



National College for
Teaching & Leadership

Miss Alexandra Hayhoe-Smith: Professional conduct panel outcome

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

April 2015

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher: Miss Alexandra Hayhoe-Smith

Teacher ref no: 07/81126

Teacher date of birth: 3 March 1983

NCTL case ref no: 12185

Date of determination: 13 April 2015

Former employer: Simply Education Ltd, Bedford

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 13 April 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Miss Alexandra Hayhoe-Smith.

The panel members were Mr Michael Carter (teacher panellist – in the chair), Mrs Susan Netherton (lay panellist) and Mr Peter Cooper (teacher panellist).

The legal adviser to the panel was Mr Thomas Whitfield of Eversheds LLP solicitors.

The presenting officer for the National College was Ms Lucy Coulson of Browne Jacobson solicitors.

Miss Alexandra Hayhoe-Smith 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 9 January 2015.

It is alleged that Miss Alexandra Hayhoe-Smith is guilty of unacceptable professional conduct in that whilst registering with Simply Education Ltd, a Supply Agency in Bedford, she:

1. falsified her application to Simply Education Ltd in order to obtain employment in that she:
 - a) failed to disclose her previous employer's details;
 - b) inaccurately stated that she was employed at Lindfield Primary School between September 2012 and July 2013;
 - c) failed to disclose the serious safeguarding issue which led to a disciplinary investigation at Shefford Lower School;
 - d) failed to disclose her dismissal from her previous employment.
2. And, by failing to disclose the information at paragraph 1 when given the opportunity to do so, she acted dishonestly in order to increase her chances of obtaining employment at Simply Education Ltd.

Miss Hayhoe-Smith admits the facts of the allegations but does not admit that they amount to unacceptable professional conduct.

C. Preliminary applications

The panel considered an application from the presenting officer to proceed in the absence of Miss Hayhoe-Smith.

The panel determined that that the notice of proceedings had been sent in accordance with Regulation 19 of the Regulations and that the National College had complied with paragraphs 4.11 and 4.12 of the Procedures.

The panel then went on to consider the exercise of its discretion. It noted the teacher's right to participate effectively in the hearing but was also mindful that that right can be waived if the waiver is unequivocal. The panel noted that Miss Hayhoe-Smith responded to the notice of referral form, indicating that she did not intend to appear at the hearing or to be represented. The panel also noted that Miss Hayhoe-Smith had signed a statement of agreed facts. The panel concluded that Miss Hayhoe-Smith had voluntarily absented herself from the hearing.

In the circumstances, the panel decided to proceed in the absence of Miss Hayhoe-Smith.

D. Summary of evidence

Documents

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

- Section 1: Chronology, Anonymised Pupil List and Key of People, with page numbers from 2 to 3.
- Section 2: Notice of Proceedings and response, with page numbers from 5 to 11.
- Section 3: National College for Teaching and Leadership Witness Statements, with page numbers from 13 to 18.
- Section 4: National College for Teaching and Leadership Documents, with page numbers from 20 to 82.

The panel members confirmed that they had read all of the above documents in advance of the hearing.

Witnesses

The panel heard oral evidence from a regional manager of Simply Education Ltd, called by the presenting officer.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel members each confirm that they have read all the documents provided in the bundle in advance of the hearing.

Miss Alexandra Hayhoe-Smith qualified as a teacher in June 2008.

In the academic year from 2012 to 2013, Miss Hayhoe-Smith worked as a year 1 teacher at Shefford Lower School, Bedfordshire. In May 2013, she was suspended from this role, pending investigation of allegations that she first allowed a pupil to leave the school with the parent of another pupil, without the required parental consent; and secondly failed to report the matter to the headteacher. In July 2013 Miss Hayhoe-Smith was dismissed from Shefford Lower School, upon these allegations being upheld and each found to constitute gross misconduct. The same month, Miss Hayhoe-Smith indicated that she wished to appeal these findings.

On 3 September 2013, Miss Hayhoe-Smith applied to Simply Education Ltd, to work as a supply teacher. It is this application to which the allegations relate.

On 17 September 2013, Miss Hayhoe-Smith withdrew her request to Shefford Lower School for an appeal of the outcome of their disciplinary proceedings.

From September 2013 to June 2014 Miss Hayhoe-Smith was employed by Simply Education Ltd as a supply teacher. In June 2014, Simply Education Ltd was informed by a third party that Miss Hayhoe-Smith had previously worked at Shefford Lower School, at which she had been subject to disciplinary proceedings. Simply Education Ltd obtained further information about Miss Hayhoe-Smith's previous employment history and the disciplinary proceedings in question. Having done so, Simply Education Ltd dismissed Miss Hayhoe-Smith in June 2014.

