



National College for
Teaching & Leadership

David Gilroy Simpson: Professional Conduct Panel outcome

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

October 2014

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

Teacher:	Mr David Gilroy Simpson
Teacher ref no:	0148269
Teacher date of birth:	10 October 1964
NCTL Case ref no:	0011425
Date of Determination:	28 October 2014
Former employer:	Alder Grange Community and Technical College

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 28 October 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr David Gilroy Simpson.

The Panel members were Ms Nicole Jackson (Lay Panellist – in the Chair), Mr Michael Lesser (Teacher Panellist) and Mr John Pemberton (Teacher Panellist).

The Legal Adviser to the Panel was Ms Fiona Walker of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Ms Rebekah Hummerstone of Counsel, instructed by Nabarro LLP Solicitors.

Mr Simpson 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 14 August 2014.

It was alleged that Mr David Simpson was guilty of having been convicted of a relevant offence, in that:

1. On 16 December 2013, he was convicted at Burnley Crown Court of attempting to meet a female child under the age of 16 years following a period of sexual grooming, contrary to Sexual Offences Act 2003 section 15. Upon conviction he became the subject of notification requirements under section 80 of the Sexual Offences Act for a period of ten years. On 31 January 2014, he was sentenced to a suspended sentence order comprising a term of 12 months' imprisonment, suspended for a period of 24 months, an unpaid work requirement of 150 hours and made the subject of a Sexual Offences Prevention Order for a 5 year term.

Mr Simpson does not admit the allegation.

Mr Simpson does not admit the facts amount to conviction of a relevant offence although he accepts he was convicted.

C. Preliminary applications

The Panel considered an application by the Presenting Officer to proceed in the absence of the teacher.

The Panel determined that the NCTL had complied with the service requirements of Regulation 19 a to c of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations"). The Panel was also satisfied that the teacher has been provided with the requisite length of notice of at least 8 weeks in accordance with paragraph 4.11 of the Procedures and that the Notice of Proceedings, which was sent on 14 August 2014, contained the necessary details set out in paragraph 4.12 of the Procedures.

The Panel had sight of Mr Simpson's Response to the Notice of Proceedings and his letter of 3 September 2014 in which he confirmed that he would not be attending the hearing. The Panel noted that Mr Simpson did not request an adjournment of the hearing or otherwise confirm that he wished to attend on any other specified date. It was clear to the Panel from the Response to the Notice of Proceedings and the letter of 3 September 2014 that Mr Simpson was aware of this hearing and the Panel found that he had deliberately waived his right to participate in it. There was no indication that an adjournment might result in Mr Simpson attending voluntarily. The Panel also noted that these are serious matters and there is a public interest in the hearing taking place within a reasonable time of the events to which it relates. The Panel did not consider it in the

public interest to adjourn the hearing given that there is no evidence that an adjournment would, in any event, result in Mr Simpson's attendance. In light of these factors the Panel determined that the hearing shall proceed in the absence of the teacher.

The Panel also considered the request in Mr Simpson's Response to the Notice of Proceedings and in his letter of 3 September 2014 for the hearing to be in private. The Panel decided that the public interest required that the hearing should be held in public. Mr Simpson's concern was the publication of the decision itself and the decision would always have to be in public in any event in accordance with the Procedures.

D. Summary of evidence

Documents

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

Section 1: Chronology (Page 2)

Section 2: Notice of Proceedings and Response (Pages 4 to 10)

Section 3: NCTL Documents (Pages 12 to 31)

Section 4: Teacher Documents (Pages 33 to 37)

The Panel also admitted a set of documents from the NCTL relating to service of the proceedings. The Panel numbered these additional papers Pages 38-46

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

Witnesses

The Panel did not hear any oral evidence.

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.

Summary

Mr Simpson commenced employment with Key Stage Teacher Supply on 20 October 2012. On 26 February 2013, Mr Simpson was arrested and remanded in custody in relation to attempting to meet a female child under the age of 16 following grooming. On 16 December 2013, Mr Simpson appeared before Burnley Crown Court and was convicted. Key Stage Teacher Supply referred the matter to the Disclosure and Barring Service on 20 December 2013. On 31 January 2014, following a pre-sentence report having been prepared, Mr Simpson was sentenced to suspended imprisonment for 12 months, suspended for 24 months; an unpaid work requirement for 150 hours; a Sexual Offences Prevention Order for 5 years, a Sex Offenders Notice for 10 years and a supervision requirement for 12 months.

Findings of Fact

Our findings of fact are as follows:

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

1. That you are guilty of a conviction, at any time, of a relevant criminal offence in that on 16 December 2013, you were convicted at Burnley Crown Court of attempting to meet a female child under the age of 16 years following a period of sexual grooming, contrary to Sexual Offences Act 2003 section 15. Upon conviction you became the subject of notification requirements under section 80 of the Sexual Offences Act 2003 for a period of 10 years. On 31 January 2014, you were sentenced to a suspended sentence order comprising a term of 12 months' imprisonment, suspended for a period of 24 months, an unpaid work requirement of 150 hours and made the subject of a Sexual Offences Prevention Order for a 5 year term.

The Panel has had sight of the Certificate of Conviction at Page 12 of the Hearing Bundle.

The Panel accepts the conviction as having proved the facts of the case and the Panel therefore find the allegation to be proved.

Findings as to conviction of a relevant offence

In considering the allegation that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'.

