



National College for
Teaching & Leadership

Mr Dean Mander: Professional Conduct Panel outcome

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

July 2014

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Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mr Dean Mander
Teacher ref no:	05/20440
Teacher date of birth:	5 September 1964
NCTL Case ref no:	09788
Date of Determination:	21 and 22 July 2014
Former employer:	College of West Anglia, Kings Lynn

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 21 and 22 July 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Dean Mander.

The Panel members were Miss Mahfia Choudhury (Lay Panellist– in the Chair), Mr Mike Carter (Teacher Panellist) and Mr Tony Heath (Lay Panellist).

The Legal Adviser to the Panel was Mr Graham Miles of Blake Morgan LLP Solicitors.

The Presenting Officer for the National College was Ms Melinka Berridge of Kingsley Nappley LLP Solicitors.

Mr Dean Mander was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 10 April 2014.

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

Whilst working as a Lecturer in Construction (Brickwork) at the College of West Anglia, Kings Lynn in 2011 and 2012, he:

- 1. Acted in an aggressive, intimidating and bullying manner towards the following students:**
 - (a) Student A**
 - (b) Student B**
 - (c) Student C**
 - (d) Student D**
 - (e) Student E**
 - (f) Student F**
 - (g) Student G**
 - (h) Student H**
- 2. Used inappropriate language in front of students including:**
 - (a) Use of swear words and generally aggressive language;**
 - (b) Use of sarcastic language;**
 - (c) Use of belittling or demeaning language.**
- 3. Made inappropriate comments/remarks towards students, in particular:**
 - (a) Calling Student A as “sleepy” when he suffered with a sleeping condition;**
 - (b) Calling Student B a “bull-shitter” and telling him “no one wanted him on the course”;**

- (c) **Telling Student B that his “attitude was shit”;**
 - (d) **Calling Student C a :**
 - i) **“mummy’s boy”;**
 - ii) **“little shit”;**
 - iii) **“prick”;**
 - (e) **Making fun of a Student C’s facial twitch, which was caused by his ADHD.**
- 4. Failed to offer appropriate guidance to students whilst teaching, in particular:**
- (a) **Kicking down a wall built by Student C saying “it’s a load of f-ing crap anyway”;**
 - (b) **When Student C asked for help regarding measurements of a wall he said “this high” and gesticulated in an offensive manner which his middle finger;**
 - (c) **Telling Student E that the wall he had built was “a fail” without bothering to adequately assess his work;**
 - (d) **Telling Student F that he shouldn’t be tapping the brick and said words to the effect of “I am the f-ing bricklayer, I should know”;**
 - (e) **Ignoring Student G’s request for assistance when he asked where the “wall ties” were situated.**

In his response to the Notice of Proceedings, Mr Mander denied the alleged facts.

C. Preliminary applications

Application to proceed in the absence of the teacher

Mr Mander was not present and was not represented. The Presenting Officer provided the Panel with a copy of Mr Mander’s response to the Notice of Proceedings, (which the panel added to Section 2 of the bundle as pages 12A,B and C). The Presenting Officer pointed out that Mr Mander had stated that in his response that he would not be attending the hearing and would not be represented. Application was made for the hearing to proceed in the absence of Mr Mander.

The Chair announced the decision of the panel as follows:

'We have decided to proceed with the hearing in the absence of Mr Mander for these reasons:

- The Notice of Proceedings has been served in accordance with the Disciplinary Rules by Notice dated 10 April 2014
- Mr Mander has responded to the Notice on 14 May 2014 saying that he will not be attending and will not be represented. We are satisfied that Mr Mander has voluntarily waived his right to attend.
- No application for an adjournment has been made and there is no indication that an adjournment would result in Mr Mander attending at a later date.
- Although we would prefer to be able to hear from Mr Mander in person, we will be able to take into account his responses to the College's disciplinary proceedings. Furthermore, there is a public interest in the hearing taking place reasonably promptly. Given that the allegations relate to events in 2011 and 2012 further delay would not be in the public interest.'

