



National College for
Teaching & Leadership

Mr Andrew Green Professional conduct panel outcome

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

9 July 2015

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

Teacher: Mr Andrew Green

Teacher ref number: 0456679

Teacher date of birth: 26 January 1983

NCTL case reference: 11243

Date of determination: 9 July 2015

Former employer: Lord Lawson of Beamish Community School, Gateshead, Durham

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened between 6 and 9 July 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Andrew Green.

The panel members were Mr John Pemberton (teacher panellist – in the chair), Mr Martin Pilkington (lay panellist) and Ms Nicole Jackson (lay panellist).

The legal adviser to the panel was Mr Stephen Murfitt of Blake Morgan solicitors.

The presenting officer for the National College was Ms Melinka Berridge of Kingsley Napley solicitors.

Mr Andrew Green was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegation(s) set out in the Notice of Proceedings dated 15 April 2015.

It was alleged that Mr Andrew Green was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he:

1. Engaged in an inappropriate relationship with Girl A, a child under the age of 16 years, in that he:

a) Engaged in sexual intercourse with Girl A;

b) Allowed Girl A to perform oral sex on him.

2. Engaged in inappropriate communication with Girl A, a child under the age of 16 years, in that he:

a) Sent sexually explicit text messages to Girl A;

b) Sent sexually explicit photograph messages of himself to Girl A.

3. His conduct at paragraphs 1 and/or 2 was sexually motivated.

4. At the time he engaged in the conduct in paragraphs 1 and/or 2 he knew that Girl A was under the age of 16 years.

Mr Green denied the facts of the allegations and furthermore denied that he was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

At an earlier case management directions hearing it had been decided that Mr Green's case would be heard with Mr Lord and Mr Cochrane in accordance with rule 4.61 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession.

Private hearing

Mr Green made application for his case to be heard in private and the panel gave the following reasons for its decision:

1. The panel has considered the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession.

2. Rule 4.57 provides that a professional conduct panel may exclude the public from the hearing or part of a hearing where:
 - It appears necessary in the interests of justice;
 - The teacher makes a request that the hearing should be in private and the panel does not consider it to be contrary to the public interest;
 - It is necessary to protect the interests of children or vulnerable witnesses.
3. The panel has carefully considered the reasons advanced by both teachers for the hearing to be in private and those advanced by the presenting officer.
4. The panel has borne in mind that transparency of these proceedings is an important consideration because the regulation of the teaching profession is a matter of public interest.
5. Taking all these matters into consideration the panel has decided that the hearing should proceed in public. Mr Green finds himself in a position faced by many teachers when there are serious allegations and the consequent publicity that may follow. That is not a sufficient reason to go into private session.
6. The panel has decided that in the interests of justice the case should proceed in public.

Absence

The presenting officer applied to proceed in the absence of Mr Cochrane and Mr Green and the panel gave the following reasons for its decision:

1. There was a preliminary application by the presenting officer to proceed in the absence of Mr Daniel Cochrane and Mr Andrew Green.
2. The panel determined that the National College had complied with the service requirements of Regulation 19 a to c of The Teachers' Disciplinary (England) Regulations 2012 (the 'Regulations').
3. The panel noted that the Notice of Proceedings was sent on 15 August 2015 by first class post. Mr Green completed the Notice of Proceedings Form, and both Mr Cochrane and Mr Green had been in correspondence with the presenting officer when they made it clear they were not attending the hearing.
4. The panel was satisfied that Mr Cochrane and Mr Green had 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 contained the necessary details set out in paragraph 4.12 of the Procedures. The panel reminded itself that it had discretion to proceed in absence; that discretion had to be exercised with utmost care and caution.

The panel had been directed to the relevant case law (R v Jones) and had considered carefully the guidelines provided as to the exercise of discretion.

5. The panel determined that Mr Cochrane and Mr Green had waived their right to participate in the hearing. There had been no indication that an adjournment might result in either of them 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.

