



National College for
Teaching & Leadership

Mrs Meena Chivers: Professional conduct panel outcome

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

May 2016

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

Teacher: Mrs Meena Chivers
Teacher ref number: 9735364
Teacher date of birth: 24 December 1973
NCTL case reference: 14377
Date of determination: 23 May 2016
Former employer: Fitzharry's School, Oxford

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 23 May 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mrs Meena Chivers.

The panel members were Dr Robert Cawley (teacher panellist – in the chair), Professor Ian Hughes (lay panellist) and Ms Polly O'Malley (lay panellist).

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

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

Mrs Chivers 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 29 March 2016.

It was alleged that Mrs Meena Chivers has a conviction, at any time, of a relevant offence in that whilst employed as a Special Educational Needs Coordinator at Fitzharry's School:

1. **On 18 March 2015 before the Swindon Crown Court she was convicted of an offence of wounding/inflicting grievous bodily harm on 02/03/2014 in contravention of S.20 of the Offences Against the Person Act, for which she was sentenced on 22/04/2015 to 15 months imprisonment; ordered to pay a victim surcharge of £100.00 and had a Restraining Order imposed pursuant to S.5 of The Harassment Act 1997 for a period of 5 years;**
2. **On 18 March 2015 before the Swindon Crown Court she was convicted of an offence of Assault by beating on 03/03/2014 in contravention of S.39 of The Criminal Justice Act 1988, for which she was sentenced on 22/04/2015 to 1 month imprisonment (to run consecutively to the sentence imposed at 1 above).**

In the absence of any response by or on behalf of Mrs Chivers, the panel proceeded on the basis that the alleged facts were not admitted.

C. Preliminary applications

Application to proceed in absence

Mrs Chivers was not present and was not represented. Mr Chapman made an application that the case should proceed in the absence of Mrs Chivers. After hearing representations from Mr Chapman and receiving legal advice, the Chair announced the decision of the panel, as follows:

'The panel is satisfied that that the Notice of Proceedings was sent to Mrs Chivers in accordance with Rule 4.11. The panel has been provided with a report from the DX delivery service confirming delivery to the address given by Mrs Chivers on 30 March 2016. In addition, the panel has also been provided with a copy of an email confirming that the Notice of Proceedings was also sent to Mrs Chivers by email on 29 March 2016.

The panel has decided to proceed with the hearing in the absence of Mrs Chivers for the following reasons:

- the panel is satisfied that Mrs Chivers is aware of the hearing and has decided not to attend

- no application for an adjournment has been made and the panel is not satisfied that an adjournment would result in Mrs Chivers attending on a later date
- there is a public interest in these proceeding taking place reasonably promptly since Mrs Chivers is now in a position to obtain employment as a teacher
- the panel notes from correspondence received that Mrs Chivers has stated that an appeal is being pursued by her against her conviction. However, no evidence has been provided that such an appeal has been lodged. In any event, the panel noted that there is provision in rule 5.10 for the revocation of an order based on a conviction. In these circumstances, the panel did not consider that there would be any injustice to Mrs Chivers by proceeding with this hearing

Exclusion of evidence

The panel queried whether documents in the bundle relating to the school's disciplinary proceedings and outcome should be admitted. The panel questioned whether the evidence was relevant to the matters to be determined and/or whether it was fair to admit that evidence. After hearing representations from Mr Chapman and receiving legal advice, the chair announced the decision of the panel, as follows:

'The panel has decided to exclude from the bundle of documents pages 48 to 49, 90 to 93 and 104 to 110. These documents relate to the school's investigatory and disciplinary process and outcome. The panel has concluded that elements of these documents are not relevant to the matters to be considered by the panel. As the presenting officer has confirmed that the National College does not rely on this evidence, the panel has decided to exclude all of these pages.

The panel is conscious that these documents have already been read by the panel. However, the panel is an experienced panel and is well able to put from its mind the content of these documents. With regard to perceived bias, the panel accepts the legal advice from the legal adviser that a fair minded and fully informed observer would not perceive a real possibility of bias.'

D. Summary of evidence

Documents

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

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

Section 2: Notice of Proceedings and Response – pages 4 to 11

Section 3: NCTL witness statements – page 12

Section 4: NCTL documents – pages 13 to 138

Section 5: Teacher documents – pages 139 to 166

In addition, the panel agreed to accept a delivery report from the DX delivery service and an email dated 29 March to Mrs Chivers. These documents were added to the bundle as pages 167 and 168 respectively.

The panel excluded from the bundle and from its consideration pages 48 to 49, 90 to 93 and 104 to 110.