Application to amend particulars of allegation

The Presenting Officer applied to amend paragraph 4 (b) of allegation to substitute the word "offensive" for "offence". The Panel agreed to the amendment on the basis that the application was to amend an obvious error and that no prejudice would be caused to Mr Mander.

Application to admit additional documents

The Presenting Officer applied to admit additional evidence as described in the Panel's decision.

The Chair announced the decision of the panel as follows:

'We have considered the application by the Presenting Officer to admit as additional documents copies of reports from the College relating to the attendance of Student B accompanied by a supplementary statement from the mother of Student B.

We are satisfied that this evidence is relevant and that it would not be unfair to admit the evidence as we have the opportunity to question the witness about it.

We have also been asked to admit a witness statement from Jessica Ward, Legal Assistant with Kingsley Napley LLP. This statement does not contain any additional factual evidence relating to the allegations. The Presenting Officer has stated that the purpose of introducing the evidence is to explain why certain witnesses have not attended. On balance we have concluded that the evidence is not relevant to the allegations and we have decided not to admit it.'

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, with page numbers from 1 to 4
- Section 2** Notice of proceedings and response, with page numbers from 5 to 12C
- Section 3** Witness statements and agreed facts, with page numbers from 13 to 37
- Section 4** National College for Teaching and Leadership documents, with page numbers from 38 to 276 H

Witnesses

The Panel heard oral evidence from:

Mother B, mother of Student B, called by the Presenting Officer.

Witness A, Head of Organisational Development and Quality, College of West Anglia, called by the Presenting Officer.

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.

Mr Mander was employed by the College of West Anglia (‘the College’) as a Lecturer in Construction (Brickwork). He commenced employment at the College on 19 April 2004 and resigned on 31 August 2012.

On 8 May 2012, the College’s Head of Faculty of Technology provided a report to the Principal setting out a number of concerns that had been raised by parents, students and staff regarding Dean Mander’s alleged conduct towards his pupils. The behaviours of concern included allegations of bullying, aggression, swearing and name-calling. Mr Mander was suspended whilst an investigation was undertaken by the College. As part of the investigation, students completed a questionnaire and a number of students and other members of staff were interviewed.

When Mr Mander was interviewed on 28 June 2012, he denied the majority of the behaviours alleged against him. At the conclusion of the investigation, a recommendation was made that he be referred to a disciplinary hearing. Mr Mander then resigned. In his letter of resignation, Mr Mander said that he was “*shocked, surprised and saddened*” by the evidence brought against him. He said, “*I believe that it is part of the role of teacher of a vocational skill in particular to prepare their students for the world of work. I do admit at times to using sarcasm in my teaching and reprimanding students who have been wasting time or not taking care over their work, as this is just a taste of what they are likely to experience on the building site. On reflection, although my teaching methods created good standards of work and attitude in the majority of students, I can see I may have misjudged the impact upon a minority of less well-adjusted students. I now realise some of [my] actions have been unacceptable and I fully regret this unintentional impact. My intentions were only ever to try and get students to fulfil their potential.*”

Findings of Fact

We have had the benefit of hearing oral evidence from the mother B of Student B and Witness A, the Investigating Officer at the College. We found the mother B of Student B a reliable and convincing witness in her account of Student B’s experiences at the College. We found Witness A to be a credible witness, although there were a number of areas which were either not covered by his investigation or which he was unable to recall.

We also considered written statements from a large number of students and other members of staff, which we were unable to test by questioning. We did not have the benefit of hearing oral evidence from Mr Mander, but we have taken into account his responses to the investigatory interview and his resignation letter.

In considering the evidence presented, we recognised that the accounts given by individual students was hearsay evidence. The Panel was advised that hearsay evidence is admissible, but should be treated with caution due to the Panel’s inability to assess the credibility of the witness or test the evidence by questioning. We considered the circumstances in which the evidence was gathered, whether there was an opportunity for collaboration and whether there were consistencies or inconsistencies in the hearsay evidence before determining what weight we could attach to the evidence.