Findings of Fact

The panel's findings of fact are as follows:

The panel has found the following particulars of the allegations against Miss Alexandra Hayhoe-Smith proven, for these reasons:

1. Falsified her application to Simply Education Ltd in order to obtain employment in that she:

a) failed to disclose her previous employer's details;

Miss Hayoe-Smith has admitted the facts of this allegation. This admission is consistent with all of the other evidence before the panel. In particular, the panel has seen evidence that Miss Hayhoe-Smith was employed by Shefford Lower School between September 2012 and July 2013 and has seen a copy of her application to Simply Education Ltd dated 3 September 2013, in which she made no reference to Shefford Lower School. The panel has also had the benefit of both a written statement and oral evidence of a regional manager of Simply Education Ltd, in which the witness stated that Miss Hayhoe-Smith did not mention on her CV, application form or in responses to interview questions that she had taught at Shefford Lower School. The panel found this witness to be credible and his evidence supported the facts of this allegation. On these bases the panel has found this allegation proven.

b) inaccurately stated that she was employed at Lindfield Primary School between September 2012 and July 2013;

Miss Hayoe-Smith has admitted the facts of this allegation. This admission is consistent with all of the other evidence before the panel. In particular, the panel has seen evidence that Miss Hayhoe-Smith was employed by Shefford Lower School between September 2012 and July 2013 and has seen a copy of her application to Simply Education Ltd, in which she stated that she was employed by Lindfield Primary School from September 2012 to "present" (in an application dated 3 September 2013). On these bases the panel has found this allegation proven.

c) failed to disclose the serious safeguarding issue which led to a disciplinary investigation at Shefford Lower School;

Miss Hayoe-Smith has admitted the facts of this allegation. This admission is consistent with all of the other evidence before the panel. In particular, the panel has seen a letter from Shefford Lower School detailing a safeguarding issue leading to a disciplinary investigation; and has seen a copy of Miss Hayhoe-Smith's application to Simply Education Ltd, in which she answered, "No" to the question, "Have disciplinary proceedings ever been taken against you in your capacity as a teacher?". On these bases the panel has found this allegation proven.

d) failed to disclose her dismissal from her previous employment.

Miss Hayoe-Smith has admitted the facts of this allegation. This admission is consistent with all of the other evidence before the panel. In particular, the panel has seen a letter from Shefford Lower School dismissing her from her employment; and has seen a copy of Miss Hayhoe-Smith's application to Simply Education Ltd, in which she answered, "No" to the question, "Have you ever been dismissed from a teaching post?". On these bases the panel has found this allegation proven.

2. And, by failing to disclose the information at paragraph 1 when given the opportunity to do so, she acted dishonestly in order to increase her chances of obtaining employment at Simply Education Ltd.

Miss Hayoe-Smith has admitted the facts of this allegation. In the statement of agreed facts Miss Hayhoe-Smith acknowledges that the conduct would be considered dishonest by the standards of a reasonable and honest teacher. The panel considered that by the ordinary standards of reasonable and honest teachers, failing to disclose dismissal from a previous employer, failure to disclose disciplinary proceedings and asserting that one was employed by a different employer were obviously dishonest actions and failings. The panel also considers that Miss Hayhoe-Smith must have realised that her actions and failings, as detailed above, were dishonest. The panel also considers that Miss Hayhoe-Smith acted in this way so as to increase her chances of obtaining employment at Simply Education Ltd. On these bases, the panel finds this allegation proven.

Findings as to unacceptable professional conduct

Having found the allegations proven, the panel has gone on to consider whether they amount to unacceptable professional conduct.

In doing so, the panel has had regard to The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'guidance'.

The panel is satisfied that the conduct of Miss Hayhoe-Smith in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Miss Hayhoe-Smith is in breach of the following standard:

- *"Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school ..."*

The panel has also considered whether Miss Hayhoe-Smith's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the guidance and has found that Miss Hayhoe-Smith's conduct displayed behaviours associated with offences relating to or involving fraud or serious dishonesty, even though she has not been convicted of such an offence.

In concluding that the conduct involved serious dishonesty the panel noted that Miss Hayhoe-Smith's dishonest answers to Simply Education Ltd were not given on the spur of the moment; they were given in application documents. Moreover, the panel noted that the dishonest answers to the questions regarding disciplinary proceedings and Miss Hayhoe-Smith's dismissal were concealed by Miss Hayhoe-Smith giving a further dishonest answer in the application form, as to her employment history. The panel also noted that Miss Hayhoe-Smith did not correct the position during her interview. Finally, the panel also noted that the dishonesty related to a safeguarding issue, meaning that future employers could not reach fully informed decisions about engaging Miss Hayhoe-Smith and in particular about whether there was a safeguarding risk to children in her care.

The panel also noted Miss Hayhoe-Smith's justification for failing to mention the disciplinary proceedings against her and her resulting dismissal from Shefford Lower School. Miss Hayhoe-Smith states that she received advice, to the effect that the concealed matters should not be disclosed pending the outcome of an appeal against the decision of the disciplinary proceedings at the school. The panel did not see any evidence corroborating Miss Hayhoe-Smith's assertion that she was acting on such advice and finds it unlikely that she would have been given advice to act dishonestly. In these circumstances, on the balance of probabilities, the panel was not convinced that Miss Hayhoe Smith did receive such advice.

