



National College for
Teaching & Leadership

Mr Luke Batson Professional conduct panel outcome

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

December 2016

Contents

A. Introduction	3
B. Allegations	3
C. Preliminary applications	4
D. Summary of evidence	5
Documents	5
Witnesses	5
E. Decision and reasons	5
Panel's recommendation to the Secretary of State	10
Decision and reasons on behalf of the Secretary of State	12

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

Teacher:	Mr Luke Batson
Teacher ref number:	1074021
Teacher date of birth:	12 April 1992
NCTL case reference:	14704
Date of determination:	19 December 2016
Former employer:	Listerdale Primary School, Rotherham

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 19 December 2016 at the Ramada Hotel, The Butts, Coventry, CV1 3GG to consider the case of Mr Luke Batson.

The panel members were Mr Paul Bompas (lay panellist – in the chair), Ms Margaret Windsor (teacher panellist) and Ms Kathy Thomson (teacher panellist).

The legal adviser to the panel was Mr Parminder Benning of Eversheds LLP.

The presenting officer for the National College was Ms Alexandra Tampakopoulos of Counsel.

Mr Luke Batson was present and was represented by Mr Steve Lloyd of NASUWT.

The hearing took place in public and was recorded, save for the evidence concerning mitigation which took place in private.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 7 September 2016.

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

1. He submitted a second assessment form from the Broom Valley Primary School (“the form”) in relation to his progress and teaching skills to the Listerdale Primary School which he knew or ought to have known:

- a. Had been inappropriately altered and/or amended and/or has text deleted from it,
 - b. Reflected that he had made better and/or satisfactory progress when he had not;
2. He inappropriately altered the form;
 3. His conduct set out above was dishonest.

In the response to the Notice of Proceedings, Mr Luke Batson admitted the facts giving rise to the allegations and that such actions amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. Mr Batson admitted the facts of the allegations at the hearing and wished to give mitigation evidence in person to the panel. This hearing therefore proceeded as an admitted case.

C. Preliminary applications

Decision on Excluding the Public

The panel has considered whether to exercise its discretion under paragraph 11 of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations") and paragraph 4.57 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession (the "Procedures") to exclude the public from all or part of the hearing. This follows a request by the teacher's representative that part of the hearing should be in private.

The panel has determined to exercise its discretion under paragraph 11(3)(b) of the Regulations and the second bullet point of paragraph 4.57 of the Procedures that the public should be excluded from those parts of the hearing pertaining to Mr Batson's health.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. On this occasion, however, the panel considered that the request for parts of the hearing to be heard in private, was a reasonable one given concerns about confidential matters relating to the teacher's health being placed in the public domain. The panel has considered whether there were any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to the teacher's health, but considered that the health matters are so intertwined with the facts of this case, and therefore it would be practicable to exclude the public from those parts of the hearing only.

The panel has had regard to whether the teacher's request runs contrary to the public interest. The panel noted that any decision of the Secretary of State will be announced in

public. The panel considered that in the circumstances of this case where the facts are so intertwined with private matters relating to the teacher's health that the public interest will be satisfied by these public announcements. Those public announcements will ensure that public confidence in these proceedings and in the standards of the profession are maintained.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 1 to 2

Section 2: Notice of Proceedings and Response – pages 3 to 14

Section 3: NCTL witness statements – pages 15 to 21

Section 4: NCTL documents – pages 22 to 50

Section 5: Teacher documents – pages 51 to 85.

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

Witnesses

The panel heard oral evidence from Mr Luke Batson and from Witness A.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirmed that it had read all the documents provided in the bundle in advance of the hearing.

Mr Luke Batson began working at Listerdale Primary School (the "School") on 1 September 2015. Prior to this, Mr Batson was employed by Broom Valley Primary School.

Whilst at Broom Valley Primary School on 8 May 2014, Mr Batson, at the time a Newly Qualified Teacher ("NQT"), attended a meeting where he was told that there were concerns about his progress as a teacher. As required, following the meeting, Broom Valley Primary submitted Mr Batson's second assessment form rating his performance as

“unsatisfactory” to Rotherham Borough Council. Around this time, Mr Batson’s temporary contract of employment at Broom Valley Primary came to an end.

