



National College for  
Teaching & Leadership

# **Mr Benjamin Hannen: Professional conduct panel outcome**

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

**April 2016**

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

<b>Teacher:</b>	Mr Benjamin Hannen
<b>Teacher ref number:</b>	0354480
<b>Teacher date of birth:</b>	11 June 1975
<b>NCTL case reference:</b>	13922
<b>Date of determination:</b>	1 April 2016
<b>Former employer:</b>	The panel concluded that the school should not be named as this might lead to identification of the pupil

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 1 April 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Benjamin Hannen in a meeting.

The panel members were Mr Michael Lewis (teacher panellist – in the chair), Mrs Kathy Thomson (teacher panellist) and Mr Michael Simon (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP, solicitors.

The meeting took place in private, save for the announcement of the panel’s decision, which was announced in public and recorded.

## **B. Allegations**

The panel considered the allegation set out in the Notice of Meeting dated 14 March 2016.

It was alleged that Mr Benjamin Hannen was guilty of conviction of a relevant offence in that:

On 28 October 2013 at Aylesbury Crown Court, he was convicted of the offence of sexual activity with a female aged 13 -17 (the defendant does not believe the victim was over 18) and abuse of a position of trust, contrary to Section 16(1) (e) (i) of the Sexual Offences Act 2003. On 23 December 2013, he was:

- a) sentenced to a community order for 3 years (with a supervision and programme requirement)
- b) listed on the sex offenders register for 5 years
- c) ordered to pay costs of £3,500

Mr Benjamin Hannen admitted that he had been convicted of the above offence. Mr Hannen also admitted that the conviction was for a relevant offence.

## **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 2 to 3

Section 2: Notice of Proceedings and Response and Notice of Meeting – pages 5 to 7B

Section 3: Statement of Agreed Facts and presenting officer representations – pages 9 to 17A

Section 4: NCTL documents – pages 19 to 34

Section 5: Teacher documents – pages 46 to 90

## **Statement of Agreed Facts**

The panel received and considered a Statement of Agreed Facts signed by Mr Hannen on 22 September 2015.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

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

Mr Hannen had previously been employed and worked as a teacher at a school in England. From 2 October 2007, he was employed at another school ('the School') as a science technician. He was suspended from the school with effect from 24 September 2012. On 10 October 2013, Mr Hannen resigned from the school. On 28 October 2013, he was convicted at Aylesbury Crown Court of the offence of sexual activity with a female aged 13 to 17, contrary to Section 16(1)(e)(i) of the Sexual Offences Act 2003. He was sentenced, as set out in the charge on 23 December 2013.

### **Findings of fact**

The panel's findings of fact are as follows:

**It was alleged that Mr Benjamin Hannen was guilty of conviction of a relevant offence in that:**

**On 28 October 2013 at Aylesbury Crown Court, he was convicted of the offence of sexual activity with a female aged 13 -17 (the defendant does not believe the victim was over 18) and abuse of a position of trust, contrary to Section 16(1) (e) (i) of the Sexual Offences Act 2003. On 23 December 2013, he was:**

- a) sentenced to a community order for 3 years (with a supervision and programme requirement);**
- b) listed on the sex offenders register for 5 years**
- c) ordered to pay costs of £3,500**

Mr Hannen admits that he was convicted of the offence concerned and he has signed a Statement of Agreed Facts. The panel has also been provided with a copy of the certificate of conviction from Aylesbury Crown Court. The panel finds the facts proved on the basis of Mr Hannen's admissions, the Statement of Agreed Facts and the certificate of conviction.

## **Findings as to conviction of a relevant offence**

Mr Hannen admits that the conviction was for a relevant offence. The panel has taken this admission into account, but has formed its own judgment.

Although Mr Hannen is a qualified teacher, at the time of the offence and throughout his employment at the school, he was employed as a science technician. Relevance in the context of a relevant offence refers to a person's fitness to be a teacher, rather than their role at the time of the offence. Due to the breach of trust element, Mr Hannen's conviction was for an offence which is relevant to teaching, working with children and/or working in an education setting. Furthermore, the offence involved sexual activity.

The panel finds the offending behaviour that led to the conviction is relevant to Mr Hannen's suitability to teach. Although Mr Hannen was not a teacher at the time of the offence, the panel still considers that a finding that this conviction is a relevant offence is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Accordingly, the panel is satisfied that Mr Hannen has been convicted of a relevant offence.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of a conviction of a relevant offence, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel concluded that the protection of pupils and other members of the public is, unusually for a case of this type, not relevant. The panel has been provided with a copy of a report in relation to Mr Hannen dated 4 June 2015 by the National Offender Management Service entitled 'Structured Assessment of Risk and Need (Sexual Offending)'. This confirms that Mr Hannen has engaged fully and sincerely with the programme, is in control of his behaviour and his risk of reoffending is assessed as low. In addition, Mr Hannen states that the only relationship that he had before the summer of

2012 was the one with his wife. He states that he is aware of the mistakes that he made and would not let it happen again.