In relation to the questionnaires given to students, we are satisfied that every attempt was made to ensure that opportunity for collaboration was limited by the process used. This took place on 6 June 2012, after Mr Mander had been suspended on 10 May 2012. During the investigation, twenty four students were invited to complete a questionnaire about tutor behaviour. Although no member of staff was named by the College in the questionnaire given to students, twenty one of the students responded identifying Mr Mander as behaving inappropriately. The Panel was of the view that it is possible that students were aware that the questions related to a small teaching team, which included Mr Mander.

In reviewing the evidence in its entirety, the Panel noted significant consistencies in the accounts of students and, in some instances, staff. We are conscious that a number of the statements were taken very close to the time of the incidents in question and in many instances the accounts included examples of actual words and phrases alleged to have been used by Mr Mander. In all of the evidence that we heard, there was nothing to suggest that those making statements against Mr Mander acted in collusion with others or that they were dishonest in their accounts. Taking these factors together, we felt able to rely upon the hearsay evidence and the untested statements of witnesses.

Our findings of fact are as follows:

Whilst working as a Lecturer in Construction (Brickwork) at the College of West Anglia, Kings Lynn in 2011 and 2012, he:

1. Acted in an aggressive, intimidating and bullying manner towards the following students:

(a) Student A

We considered the written statements of Student A and Colleague C, Learning Support Officer, but felt that evidence of the specific incident referred to is not sufficient to establish that Mr Mander acted in an aggressive, intimidating and bullying manner towards Student A. We find the facts not proved.

(b) Student B

We considered the oral evidence of the mother of Student B in addition to the written statements of Student B, Colleague A and Colleague B. Student B's statement refers to various incidents in which he said that Mr Mander belittled him including Mr Mander telling him that he was '*getting on his fucking nerves*' and that he was a '*bullshitter*', that his '*attitude was shit*' and that '*nobody wanted [him] on the course*'. We also noted that Student B reported these matters to his mother and they were also reported to Colleague A. Colleague B's evidence is that at a meeting with his parents, Mr Mander was belittling towards Student B. Mr Mander also admits calling Student B '*lazy*'. We are satisfied, on the balance of probabilities, that these incidents described by Student B took place and that in doing so, Mr Mander was acting aggressively and in an intimidating and bullying manner. We, therefore, find the facts proved.

(c) Student C

We considered the written statements of Students C, E, J, V and W, Colleague A and Colleague D. Student C said in his statement that Mr Mander would '*bully me all the time by running me down*' and '*made me feel as though I was not part of*

the group". Student C was specifically identified by a number of students as someone that Mr Mander would "*shout at*", "*put down*" and "*moan at*". We are satisfied, on the balance of probabilities, that these incidents described by Student C and others took place and that in doing so, Mr Mander was acting aggressively and in an intimidating and bullying manner. We find the facts proved.

(d) Student D

There is no evidence of a specific incident in relation to Student D. We find the facts not proved.

(e) Student E

Student E referred in his statement to Mr Mander's behaviour towards him and that he "*tried to avoid finishing work until Wednesday when I had a different tutor*" to avoid being assessed by Mr Mander. However, the Panel noted that he did not specify any incidents in the questionnaire and the only incident referred to in his statement was being shouted at. On this basis, we find the facts not proved.

(f) Student F

We noted that Student F said in his statement that on one occasion when he was late Mr Mander said "*he did not want to talk to me and he was pushing his hands towards his face. His hand was almost toughing my nose it was that close*". We further note that he referred to an incident in which Mr Mander swore at him saying that he (Mr Mander) "*was the fucking bricklayer*" after Student F had been tapping bricks. This was also witnessed by Student G who also said that Mr Mander picked on Student F. We are satisfied, on the balance of probabilities, that these incidents described by Student F and Student G took place and that in doing so, Mr Mander was acting aggressively and in an intimidating and bullying manner. We find the facts proved.