The Panel is satisfied that the conduct of Mr Simpson in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Simpson 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.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The Panel noted that Mr Simpson's actions were relevant to teaching, working with children and working in an education setting. The Panel considered that whilst the female involved in the criminal activity was not a pupil of Mr Simpson and nor was she actually a female of school age, his expression of sexual interest in a school girl is highly relevant to working with children. The Panel has taken into account his behaviour in sending highly explicit messages (including a photograph of his penis) and the Judge's comments in the criminal case that he "intended to meet a child who was under 15 and intended to have intercourse with her" (Page 14 of the Hearing Bundle, sentencing remarks). The Panel considers this behaviour to be highly relevant to teaching and working in an education setting. The Panel finds therefore that the behaviour involved in committing the offence could have had an impact on the safety and security of pupils.

The Panel has also taken account of how the teaching profession is viewed by others. The Panel considered that Mr Simpson's behaviour in committing the offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The Panel has noted that Mr Simpson's behaviour has ultimately led to him receiving a sentence of imprisonment, albeit that it is suspended, which is indicative of the seriousness of the offence committed.

The Panel considers that this is a case concerning an offence involving sexual activity which the Guidance states is likely to be considered a relevant offence. The Panel notes that whilst sexual activity did not actually take place, the clear intention of Mr Simpson in the Panel's view given the conviction, was to engage in sexual activity.

The Panel have taken into account the explanations put forward by Mr Simpson in his letter of 3 September 2014 as to the circumstances leading to the committing of the offence. The Panel noted that the jury did not find Mr Simpson's explanation credible and the Panel did not hear evidence from Mr Simpson so did not have the opportunity to test his credibility. This is clearly relevant at this stage to Mr Simpson's ongoing suitability to teach.

The Panel considers that a finding that the conviction is a relevant offence is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

The Panel therefore finds that Mr Simpson is guilty of a conviction, at any time, of a relevant criminal offence.

Panel's recommendation to the Secretary of State

Given the Panel's findings in respect a conviction of a relevant offence, 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 a punitive effect.

The Panel has considered the particular public interest considerations set out in the Teacher Misconduct – Prohibition of Teachers 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 and declaring and upholding proper standards of conduct.

In light of the Panel's findings against Mr Simpson, which involved a finding that he has been convicted of a relevant offence related to an attempt to meet a female child under 16 following grooming, there is a strong public interest consideration in the protection of pupils. The Panel has taken into account that whilst the female involved in the criminal activity was not a pupil of Mr Simpson and nor was she actually a female of school age, his expression of sexual interest in a school girl is highly relevant as are the Judge's comments in the criminal case that Mr Simpson "intended to meet a child who was under 15 and intended to have intercourse with her" (Page 14 of the Hearing Bundle, sentencing remarks).

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

Notwithstanding 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 Simpson. The particular public interest considerations of relevance were the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. 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 Simpson. The Panel took further account of the Guidance, 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

Even though there were behaviours that would point to a Prohibition Order being appropriate, the Panel went on to consider whether or not there were sufficient mitigating factors to militate against a Prohibition Order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The Panel finds that Mr Simpson's actions were deliberate and there was no evidence to suggest that he was acting under duress, and in fact the Panel found the teacher's actions to be calculated and motivated. The Panel noted that there was no direct evidence before it regarding Mr Simpson's previous record or character.

The Panel is of the view that Prohibition is both proportionate and appropriate. The seriousness of the offence 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 appropriate for them to decide to recommend that a review period of the order should be considered. The Panel were mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours include serious sexual misconduct, for example, where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or the persons. The Panel has found that whilst Mr Simpson does not appear to have used his professional position to influence or exploit a person or persons, his behaviour does amount to serious sexual misconduct.

Throughout the criminal trial, Mr Simpson continued to vehemently protest his innocence and that has remained his position in his communications to the NCTL and the Panel. The Panel does not consider that he has shown insight into his actions and behaviour, even after his conviction. The Panel did not have the opportunity, given Mr Simpson's non attendance at the hearing, to hear from him first hand. The Panel also gave consideration to the Judge's comments in his summing up at the criminal trial (Page 17 of the Hearing Bundle) in which he stated that "I am not at all satisfied yet that you have learnt your lesson".

The Panel felt the finding 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 carefully considered the findings and recommendations of the panel in this case. Mr Simpson has been found guilty of attempting to meet a female child under the age of 16 years following a period of sexual grooming, contrary to Sexual Offences Act 2003 section 15. The panel have found this to be a conviction of a relevant offence.

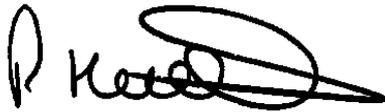
In considering whether a prohibition would be an appropriate and proportionate sanction, they have balanced the public interest with that of the teacher. They have detailed a number of public interest considerations relevant to this case but have nevertheless considered the interests of Mr Simpson and in particular whether there are any mitigating factors that might militate against a prohibition order being imposed. They have found Mr Simpson's actions to be deliberate and have judged that he wasn't under duress, indeed they have found his actions to be calculated and motivated. They have seen no direct evidence relating to his previous record or character. I agree with their recommendation that a prohibition order is an appropriate sanction in this case.

The panel have gone on to consider whether a review period would be appropriate in this case. The panel have referenced the Secretary of State's advice '*Teacher misconduct – The prohibition of teachers*'. They have determined that Mr Simpson's behaviour amounts to serious sexual misconduct. Throughout the criminal trial, Mr Simpson continued to vehemently protest his innocence and that has remained his position. The Panel does not consider that he has shown insight into his actions and behaviour, even after his conviction. The Panel did not have the opportunity, given Mr Simpson's non attendance at the hearing, to hear from him first hand. The Panel also gave consideration to the Judge's comments in his summing up at the criminal trial in which he stated that "I am not at all satisfied yet that you have learnt your lesson". In all the circumstances I agree that the prohibition order should be without provision for Mr Simpson to apply to have it set aside.

This means that Mr David Gilroy Simpson 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 allegation found proved against him, I have decided that Mr David Gilroy Simpson 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 David Gilroy Simpson 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: 30 October 2014

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