The guidance indicates that where behaviours exist that are associated with an offence relating to or involving fraud or serious dishonesty, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel is satisfied that the conduct of Miss Alexandra Hayhoe-Smith as found proven is misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher.

Accordingly, the panel is satisfied that Miss Alexandra Hayhoe-Smith is guilty of unacceptable professional conduct.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct, 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 guidance and having done so has found them all to be relevant in this case, namely the protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

Miss Hayhoe-Smith's dishonesty related to a safeguarding issue, which the panel has found was concealed to increase the chances of her employment as a supply teacher. Such dishonesty meant that her employer could not reach a fully informed decision about whether there was a safeguarding risk to children in her care. There is therefore a public interest consideration in the protection of pupils that is engaged when the panel is considering such conduct.

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

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 Miss Hayhoe-Smith.

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 Miss Hayhoe-Smith. 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; and

- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

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; on the contrary the panel found her conduct to have been considered and deliberate.

There was no evidence to suggest that Miss Hayhoe-Smith was acting under duress.

The panel was provided with some references, given in September 2013, that were positive or neutral, but was not provided with any more up-to-date references. Moreover, the panel was mindful that Miss Hayhoe-Smith was not of previously good history, in that, prior to misleading Simply Education Ltd, Miss Hayhoe-Smith had been dismissed from a previous employer for allowing a pupil to leave the school in question with the parent of another pupil, without the required parental consent, and also failing to report the matter to the headteacher.

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 Miss Hayhoe-Smith. Her dishonesty relating to safeguarding matters, with direct denials of disciplinary proceedings and dismissal, compounded by concealment by claiming to have been employed by a different school at the time in question, were significant factors 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 for them to recommend that a review period of the order should be considered. The panel was mindful that the guidance 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 guidance indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours is fraud or serious dishonesty. The panel has found that Miss Hayhoe-Smith has been responsible for dishonesty relating to safeguarding; that the dishonesty was on an application form rather than given on the spur of the moment; that the dishonesty was concealed by Miss Hayhoe-Smith claiming to have been employed by a different school at the time in question; and was not corrected by her in interview. In light of these findings, the panel found that Miss Hayhoe-Smith's dishonesty was serious dishonesty.

The panel notes that Miss Hayhoe-Smith admitted her conduct, but also that she did not admit that it amounted to unacceptable professional conduct. The panel also noted that, beyond responding to the notice of proceedings and signing the statement of agreed facts, Miss Hayhoe-Smith has not engaged with the National College and has not attended the hearing or provided any mitigation. The panel was not satisfied that Miss Hayhoe-Smith realised the severity of her conduct or has shown any other insight into her actions.

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 carefully considered both the findings and recommendations of the panel in this case.

The panel have found all the allegations proven and judged that those facts amount to unacceptable professional conduct. Miss Hayhoe-Smith falsified an application in order to obtain employment and in doing so acted dishonestly.

The panel have set out in their findings comprehensive details that have led them to conclude that Miss Hayhoe-Smith's actions amounted to serious dishonesty. In deciding whether to recommend prohibition as an appropriate and proportionate sanction the panel have established a number of public interest considerations as relevant to this case, namely the protection of pupils, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct. The panel found no evidence to suggest that Miss Hayhoe-Smith's actions were anything other than deliberate and they found no evidence to suggest she was acting under duress. The panel have seen some historic references that were either positive or neutral.

In the circumstances I agree with the panel's recommendation that prohibition is an appropriate and proportionate sanction.

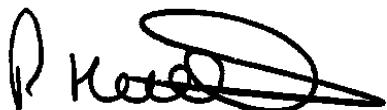
The panel then turned their minds to the issue of a review period. The Secretary of State's advice indicates that fraud or serious dishonesty is a behaviour that, if proven, would militate against a review period being recommended. The panel have found Miss Hayhoe-Smith's actions to amount to serious dishonesty. The panel noted that whilst she admitted the facts, Miss Hayhoe-Smith did not admit that those facts amounted to unacceptable professional conduct. Further, other than the initial response to the notice of proceedings and signing the statement of agreed facts, Miss Hayhoe-Smith has not engaged with these proceedings. There is no evidence of insight into the seriousness of her conduct.

I agree with the panel's recommendation that the prohibition order should be without the opportunity for an application to be submitted to have it set aside.

This means that Miss Alexandra Hayhoe-Smith 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 her, I have decided that Miss Alexandra Hayhoe-Smith shall not be entitled to apply for restoration of her eligibility to teach.

This order takes effect from the date on which it is served on the teacher.

Miss Alexandra Hayhoe-Smith has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.

A handwritten signature in black ink, appearing to read "P Heathcote".

NAME OF DECISION MAKER: Paul Heathcote

Date: 14 April 2015

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