Shortly after the commencement of his employment at Listerdale Primary School, Mr Batson submitted the second assessment form as completed by Broom Valley Primary; this form now showed that he was making satisfactory progress. This form was submitted to Rotherham Borough Council. On 15 October 2015, Rotherham Borough Council informed the School that the second assessment form submitted had been altered from the original and subsequently an investigatory meeting was held at the School, which took place on 16 October 2015. Shortly after, Mr Batson resigned from the School.

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 submitted a second assessment form from the Broom Valley Primary School (“the form”) in relation to your progress and teaching skills to the Listerdale Primary School which you knew or ought to have known:

a. Had been inappropriately altered and/or amended and/or has text deleted from it;

The panel noted Mr Batson’s admission of the facts underlying this allegation made in his response to the Notice of Proceedings and in his witness statement presented in response to these proceedings. This allegation was admitted by Mr Batson in the course of his oral evidence.

In addition, the panel considered the original second NQT assessment form and a copy of the form provided to the School. The panel noted that text had been deleted and altered in the “Recommendation” section and the text commenting upon his performance towards achieving the Teachers’ Standards had been altered, suggesting that Mr Batson was meeting those standards. On the original form, the School had indicated, inter alia, that Mr Batson “may not be able to meet the Teachers’ Standards for the satisfactory completion of the induction period”. Furthermore, they confirmed that he had experienced support and monitoring in line with the statutory guidance. The panel considered that the subsequent changes made by Mr Batson gave a misleading impression of his performance and therefore considered them to be inappropriate thereby giving a false account of his status.

The panel has also seen the note of the investigatory meeting where Mr Batson admitted making changes to the form.

In the circumstances, the panel therefore found this allegation proven.

b. Reflected that you had made better and/or satisfactory progress when you had not;

The panel noted Mr Batson's admission of the facts underlying this allegation made in his response to the Notice of Proceedings and in his witness statement presented in response to these proceedings. This allegation was admitted by Mr Batson in the course of his oral evidence.

As stated above, the panel considered the content of the form noting the alterations made gave the impression that Mr Batson had made satisfactory progress towards meeting the Teachers' Standards, when in practice this was not the case. The panel compared the form to the original form and noted that the changes to the commentary concerning Mr Batson's performance suggested that he had made better progress than he had, in fact, made.

The panel considered the letter from Rotherham Metropolitan Borough Council dated 12 May 2014 which expressed concerns about Mr Batson's performance, and noted that his second assessment would be "submitted as unsatisfactory". They also considered the minutes of the investigatory meeting held on 16 October 2015 where Mr Batson accepted that he had changed the form.

In the circumstances, the panel found this allegation proven.

2. You inappropriately altered the form;

The panel noted Mr Batson's admission of the facts underlying this allegation made in his response to the Notice of Proceedings and in his witness statement presented in response to these proceedings. This allegation was admitted by Mr Batson in the course of his oral evidence.

The panel acknowledged that having found the facts of particulars 1a. and 1b. proven, that such actions were inappropriate, as it would mislead the School to Mr Batson's status, actual performance and capabilities. In the circumstances, the panel found this allegation proven.

3. Your conduct set out above was dishonest;

As before, the panel noted Mr Batson's admission of his dishonesty made in his response to the Notice of Proceedings and his witness statement made in these proceedings. This allegation was admitted by Mr Batson in the course of his oral evidence.

The panel considered the two stage test in deciding whether Mr Batson's actions were dishonest.

The panel was advised that the first limb of the traditional test to which panels are referred is “whether the panel is satisfied on the balance of probabilities that Mr Batson’s actions would be regarded as dishonest according to the standard of a reasonable and honest man”. This is the objective test.

