



Teaching
Regulation
Agency

Mr Desmond Leung: Professional conduct panel outcome

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

September 2019

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

Teacher:	Mr Desmond Leung
Teacher ref number:	1583632
Teacher date of birth:	11 October 1991
TRA reference:	17379
Date of determination:	10 September 2019
Former employer:	Ormiston Horizon Academy, Stoke-on-Trent

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 and 10 September 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Desmond Leung.

The panel members were Mr John Pemberton (former teacher panellist – in the chair), Cllr Gail Goodman (teacher panellist) and Ms Mahfia Watkinson (lay panellist).

The legal adviser to the panel was Miss Claire Watson of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Holly Quirk of Browne Jacobson solicitors.

Mr Desmond Leung was not present and was not represented.

The hearing took place in public, except for part of the hearing which was held in private, and was recorded.

B. Allegations

The panel considered the allegation(s) set out in the Notice of Proceedings dated 10 June 2019.

It was alleged that Mr Desmond Leung was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Ormiston Horizon Academy (“the Academy”):

1. He failed to maintain appropriate professional boundaries with Pupil A including:
 - a. during the 2016/2017 academic year by exchanging one or more e-mails;
 - i. Of a personal nature;
 - ii. Which were sent late at night.
 - b. On or around 7 March 2018 by stating that;
 - i. He would like to keep in touch with Pupil A after she left school or words to that effect;
 - ii. He would like to get to know Pupil A better on a personal level or words to that effect;
 - iii. He felt more for Pupil A than a student or words to that effect;
 - iv. That he couldn’t wait for Pupil A to turn 18 years old or words to that effect.
2. His conduct, as may be found proven at 1b, was despite previous advice on or around 22 June 2017 in which he was advised to “remain professional” towards Pupil A and/or any pupil.

Mr Leung admits allegation 1a in its entirety. He does not admit allegation 1b and 2.

C. Preliminary applications

The panel considered an application from the Presenting Officer to proceed in the absence of Mr Leung.

The panel was satisfied that the TRA had complied with the service requirements of paragraph 19 a to c of the Teachers’ Disciplinary (England) Regulations 2012, (the “Regulations”).

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the “Procedures”).

The panel determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel understood that its discretion to commence a hearing in the absence of the teacher had to be exercised with the utmost care and caution, and that its discretion was a severely constrained one.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel took into account the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC 1. The panel was satisfied that the teacher was aware of the proceedings as the teacher had responded to the notice of proceedings. The panel also had sight of an email from Mr Leung's representative at page 14 of the bundle which confirmed that neither Mr Leung or his representative would be in attendance at the hearing, and that Mr Leung waived his right to attend the hearing and was content with the hearing proceeding in his absence. The panel considered that Mr Leung had clearly communicated his wish for the proceedings to proceed in his absence and had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

The panel had regard to the requirement that it was only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There was no indication that an adjournment might result in the teacher attending the hearing. The teacher had also indicated that he did not wish to be legally represented at the hearing.

The panel had regard to the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him. The panel had the benefit of written representations made by the teacher and was able to ascertain the lines of defence. The panel had the teacher's evidence addressing mitigation and was able to take this into account at the relevant stage. The panel had not identified any significant gaps in the documentary evidence provided to it and should such gaps have arisen during the course of the hearing, the panel could take such gaps into consideration in considering whether the hearing should be adjourned for such documents to become available and in considering whether the presenting officer had discharged the burden of proof. The panel acknowledged the presenting officer's submission that the TRA did not intend to call any witnesses, and as such noted that Mr Leung was not denied the opportunity to cross-examine any witnesses. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel had regard to the seriousness of this case, and the potential consequences for the teacher and accepted that fairness to the teacher was of prime importance. However, it considered that in light of the teacher's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; that on balance, these were serious allegations and the public interest in this hearing proceeding within a reasonable time was in favour of the hearing continuing.

The panel considered that part of the hearing should be held in private. It decided that the public interest required that the hearing should be public, but decided it would hear certain parts relating to confidential medical information in private.

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 – pages 5 to 18

Section 3: Teaching Regulation Agency documents – pages 20 to 157

Section 4: Teacher documents – pages 159 to 216

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

Witnesses

The panel did not hear any oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Mr Desmond Leung had been employed at the Academy since 1 September 2016 as a science teacher, until he was formally dismissed on 21 June 2018. Concerns were raised in 2017 regarding alleged inappropriate behaviour by Mr Leung through an exchange of emails between himself and Pupil A, and these concerns were reported to LADO. During an informal meeting on 22 June 2017, it was submitted that Mr Leung was advised by the principal of the Academy to “remain professional and not to become involved with social emails to students”. Following investigations into the email correspondence, Mr Leung was moved to a different teaching group which did not contain Pupil A.