(g) Student G

Although Student G describes incidents in relation to other students, there is no evidence of a specific incident in relation to Student G. We, therefore, find the facts not proved.

(h) Student H

Although we did not have a written statement from Student H, we considered the written statements of Students F and G, both of which refer to an incident when Mr Mander approached Student H after he spat on the floor. They describe Mr Mander stepping towards Student H. Student F said that Mr Mander had "*squared*

up” to Student H. Student G said that Mr Mander stepped forward to towards Student H and “*was in his face- only 3 or 4 inches away*”. They thought that Mr Mander was trying to provoke Student H. We are satisfied, on the balance of probabilities, that this incident described by Student F and Student G took place and that in doing so, Mr Mander was acting aggressively and in an intimidating and bullying manner. We find the facts proved.

2. Used inappropriate language in front of students including:

(a) Use of swear words and generally aggressive language;

The accounts of Students B, C, L, M ,N, S, W, X, Y, Z and BB all refer to occasions when Mr Mander swore or used generally aggressive language. In addition, Colleague A said in her written statement that Mr Mander swore on a regular basis in general and at students. We find the facts proved.

(b) Use of sarcastic language;

In his letter of resignation, Mr Mander admits to using sarcasm at times in his teaching. Examples of the use of sarcastic language also appear in the statements of Students A, C, E and F. In addition, Colleague D and Colleague B also referred to instances that they observed when Mr Mander used sarcastic language towards students. We find the facts proved.

(c) Use of belittling or demeaning language.

The written statements of Students A, B, C, D, G, W, Z and BB all refer to instances when Mr Mander used belittling or demeaning language to students. In addition, Colleague B and Colleague D refer to the use of belittling language towards students. We find the facts proved.

3. Made inappropriate comments/remarks towards students, in particular:

(a) Calling Student A as “sleepy” when he suffered with a sleeping condition;

Mr Mander admits that he may have used the word ‘sleepy’ towards Student A. However, the evidence from Student A supports the view that Mr Mander “*was not aware*” that Student A suffered from a sleeping condition. In the absence of this knowledge we could not regard the comment as inappropriate. Therefore, we find the facts not proved.

(b) Calling Student B a “bull-shitter” and telling him “no one wanted him on the course”;

In making our findings in relation to allegation 1(b), we have already found that these words were used by Mr Mander towards Student B. These words were inappropriate. Accordingly, we find the facts proved.

(c) Telling Student B that his “attitude was shit”;

In making our findings in relation to allegation 1(b), we have already found that these words were used by Mr Mander towards Student B. These words were inappropriate. Accordingly, we find the facts proved.

(d) Calling Student C a :

i) “mummy’s boy”;

ii) “little shit”;

iii) “prick”;

There is no reference to this in the statement of Student C. The only account is contained in the statement of Colleague A, based on what she was told by the mother of Student C. In the absence of any other evidence, we find this not proved.

(e) Making fun of a Student C’s facial twitch, which was caused by his ADHD.

In his written statement, Student C said that Mr Mander “*would get in my face and deliberately copy my facial expressions when I twitched to poke the fun out of me. This was not done in a fun way. He was doing it to bully me*”. Colleague A confirms that the mother of Student C made contact in September 2011 to complain about this, amongst other matters. We are satisfied on the balance of probabilities that Mr Mander made fun of Student C’s facial twitch, although there is no evidence that he was aware of Student C’s ADHD. In any event, this was an inappropriate comment to make. Therefore, we find the facts proved.

4. Failed to offer appropriate guidance to students whilst teaching, in particular:

(a) Kicking down a wall built by Student C saying “it’s a load of f-ing crap anyway”;

There is no reference in the statement of Student C to kicking the wall down or the use of the “F” word. The only account of these matters is contained in the statement of Colleague A based on what she was told by the mother of Student C. In the absence of any other evidence, we find this not proved.

- (b) When Student C asked for help regarding measurements of a wall he said “this high” and gesticulated in an offensive manner with his middle finger;**

There is no reference to this in the statement of Student C. The only account of these matters is contained in the statement of Colleague A based on what she was told by the mother of Student C. In the absence of any other evidence, we find this not proved.