6. Accordingly the panel decided that the hearing should proceed in the absence of Mr Green and Mr Cochrane.

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 – pages 1 to 4

Section 2: Notice of Proceedings and Response – pages 5 to 11

Section 3: NCTL witness statements – pages 12 to 31

Section 4: NCTL documents – pages 32 to 456

Section 5: Teacher documents – pages 457 to 466

The panel members confirmed that they had read all of the documents in advance of the hearing. The panel further confirmed that they had read all the documents submitted during the course of the hearing.

Witnesses

The panel heard oral evidence from:

Girl A called by the presenting officer

Mother of Girl A called by the presenting officer

David Lord

Witness A, headteacher at Elemore Hall School 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.

Mr Andrew Green began employment as a music teacher at Lord Lawson of Beamish School in September 2006. In June 2011 Mr Green was arrested by the police in relation to allegations concerning a 15 year old girl and suspended from his post. He resigned from his teaching post in March 2012.

Findings of fact

Our findings of fact are as follows.

This is a case where the panel is faced with conflicting evidence as to what actually took place on a number of key and relevant occasions. In making findings of fact the task of the panel involved an assessment of the credibility of the witnesses and in particular the evidence of Girl A and Mr Green. The panel's task is to consider the evidence in relation to each allegation set out in the Notice of Proceedings, but it will be helpful to express the following with regard to the evidence of Girl A. Girl A gave clear answers to questions that were put to her. She admitted that she had lied in her police interviews and gave reasons for so doing. Girl A did not seek to avoid questions during the hearing and gave crisp and to-the-point answers. There were some inconsistencies in her evidence, but overall the panel determined that Girl A was a credible witness.

Mr Green did not attend the hearing and therefore the panel have had to consider his hearsay evidence by reference to the documents in the hearing bundle. The panel found a number of conflicts between his interviews to the police, his 'honest and open account'(G342), and his written representations to the panel (G464 to 466). Neither the panel nor the presenting officer has been able to ask Mr Green questions and test his evidence. The panel has been able to test the evidence of Girl A, and in circumstances where the evidence of Girl A and Mr Green conflict, the panel has preferred the evidence of Girl A.

The panel decided it would be appropriate to consider the allegations in a different order to that set out in the Notice of Proceedings.

4. Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, at the time he engaged in the conduct in paragraphs 1 and/or 2, he knew that Girl A was under the age of 16 years.

Girl A told the panel in evidence that she had told Mr Green that she was 15 years of age soon after they started communicating with each other. The discussion had taken place whilst they were having sexual intercourse when Mr Green told Girl A that Man A had told him that Girl A was 15 years of age and was this true? Girl A told him that it was true and

she was 15 years of age. In response to this disclosure Mr Green replied to the effect that this is a 'teacher's fantasy'. In a later text exchange Mr Green had made reference to her age by stating 'my year 10s would be very jealous'. Girl A admitted that she did not tell the police and at the time she had strong feelings for Mr Green. Girl A was very clear in her evidence that Mr Green was aware of her age before he sent her sexually explicit photographs.

Mr Green in his police interviews maintained he had never met with Girl A. In his police interview on 28 June 2011 in reply to a question he said 'No I never met her'. In a further police interview on 5 December 2011 Mr Green confirmed he never met Girl A in person. In the police interview it was put to him that his sperm had been found in the crotch area of Girl A's knickers. Mr Green was unable to give any explanation as to the forensic evidence, but maintained he had not met Girl A.

At page 342 of the hearing bundle is a document prepared by Mr Green for the police and purports to be his 'honest and open account of contact with [Girl A]'. In his account, Mr Green gives details of sexual intercourse taking place in a car and then on a further occasion in a car when oral sex took place. It is therefore clear that Mr Green lied to the police in their interviews, but later decided to give what he said was an 'honest and open account' of his contact with Girl A. The panel considers that these facts go to the credibility of Mr Green.

Mr Green did not attend the hearing and therefore it was not possible for either the presenting officer or the panel to ask him questions about his account. Therefore the panel has not been able to test his account of what took place and has had to consider his hearsay evidence.

Girl A was clear in her evidence that Mr Green did lie and she was equally clear that she had told Mr Green from the outset that she was 15 years of age.

