



National College for  
Teaching & Leadership

# **Mr Daniel James Green: Professional conduct panel outcome**

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

**20 August 2015**

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

**Teacher:** Mr Daniel James Green

**Teacher ref number:** 1387363

**Teacher date of birth:** 12 October 1973

**NCTL case reference:** 11008

**Date of determination:** 25 November 2015

**Former employer:** Thurrock Music Services, Essex

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 19 and 20 August 2015 and 25 November 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Daniel James Green.

The panel members were Mr Tony Woodward (teacher panellist – in the chair), Ms Nicole Jackson (lay panellist) and Mr Mark Tweedle (teacher panellist).

The legal adviser to the panel was Mr Paddy Roche of Blake Morgan LLP solicitors.

The presenting officer for the National College was Mr Ian Perkins of Browne Jacobson LLP solicitors.

Mr Daniel James Green 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 11 June 2015 (as amended during the course of the hearing).

It was alleged that Mr Daniel James Green was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

1. On 24 June 2014 he was convicted at South Essex Magistrates Court of pursuing a course of conduct which amounted to harassment. He was sentenced on 15 July 2014 at South Essex Magistrates Court in respect of that offence to a six month conditional discharge; a restraining order for protection from harassment was imposed on him and he was ordered to pay a victim surcharge of £15.
2. He was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a music tutor by Thurrock Music Services during 2013 he:
  - a. Sent communications of an inappropriate nature to Student A, a vulnerable 17 year old, challenging his sexuality;
  - b. Touched Young Person B, a 17 year old, in a sexual manner;
  - c. Exhibited adult accessories (whips, chains, paddles), to both Student A and Young Person B;
  - d. Offered to spank Young Person B.
3. In acting as alleged at 2(a) – (d) above his actions were sexually motivated.

The teacher did not admit the facts.

## **C. Preliminary applications**

In the absence of the teacher, the presenting officer applied for the case to proceed. The panel was satisfied that the Notice of Proceedings had been served in accordance with the Disciplinary Procedures. The panel determined that it was not satisfied on the evidence provided by the absent teacher, in the form of a recent report dated 24 July 2015 from [redacted], that he was suffering from any illness or incapacity of such a degree as to justify his failure to attend the hearing. The panel concluded that he was attempting to delay the hearing of the case and behaving in a way that was intended to manipulate the proceedings and was unacceptable. The panel, thus, being satisfied that there was no good reason for his failure to appear at the hearing and that he was clearly aware that the case was listed to proceed, determined that it was in the public interest for the case to go ahead in his absence.

The panel also considered a written application made by the teacher, in his response to the Notice of Proceedings, for the hearing to take place in private session. The teacher asserted that a public hearing would be injurious to his mental health but provided no medical evidence to support this. The panel took account of the usual practice for disciplinary hearings to take place in public session and the legitimate interest the public has in the openness and transparency of the panel's regulatory function. The panel concluded there were no special circumstances advanced by the teacher which allowed the panel to depart from its usual practice of hearing the case in public.

The panel (in the course of the hearing) allowed an application made by the presenting officer to amend the allegation by substitution in particular 1 of the words " That you have been convicted of a relevant criminal offence" with the words "That you are guilty of unacceptable professional conduct and /or conduct that may bring the profession into disrepute". The panel was satisfied that the amendment could be made in the interests of justice as it did not affect the factual particulars alleged but only the categorisation of the teacher's alleged conduct. Thus it did not cause any prejudice to the absent teacher or represent a material change in the way the case was put against him.

## **D. Summary of evidence**

### **Documents**

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

Section 1: Chronology, anonymised Student list and list of key people – pages 1 to 3

Section 2: Notice of Proceedings and Response – pages 4 to 13

Section 3: NCTL witness statements – pages 14 to 17

Section 4: NCTL documents – pages 18 to 130

Section 5: Teacher documents – pages 131 to 138

In addition, the panel agreed to admit additional documents submitted by the teacher and the presenting officer which included written submissions and responses to the allegation and particulars provided by Mr Green, correspondence passing between the presenting officer's firm and the teacher, NCTL file notes and other correspondence and emails. Those additional documents were added to the case papers and numbered pages 139 to 174.