- (c) Telling Student E that the wall he had built was “a fail” without bothering to adequately assess his work;**

Student E said in his written statement that Mr Mander said that he looked briefly at the wall that he had built and said that it was a ‘fail’ without using a square or level. Mr Mander, when interviewed, denied Student E’s account, but also said that he could tell if a piece of brickwork was in line, square and level. In the light of the evidence that we heard from Witness A regarding the high level of competence of Mr Mander as a bricklayer, and given his work history, we were satisfied that he would be able to assess a piece of brickwork visually. No evidence was put before us as to whether or not there was appropriate feedback. Accordingly, we find the facts not proved.

- (d) Telling Student F that he shouldn’t be tapping the brick and said words to the effect of “I am the f-ing bricklayer, I should know”;**

In making our findings in relation to allegation 1(f), we have already found that these words were used by Mr Mander towards Student B. These words were inappropriate. Accordingly, we find the facts proved.

- (e) Ignoring Student G’s request for assistance when he asked where the “wall ties” were situated.**

Student G said in his statement that he asked where the wall ties were and that Mr Mander responded with a *“funny look....ignored me and walked off”*. When interviewed Mr Mander said that he could not recall the specific incident but that the expectations were that students would get these themselves. On the balance of probabilities, we find the facts proved.

Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute

The Notice of Proceedings refers to both unacceptable professional conduct and/or conduct that may bring the profession into disrepute. However, we noted that the Presenting Officer submitted that the conduct amounted to unacceptable professional conduct rather than conduct that may bring the profession into disrepute.

We are satisfied that, in relation to the facts found proved in allegations 1(b), (c), (f) and (h), 2 (a), (b) and (c), 3(b), (c) and (e) and 4 (d) and (e) that Mr Mander breached the personal and professional conduct elements of the Teachers' Standards in the following respects:

- He failed to uphold public trust in the profession and maintain high standards of ethics and behaviour by
 - not treating pupils with dignity, build relationships rooted in mutual respect and at all times observe proper boundaries appropriate to his professional position;
 - not having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
 - not showing tolerance of and respect for the rights of others;
- He failed to have an understanding of and act within the statutory frameworks which set out his professional duties and responsibilities. In this respect we had regard to his failure to meet the Teachers' Standards Part One in respect of the following standards, namely:

(2) Promote good progress and outcomes by pupils, in that:

- he was not aware of pupils' capabilities and their prior knowledge to plan teaching to build on these;
- he did not demonstrate knowledge and understanding of how pupils learn and how this impacts on teaching.

(5) Adapt teaching to respond to the strengths and needs of all pupils, in that:

- he did not know when and how to differentiate appropriately, using approaches which enable pupils to be taught effectively;
- he did not have a secure understanding of how a range of factors can inhibit pupils' ability to learn, and how best to overcome these;
- he did not demonstrate an awareness of the physical, social and intellectual development of children, and know how to adapt teaching to support pupils' education at different stages of development;
- he did not have a clear understanding of the needs of all pupils, including those with special educational needs...[and] disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them.

(6) Make accurate and productive use of assessment, in that:

- he did not give pupils regular feedback, both orally and through accurate marking and encourage pupils to respond to feedback.

(7) Manage behaviour effectively to ensure a good and safe learning environment, in that:

- he did not have high expectations of behaviour, and establish a framework for discipline with a range of strategies, using praise, sanctions and rewards consistently and fairly;
- he did not manage classes effectively, using approaches which are appropriate to pupils' needs in order to involve and motivate them;
- he did not maintain good relationships with pupils, exercise appropriate authority, and act decisively when necessary;

The Panel was very concerned by the fact that, as a consequence of Mr Mander's behaviours and failure to adhere to these Standards, one student, despite the efforts of his mother, decided not to return to education. Another student withdrew as a result of Mr Mander's behaviour and the student only returned after Mr Mander's suspension from the College; he subsequently completed his qualification. Three students were transferred to another campus, thirteen miles away, requiring four bus journeys to College. These students continued to believe that being compelled to change campus was a form of punishment for them.

