



National College for
Teaching & Leadership

Ms Catherine Towey: Professional conduct panel outcome

Panel decision and reasons

February 2016

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Professional conduct panel decision

Teacher: Ms Catherine Towey
Teacher ref number: 0139087
Teacher date of birth: 26 June 1980
NCTL case reference: 13278
Date of determination: 12 February 2016
Former employer: The Elmgreen School, London

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 February 2016 to 12 February 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Ms Catherine Towey.

The panel members were Mr Michael Lesser (teacher panellist – in the chair), Mr Mike Carter (teacher panellist) and Ms Jean Carter (lay panellist).

The legal adviser to the panel was Mr Guy Micklewright of Blake Morgan LLP solicitors.

The presenting officer for the National College was Mr Ben Chapman of Browne Jacobson LLP solicitors.

Ms Catherine Towey was 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 12 October 2015.

It was alleged that Ms Catherine Towey was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed at the Elmgreen School, London, you:

1. Exchanged inappropriate emails with a year 11 pupil, Pupil A, including;
 - a) One or more discussions about your appearance, including:
 - i. A reference by you to your 'proper boobs';
 - ii. Your wearing of lipstick, and an offer by you to wear it more often if Pupil A liked it;
 - iii. A discussion as to whether your dress was too little and too low cut on 27 November 2014, initiated by you;
 - b) In response to one or more expressions from Pupil A that he wanted to kiss you, you:
 - i. Responded that you feel 'properly close' to Pupil A, and that a kiss 'would be weirdly natural and just lovely';
 - ii. Responded 'me too' and stated 'Why d'ya think I'm always trying to hold your hand?';
 - iii. Stated that it is not too ambitious to get a kiss by Christmas;
 - iv. Responded that you might faint if a kiss were to ever happen;
 - c) Calling Pupil A a 'tease' in response to Pupil A saying that you would never know whether his use of the word 'love' was just a saying or not;
 - d) A response of 'too cute!' to Pupil A when he stated that he likes girls who are 'short and slim like Miss Towey <wink emoticon>'
 - e) Stating that you 'just want to lie with' Pupil A;
 - f) Stating 'I heart you...maybe it'd be easier if I didn't. But would I change that now? Simple...no. Never. Can't turn it off now';
 - g) A reference by you to a 'shared crush' between Pupil A and yourself;

2. On one or more occasions you had a one-on-one encounter with Pupil A, in particular on 27 November 2014 you and Pupil A spent some time alone at some point between 17:11 and 18:52.
3. Your conduct in regard to allegations 1 and/or 2 was sexually motivated.

Ms Towey admitted particular 1 in its entirety. Particulars 2 and 3 were denied.

Ms Towey admitted that particular 1 amounted to both unacceptable conduct and conduct that may bring the profession into disrepute.

C. Preliminary applications

There were no preliminary applications.

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 3

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

Section 3: NCTL witness statements – page 14

Section 4: NCTL documents – pages 15 to 162

Section 5: Teacher documents – pages 163 to 173

In addition, the panel agreed to accept the following:

Statement of Agreed and Disputed Facts – pages 174 to 177.

The panel members confirmed that they had read all of the documents.

Witnesses

The panel heard no oral evidence other than the evidence of Ms Towey.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Ms Catherine Towey was employed as an Assistant Headteacher at The Elmgreen School ("the School") in London between September 2013 and her resignation on 6 January 2015. The allegations against her arose from a referral to the NCTL by the School at the end of January 2015. On 28 November 2014 a sixth form student disclosed to a member of staff that they believed that Ms Towey had become very close to a Year 11 student, Pupil A. That student provided screen shots of emails from the work email account of Ms Towey which another student had opened. It was not clear how that happened. The emails placed before the panel cover the dates 14 October 2014 to 28 November 2014. It is presumed that these were retrieved by the School from their email servers as part of the internal disciplinary investigation.

It is not in dispute that the emails provided to the panel were indeed emails between Pupil A and Ms Towey. She accepted both at the time and before the panel that she had sent and received those emails, and she has always accepted that the exchanges with Pupil A were inappropriate.

