



National College for
Teaching & Leadership

Miss Sarah Louise Clements: Professional conduct panel outcome

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

April 2017

Contents

A. Introduction	3
B. Allegations	4
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: Miss Sarah Louise Clements

Teacher ref number: 0250894

Teacher date of birth: 1 February 1982

NCTL case reference: 15199

Date of determination: 18 April 2017

Former employer: Westfield School, Buckinghamshire

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 18 April 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Miss Sarah Louise Clements at a meeting.

The panel members were Ms Mary Speakman (teacher panellist – in the chair), Ms Catherine Boyd (lay panellist) and Mr Sathi Ariya (lay panellist).

The legal adviser to the panel was Miss Laura Ellis of Eversheds Sutherland (International) LLP.

The presenting officer for the National College was Ms Louisa Atkin of Browne Jacobson LLP. However, as a meeting was convened instead of a hearing, pursuant to paragraphs 4.83 to 4.91 of the Teacher misconduct – Disciplinary procedures for the teaching profession (the “Procedures”), the presenting officer was not present.

For the same reason, Miss Clements was also not present and was not represented.

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 allegations set out in the Notice of Referral dated 4 August 2016 and Notice of Meeting dated 3 February 2017.

It was alleged that Miss Clements was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Westfield School:

1. She behaved in an inappropriate manner towards Pupil A;
 - a. on or around 24 March 2015, including by:
 - i. grabbing Pupil A around the arm;
 - ii. engaging in a physical struggle with Pupil A;
 - b. on or around 25 March 2015, including by:
 - i. grabbing Pupil A's arm;
 - ii. pulling Pupil A towards her and/or the desk;
 - iii. forcing Pupil A outside the classroom;
 - iv. saying "shut up, you deserve them" or words to that effect, in response to Pupil A complaining of injury.
2. Her conduct in relation to Pupil A on or around 25 March 2015 constituted assault contrary to section 39 of the Criminal Justice Act 1988, as confirmed by her acceptance of a police caution on 24 September 2015.
3. Her conduct as described at 1a and/or 1b above:
 - a. caused Pupil A to suffer injury;
 - b. was in breach of one or more school policies, including the school's 'Behaviour Policy and Practice'.
4. Following the incident(s) described at 1a and/or 1b above, she failed to comply with the school's policy and/or procedure for recording/reporting incidents, including by failing to ensure that an incident report was completed.

Miss Clements admits the facts of the allegations above, in the Statement of Agreed Facts which she signed on 8 January 2017 (the "SAF"). Miss Clements also admits that the allegations constitute unacceptable professional conduct and/or 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 meeting, the panel received a bundle of documents which included:

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of Referral, response and Notice of Meeting – pages 5 to 10a

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 12 to 17

Section 4: NCTL documents – pages 19 to 262

Section 5: Teacher documents – pages 264 to 270

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

Witnesses

As this was a meeting, no witnesses were called to provide oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Miss Clements commenced employment at Westfield School in Buckinghamshire (the “School”) on 1 September 2008. The School caters for children aged between 5 and 11 years who are experiencing social, emotional and mental health difficulties. It is alleged that on 24 and 25 March 2015 she physically assaulted Pupil A during lessons. The head teacher of the School subsequently became aware of this from another member of staff and then viewed the School’s CCTV footage of the events. A strategy meeting was held regarding the incidents and Miss Clements was suspended from the School. The allegations were also referred to the police and Miss Clements accepted a police caution

on 24 September 2015. The School then undertook its own investigation, which resulted in a disciplinary hearing on 15 January 2016 at which Miss Clements was dismissed.

Findings of fact

Our findings of fact are as follows:

The panel must decide whether the facts of the case have been proved on the balance of probabilities. The panel has found the following particulars of the allegations against you proven, for these reasons:

It is alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Westfield School:

1. You behaved in an inappropriate manner towards Pupil A;

a. on or around 24 March 2015, including by:

- i. grabbing Pupil A around the arm;**
- ii. engaging in a physical struggle with Pupil A;**

b. on or around 25 March 2015, including by:

- i. grabbing Pupil A's arm;**
- ii. pulling Pupil A towards her and/or the desk;**
- iii. forcing Pupil A outside the classroom;**
- iv. saying "shut up, you deserve them" or words to that effect, in response to Pupil A complaining of injury.**

Miss Clements admits these particulars in the SAF. Furthermore, the written descriptions of the CCTV footage compiled by the headteacher of the School and in the police report confirm these events. The particulars are therefore found proven.