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

## Witnesses

The panel heard oral evidence from the following witness called by the presenting officer:

Young Person B – alleged victim.

## 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.

The case concerns Mr Green’s relationship with two young persons. At the time of the events covered by this case both Student A and Young Person B were aged 17 years. Student A had been tutored in music since the age of 12 years by Mr Green at his home but that arrangement had ended. However contact between Mr Green and Student A continued partly due to their common interest in music [redacted]. Over a period of several months towards the end of 2013 the teacher is alleged to have sent a large number of texts to Student A which were inappropriate in nature and referred to matters of a sexual nature. [Redacted].

His texts and other messages were reported to the police and it is alleged that in July 2014 he was convicted on his own plea of guilty to an offence of harassment of Student A. He was given a conditional discharge for 6 months and a restraining order was made in relation to contact with Student A under the Protection from Harassment Act 1997. The court record contains the comment that this was an “unusual and exceptional case.”

In relation to particular 2 other specific incidents, as indicated, involving Mr Green’s conduct towards Student A and Young Person B are alleged. Young Person B is a friend of Student A but appears on the papers to have no direct connection to the teacher other than as alleged in the particulars. It is not clear on a reading of the case papers whether Young Person B was ever taught by Mr Green or there ever existed a teacher/Student relationship between them. Young Person B is, however, a friend of Student A.

The case papers contain copies of the various text and Facebook messages relied upon by the National College which were recovered by the police during their investigation.

Mr Green, in documents submitted by him, explains that he has been very unwell. He accepts the fact of his conviction before the Southend Magistrates Court. He denies the other particulars alleged against him and makes it clear that he does not accept that he has been sexually motivated in any conduct towards either Student A or Young Person B.

## Findings of fact

Our findings of fact are as follows:

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

**1. You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:**

**On 24 June 2014 you were convicted at South Essex Magistrates Court of pursuing a course of conduct which amounted to harassment. You were sentenced on 15 July 2014 at South Essex Magistrates Court in respect of that offence to a six month conditional discharge; a restraining order for protection from harassment was imposed on you and you were ordered to pay a victim surcharge of £15.**

Our reasons are we have relied on the memorandum of conviction from Southend Magistrates Court exhibited at pp 19 and 20 of the case papers as conclusive evidence of this conviction. It is not challenged by you as you have accepted that you attended the magistrates' court and entered a guilty plea to the harassment offence.

**2. You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a music tutor by Thurrock Music Services during 2013 you:**

**a. Sent communications of an inappropriate nature to Student A, a vulnerable 17 year old, challenging his sexuality;**

We did not hear from Student A but have considered his police witness statement which is exhibited at pp 29 – 32. In it he says that Mr Green “would try to persuade me into thinking I was either bisexual or gay and he said that everyone is gay in some form”. Student A’s account of what had happened is evidenced by some of the text messages sent by you, retrieved by the police, which are exhibited in the case papers. Examples include:

- at p50 “...if anyone has given you a hard time for being gay or bisexual let me know who they are and I will put them on my “to do” list.”
- at p81 “...You have to be honest about being bi.”
- at p105 “I don’t care what you are mate no one does just be gay when you need to if you do, don’t let anyone tell you people will discriminate. They won’t, they only will if you are a closet case...that’s all mate.”
- at p110 “...not from the nutcase who gave her the notion its my fault you are bi, unless you plan to give me the address so I could have such a person struck off for malpractice.”

We also heard in person from Young Person B who confirmed that he had a number of conversations with you. He said that he remembered that Student A was having difficulties and referred to previous trauma in his life. He told the panel that he was concerned about Student A and that your messages and contact with Student A were causing A a lot of grief and upsetting him and his family. He said he wanted A to feel safe and OK and he wanted you to get some help.

We were able to question Young Person B. We found him to be a credible witness and we believed him. His account of matters was consistent with Student A's written statement to the police at pp 29-32.