On 7 March 2018, Pupil A remained in Mr Leung's classroom following the end of a revision session, which she had joined. There was a further incident between Mr Leung and Pupil A which resulted in Pupil A writing a letter to her mother. This letter was

reported to the Academy on 10 March 2018. Pupil A stated in the letter that Mr Leung had asked her to remain behind after a class and said “weird things”. Mr Leung was suspended on 12 March 2018 and a disciplinary investigation into the incident was undertaken.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proven, for these reasons:

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 Ormiston Horizon Academy (“the Academy”):

1. You failed to maintain appropriate professional boundaries with Pupil A including:

a. during the 2016/2017 academic year by exchanging one or more e-mails;

i. Of a personal nature;

The allegation was admitted by Mr Leung in a statement of agreed facts and therefore found proven.

The panel had sight of emails from Mr Leung to Pupil A from November 2016 to March 2017. The panel acknowledged that some of these emails do concern Pupil A’s welfare, but the panel considered that the emails went beyond appropriate professional boundaries. For example, in his emails of 28 November 2016, Mr Leung stated: “when I grow old I may become a lighthouse keeper, turn the lights on every night. Then listen to the storm from my window. That’s my romance anyway!”; and “I’ll reside in a lighthouse, if you can find me, you are free to come visit me in 40 years’ time”. Mr Leung used a number of emoticons in his emails and sent Pupil A a YouTube link to a rock band.

The panel found that the emails were of a personal nature and Mr Leung had failed to maintain appropriate professional boundaries with Pupil A. Therefore, the panel found this allegation proven.

ii. Which were sent late at night.

The panel had sight of emails sent from Mr Leung to Pupil A late at night, consistently outside of school opening hours. For example, the last email in an email chain from Mr Leung to Pupil A on 28 November 2016 was sent at 20:58:09, and in another email chain, Mr Leung responded to an email on 6 February 2017 from Pupil A at 20:38:48.

The panel found that Mr Leung had failed to maintain appropriate professional boundaries by sending emails to Pupil A late at night.

This allegation was also admitted by Mr Leung in a statement of agreed facts and therefore found proven.

b. On or around 7 March 2018 by stating that;

i. You would like to keep in touch with Pupil A after she left school or words to that effect;

The panel found that Mr Leung was alone with Pupil A for a period of time on the 7 March 2018. The panel notes that there is reference in the disciplinary investigation to CCTV footage which shows Pupil A and Mr Leung alone in a classroom for approximately 16 minutes, and Pupils B and C state that Pupil A remained behind after they left the classroom.

Mr Leung accepted that he was alone in the classroom with Pupil A, although could not recollect the exact period of time.

The panel went on to consider what was discussed between Mr Leung and Pupil A during this meeting on 7 March 2018. The panel notes that Mr Leung denies stating to Pupil A that he would like to keep in touch with Pupil A after she left school. He states that he spoke to Pupil A about exams, exam stress and exam techniques.

The panel had sight of a letter Pupil A had written to her mother at page 106 of the bundle, Snapchat messages from Pupil A to another pupil and notes taken from an interview with Pupil A during the Academy's disciplinary investigation. Pupil A states that the conversation between herself and Mr Leung was not about exam stress, and was more personal in nature.

Although the panel had not had the benefit of testing Pupil A's evidence, the panel felt that Pupil A had been consistent in her accounts of the events of 7 March 2018, across the written letter to her mother, her Snapchat messages to another pupil and throughout the disciplinary investigation. The panel notes that Mr Leung is less consistent in his recollection of events. Throughout the disciplinary investigation process, Mr Leung had been inconsistent with the names and times of pupils and teachers present in the classroom in question.

In a Snapchat message to another pupil, Pupil A stated, "he wants to keep in touch when I leave". The panel considered that "he" in the context of the messages was in reference to Mr Leung. The panel did not consider that there was a reasonable alternative explanation for Pupil A to state this, other than Mr Leung having said words to such an effect. The panel noted that Pupil A was considered by the Academy not to have previously caused a concern with her behaviour, and that Mr Leung stated in his disciplinary investigation interview on 29 March 2018 that he had trusted Pupil A.

The panel has considered all of the evidence before it, and preferred Pupil A's version of the events. In his statement provided during the Academy investigation, Mr Leung refers to the Snapchat messages as being a "moot point", as the conversations were not between Mr Leung himself and Pupil A. However, the panel considered that the Snapchat messages corroborated Pupil A's recollection of events, which had been disclosed by another pupil who had been the recipient of the Snapchat messages. The panel did not consider that Pupil A had an ulterior motive for fabricating the events on 7 March 2018.