The panel was informed of a High Court case of May 2015 concerning the appeal against a decision of a professional conduct panel which stated that the tribunal should first determine whether, on the balance of probabilities, a defendant acted dishonestly by the standards of ordinary and honest members of that profession. If so, it was advised that it must then go on to determine whether or not it is more than likely that the defendant realised that what he or she was doing was, by those standards, dishonest. The panel accepted that only if the answer to both these questions is yes can the allegation of dishonesty be established in this case. The panel was also informed that the Court of Appeal, in an appeal against a criminal conviction in December 2015, held that the required standard under the objective limb was said to be the ordinary standards of reasonable and honest people. However, the panel understands that it has yet to be seen whether that decision will be applied in the context of professional discipline proceedings, given the shift away from that test by the High Court.

If the panel finds the objective limb satisfied, it must go on to determine whether it is more likely than not that the teacher realised that what he was doing was by those standards, dishonest. This is the subjective test.

First the panel considered the objective limb of the two limb test. The panel did not determine that there would be any difference between the standards of the reasonable and honest person and the standards of the reasonable and honest teacher. In reaching this conclusion, the panel considered that everyone, teacher or not, would view providing an altered performance evaluation to your new employer to be dishonest. Due to the nature and the purpose these evaluations serve, the panel concluded the reasonable and honest person (and teacher) would find Mr Batson’s actions dishonest.

The panel went on to consider the subjective limb of the test. The panel was satisfied that Mr Batson himself knew that his actions were dishonest as he admitted in his response to the Notice of Proceedings, in his witness statement and in his oral evidence to the panel.

Having reviewed all of the evidence, the panel found allegation 3 to be proved.

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 admission made by Mr Batson that, by admitting the facts of allegations 1 to 3, he also admits that they amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has had regard to the document Teacher misconduct: The prohibition of teachers, which the panel refers to as “the Advice”.

The panel noted that unacceptable professional conduct is defined as misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. In making a judgement as to whether the behaviour demonstrated falls significantly short of the standard expected of a teacher, the panel has drawn on its own knowledge and experience of the teaching profession as well as the Teachers’ Standards. The panel was satisfied that the conduct of Mr Batson in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mr Batson is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour...
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel considered that Mr Batson’s actions in altering the assessment form and submitting this, which allowed him to gain employment, were serious, as they misrepresented his status and capabilities. This clearly amounts to dishonesty. Accordingly, the panel was satisfied that the conduct of Mr Batson fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Batson’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and the panel has found that the offence of “fraud or serious dishonesty” is relevant. The panel considered Mr Batson’s actions amount to “serious” dishonesty and were manipulative, due to the fact that such dishonesty was intentional. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

Accordingly, the panel is satisfied that Mr Batson 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.

Mr Batson accepts that the facts of allegations 1 to 3 which the panel have found proven amount to conduct that may bring the profession into disrepute.

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, as teacher's cannot be seen to be dishonest.

The panel therefore found that Mr Batson's actions constitute conduct that may bring the profession into disrepute.

Accordingly, having found the facts of allegations 1 to 3 proved, the panel found that Mr Batson's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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 had 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 and the protection of other members of the public - the panel notes that part of the reason for the QTS qualification is to ensure that only suitably trained and capable individuals are allowed to teach children. The panel noted that the areas for concern in Mr Batson's evaluation pertained to his ability to manage the behaviour of a class and by his own admission he has [redacted]. Accordingly, the panel considered that Mr Batson's actions in falsifying his assessment form had the potential to put the wellbeing of pupils at risk.
- The maintenance of public confidence in the profession - the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Batson were not treated with the utmost seriousness when regulating the conduct of the profession.

- Declaring and upholding proper standards of conduct - the panel considered that there is a strong public interest consideration in declaring proper standards of conduct in the profession, as the conduct found against Mr Batson is 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 Mr Batson.

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 Batson. 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. These behaviours include a serious departure from the personal and professional conduct elements of the Teachers' Standards, and dishonesty, which the panel has already found, apply to Mr Batson's case.