Our review of the texts establishes that many of the messages were inappropriate especially taking account of the tutor/Student relationship which had previously existed between yourself and Student A.

We are satisfied that Student A was a vulnerable person as described both in Young Person B's oral evidence and Student A's written evidence and that some of the messages you sent to Student A sought to challenge his sexuality.

We have carefully considered what you have said at p135 of the case papers that your text messages sent to A "were of a supportive nature" but you go on to say that you can "quite see now how a homophobic boy with a religious idiot for a mother may well be distressed". That observation in itself, particularly the reference to Student A's alleged homophobia, establishes that you now appreciate that your messages were unwelcome.

**b. Touched Young Person B, a 17 year old, in a sexual manner;**

We heard live evidence from Young Person B which was consistent with what he had said to the police in his written witness statement at p35. He acknowledged that he had agreed to a hug but that you both hugged him and grabbed his bottom. We believed him. He acknowledged that he was liberal in his views but he was clear that this contact was unwelcome. He said that you apologised to him and backed off. In his statement to the police (p.34) he records that you said "I'm sorry I overstepped the line." As indicated above we found Young Person B to be a credible witness who was quite measured in his evidence. We took account of the general comments you made about Young Person B in your written submission at p 142 but we saw no reason to disbelieve his account of this brief incident. We noted also at p 146 of the case papers that you say you are adamant you did not touch his bottom which is reaffirmed at p148 of your further written submission but we are satisfied that he has not fabricated the account he gave in person to the panel.

**c. Exhibited adult accessories (whips, chains, paddles), to both Student A and Young Person B;**

We accepted the oral evidence of Young Person B on this incident which was consistent both with his written account to the police at p34 and the police statement of Student A at p32. We noted also that the witness statement of one of the police officers at p42 refers to recovering from your home a black case (LAG/11) and a yellow and brown case (LAG/13) both with sadomasochism items within. We noted and considered your written denial at p 135 of the case papers but are satisfied on the oral evidence of Young Person B and the other evidence referred to above that these incidents did occur as alleged.

**d. Offered to spank Young Person B.**

You have denied this particular but we judge that it is proved based on the oral evidence we heard from Young Person B.

**3. In acting as alleged at 2(a) – (d) above your actions were sexually motivated.**

This particular is proved. We determine that the combined effect of the particulars we have found proved under 2 (a) – (d) allows no other conclusion to be sensibly drawn. We have relied on the nature of the conduct we have found proved and the content of the various messages sent to Student A. We also have taken account of the following specific messages which are contained in the case papers:

- at p100- “In essence I am taking the moral stick out of my arse and helping young gay men do the same, and once the stick is removed most of them need a cock or two to fill the gaping empty chasm that moral sticks leave.”
- at p77 – “...And I’m loving life as a dom with loads of my boys.”
- at p31 – In Student A’s witness statement – “Due to what Dan was saying he made me believe that I could be bisexual and I thought I could be for a short time.” and “Dan would constantly try to persuade me to split up with my girlfriend at the time.”

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

Having found 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.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which we refer to as “the Advice” .

The panel judges that this is a case of unacceptable professional conduct in relation to Student A only. The personal and professional conduct standards under part two of the

Teachers' Standards require teachers to demonstrate consistently high standards of personal and professional conduct. That requirement embraces treating pupils with dignity, building relationships rooted in mutual respect and at all times observing proper boundaries appropriate to a teacher's professional position. It includes having regard for the need to safeguard pupils' wellbeing, in accordance with statutory provisions.

We are satisfied that the evidence shows that Student A was a vulnerable student for whom you had acted as a home tutor. At the time of these events Student A was still only 17. You continued over a period of some months to interact with Student A in a way that led to an appearance and conviction before the magistrates' court for harassment. Your continued involvement with Student A, after you had ceased to be his tutor, caused him and his family distress and led to his friend, Young Person B, becoming concerned for his welfare.

You sent to Student A numerous messages via various forms of media. Some of those messages were sexually explicit and inappropriate. We are satisfied that in doing so you were sexually motivated. You challenged his sexuality and showed him items at your home connected with sadomasochism.