It is alleged by the NCTL that, at some point during the course of that period, there was a sexual motivation underlying why Ms Towey sent the emails to Pupil A. In addition, the NCTL alleges that there was a "one-on-one" pre-planned meeting on 27 November 2014 between Ms Towey and Pupil A, as well as an indeterminate number of other pre-planned meetings throughout that period. It is alleged that the motivation behind arranging and having these meetings was a sexual one.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for these reasons:

It was alleged that Ms Catherine Towe was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed at the Elmgreen School, London, you:

1. Exchanged inappropriate emails with a year 11 pupil, Pupil A, including;

a) One or more discussions about your appearance, including:

i. A reference by you to your 'proper boobs';

This particular is admitted and is evidenced by the email of 23 November 2014 timed 20:57 from Ms Towe to Pupil A.

ii. Your wearing of lipstick, and an offer by you to wear it more often if Pupil A liked it;

This particular is admitted and is evidenced by the emails of 26 November 2016 between 21:38 and 21:44.

iii. A discussion as to whether your dress was too little and too low cut on 27 November 2014, initiated by you;

This particular is admitted and is evidenced by the email of 27 November 2014 timed 20:03 from Ms Towe to Pupil A, and the subsequent email exchange up to and including the email timed 20:19.

b) In response to one or more expressions from Pupil A that he wanted to kiss you, you:

i. Responded that you feel 'properly close' to Pupil A, and that a kiss 'would be weirdly natural and just lovely';

This particular is admitted and is evidenced by the email of 26 November 2014 timed 22:04 from Ms Towe to Pupil A.

ii. Responded 'me too' and stated 'Why d'ya think I'm always trying to hold your hand?';

This particular is admitted and is evidenced by the emails of 26 November 2014 timed 21:47 and 21:49 from Ms Towe to Pupil A.

iii. Stated that it is not too ambitious to get a kiss by Christmas;

This particular is admitted and is evidenced by the overall sense of the exchange of emails on 26 November 2014 timed between 21:45 and 21:58 between Ms Towey and Pupil A.

iv. Responded that you might faint if a kiss were to ever happen;

This particular is admitted and is evidenced by the email of 26 November 2014 timed 21:59 from Ms Towey to Pupil A.

c) Calling Pupil A a 'tease' in response to Pupil A saying that you would never know whether his use of the word 'love' was just a saying or not;

This particular is admitted and is evidenced by the email exchange on 23 November 2014 timed between 21:28 and 21:36 between Ms Towey and Pupil A and, in particular, by the email timed 21:34 from Ms Towey to Pupil A.

d) A response of 'too cute!' to Pupil A when he stated that he likes girls who are 'short and slim like Miss Towey <wink emoticon>'

This particular is admitted and is evidenced by the email exchange on 24 November 2014 timed 21:56 and 21:58 between Ms Towey and Pupil A.

e) Stating that you 'just want to lie with' Pupil A;

This particular is admitted and is evidenced by the email of 23 November 2014 timed 20:57 from Ms Towey to Pupil A.

f) Stating 'I heart you...maybe it'd be easier if I didn't. But would I change that now? Simple...no. Never. Can't turn it off now';

This particular is admitted and is evidenced by the email of 27 November 2014 timed 21:51 from Ms Towey to Pupil A.

g) A reference by you to a 'shared crush' between Pupil A and yourself;

This particular is admitted and is evidenced by the email of 27 November 2014 timed 21:06 from Ms Towey to Pupil A.

2. On one or more occasions you had a one-on-one encounter with Pupil A, in particular on 27 November 2014 you and Pupil A spent some time alone at some point between 17:11 and 18:52

The panel considers that during the evening of 27 November 2014 there was a meeting between Pupil A and Ms Towey. It infers this from the contents of the emails of 27 November 2014 and, in particular, Ms Towey's email to Pupil A timed 19:49. The panel

further considers that, on the balance of probabilities, it was a prearranged meeting with the purpose of being alone together. It is for that reason that Pupil A speaks of his annoyance at "gate-crashers" in his email timed 19:57. The emails which passed between Ms Towey and Pupil A both prior to and after that meeting are plainly flirtatious, if not sexualised, in their nature. Those emails come at the end of a period of increasingly inappropriate and flirtatious correspondence. In the email from Ms Towey timed 20:35 that evening she says, "Think they assume we're close and they know we're doing work and school stuff...which we are usually!" The plain inference to draw from that email, when considered in the context of all the other emails, is that this was not a meeting relating to the normal sort of discussions which would arise in the course of a normal student/teacher relationship.

