2010 and Mr Musiol's early engagement with the process. She outlined information about Mr Musiol's health and steps taken to try and secure confirmation of this. She confirmed no medical evidence or records had been provided.

The Presenting Officer submitted that Mr Musiol was originally aware that the GTCE was going to pursue the matter and that his family at least were aware that the issues remain unresolved. From the case of R v Jones the Presenting Officer suggested that the relevant factors included:

- The nature and circumstances of the teacher's absence - she invited the Panel to conclude he had waived his right to attend and that the National College had taken all reasonable steps to serve him;
- That an adjournment would not change anything, that the National College had done all it could to locate Mr Musiol;
- It was in the general public interest to proceed with the case within a reasonable time, some of the events had taken place a long time ago. Also the witnesses had now attended on several occasions and it might be difficult to secure their attendance again if the case was adjourned.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

- If the Panel is satisfied as to service it has a discretion as to whether to proceed in the absence of the teacher and can under paragraph 4.28, after taking into consideration any representations by the Presenting Officer and any written submissions made by or on behalf of the teacher, either proceed with the hearing in the absence of the teacher; or adjourn the hearing.
- A decision to proceed in the absence of a respondent teacher should only be taken with the utmost care and caution.
- The starting point is that a teacher has a right to be present at his hearing and a right to be legally represented. However, those rights can be waived if the teacher deliberately and voluntarily absents himself from the hearing of his case;
- In exercising its discretion, fairness to the defence is of prime importance but fairness to the Presenting Officer must also be taken into account. There is also a wider public interest in disciplinary cases being resolved within a reasonable time and in this particular case the allegations are now quite old.
- The Panel must have regard to all the circumstances of the case including, in particular:
 - (i) the history of this case and in particular the two previous adjournments;
 - (ii) the nature and circumstances of the teacher's behaviour in absenting himself from the hearing and, in particular, whether his behaviour was deliberate, voluntary and as such plainly waived his right to appear;

- (iii) whether an adjournment might result in the teacher attending voluntarily;
 - (iv) the likely length of such an adjournment;
 - (v) the risk of the Panel reaching an improper conclusion about the absence of the teacher;
 - (vi) the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him. In this case there is a clear conflict in relation to some of the allegations. However there are documentary accounts given by the parties which are relatively contemporaneous;
 - (vii) the seriousness of the allegation;
 - (viii) the effect of any delay on the witnesses who have been warned to attend the second day of this hearing.
- The Panel has heard that there is reference that Mr Musiol may have been unwell. In cases where there was unchallenged medical evidence to show a respondent teacher was unwell it would be usual to adjourn the hearing, but that is not the case here.
 - There is no independent medical evidence and the mere fact that it has been claimed by Mr Musiol's family that he has been unwell does not require an adjournment.
 - Where there is no medical evidence the Panel is entitled to conclude that the teacher has voluntarily absent himself.
 - There is nothing in the papers to suggest an adjournment is sought on behalf of Mr Musiol.

The Panel announced its decision and reasons for that decision as follows:

Having reached its conclusion about service the Panel went on to consider the factors that apply in these circumstances.

It has been mindful of the need to exercise the utmost care and caution in relation to going ahead in Mr Musiol's absence but also of the history of this case to date. The Panel notes that whilst there was some engagement in the regulatory process in 2010/11 there now appears to have been a long period with a lack of engagement on the part of Mr Musiol. The reasons for this non-engagement are not clear and whilst there is a suggestion that Mr Musiol may have suffered ill health there is no verification of this, nor is there any independent medical evidence.

The Panel notes that Mr Musiol has not requested an adjournment today and it has considered carefully what a further adjournment might achieve. It notes that the matter has been listed on two previous occasions which have been adjourned, Mr Musiol has never previously attended and the Panel has no reason to believe that a further adjournment would result in Mr Musiol's attendance. A further adjournment would simply delay the case further.

The Panel notes that this is a serious case and has thought carefully about the possible disadvantages of proceeding in Mr Musiol's absence. There will be disadvantage in not having Mr Musiol give oral evidence but the Panel notes that it does have contemporaneous accounts in the bundle from Mr Musiol who was

interviewed by the police and responded to disciplinary hearings. The Panel has reminded itself of the burden and standard of proof which will apply in this case.

The Panel has concluded that the hearing should proceed today. It is satisfied that this will be in the public interest and that it is everyone's interests (including the witnesses) that the matter is resolved without further delay.