We judge that your behaviour was "misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher". In making this judgement we recognise that this is an objective test and we understand that at around the time of these events you may well have been very unwell [redacted]. That is not a consideration that we can take account of at this stage of the case.

In relation to your conduct towards Young Person B we accept that there never existed any teacher/pupil relationship with this witness and we understand you only came into contact with him through his friendship with Student A. We believe the considerations in relation to Young Person B are therefore different and it has not been clear to the panel how the National College put its case in relation to Young Person B until we heard the closing submissions. We do not judge that you carried the same duty of care towards B who was also 17 but with whom you had had no contact when he was a student. We do not judge that either unacceptable professional conduct or conduct that may bring the profession into disrepute is made out in relation to Young Person B. In making that judgement we have given careful consideration to the particulars which concern him and in relation to particular 2b we have given weight to the fact that the grabbing of his bottom occurred when he had willingly attended your home and had consented to a hug with you. The inappropriate touching was apparently very brief and you desisted when he complained and immediately apologised to him. We do not judge, in the circumstances, that in relation to Young Person B your conduct crosses the threshold for unacceptable professional conduct or conduct that may bring the profession into disrepute.

## Decision and directions

The panel went on to consider the indication made by Mr Green in his email to the National College sent on 14 August 2015 (p 142 of the case papers) that he wished to call medical witnesses [redacted]. In view of the lack of available time to make further progress with the case, its finding of unacceptable professional conduct and particularly the indication given by Mr Green that he wished to rely on the evidence of witnesses who may be able to provide information which could be relevant to mitigation, the panel decided that the hearing should be adjourned to a date to be fixed.

In doing so the panel issued the following direction for the management of the case:

1. That Mr Green shall serve on the National College and the presenting officer any historic and/or current medical reports which may be used to inform mitigation on his behalf together with any other material he wishes to submit for that purpose no later than two weeks before the adjourned date of hearing and, further, that he shall notify the National College and the presenting officer of the names of any witnesses he proposes to call in person to give evidence at that hearing no later than two weeks before the adjourned date of hearing.

## Panel's recommendation to the Secretary of State

The panel has made very clear the basis of its findings in this case and the fact that they relate to the teacher's conduct only towards Student A. Mr Green has claimed in documents lodged with the National College that at the time of his behaviour towards Student A, he was very unwell [redacted].

The panel adjourned the hearing before making its recommendation on Prohibition and gave directions that Mr Green should serve "any historic or current medical reports which may be used to inform mitigation on his behalf together with any other material he wishes to submit for that purpose no later than two weeks before the adjourned date of hearing and, further, that he shall notify the National College and the presenting officer of the names of any witnesses he proposes to call in person to give evidence at that hearing no later than two weeks before the adjourned date of hearing."

The panel has been advised that Mr Green has not responded to that direction and has again failed to attend the hearing. Accordingly the panel has no credible information as to his mental state at the time of his involvement with Student A and none at all in relation to his current state of mental health.

The panel recognises that Prohibition Orders are imposed in the public interest which covers:-

- protection of pupils and members of the public
- declaring and upholding proper standards of conduct
- the maintenance of public confidence in the profession

We consider that all three strands of the "public interest" test as set out above are engaged in this case.

Regrettably we have virtually no information about Mr Green and, as a consequence of his absence, have had no opportunity to assess him in person. He has had every opportunity to provide independent medical evidence but has not done so. However there is no evidence to suggest that Mr Green is anything other than a man of previous good character.

We have had regard to the matters set out in the Prohibition of Teachers guidance and judge that this case discloses a serious departure from the personal and professional conduct elements of the Teacher's Standards. Mr Green continued to behave in an unacceptable way which was sustained over 3 to 4 months. Mr Green has not engaged with these proceedings in any substantial way and has denied the allegations. He did not attend the hearing and we really have no material on which to judge his insight. However his absence and lack of engagement leads the panel to have grave concerns as to his attitude to what occurred and whether he harbours a deep seated attitude that could lead

to further harmful behaviour. He has committed a breach of his position of trust towards Student A.