In addition, the panel finds that, on the balance of probabilities, this was not the first occasion when such a meeting took place. The use of the word "usually" in that email may imply either one or more occasions when Pupil A and Ms Towey had met for purposes which were, at least in part, personal and inappropriate. In the email timed 21:18 on 26 November 2014 she writes, "And sometimes there are far too many peeps...specially at the mo with college apps. Prefer it when it's just you and me tbh! (Shouldn't say that tho!)" This email suggests that there are occasions when such one-on-one encounters took place between Pupil A and Ms Towey prior to 27 November 2016.

Accordingly, the panel finds that there were a number of inappropriate one-on-one encounters between Pupil A and Ms Towey in October 2014 and November 2014.

3. Your conduct in regard to allegations 1 and/or 2 was sexually motivated.

The panel accepts Ms Towey's evidence that she never wanted nor would have let the relationship between her and Pupil A become physical. It accepted that she did not intend on having any form of sexualised physical contact with Pupil A.

The panel, nevertheless, finds that in relation to both particulars 1 and 2, Ms Towey's conduct was sexually motivated. Through the email correspondence with Pupil A and through her meetings with him, Ms Towey was encouraging Pupil A's clear 'crush' on her in increasingly inappropriate terms. Ms Towey accepts that the attention bestowed on her by Pupil A fed her ego. She was obviously revelling in the fact that he desired her and the sexual frisson that created between them. Her motivation in corresponding and meeting with him in the manner in which she did was designed to make herself feel desirable and attractive by playing on and encouraging Pupil A's hopes of some physical consummation of the flirtation. The panel considers Ms Towey's motivation can be quite properly classified as sexual.

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.

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

The panel is satisfied that the conduct of Ms Towey in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Ms Towey 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, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms Towey fell significantly short of the standards expected of the profession.

The panel has also considered whether Ms Towey's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found that none of these offences are relevant.

The panel is satisfied that Ms Towey's conduct in respect of each particular of the allegations amounts to unacceptable professional conduct. The emails which were sent by her to Pupil A were manifestly inappropriate, as were the pre-arranged meetings. Ms Towey was an experienced teacher, who was in a significant position of trust. She was employed as an Assistant Headteacher at the School and was clearly well aware of her safeguarding responsibilities. The panel considers that Pupil A was a vulnerable pupil. Not only was he relatively young, being only 16, but there is also evidence to show that he was also emotionally vulnerable. In spite of Ms Towey's vociferous denial of sexual motivation, the panel is clear that Ms Towey was flattered by Pupil A's growing infatuation

and increasing sexual ambition. The attention and personal interest he was expressing in her physical appearance, clothes, and make up, fed her emotional needs at that time following the break-up of a previous relationship. As a teacher, it was incumbent on her to bring a swift close to any such infatuation and to report the matter to colleagues. At the time that the correspondence was discovered there is no evidence that she was going to do this; on the contrary, she did not dispute that she would have let matters continue until the Christmas holidays when she planned to go to New Zealand, some four weeks or so later.

Accordingly, the panel is satisfied that Ms Towey is guilty of unacceptable professional conduct.

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. 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 findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore finds that Ms Towey's actions constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 Advice and having done so has found a number of them 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.

In light of the panel's findings against Ms Towey, which involved sending inappropriate emails to Pupil A; having inappropriate pre-planned meetings with Pupil A; and doing so

in order to obtain emotional satisfaction as a result of encouraging Pupil A's developing sexual interest in her; there is a strong public interest consideration with respect of the protection of pupils given the sustained inappropriate conduct towards a vulnerable pupil.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Towey 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 Ms Towey 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 Ms Towey. A prohibition order would have the effect of depriving the public of the benefit of an apparently otherwise competent teacher. Whilst it would restrict her ability to earn a living through teaching, Ms Towey has stated that she is now earning a living outside of teaching.

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 Ms Towey. The panel took further account of the Advice, 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;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- 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;

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 notes that Ms Towey is of previous good character. However, her actions towards Pupil A were clearly deliberate, and the panel does not consider that she was acting under any form of external duress.

The panel does consider that there are other mitigating features in this case. The panel accepts that Ms Towey was in emotional turmoil at that time and so acted in a selfish and thoughtless manner. The panel had the opportunity to hear and see Ms Towey give evidence of her attitude towards her behaviour. The panel considered that her evidence in that regard was open, frank, and compelling. The panel therefore accepts that Ms Towey shows a significant amount of insight into her misconduct. She accepted at the very outset that her actions were wholly inappropriate. It was plain that she was both embarrassed and ashamed by her actions. The panel was of the view, with the benefit of observing her demeanour throughout the proceedings, that she is unlikely to engage in this sort of conduct again and that the proceedings brought by the NCTL have been a salutary lesson for her.