D. Summary of Evidence

Documents

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

- Section 1: Anonymised Pupil List (page number 2)
- Section 2: Notice of Proceedings and response (with page numbers from 4 to 41)
- Section 3: Witness statements (with page numbers 43 to 57)
- Section 4: National College for Teaching and Leadership documents (with page numbers 59 to 291)

In addition, the Panel agreed to accept the following:

- The Notice of Proceedings form which was sent with the Notice of Proceedings to 15 Farm Close (given page numbers 7a to 7c)
- The Notice of Proceedings form which was sent with the Notice of Proceedings to Northampton (given page numbers 11a to 11c)
- The decision of the Professional Conduct Panel in this case made on 7 February 2013

All of these documents had previously been sent to Mr Musiol.

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

The Panel heard evidence from Witness A, formerly the Deputy Headteacher and Pastoral Head of St Bede's College in Manchester. She gave evidence of the occasion when she had found Mr Musiol alone with Pupil A in a classroom. She also reported the accounts of staff and pupils about Mr Musiol's behaviour in relation to Pupil A. She indicated that the staff who had spoken to her were senior and/or experienced and took their child protection training and responsibilities seriously. She told the Panel how pupil statements were taken having separated the pupils from one another when it was decided statements would be required. She thought the pupils had written statements, signed and dated. She said she had no doubts about the truthfulness of the pupils. She described Pupil A as naïve and yet

knowing, she did not cover things up because she did not understand what was happening.

Witness A confirmed that Mr Musiol had spoken to her about Pupil A's neediness and that she had given him advice about how to behave and gave him strategies. She did not agree with Mr Musiol's suggestion (to the police) that he had not been given advice by the school. She explained that staff were not particularly following Mr Musiol around but they were more alert to where Pupil A was.

Witness A spoke positively of Mr Musiol's unconventional but successful teaching style which she described as animated and lively and said she had had no reason to doubt his truthfulness. She confirmed she had never put the allegations to Mr Musiol. In the end there was no disciplinary hearing and, on advice, the matter was settled but with a condition that there would be a referral to the Department of Education and reference to this in any future references.

Witness B, HR Manager for Schools with Central Bedfordshire Council gave evidence by telephone (as she was unwell and unable to travel). She explained that they had not accepted Mr Musiol's explanation that he was pressed for time when he omitted his time at St Bede's from his CV. They thought it was highly unlikely it was a mistake as no other employment was omitted. She said it was important to have included this school as all relevant checks needed to be completed before Mr Musiol was offered a role at Queensbury School.

Witness B had met Mr Musiol in two interviews and described him as confident, articulate and professional. She said he failed to answer their questions directly and blamed others for the errors.

E. Decision and Reasons

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing and the additional documents provided by the Presenting Officer.

This case essentially involves two periods of time when Mr Musiol was a teacher.

The allegations in paragraphs 1 and 2 relate to his time as a teacher at St Bede's College in Whalley Range Manchester. Mr Musiol was appointed as full time Assistant Teacher of Modern Languages and Religion from 1 September 2005. His employment there was terminated on 31 May 2006. The Notice of Proceedings includes allegations of a display of inappropriate behaviour with a 14 year old pupil between September 2005 and January 2006, more particularly from December 2005.

Mr Musiol was interviewed by the police in May 2006 and largely denied the allegations, particularly those relating to an alleged abuse of his position of trust.

In February 2009 Mr Musiol applied for and secured a position at Queensbury Upper School as a classroom teacher of Modern Foreign Languages; a position which commenced in April 2009. His employment there was terminated on 16 November 2009 as a result of matters alleged in paragraph 3, namely a failure to provide details of his period of employment at St Bede's College or the child protection concerns raised at that time.

There is nothing in the papers to indicate that Mr Musiol has continued with his teaching career and there are documents which suggest he was living in Poland at one stage. As Mr Musiol has not attended the hearing there is little further up to date information about his career.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mr Musiol proven, for these reasons:

Whilst employed at St Bede's College, Whalley Range, Manchester between 1 September 2005 and 31 May 2006, he:

1. a) displayed inappropriate behaviour towards Pupil A, aged 14 years, in that in or around December 2005 he gave Pupil A a Christmas card and inside the card he wrote 'Dear [Pupil A] Hope you have a wonderful Christmas and New Year (I hope we get to see each other too)...I just want you to know that I think you are brill and I love you loads...lots and lots of Christmas kisses and loads of love from Stefan'.

The Panel finds this particular proved and has had regard to the admissions made by Mr Musiol during his police interview on 3 May 2006. The Christmas card was shown to Mr Musiol during the interview and he accepted he had given the card to Pupil A and that it contained the words described above.