The panel has carefully examined the text exchanges between Girl A and Mr Green and cannot find any corroborative evidence that establishes the date when Mr Green became aware of the age of Girl A. In an analysis of the text messages commencing on 9 May 2011, after the first sexual encounter on 7 May 2011 (G342), Mr Green makes the following comment 'Had y13 today. Looked at them a bit differently now!' which suggests to the panel that Girl A was of that age group ie 17/18. The evidence as to when oral sex took place suggests this happened a few days later. (G100/G343)

From an analysis of the text messages on 11 June 2011, (G 37) onwards, the panel infers that by this date Mr Green was aware of Girl A's true age. The panel has considered the texts at G37, 39, 50, 51, 55, 56, 72, 79, 82 and 95. Therefore the National College has not established the precise date on which Mr Green became aware of her true age.

Accordingly allegation 4 is not found proved as to the particulars in paragraph 1(a) and (b) because the panel is not satisfied, on the balance of probabilities, that Mr Green knew that Girl A was under the age of 16 years. However, the panel is satisfied that Mr Green was aware that Girl A was under the age of 16 years in relation to the particulars at allegations 2 (a) and (b) which will be detailed later in the reasons.

The panel finds allegation 4 proved in part.

1(a) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, he engaged in sexual intercourse with Girl A.

Girl A gave evidence that she had had sexual intercourse with Mr Green at his house in Durham. Mr Green does not admit having sexual intercourse with Girl A at his house, but he does admit to sexual intercourse with Girl A. In his 'honest and open' account sent to the police (G342) he admits to penetrative sex with Girl A in his car.

The panel is satisfied that Mr Green had sexual intercourse with Girl A.

Accordingly the panel finds particular (a) of allegation 1 proved.

1(b) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011, he allowed Girl A to perform oral sex on him.

Mr Green admits to allowing Girl A to perform oral sex on him. In his account to the police at G342 of the hearing bundle Mr Green describes picking up Girl A in his car and going to the industrial estate where '[Girl A] began unzipping me and began oral sex'.

The panel is satisfied that Mr Green allowed Girl A to perform oral sex on him.

Accordingly the panel finds particular (b) of allegation 1 proved.

1. Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he engaged in an inappropriate relationship with Girl A, a child under the age of 16 years.

The panel has found particulars (a) and (b) proved. However, the substance of allegation 1 is an inappropriate relationship with a child under the age of 16 years. The panel is not satisfied that at the time of the facts covered by allegations 1(a) and 1 (b) that Mr Green knew that Girl A was under 16. Therefore it was not an inappropriate relationship.

Accordingly the panel finds allegation 1 not proved.

2(a) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he sent sexually explicit text messages to Girl A.

The panel has seen the record of text messages between Girl A and Mr Green at pages 36 to 105 of the hearing bundle. The text messages are dated from 11 June 2011 to 25

June 2011. Girl A told the panel that her telephone had been wiped of messages prior to 10 June 2011. Girl A accepted in evidence that the texts had been sent and Mr Green in his written representations accepts that text messages were exchanged. In his police interview on 28 June 2011 Mr Green admits to sending sexual texts (G276).

There are many sexually explicit texts sent by Mr Green in the bundle. As an illustration the panel gives the following three examples:

'Cool just that you were a good shag n that!!!; I would actually!!' (G38)

'What you just done why would I lick your pussy?' (G43)

'Cool!! Does she lick your clit' (G48)

The panel is satisfied that particular (a) of allegation 2 is proved.

2(b) Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he sent sexually explicit photograph messages of himself to Girl A.

In his police interview on 28 June 2011 Mr Green admits to sending photographs of himself 'in my bedroom in the mirror just standing there in the nude'. The relevant photographs are in the hearing bundle at pages 454 to 456. The bundle contains three photographs two of which the panel consider to be sexually explicit (G454/455). The panel is satisfied that one of the photographs showing Mr Green naked with his hand over his genitals was sent on 17 June 2011. A second photograph appears to have been sent on 11 June 2011 which prompted a highly sexualised response from Girl A and the panel infers that the photograph was sexually explicit; Mr Green asked for this to be deleted immediately.