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

Witnesses

There were no witnesses.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Mrs Meena Chivers was employed as a teacher and Special Educational Needs coordinator at Fitzharry's School, Abingdon from September 2013. On 18 March 2015, following a trial at Swindon Crown Court, Mrs Chivers was convicted of the two offences referred to in the allegations. On 22 April 2015, she was sentenced for those offences. The Crown Court imposed a sentence of 15 months imprisonment for the offence of wounding/inflicting grievous bodily harm contrary to section 20 of the Offences Against the Person Act. In relation to the offence of assault by beating contrary to section 39 of the Criminal Justice Act 1988, Mrs Chivers was sentenced to one month imprisonment, to run consecutively to the sentence of 15 months imprisonment. Mrs Chivers was also ordered to pay a victim surcharge of £100.00. A Restraining Order pursuant to section 5 of the Protection from Harassment Act 1997 was imposed for a period of 5 years.

Findings of fact

The panel's findings of fact are as follows:

- 1. On 18 March 2015 before the Swindon Crown Court you were convicted of an offence of wounding/inflicting grievous bodily harm on 02/03/2014 in contravention of S.20 of the Offences Against the Person Act, for which you**

were sentenced on 22/04/2015 to 15 months imprisonment; ordered to pay a victim surcharge of £100.00 and had a Restraining Order imposed pursuant to S.5 of The Harassment Act 1997 for a period of 5 years;

2. On 18 March 2015 before the Swindon Crown Court you were convicted of an offence of Assault by beating on 03/03/2014 in contravention of S.39 of The Criminal Justice Act 1988, for which you were sentenced on 22/04/2015 to 1 month imprisonment (to run consecutively to the sentence imposed at 1 above)

The panel has found allegations 1 and 2 proven. The panel has been provided with a copy of the relevant certificate of conviction from Swindon Crown Court. Although Mrs Chivers has stated in her correspondence that she is appealing against her conviction for these offences, the panel accepted the legal advice that the panel must accept the certificate of conviction as proof of the commission of the offences to which the certificate relates.

Findings as to conviction of a relevant offence

Having found the allegations to have been proven, the panel has gone on to consider whether the offences for which Mrs Chivers was convicted were relevant offences.

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 Mrs Chivers in relation to the facts it has found proved, involved breaches of the Teachers’ Standards. The panel consider that by reference to Part Two, Mrs Chivers is in breach of the following 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, by;
 - 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;
 - not undermining fundamental British values, including ... the rule of law, individual liberty and mutual respect ...
- teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mrs Chivers' behaviour in committing the offence could affect

the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has noted that Mrs Chivers' behaviour has ultimately led to her receiving a sentence of imprisonment which is indicative of the seriousness of the offences committed. This is a case of an offence involving violence, which the Advice states is likely to be considered a relevant offence.

The panel has taken into account the fact that neither offence took place in an education setting and there is no evidence that pupils were harmed. The panel has also read Mrs Chivers' evidence that she acted in self-defence. However, by virtue of the convictions, the panel noted that this defence was not something that was accepted by the jury.

Although the panel finds the evidence of Mrs Chivers' teaching proficiency to be of note, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to Mrs Chivers' ongoing suitability to teach, not least because this took place in front of a child. The panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of 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 protection of pupils/other members of the public, the maintenance of public confidence in the profession and the declaring and upholding proper standards of conduct.

In light of the panel's findings against Mrs Chivers, there is a strong public interest consideration in respect of the protection of pupils given the serious nature of the assaults and that they took place in the presence of a child.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Chivers 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 Mrs Chivers 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 Mrs Chivers.

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 Mrs Chivers. 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
- actions or behaviours that undermine fundamental British values ..., the rule of law, individual liberty, and mutual respect...
- a deep-seated attitude that leads to harmful behaviour
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures

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 noted that Mrs Chivers has a previous good history; however, there is no evidence that she was acting under duress and the Crown Court judge referred to the absence of remorse. No other evidence in mitigation has been presented by Mrs Chivers.

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 Mrs Chivers. The seriousness of the two offences and the fact that they took place in front of a child were significant factors in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend a review period. The panel was mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it

appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include violence. The panel has found that Mrs Chivers has been responsible for two offences involving violence, which also took place in front of a child. The panel has found that Mrs Chivers' conduct in committing the offences on consecutive days, the serious and sustained bullying and the failure to accept responsibility for her actions demonstrated a deep seated attitude leading to harmful behaviour.

The panel felt the findings indicate a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

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 proven, given Mrs Chivers has been convicted of relevant offences.

I agree with the panel, that there is a strong public interest consideration in respect of the protection of pupils given the serious nature of the assaults and that they took place in the presence of a child. I agree with the panel, that the behaviours relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- actions or behaviours that undermine fundamental British values ..., the rule of law, individual liberty, and mutual respect...
- a deep-seated attitude that leads to harmful behaviour;
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

I have considered the public interest in this case. 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 Mrs Chivers. The seriousness of the two offences and the fact that they took place in front of a child were significant factors in forming that opinion. I agree with that view.

Due to the serious nature of this case and for the reasons set out above, I agree with the panel's recommendation, that a prohibition order should be imposed and that no review period should be allowed.

This means that Mrs Meena Chivers is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against her, I have decided that Mrs Chivers shall not be entitled to apply for restoration of her eligibility to teach.

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

Mrs Chivers has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.

A handwritten signature in black ink, appearing to read 'J. Millions', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date: 25 May 2016

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