2. Your conduct in relation to Pupil A on or around 25 March 2015 constituted assault contrary to section 39 of the Criminal Justice Act 1988, as confirmed by her acceptance of a police caution on 24 September 2015.

Miss Clements admits this allegation in the SAF and the panel has seen a copy of the police caution. The allegation is therefore found proven.

3. Your conduct as described at 1a and/or 1b above:

- a. caused Pupil A to suffer injury;**

Miss Clements admits this particular in the SAF. In addition, the headteacher's description of the CCTV footage states that at the time of the incidents Pupil A told Miss Clements that she had hurt him and that he appeared to be visibly distressed. The police description of the CCTV footage also states that after the event on 25 March 2015 Pupil A cried and was visibly distressed.

The allegation is therefore found proven.

b. was in breach of one or more school policies, including the school's 'Behaviour Policy and Practice'.

Miss Clements admits this particular in the SAF.

The panel has seen a copy of the School's 'Behaviour Policy and Practice' (the "Policy"). Section 3 discusses 'De-escalation of behaviour'. Section 4 entitled 'Management of Incidents' states that staff should use the lowest form of response to a behaviour and allow the child time to process and respond to an adult response, and to use restrictive physical interventions safely in accordance with training. Appendix 1 entitled 'Westfield policy for the use of restrictive physical interventions' discusses the factors to be taken into consideration by staff before using a physical intervention, including the need to assess the risks presented by the child, and the specific circumstances in which physical intervention may be necessary. The section entitled 'Minimising the need to use force' echoes the importance of de-escalating disruptive behaviour and states *"reasonable force will only be used when the risks involved in doing so are outweighed by the risks involved in not using force"*. The section on 'physical control/restrictive physical intervention' defines the term 'restraint' and states that it *"will involve the use of reasonable force when there is an immediate risk to pupils, staff or property"*. There is no evidence that Pupil A's behaviour at the material time presented an immediate risk of this nature. The section on 'Emergency physical interventions' states *"Members of staff retain their duty of care to pupils and any response, even in an emergency, must be proportionate to the circumstances. Staff should use the minimum force necessary to prevent injury and maintain safety, consistent with the training that they have received... Staff are very strongly discouraged from intervening without another member of staff present"*. The section entitled "Using Force" states *"The scale and nature of any physical intervention must be proportionate to both the behaviour of the individual to be controlled, and the nature of the harm they might cause"*.

The panel understands from Miss Clements' training record that she received training on child protection and managing disruptive behaviour during her employment at the School. However, from the summaries of the CCTV footage of the incidents and report from the School, it appears that she did not abide by the contents of the Policy or training.

The allegation is therefore found proven.

4. Following the incident(s) described at 1a and/or 1b above, you failed to comply with the school's policy and/or procedure for recording/reporting incidents, including by failing to ensure that an incident report was completed.

Miss Clements admits this particular in the SAF.

The Policy states that staff are required to record incidents where physical intervention has been used using specific forms and it details the process for this. The report from the School states that Miss Clements did not follow this reporting procedure by completing an incident report.

The allegation is therefore found proven.

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 Miss Clements in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Miss Clements 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
 - 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 Miss Clements fell significantly short of the standards expected of the profession. This is because she received a caution for assault in relation to behaviour exhibited towards a vulnerable child of a primary school age in her care. Although the evidence suggests that Pupil A did exhibit some challenging behaviour, it does not indicate that he was doing anything exceptionally challenging at the time. The behaviour towards Pupil A took place on two separate occasions (on 24 and 25 March 2015) and the summaries of the CCTV footage indicate that it was not the result of an outburst, but instead a deliberate response to Pupil A's behaviour. The School also appears to have provided a number of training sessions on child protection and managing challenging behaviour which Miss Clements attended, and yet her conduct did not accord with that training or the School's behaviour policy. Furthermore, although Miss Clements now appears to have some insight into the seriousness of the allegations and consequences of her behaviour, this does not appear to have been present at the time of the School's investigation.

The panel has also considered whether Miss Clements' conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that the offence of violence is relevant. 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 Miss Clements 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 panel considers that parents should be able to feel that their child is safe and secure within the school setting, and that Miss Clements' conduct contravened this public expectation.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on Miss Clements' status as a teacher, potentially damaging the public perception.