Taking all of these factors into account, we are satisfied that this was misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher and, therefore, amounts to unacceptable professional conduct.

Panel's recommendation to the Secretary of State

We noted that Mr Mander has not been the subject of any prior finding of unacceptable professional conduct, although he was previously the subject of internal disciplinary proceedings by the College, which resulted in a written warning. Following this written warning, it was recommended that Mr Mander would benefit from training in relation to classroom management to support him in the use of appropriate techniques for dealing with disruptive students. There is no evidence that Mr Mander received such training.

We noted Mr Mander's explanation that he was shocked and surprised at the complaints made by students and that, on reflection, his actions were misjudged and their impact on pupils unintended. We regarded this as evidence of some insight into his shortcomings. We accept that Mr Mander was not aware that Student B was suffering from autism and Asperger's syndrome. Indeed, Student B's mother has confirmed that these conditions were not diagnosed at the relevant time. Similarly, there was no evidence to suggest that

he was aware that other students in the group suffered from other health related issues such as ADHD or a sleeping condition. The Panel was concerned that this absence of knowledge may have been attributable to weaknesses in the College student record systems at the time and may have contributed to his failures to adjust to some individual student needs.

Mr Mander's behaviour was incompatible with being a teacher for the following reasons:

- This was a serious departure from the personal and professional conduct elements of the Teachers' Standards.
- As we have already found, the misconduct seriously affected the education and/or well-being of some of the students.
- We have found that Mr Mander's behaviour involved sustained bullying which undermined some pupils, particularly those that were less able.

Despite these findings, we considered whether the mitigating factors were such that a Prohibition Order would not be appropriate. However, having considered the public interest, we were satisfied that a Prohibition Order is necessary and we so recommend.

The Panel went on to consider whether to recommend that Mr Mander should have the opportunity to apply for the Prohibition Order to be set aside.

We have decided to recommend that Mr Mander should be permitted to apply for the Order to be set aside after a period of three years. Our reasons are:

- None of the factors which would ordinarily lead to there being no right to apply for the Order to be set aside are present in this case.
- We were conscious that Mr Mander possesses technical skills which may be valuable to young people in the future if appropriate safeguards and changes in his behaviour could be affected.
- Mr Mander has shown some limited insight at this stage and with three more years for him to reflect and acquire additional understanding of the learning process, it may be possible for him to demonstrate his suitability to return to teaching.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the panel's findings and recommendations in this case.

The panel have found proven a number of facts relating to bullying, intimidating and aggressive behaviour towards students, using inappropriate language in front of students, making inappropriate remarks towards students, and failing to offer

appropriate guidance to students whilst teaching. When considering these behaviours against a broad range of the personal and professional conduct elements of the Teachers' Standards and the impact of his behaviour on students, the panel have found that the facts proved amount to unacceptable professional conduct.

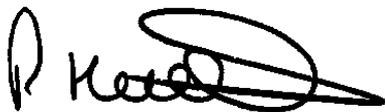
Mr Mander's behaviour has fallen significantly short of the standards expected of a teacher. It is misconduct of a serious nature and I agree with the panel's recommendation that a prohibition order is an appropriate and proportionate sanction.

Mr Mander has accepted that his actions were misjudged and their impact unintended. There was no evidence that Mr Mander was aware of the particular health issues relating to individual students and that may have contributed to his failure to adjust to some individual student needs. He clearly possesses technical skills that may be valuable to young people in the future and I agree that a period of three years would allow time for Mr Mander to reflect further upon his actions and the impact of those actions.

This means that Mr Dean Mander 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 31 July 2017, 3 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 Dean Mander remains barred from teaching indefinitely.

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

Mr Dean Mander 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 'P Heathcote', with a large, sweeping flourish at the end.

NAME OF DECISION MAKER: Paul Heathcote

Date: 23 July 2014

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