Nevertheless, the panel is of the view that prohibition is both proportionate and appropriate. Ms Towey's conduct was both seriously inappropriate and related to a vulnerable and relatively young pupil.

The panel 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 was mindful that the Advice states 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 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, e.g. 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 persons. The panel has found that Ms Towey has been responsible for engaging in a course of conduct which was sexually motivated. The conduct did not involve any form of sexual contact. The panel is of the view that any sexually motivated conduct involving a pupil is serious. There is no evidence that Ms Towey's actions have caused any harm to Pupil A. However, the panel considers that there was a risk that her actions might have caused harm to Pupil A. Her actions actively encouraged the flirtatious and sexualised contact between her and Pupil A, and it is clear that they resulted in an increasing expectation on the part of Pupil A that a physical and emotional relationship was possible.

Nevertheless, the panel weighed against the seriousness of Ms Towey's actions the level of insight she had into why her actions were inappropriate, and the remorse and regret she expressed. The panel was of the view that she was unlikely to repeat the behaviour in future. It noted that she had sought counselling in relation to her behaviour. It also noted that she had hitherto been a competent and successful teacher for twelve years. In addition, the panel took account of the fact that Ms Towey has not taught since her

resignation on 6 January 2015 and has therefore already been absent from the classroom for just over a year.

Having balanced carefully Ms Towey's conduct against the mitigating factors in the case, the panel recommends that Ms Towey be permitted to apply for review of the prohibition order after a period of three years. The panel considers that this strikes an appropriate and proportionate balance between adequately marking the seriousness of Ms Towey's conduct, with acknowledging its assessment of her level of insight and the low risk of her repeating the conduct.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations made by the panel in respect of sanction and review.

This is a serious case in which the panel has found that the teacher, Ms Towey, 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, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Ms Towey engaged in an inappropriate relationship with a vulnerable pupil. The panel has found that the relationship was sexually motivated, although the panel has also been clear that "The conduct did not involve any form of sexual contact."

Nonetheless the panel has found that Ms Towey's conduct was unacceptable and also likely to bring the profession into disrepute.

I have taken into account the need to balance the public interest and the interests of the teacher. I have also taken into account the need to be proportionate. I have taken the guidance published by the Secretary of State into account.

For these reasons I support the recommendation of the panel that Ms Towey should be prohibited from teaching.

I turn now to the matter of a review period. The panel has taken into account the fact that all prohibition orders apply for life.

Like the panel, I have taken into account the fact that the Advice published by the Secretary of State indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, e.g. 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 persons.

The panel has found that Ms Towey has been responsible for engaging in a course of conduct which was sexually motivated. The conduct did not involve any form of sexual contact. The panel is clearly of the view that any sexually motivated conduct involving a pupil is serious. The panel found no evidence that Ms Towey's actions have caused any harm to Pupil A. However, the panel considers that there was a risk that her actions might have caused harm to Pupil A. Her actions actively encouraged the flirtatious and sexualised contact between her and Pupil A, and it is clear that they resulted in an increasing expectation on the part of Pupil A that a physical and emotional relationship was possible.

Nevertheless, the panel has weighed against the seriousness of Ms Towey's actions the level of insight she had into why her actions were inappropriate, and the remorse and regret she has expressed. The panel was of the view that she was unlikely to repeat the behaviour in future. It noted that she had sought counselling in relation to her behaviour. It also noted that she had hitherto been a competent and successful teacher for twelve years.

I have given careful consideration therefore to the recommendation of the panel which has clearly been taken after much thought. For these reasons I support the recommendation of the panel that Ms Towey should be given a review period of three years. Her prohibition is for life and she will have to demonstrate, after at least that period of time has elapsed, that she is suitable for the order to be set aside.

This means that Ms Catherine Towey is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 24 February 2019, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Catherine Towey remains prohibited from teaching indefinitely.

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

Ms Catherine Towey 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 grey ink, appearing to read 'Alan Meyrick', with a stylized flourish at the end.

Decision maker: Alan Meyrick

Date: 17 February 2016

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