The panel therefore finds that Miss Clements' actions constitute conduct that may bring the profession into disrepute.

Having found the facts of the allegations proved, the panel further finds that Miss Clements' 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/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, declaring and upholding proper standards of conduct.

In light of the panel's findings against Miss Clements', which involved physically assaulting Pupil A, there is a strong public interest consideration in protecting future pupils from unwarranted physical intervention that may lead to harm. There is a strong public interest consideration in respect of the protection of pupils given the serious findings of harm towards a pupil.

In view of 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 Miss Clements.

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 Miss Clements. 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.

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. In light of the panel's findings, Miss Clements' actions were deliberate and she did not act under duress. The documents state that at the time of the incidents a support plan was in place to assist her class to make better academic progress. There is no other evidence to suggest that Miss Clements did not previously have a good record. The panel has reviewed the written statement provided by Miss Clements and the supporting reference from her current employment as a tutor, although the panel notes that this is from a different context than classroom teaching.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel is sufficient.

The panel is of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order is not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

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 Miss Clements. Her unwarranted physical assault towards a vulnerable young child in her care, for which she received a police caution, was a significant factor 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 for it to decide 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 violence, and the panel has found that Miss Clements has been responsible for physical assaulting a pupil in her care.

The panel considers that Miss Clements has shown very little insight into the seriousness of the allegations and potential impact of her behaviour upon Pupil A and the School. She appears to have targeted one pupil who was particularly vulnerable and young, and did not refer the incident to her line manager. She also failed to follow the extensive training that she had been given and the School's procedures. In addition, she appears to have blamed others and failed to recognise her own professional responsibility to manage the situation.

The panel felt the findings indicated 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 given very careful consideration to this case and to the recommendation of the panel in respect of sanction and review period.

In considering this case I have given very careful attention to the advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case the panel has found the allegations proven and found that those proven facts, including a caution for assault, amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Miss Clements should be the subject of a prohibition order, with no provision for a review period.

In particular the panel has found that Miss Clements 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
 - 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 Miss Clements fell significantly short of the standards expected of the profession. This is because she received a caution for assault in relation to behaviour exhibited towards a vulnerable child of a primary school age in her care. Although the evidence suggests that Pupil A did exhibit some challenging behaviour, it does not indicate that he was doing anything exceptionally challenging at the time. The behaviour towards Pupil A took place on two separate occasions (on 24

and 25 March 2015) and the summaries of the CCTV footage indicate that it was not the result of an outburst, but instead a deliberate response to Pupil A's behaviour.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that I am taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Miss Clements, and the impact that will have on her, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed that Miss Clements was guilty of an "unwarranted physical assault towards a vulnerable young child in her care, for which she received a police caution," A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "Miss Clements has shown very little insight into the seriousness of the allegations and potential impact of her behaviour upon Pupil A and the School. She appears to have targeted one pupil who was particularly vulnerable and young, and did not refer the incident to her line manager. She also failed to follow the extensive training that she had been given and the School's procedures. In addition, she appears to have blamed others and failed to recognise her own professional responsibility to manage the situation."

In my judgement the lack of insight and the deliberate nature of this behaviour must carry significant weight. It means that there is significant risk of the repetition of this behaviour and this risks future pupils' wellbeing. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observed, "publication of adverse findings..... would unacceptably compromise the public interest considerations present in this case."

I have considered that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have considered the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have also considered the impact of a prohibition order on Miss Clements herself.

A prohibition order would prevent Miss Clements from teaching in the future. I have noted the panel's comments on her teaching and that she has had a good reference in her current role as a tutor.

In this case I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. The panel has also said, "she appears to have blamed others and failed to recognise her own professional responsibility to manage the situation."

For all of these reasons I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel has recommended that there should be no provision for a review period.

I have placed great weight on the panel's comments "She appears to have targeted one pupil who was particularly vulnerable and young, and did not refer the incident to her line manager."

I have considered whether no review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, there are a number of factors that in my view mean that no review period is proportionate, the deliberate response, the lack of insight and the seriousness of the assault that merited a caution for assault.

I consider therefore that allowing for no review period is required to satisfy the maintenance of public confidence in the profession.

This means that Miss Sarah Clements 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 Miss Sarah Clements 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.

Miss Sarah Clements 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.

Al C M

Decision maker: Alan Meyrick

Date: 19 April 2017

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