Very importantly the panel has found that Mr Green's behaviour was sexually motivated and his behaviour was directed at a vulnerable pupil.

For all these reasons the panel considers this is a serious case and recommends that a Prohibition Order should be imposed.

In relation to the possibility of a review period being allowed in this case we are exercised by the fact that there is evidence that Mr Green has suffered mental illness and the panel is very much hampered by the lack of any information about his current state of health or the possible impact of any mental illness he may have been suffering at the date of these events. [Redacted] we have no psychiatric or other medical evidence that helps the panel to determine whether Mr Green's failure to engage with these proceedings, or to attend, may be a consequence of matters, which may, to some degree at least, be outside his control. Likewise we are unable to judge whether he may have behaved in the way established if he had not been affected by mental illness.

In the circumstances and particularly taking into consideration the fact that there is some evidence of a degree of mental impairment, exceptionally, the panel recommends that a review period should be allowed. We have noted that the Magistrates who heard Mr Green's harassment case made the comment that – "This was an unusual and exceptional case. He took advice from mental health professionals in attempting to give assistance to a pupil he strayed over the boundaries. [Redacted]"

The panel recommends that Mr Green should be allowed to seek a review of the Prohibition Order. We would expect any review panel considering his application to have particular regard to the following matters:-

- clear and unequivocal insight on the part of Mr Green into the seriousness of his misconduct including the potential impact on Student A
- independent medical evidence of his past and current psychiatric condition and, specifically - given our concerns about the possibility of a deep seated attitude that may lead to harmful behaviour - the risk of occurrence of further similar misconduct towards pupils
- demonstrating a clear commitment to adhere to and exhibit the personal and professional conduct elements of the Teacher Standards

The panel makes this recommendation in the knowledge that a Prohibition Order applies for life unless a set aside application is granted. The panel judges that the proportionate period after which the teacher may apply for the Prohibition Order to be set aside should be 3 years.

## Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel both in respect of sanction and review period.

I have noted in particular those allegations where the panel has found the facts proven and where they have found that those facts do and do not amount to unacceptable professional conduct.

This was a serious case involving sexually motivated misconduct with a pupil. The panel has found that this case discloses a serious departure from the personal and professional conduct elements of the Teacher's Standards. Mr Green continued to behave in an unacceptable way which was sustained over 3 to 4 months. Mr Green has not engaged with these proceedings in any substantial way and has denied the allegations. He did not attend the hearing and the panel is clear that they have had no material on which to judge his insight. However his absence and lack of engagement leads the panel to have grave concerns as to his attitude to what occurred and whether he harbours a deep-seated attitude that could lead to further harmful behaviour. He has committed a breach of his position of trust towards Student A.

In addition the panel has found that Mr Green's behaviour was sexually motivated and his behaviour was directed at a vulnerable pupil.

I support the recommendation of the panel that Mr Green should be prohibited.

I turn now to the matter of a review period. The panel has set out very clearly their thinking on this matter.

The panel has argued that in the circumstances and particularly taking into consideration the fact that there is some evidence of a degree of mental impairment, exceptionally, they will recommend that a review period should be allowed.

As the panel did, I have noted that the Magistrates who heard Mr Green's harassment case made the comment that – "This was an unusual and exceptional case. He took advice from mental health professionals in attempting to give assistance to a pupil; he strayed over the boundaries. [Redacted]."

I differ however from the panel. Mr Green's behaviour is so serious that I believe that the panel has not taken sufficient account of the public concern that would arise were he to be able to seek to apply for a review period.

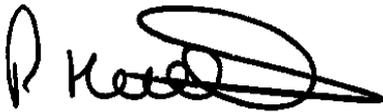
I therefore have decided that it is proportionate and reasonable and in line with the guidance published by the Secretary of State to allow for no review period.

**This means that Mr Daniel James 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 Daniel James 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 Daniel James 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 extending to the right.

**Decision maker: Paul Heathcote**

**Date: 26 November 2015**

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