Additionally, the panel noted that in the earlier emails referred to in allegation 1, Mr Leung had made reference to keeping in touch with Pupil A in a number of years' time, and that Pupil A and Mr Leung had built up a rapport. The panel felt that this further corroborated that Mr Leung had said he would like to keep in touch with Pupil A.

Therefore, the panel considered that Mr Leung had stated that he would like to keep in touch with Pupil A after she left school, or words to that effect. The panel found this allegation to be proven.

ii. You would like to get to know Pupil A better on a personal level or words to that effect;

For the same reasons as stated above at allegation 1bi, the panel found this allegation proven.

Pupil A consistently stated in her accounts that the discussion with Mr Leung on 7 March 2018 was of a personal nature, with Mr Leung stating that "he would like to get to know her better on a more personal level". Pupil A had "confided in him and had told him personal things" and felt that "they had a good relationship up until then". The panel found Pupil A to be genuine in her account.

In the Snapchat messages and at the disciplinary investigation interview, Pupil A made reference to Mr Leung having a job interview. Pupil A stated Mr Leung had told her of this interview. In contrast to this, Mr Leung strongly denies telling Pupil A about his interview and does not know how Pupil A knew of it. The panel considered that the only reasonable explanation for Pupil A knowing about the interview was that Mr Leung had told her, as his discussions with other teachers about the interview had taken place away from pupils. The panel considered that this was a further example of the personal nature of the relationship between Mr Leung and Pupil A.

The panel felt that this further corroborated the evidence to demonstrate that a rapport had been built with Pupil A which went beyond an appropriate professional relationship.

Therefore, the panel found that Mr Leung had stated to Pupil A that he would like to get to know her better on a personal level or words to that effect.

iii. You felt more for Pupil A than a student or words to that effect;

Again, the panel acknowledged the consistency in Pupil A's recollection of events and the discrepancies in Mr Leung's recollection of events.

In a Snapchat message to another pupil, Pupil A states that Mr Leung had told her that he likes her. In her letter to her mother, Pupil A describes how she had a "bad feeling" and how Mr Leung had told her "he likes me as in like, likes me". The panel found that Pupil A was genuine, and her distress was clear in the letter to her mother. It was also stated during the disciplinary investigation, by the investigating officer, that the CCTV footage showed Pupil A visibly upset when leaving the classroom. Again, the panel considered that there was no reason for Pupil A to fabricate this version of events.

Therefore, the panel found this allegation to be proven.

iv. That you couldn't wait for Pupil A to turn 18 years old or words to that effect.

In a Snapchat message to another pupil, Pupil A stated, "he told me how he can't wait until I'm 18". In contrast, Mr Leung has stated that the discussion on 7 March 2018 related to exams and exam stress.

The panel considered, as stated above, that Pupil A was consistent and genuine in her account of events. Therefore, the panel accepted Pupil A's version of events and found this allegation proven.

2. Your conduct, as may be found proven at 1b, was despite previous advice on or around 22 June 2017 in which you were advised to "remain professional" towards Pupil A and/or any pupil.

The panel had sight of notes from an "informal meeting" on 22 June 2017 between Mr Leung and the principal of the Academy. The notes from this meeting state that the principal "reiterated the requirement to remain professional and not to become involved with social emails to students". The panel considered that Mr Leung had been advised to remain professional towards pupils.

Therefore, having found allegation 1b proven, the panel found allegation 2 to be proven.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found a number of the allegations proven, the panel went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Leung, in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Leung was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- 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 was satisfied that the conduct of Mr Leung amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Leung's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that none of these offences were relevant.

The panel noted that allegation 1a took place outside of the education setting, as some of the emails between Mr Leung and Pupil A were sent late at night and did not relate to Pupil A's education. The panel considered that the conduct affected the way Mr Leung fulfilled his teaching role as the emails were sent from his Academy email account in breach of the Academy's acceptable use policy for ICT as signed by Mr Leung in July 2016.

Accordingly, the panel was satisfied that Mr Leung was guilty of unacceptable professional conduct.

The panel took into account the way 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 also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

Having found the facts of allegation 1 and 2 proven, the panel further found that Mr Leung's conduct amounted 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 was 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 would be an appropriate and proportionate measure, and whether it would be 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 had regard to the particular public interest considerations set out in the Advice and, having done so, 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 and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Leung, which involved failing to maintain appropriate professional boundaries with Pupil A and acting despite previous advice to "remain professional", there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of failing to maintain appropriate professional boundaries with Pupil A.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Leung was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Leung was outside that which could reasonably be tolerated.