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, in his role as a teacher, Mr Batson had not been subject to any formal disciplinary proceedings, prior to the events underlying these allegations. Mr Batson did have a previously good history and the panel accepts that the incident was out of character. In particular the panel noted the evidence presented in support of Mr Batson's good character and his professionalism. Having said that, the panel has found that Mr Batson's actions have been deliberate and intentional. However, the panel noted that Mr Batson may have been suffering from anxiety and stress and/or depression at the time of his conduct. The panel noted the medical evidence that had been submitted stating that Mr Batson has a diagnosis of anxiety with depression. Despite this, the panel has seen no evidence that he was acting under duress, and the panel considered that his actions were deliberate.

In all the circumstances, the panel was of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Batson. The panel had already found the actions of Mr Batson amounted to "serious dishonesty". The dishonesty was deliberate and intentional. The panel considered this to be particularly persuasive in reaching its recommendation. 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 for them to decide to recommend that a review period of the order should be considered. The panel were

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 two years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended, and these include fraud or serious dishonesty. The panel has found that Mr Batson has been responsible for intentionally altering the assessment form in order to gain employment, and in doing so, the panel found his actions to be seriously dishonest.

The panel noted that Mr Batson has demonstrated regret for and insight into the consequences of his actions stating that he was, “deeply sorry and embarrassed about my actions in October 2015”. The panel were also mindful of Mr Batson’s age, being only 24 and his lack of experience as a teacher. The panel also took into account Mr Batson’s medical health issues and the steps taken to address these. Having said that, the panel note that the Advice provides that a lifetime prohibition is imposed with no opportunity for review is the usual recommendation in cases which involve fraud or serious dishonesty. The panel has found that Mr Batson’s case involves serious dishonesty and that no substantive mitigating evidence has been offered by Mr Batson to explain or counter his actions. The panel therefore considered that these findings indicate a situation in which a review period would not be appropriate and as such has decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions 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 all of the allegations proven, including dishonesty, and Mr Batson has been found guilty of unprofessional conduct and conduct bringing the profession into disrepute.

The panel was satisfied that the conduct of Mr Batson in relation to the facts found proven, involved breaches of the Teachers’ Standards.

I have considered the public interest in this case. I note the panel has considered the particular public interest considerations, namely: the protection of pupils; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct; and have found them all to relevant in this case. I agree with the panel’s view. I note that the panel considered that Mr Batson’s actions in falsifying his assessment form had the potential to put the wellbeing of pupils at risk.

I agree with the panel, that the findings of misconduct are serious and that the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception, as teacher's cannot be seen to be dishonest.

I note the panel took account of the Advice, and behaviours proven in this case, and consider that Mr Batson's conduct fell significantly short of the standards expected of teachers.

The panel has found that Mr Batson's actions have been deliberate and intentional, although the panel has noted that Mr Batson may have been suffering from anxiety and stress and/or depression at the time of his conduct. Despite this, the panel has seen no evidence that he was acting under duress, and the panel considered that Mr Batson's actions were deliberate.

The panel has decided that the public interest considerations outweigh the interests of Mr Batson. The panel is of the view that prohibition is both proportionate and appropriate. I agree with that view.

I now turn to the matter of a review period. I note that the panel has considered the Advice, which indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include fraud and serious dishonesty. The panel has found that Mr Batson has been responsible for intentionally altering the assessment form in order to gain employment, and in doing so, the panel found his actions to be seriously dishonest.

The panel noted that Mr Batson has demonstrated regret for and insight into the consequences of his actions, and were also mindful of Mr Batson's age. I note the panel also took into account Mr Batson's medical health issues and the steps taken to address these. I agree with the panel however, that the Advice provides that a lifetime prohibition is imposed with no opportunity for review in cases which involve fraud or serious dishonesty.

I note the panel considers it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

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 Mr Luke Batson 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 proven against him, I have decided that Mr Batson 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 Batson 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 horizontal line through it and a small dot at the end.

Decision maker: Jayne Millions

Date: 21 December 2016

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