Pupil A has given an account of this card being given to her by Mr Musiol. Mr Musiol told the police that he was intimidated by the pupil into doing so. Having heard Witness A, the former Deputy Head and Pastoral Head of St Bede's College, give evidence about Pupil A the Panel finds the suggestion of intimidation unlikely and, having regard to what was written inside the card, has concluded that the sending of the Christmas card demonstrated inappropriate behaviour towards this 14 year old pupil.

- b) displayed inappropriate behaviour towards Pupil A, aged 14 years, in that in or around January 2006 he gave Pupil A a birthday card and inside the

card he wrote 'happy birthday, loads of love BBZ Stefan', and signed the card with kisses.

The Panel concluded that this particular is also proved, for similar reasons, specifically the admissions by Mr Musiol to the police and, given its conclusion that the card was not written under duress, and noting the wording used, again finds the behaviour inappropriate.

2. between 1 September 2005 and 31 May 2006 he had an inappropriate relationship with Pupil A and abused his position of trust, in that he:
 - b) put himself in a position whereby he was alone with Pupil A on 1 December 2005 and at other times in the Regis and outside of school premises;

The Panel has found this particular proved, having been particularly assisted by the evidence of Witness A. The Panel found Witness A a credible, thoughtful and honest witness. It accepted her evidence in relation to an occasion she witnessed on 15 December 2005 but also felt able to give weight to the hearsay evidence of the teachers who volunteered their own concerns to her, because Witness A explained that these were each trustworthy members of staff.

The Panel is satisfied that Mr Musiol was found alone with Pupil A on 1 December 2005 after school and notes that Individual A and Individual B had witnessed this, and had reported it the following day.

The Panel is also persuaded that Mr Musiol was found alone with Pupil A at other times in the Regis building and outside of school premises including:

- On 6 December as witnessed by Individual C and Individual D who saw them in conversation on the road outside school and reported it the next day
- On 14 December before school, as seen by Individual C
- On 15 December when Witness A and Individual E found them in a room alone, when they were not visible through the window in the classroom door
- On 6 January in the modern foreign languages corridor as reported by Individual C
- On 10 January in R14 as found by Individual B; and
- On 12 January in the Regis building, again seen by Individual B.

- c) allowed Pupil A to get into his car with him at various times and in particular he picked her up from a party on or around 15 December 2005 and allowed her to stay in his car alone with him;

The Panel finds this particular found, although having looked in more detail at the evidence concludes that the date of the party was more likely to be 16 December 2005.

The Panel believes it would have been assisted had the Presenting Officer been able to supply the signed witness statements of pupils which Witness A recalls were prepared. However, it again gave weight to Witness A's oral evidence and her account of how pupil evidence was gathered and was subsequently recorded in the

accounts she has provided in the bundle. In relation to this particular, and several of the following particulars, the Panel has been prepared to give weight to the hearsay accounts of pupils because they are satisfied that the school's investigation was thorough and the pupils were interviewed properly. It accepts that the pupils did not collude to concoct these accounts and finds that their evidence corroborates one another and is credible, in part because it is not identical.

In relation to this particular the Panel has been satisfied by the sheer weight of the evidence and the numerous accounts of pupils, including Pupil A who testify to her being in Mr Musiol's car with him at various times. Pupils G, L, C and H all give accounts of Pupil A getting into the car after the party at Pupil G's house. Pupil A also gives an account of this incident.

There were various occasions on which this happened. The Panel has in particular looked carefully at the accounts given in relation to events on Sunday 15 January 2006, which was only two days before statements were taken from pupils. Both pupil A and pupil N describe a trip to Stockport when Pupil A was left alone with Mr Musiol in his car after Pupil N had been given a lift home.

The Panel has borne in mind that Mr Musiol has entirely denied this allegation when questioned about it by the police but it has concluded that his denial is unconvincing in the face of the pupil evidence.

- e) engaged in a discussion with Pupil A about looking up girls' skirts and asked Pupil A to step into a large elastic band;

The Panel again places reliance on the pupil statements which testify to this somewhat bizarre incident. They concur with Witness A's observation that these were most unusual events to recount and that the pupils' accounts were given additional credibility because of this. The Panel is satisfied by the evidence of Pupils A and E who were there. It could not be certain as to whether Pupil C was present but note that she had certainly been told of such an incident prior to being interviewed. Again the Panel rejects Mr Musiol's denial.

- g) kissed Pupil A on a number of occasions and in particular on or around 15 December 2005;

The Panel has scrutinised the evidence carefully, given the seriousness of this particular. It notes that Mr Musiol said to the police that such a suggestion, that he had kissed Pupil A, was the result of fantasy on her part. The Panel is conscious that there are no independent witnesses to any kissing and that Pupil A and Mr Musiol give wholly different accounts.