However, the panel decided that there was a strong public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator and he was able to make a valuable contribution to the profession. The panel note the positive testimonials contained in the bundle and the reference by the principal of the Academy to Mr Leung "developing into a good teacher".

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 Mr Leung.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of and against prohibition as well as the interests of Mr Leung. 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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards; and
- misconduct seriously affecting the education and well-being of pupils, and particularly where there is a continuing risk.

Even though some of the behaviour found proven in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors.

There was no evidence that the teacher's actions were not deliberate. There was no evidence to suggest that the teacher was acting under duress.

The panel was referred to character statements in the hearing bundle. The panel had sight of three character statements by teachers at the Academy including [REDACTED], as well as a report by [REDACTED] and two employee reference request forms made at the time of Mr Leung's application to the Academy.

In one of the character statements, a former colleague stated that "Mr Leung's passion for his subject was obvious and infectious ... Mr Leung's ability in the classroom was incredibly well known, and his behaviour management was impeccable in assisting the feeding of the enthusiasm of students ... As a master in his field, I truly believe that the education system has lost an incredible talent and a true professional. Mr Leung had the ability to educate many young minds and truly instil a passion for science in every one of them".

Another character statement by a former teaching colleague stated that "the education profession has lost out on a bright and successful mind, who had the potential to enthuse and engage students of all ages and abilities in science". [REDACTED], stated Mr Leung was "proving himself to be a dedicated, enthusiastic and innovative teacher. Mr Leung's lessons were well planned, and Mr Leung made provision for both his classes prior achievements and their known behavioural issues at every occasion".

The panel felt that the character statements demonstrated that Mr Leung was developing into a very good teacher and reiterated that there was a strong public interest in retaining him in the profession.

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 would be sufficient.

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

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Leung. The findings of a serious departure from the personal and professional conduct of the Teachers' Standards and the misconduct seriously affecting the education of Pupil A was a significant factor in forming that opinion. Accordingly, the panel made 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 a review period of the order. 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 the recommendation of a review period. The panel found none of these behaviours to be relevant.

The panel considered that Mr Leung had shown no insight or remorse into his actions, other than admitting that he crossed professional boundaries by exchanging emails with Pupil A which were of a personal nature and late at night. The panel acknowledged that Mr Leung stated that he learnt his lesson as a young professional and reflected on his actions following a meeting with the principal of the Academy regarding the exchanging of such emails in June 2017. However, the panel felt that Mr Leung showed no remorse for his later behaviour and had continued to deny his actions on 7 March 2018. He had not corrected his behaviour accordingly following the advice from the principal.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period of 2 years. The panel acknowledged that Mr Leung was at the beginning of his teaching career and felt that a review period of two years would be sufficient for Mr Leung to reflect on his actions and correct his behaviour.

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 both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts 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 Mr Leung should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Leung is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- 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 finds that the conduct of Mr Leung fell significantly short of the standards expected of the profession.

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 aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether 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 Mr Leung, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed its findings involved, “failing to maintain appropriate professional boundaries with Pupil A and acting despite previous advice to “remain professional”, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of failing to maintain appropriate professional boundaries with Pupil A.”

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, “The panel considered that Mr Leung had shown no insight or remorse into his actions, other than admitting that he crossed professional boundaries by exchanging emails with Pupil A which were of a personal nature and late at night.” In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk 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 observe, “that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Leung was not treated with the utmost seriousness when regulating the conduct of the profession.”

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Leung himself. The panel note the, “positive testimonials contained in the bundle and the reference by the principal of the Academy to Mr Leung “developing into a good teacher”.

A prohibition order would prevent Mr Leung from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has said, “The panel acknowledged that Mr Leung

stated that he learnt his lesson as a young professional and reflected on his actions following a meeting with the principal of the Academy regarding the exchanging of such emails in June 2017. However, the panel felt that Mr Leung showed no remorse for his later behaviour and had continued to deny his actions on 7 March 2018. He had not corrected his behaviour accordingly following the advice from the principal.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Leung has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2 year review period.

I have considered the panel’s comments, “The panel acknowledged that Mr Leung was at the beginning of his teaching career and felt that a review period of two years would be sufficient for Mr Leung to reflect on his actions and correct his behaviour.”

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. I agree with the panel and consider that a two year review period is appropriate.

This means that Mr Desmond Leung 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 1 October 2021, 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 Leung remains prohibited from teaching indefinitely.



Decision maker: Dawn Dandy

Date: 17 September 2019

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