The panel is satisfied that particular (b) of allegation 2 is proved.

2. Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 he engaged in inappropriate communication with Girl A, a child under the age of 16 years.

The panel having found particular (a) and (b) proved is satisfied that Mr Green engaged in inappropriate communications with Girl A after 10 June 2011.

Accordingly the panel finds allegation 2 proved.

3. Whilst he was employed as a Teacher at Lord Lawson of Beamish Community School during 2011 his conduct at paragraphs 1 and/or 2 was sexually motivated.

The panel has accepted the advice of the legal adviser to consider whether there is direct evidence of motive or whether the panel is satisfied on the balance of probabilities that sexual motivation can be inferred from all the circumstances. The panel is satisfied that

on a plain reading of the admitted communications passing between Girl A and Mr Green, the conduct was plainly sexually motivated.

Accordingly the panel finds allegation 3 proved.

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

Having found a number of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The conduct found proved is outside of the education setting. It is very serious and in the view of the panel certainly brings the profession into disrepute. The conduct displayed would be likely to have a negative impact on Mr Green's status as a teacher, potentially damaging the public's perception of teachers, and therefore bringing the profession into disrepute. The panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The panel finds the misconduct to be of a serious nature falling significantly short of the standard expected of a teacher. Although this happened outside of the education setting the panel considers that it may lead to pupils being exposed to or influenced by the behaviour in a harmful way.

The panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which we refer to as "the Advice". The panel finds evidence of the the following factors:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards:
 - A teacher is expected to demonstrate consistently high standards of personal and professional conduct.
 - Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school.
 - Observing proper boundaries appropriate to a teacher's professional position.
- Sexual activity.

Having found the facts of allegations 2, 3 and 4 proved we further find that Mr Green's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

The panel has made findings of unacceptable professional conduct and conduct that may bring the profession into disrepute. It is now necessary for the panel 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 a proportionate measure and if 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 public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

The panel has considered the Advice on teachers' misconduct in relation to the prohibition of teachers, and has concluded that the following are relevant:

- Serious departure from the personal and professional conduct elements of the latest Teachers' Standards, as published by, or on behalf of, the Secretary of State;
- Sexual misconduct involving actions that were sexually motivated.

The panel considers that public confidence in the profession could be weakened if such conduct, as the panel has found proved, were not treated with seriousness when regulating the conduct of the profession. The factual findings against Mr Green raise important public interest considerations in declaring proper standards of conduct for the teaching profession. Teachers are at all times role models and are expected to act with integrity.

Notwithstanding the public interest considerations that were present, the panel has to consider carefully whether or not it would be proportionate to impose a prohibition order. The panel has taken careful note of the contents of the written representations recently provided by Mr Green. In particular the panel has noted the effect of these matters on Mr Green's personal, professional and family life. Mr Green offers his regret and sincere apologies. The panel notes that his actions were deliberate and he was not acting under duress. The panel notes his previous good history.

In carrying out the balancing exercise the panel has decided that the public interest considerations outweigh by some margin the interests of Mr Green. Accordingly a consideration of the public interest requires the panel to make a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect. The panel considers a prohibition order to be a proportionate response to the very serious behaviour found proved by the panel.

The panel then went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel has been mindful that the advice given is that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate for a review period of not less than 2 years to be recommended in order for the teacher to apply to set aside the order. The panel is satisfied that its findings are incompatible with Mr Green being a teacher and that in those circumstances a review period would not be appropriate. Accordingly the panel recommends a prohibition order without a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to the findings and recommendations of the panel in this case.

The panel has found a range of allegations proven and consider that those facts amount to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has considered the public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

Mr Green's actions were deliberate and he was not acting under duress. He has chosen not to attend and has therefore not been able to put forward any mitigation on his behalf. He has offered his sincere apologies for his actions and has expressed his remorse.

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

The proven facts include sexual misconduct and actions that were sexually motivated. I agree that the order should be without the opportunity to apply to have it set aside in the future.

This means that Mr Andrew Green is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or

children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Andrew Green 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 Andrew Green 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.

Decision maker: Paul Heathcote

Date: 10 July 2015

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