However, the panel considers that public confidence in the profession could be undermined if conduct such as that found against Mr Hannen 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. It is important that the provisions of the Sexual Offences Act 2003 are properly understood by all those working in an education setting.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Hannen.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Hannen. 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, the following is relevant in this case:

- sexual misconduct, involving actions of a sexual nature.

The offence for which Mr Hannen was convicted involves sexual activity when in a position of trust. However, the panel found that there is no evidence in this case of active exploitation by Mr Hannen of his position of trust as a member of the school staff.

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 of the behaviour in this case.

Mr Hannen did have a previously good history and the panel accepts that the incident was out of character. The panel has been provided with numerous character references which universally speak positively of his integrity and good character. There were no specific testimonials about Mr Hannen's teaching, but the panel noted that he has not worked as a teacher for a number of years.

There was no evidence that the teacher's actions were not deliberate. However, the panel is satisfied that Mr Hannen had no intention to break the law and he was unaware of the legal requirements that applied to him as a member of staff at the school. It was argued by his lawyers at the Crown Court that the specific nature of his role as a science technician did not bring him within the definition of 'in a position of trust.' The jury found otherwise but the panel can understand why Mr Hannen held this view. The panel is

satisfied that Mr Hannen now has a full understanding of why he has found himself in this position.

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 Mr Hannen. In forming that opinion, the panel noted that Mr Hannen will remain on the Sex Offenders Register until 23 December 2018 and this is incompatible with being a practising teacher.

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 to recommend that a review period of the order should be considered. The panel was mindful that a prohibition order applies for life, but there may be circumstances that may make it appropriate to allow Mr Hannen 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. In this context the panel noted that the sentencing judge took into account the fact that Mr Hannen's behaviour, 'went no further than kissing'. The judge also described Mr Hannen's conduct as being, 'within the lowest bracket of the sentencing guidelines'. The court imposed a community order rather than a custodial sentence.

In the spectrum of cases that come before the National College the panel is of the view that this case has none of the characteristics of serious sexual misconduct with which it sometimes has to deal.

As referred to above, Mr Hannen has fully engaged with the Thames Valley Sex Offender programme and has demonstrated insight into his actions that led to the conviction. The panel considers that Mr Hannen's expressions of regret are genuine. The panel further took into account the detailed assessment of risk of repetition conducted by the National Offender Management Service. That assessment classified the risk as low and made no recommendations for 'additional ongoing risk management.'

The panel felt the findings indicated a situation in which a review period would be appropriate. As such, it decided that it would be proportionate in all the circumstances to recommend that Mr Hannen be allowed to apply for a review after a period of 2 years.

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

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found the allegations and facts proven, given Mr Hannen has been convicted of a relevant offence.

I have considered the public interest in this case. I note the panel considered the particular public interest considerations relevant, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. I also note that the panel concluded the protection of pupils and other members of the public is not relevant.

I note that the panel reference a 'Sexual Offending' report which confirms Mr Hannen has engaged fully and sincerely with the programme, is in control of his behaviour and his risk of reoffending is low. I agree with the panel however, that the public interest could be undermined if conduct such as that found against Mr Hannen were not treated with the utmost seriousness.

I have taken into account the need to balance the public interest with the interests of Mr Hannen. I note that although the offence for which Mr Hannen was convicted involves sexual activity, the panel found no evidence in this case of active exploitation by Mr Hannen, of his position of trust as a member of school staff. The panel accepts that the incident was out of character. The panel is also satisfied that Mr Hannen had no intention to break the law and he was unaware of the legal requirements that applied to him as a member of staff at the school.

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 Mr Hannen. I agree with the panel's view. I support the recommendation of the panel that Mr Hannen be prohibited. I agree that this is both proportionate and appropriate.

I have also considered the matter of a review period. Whilst any allegation involving sexual misconduct is serious, I agree with the panel's view that, in the spectrum of cases which come before the NCTL, this case has none of the characteristics of serious sexual misconduct with which it sometimes has to deal. I note the panel's view that Mr Hannen has demonstrated insight into his actions that led to the conviction, and that his expressions of regret are genuine. I note that the National Offender Management Service assessed the risk of repetition as low, and have made no recommendations for 'additional ongoing risk management'.

The panel felt the findings indicated a situation where a review period would be appropriate, and recommend that Mr Hannen be allowed to apply for a review after a period of 2 years. For the reasons set out above, I agree with the panel's recommendation.

**This means that Mr Benjamin Hannen is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** He may apply for the prohibition order to be set aside, but not until 2018, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Hannen remains prohibited from teaching indefinitely.

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

Mr Hannen 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 be 'JM', with a small dot at the end of the signature.

**Decision maker: Jayne Millions**

**Date: 6 April 2016**

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