However having read the bundle carefully, and been assisted by Witness A, the Panel does not believe that Pupil A has fabricated that there was kissing. In her accounts Pupil A reports kissing, and in her contemporaneous diary and in accounts given to her friends before they were interviewed, she reported kissing with Mr Musiol.

Witness A told the Panel that Pupil A was truthful honest and open when she gave her account, she described her as "naïve but knowing" and that she did not realise what was happening.

In the context of this information, and the matters which the Panel has already found proved, particularly the sending of the inappropriate cards, the Panel finds this allegation proved on the balance of probabilities.

In the course of obtaining employment and whilst employed at Queensbury School, Dunstable, Bedfordshire between 22 April 2009 and 11 January 2010, he:

3. Failed to disclose all relevant information:
 - a) in that he did not include his period of employment at St Bede's College, Whalley Range, Manchester on his Curriculum Vitae which he submitted during the job application process;

The Panel had no difficulty, having looked at the CV, in concluding that Mr Musiol did not refer to his period of employment at St Bede's in this document. It was further satisfied that this was a failure and that he ought to have referred to it because it was highly relevant information which ought to have been given to a potential future employer, given that it related to his only substantive period of employment as a teacher of children under 16.

The Panel does not accept Mr Musiol's explanation that this was an oversight and finds this inherently implausible, given the context in which the CV was being provided and the significance of that period of employment.

- b) in that he did not provide details of his most recent substantive employment involving children at St Bede's College, Whalley Range, Manchester at any time during the recruitment process;

The Panel also finds that Mr Musiol failed to provide this information at any later stage in the recruitment process and in particular notes that he appears to have chosen not to give answers that might have disclosed this employment, during his interview for the new role. Similarly when asked for additional references he did not mention St Bede's.

- c) in that he did not disclose salient facts pertaining to a child protection allegation which occurred whilst he was employed at St Bede's College, Whalley Range, Manchester in 2006;

The Panel acknowledges that on 9 September 2009 Mr Musiol went to see Individual F the Headteacher about his Criminal Records Bureau enhanced disclosure. It does not consider this to have been a disclosure (which the Panel viewed as needing to be a voluntary giving of the information) as it appears it was only brought about by the fact that the CRB check had by then been sent to him and to the Local Authority and was inevitably about to be an important issue.

The Panel, in reaching this finding, has identified an apparent pattern in Mr Musiol's behaviour which, as in 2005/6, suggests that he would seek out senior teaching staff with which to discuss issues, only at a stage when he thought his behaviour might have come to their attention.

- d) he did not disclose that the allegation in point 2 above was referred to the Secretary of State for Education by St Bede's College, Whalley Range, Manchester;

As with particular 3 c the Panel is satisfied that Mr Musiol never disclosed the referral to the Secretary of State. It is apparent that, had he have done so, the school would have known about his employment at St Bede's and the consequential concerns at the school. Again it was only discussed after it became an issue known to the school.

- e) and in doing so, acted dishonestly.

The Panel finds that in relation to particulars 3a-d Mr Musiol acted dishonestly. Omitting a controversial part of your career from your CV would be regarded as dishonest by the ordinary standards of reasonable people and moreover the Panel was convinced that Mr Musiol would have known that this conduct was dishonest.

Mr Musiol would have known that a previous child protection concern was very relevant, given his training, and he knew that this would have been revealed in any enquiry made to St Bede's school. He therefore had a clear motive for not including this information or disclosing it at any stage before it became known to the school.

We have found the following particulars of the allegation against Mr Musiol not proven, for these reasons:

- 2. between 1 September 2005 and 31 May 2006 he had an inappropriate relationship with Pupil A and abused his position of trust, in that he:
 - a) allowed Pupil A to take and retain a photograph of him;

The Panel is not satisfied as to this particular because it has not been provided with sufficient evidence to demonstrate that Pupil A in fact took the photograph (described as being Mr Musiol by his car) nor that its retention was anything Mr Musiol could influence.

- d) exchanged mobile telephone numbers with Pupil A and arranged to meet using text messages;

The Panel has borne in mind the burden of proof and again does not find this particular proved, given that Mr Musiol has absolutely denied it and there are no phone records that adequately link Mr Musiol to a mobile phone number that may or may not have been used to text Pupil A. The evidence about what Pupil C may have seen on Pupil A's phone was inconclusive as to whether these came from Mr Musiol.

- f) on or around 3 December 2005 at the Christmas Fair he sat next to Pupil A and shared her ipod.

Whilst the Panel was satisfied that this happened (although it notes that Mr Musiol says he only stood listening to the iPod and that this was only for a brief instant), the Panel could not be satisfied that the behaviour was indicative of an inappropriate relationship with Pupil A or an abuse of his position of trust.

- h) allowed Pupil A to wear his watch.

Whilst it does seem that Pupil A had possession of Mr Musiol's watch it is insufficiently clear to the Panel how this happened and the Panel was not satisfied, to the necessary standard, that this was something Mr Musiol had allowed. The Panel acknowledged Witness A's view, that it might have been something Pupil A thought she could keep, perhaps as a trophy (whilst not necessarily suggesting she had stolen it).

Findings as to Unacceptable Professional Conduct

The Panel considers that Mr Musiol's conduct was unacceptable professional conduct. The matters found proved relate to misconduct of a serious nature and include inappropriate behaviour and an abuse of trust in a relationship with a 14 year old pupil and dishonesty in his dealings with an employing school.

The conduct which has been established falls very far short of the standards expected of a teacher.

Teachers are expected to treat pupils with dignity and build relationships which are rooted in mutual respect and at all times observe proper boundaries appropriate to a teacher's professional position. Teachers can be found guilty of unacceptable professional conduct where their behaviour seriously demeans pupils and where they fail to take reasonable care of pupils under their supervision. Mr Musiol's relationship with Pupil A clearly fell into this category.

Mr Musiol also misrepresented his professional position, in particular misrepresenting his pattern of past employment when applying for a teaching position which is again entirely unacceptable professional conduct.

Panel's Recommendation to the Secretary of State

The Panel recommends that the Secretary of State should impose a Prohibition Order in this case.

The Panel has read and heard evidence that concerns serious departures from the standards to be expected of teachers. In particular it has found proved displays of inappropriate behaviour in the sending of cards to a 14 year old pupil. The Panel has also found that Mr Musiol put himself in a position whereby he was alone with Pupil A on a number of occasions in and outside St Bede's College, allowed Pupil A to get into his car with him at various times and kissed Pupil A on a number of occasions. This pattern of conduct was found to amount to an inappropriate relationship and an abuse of his position of trust.

The third particular demonstrated dishonesty. These are all very serious matters which have informed the Panel's recommendation.

Whilst Mr Musiol has no previous history, the events span a period from 2005 to 2009. In his previous involvement with the police and school processes Mr Musiol has shown no insight or remorse for his actions. There is no additional information available to the Panel today to suggest this position has changed or that steps have been taken towards remediation.

The Panel is particularly concerned that Mr Musiol has repeatedly sought to pass the blame to others. This includes suggesting Pupil A was to blame by fabricating allegations and coercing him into writing the cards, his wife had erroneously prepared his CV and St Bede's College were at fault in relation to the child protection concerns identified.

The Panel believes a Prohibition order is warranted given Mr Musiol's failure to take responsibility for his actions and because he has shown no overt recognition of the seriousness of his self-serving and devious behaviour. The Panel has no evidence to suggest that Mr Musiol would not behave similarly in the future.

In the absence of any evidence as to Mr Musiol's intentions, and the seriousness of the case, it is difficult to decide when might be an appropriate time for Mr Musiol to be allowed to apply for the Prohibition Order to be set aside. The Panel considers that Mr Musiol should be given a significant period of time to reflect on his conduct and would therefore recommend he is not allowed to apply for the Order to be set aside before the expiry of a 10 year period.

Secretary of State's Decision and Reasons

I have carefully considered the findings and recommendations of the Panel in relation to this case.

The Panel found a number of the particulars found relating to both an inappropriate relationship with a student and dishonesty. Mr Musiol's behaviour represents a serious departure from the standards expected of a teacher. The events span a period from 2005 – 2009 and he has shown no insight or remorse into his actions, preferring to pass the blame to others.

In the circumstances I agree the Panel's recommendation that a Prohibition Order is an appropriate sanction in the public interest.

Turning next to the review period, the Panel saw no recognition of the seriousness of Mr Musiol's behaviour, nor any evidence to suggest he would not behave similarly in the future. They therefore recommend he should be given a significant amount of time to reflect upon and consider his conduct. I agree that a review period of 10 years is appropriate and proportionate.

This means that Mr Stefan Kazimierz Musiol is prohibited from teaching indefinitely and cannot teach in any school, Sixth Form College, relevant youth accommodation

or children's home in England. He may apply for the Prohibition Order to be set aside, **but not until 20 May 2023, 10 years from the date of this order at the earliest**. If he does apply, a Panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Stefan Kazimierz Musiol remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Mr Stefan Kazimierz Musiol 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.

NAME OF DECISION MAKER: Paul Heathcote
DATE: 13 May 2013