



Teaching
Regulation
Agency

Mr Ian Bensley: Professional conduct panel meeting outcome

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

October 2022

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

Teacher:	Mr Ian Bensley
Teacher ref number:	1236292
Teacher date of birth:	24 September 1981
TRA reference:	18418
Date of determination:	25 October 2022
Former employer:	Spencer Academies Trust, Derby

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 25 October 2022 by way of a virtual meeting, to consider the case of Mr Ian Bensley.

The panel members were Mr Ronan Tyrer (lay panellist – in the chair), Ms Dawn Hawkins (teacher panellist) and Mr Paul Millet (lay panellist).

The legal adviser to the panel was Mr Sam Haldane of Birketts LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Bensley that the allegations be considered without a hearing. Mr Bensley provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Ms Tamy Conn, Mr Bensley or any representative for Mr Bensley.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegations set out in the notice of meeting dated 13 October 2022.

It was alleged that Mr Bensley was guilty of having been convicted of a relevant offence, in that:

1. On 9 January 2020, he was convicted of making an indecent photograph or pseudo photograph of children on or around 20 March 2018 contrary to the Protection of Children Act 1978 s. 1(a);
2. On 9 January 2020, he was convicted of making an indecent photograph or pseudo photograph of children between 28 October 2011 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);
3. On 9 January 2020, he was convicted of making an indecent photograph or pseudo photograph of children between 28 October 2011 and 05 July 2018 contrary to the Protection of Children Act 1978 s. 1(a);
4. On 9 January 2020, he was convicted of committing an Act of Outraging Public Decency by behaving in an indecent manner between 22 August 2015 and 01 July 2018 contrary to Common Law;
5. On 9 January 2020, he was convicted of committing an Act of Outraging Public Decency by behaving in an indecent manner between 22 August 2015 and 01 July 2018 contrary to Common Law;
6. On 9 January 2020, he was convicted of making of an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);
7. On 9 January 2020, he was convicted of making an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);
8. On 9 January 2020, he was convicted of making an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018 contrary to the Protection of Children Act 1978 s. 1(a);
9. On 9 January 2020, he was convicted committing an Act of Outraging Public Decency by behaving in an indecent manner between 03 July 2016 and 05 July 2018 contrary to Common Law;

Mr Bensley admitted the facts of allegations 1 to 9 and that his behaviour amounted to a conviction of a relevant offence falling short of the standards of behaviour expected of a teacher, as set out in his email to the presenting officer dated 3 December 2020 and in the statement of agreed facts signed by Mr Bensley on 20 October 2021.

Preliminary applications

There were no preliminary applications.

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the 'Teacher misconduct: Disciplinary procedures for the teaching profession' updated in April 2018 (the 'April 2018 Procedures') apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Chronology and list of key people – pages 1 to 2
- Section 2: Notice of referral, response and notice of meeting – pages 3 to 13A
- Section 3: Statement of agreed facts and presenting officer representations – pages 14 to 24
- Section 4: Teaching Regulation Agency documents – pages 25 to 57
- Section 5: Teacher documents – pages 58 to 62

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Bensley on 20 October 2021.

Decision and reasons

The panel carefully considered the case and reached the following decision and reasons:

In advance of the meeting, the TRA agreed to a request from Mr Bensley for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mr Bensley commenced employment at Spencer Academies Trust ('the Trust') based at Derby Moor Academy ('the School'), on 1 September 2013.

On 4 July 2018, Mr Bensley was arrested for holding indecent images of children and all his electronic devices were seized. Mr Bensley was suspended pending a police investigation and the School made a referral to the LADO.

On 1 September 2018, Mr Bensley moved from the School to John Port Spencer Academy ('John Port').

An investigatory meeting took place on 15 March 2019, although Mr Bensley did not attend.

John Port held a disciplinary hearing on 2 April 2019. Mr Bensley did not attend but sent his apologies. Mr Bensley was later dismissed for gross misconduct.

On 25 November 2019, Mr Bensley was convicted of 9 offences in the Southern Derbyshire magistrates' Court. Mr Bensley was later sentenced in Derby Crown Court, on 9 January 2020.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

- 1. On 9 January 2020, you were convicted of making an indecent photograph or pseudo photograph of children on or around 20 March 2018 contrary to the Protection of Children Act 1978 s. 1(a);**
- 2. On 9 January 2020, you were convicted of making an indecent photograph or pseudo photograph of children between 28 October 2011 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);**

- 3. On 9 January 2020, you were convicted of making an indecent photograph or pseudo photograph of children between 28 October 2011 and 05 July 2018 contrary to the Protection of Children Act 1978 s. 1(a);**
- 4. On 9 January 2020, you were convicted of committing an Act of Outraging Public Decency by behaving in an indecent manner between 22 August 2015 and 01 July 2018 contrary to Common Law;**
- 5. On 9 January 2020, you were convicted of committing an Act of Outraging Public Decency by behaving in an indecent manner between 22 August 2015 and 01 July 2018 contrary to Common Law;**
- 6. On 9 January 2020, you were convicted of making of an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);**
- 7. On 9 January 2020, you were convicted of making an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018, contrary to the Protection of Children Act 1978 s. 1(a);**
- 8. On 9 January 2020, you were convicted of making an indecent photograph or pseudo photograph of children between 03 July 2016 and 05 July 2018 contrary to the Protection of Children Act 1978 s. 1(a);**
- 9. On 9 January 2020, you were convicted committing an Act of Outraging Public Decency by behaving in an indecent manner between 03 July 2016 and 05 July 2018 contrary to Common Law;**

The panel considered the statement of agreed facts, signed by Mr Bensley on 20 October 2021. In that statement of agreed facts, Mr Bensley admitted the particulars of allegations 1 to 9.

The panel noted page 8 of the Teacher misconduct: The prohibition of teachers ('the Advice') which states that where there has been a conviction at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel had been provided with a copy of the certificate of conviction from Derby Crown Court, which detailed that Mr Bensley had been convicted of six counts of making indecent photographs/pseudo-photographs of a child and three counts of committing an act outraging public decency by behaving in an indecent manner.

In respect of the allegations, Mr Bensley was sentenced at Derby Crown Court on 25 November 2019 to 12 months' imprisonment. Further, Mr Bensley was placed on the sex offenders register for 10 years and was subjected to a sexual harm prevention order for a period of 10 years.

On examination of the documents before the panel, the panel was satisfied that the facts of allegations 1, 2, 3, 4, 5, 6, 7, 8 and 9 were proven.

Findings as to conviction of a relevant offence

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to conviction of a relevant offence.

In doing so, the panel had regard to the Advice.

The panel was satisfied that the conduct of Mr Bensley, in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Bensley 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
 - showing tolerance of and respect for the rights of others
 - having regard for the need to safeguard pupils wellbeing in accordance with statutory provisions
 - ...at all times observing proper boundaries appropriate to a teacher's professional position.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that the Mr Bensley's actions took place outside of the education setting. Nonetheless, the panel believed Mr Bensley's actions were relevant to teaching, working with children and/or working in an education setting.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Bensley's behaviour in committing these offences could affect

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

The panel noted that Mr Bensley's behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed. It was noted that some of images were of victims of school age.

This was a case of an offence involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one-off incidents and voyeurism (including upskirting) which the Advice states is more likely to be considered a relevant offence. The panel also considered the period of time over which the offending took place and felt that these offences were predatory in nature.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Bensley's ongoing suitability to teach. The panel found that the convictions were relevant offences and the allegation proven.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of a conviction of a relevant offence, 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 safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Bensley, which involved a conviction for 6 counts of making an indecent photograph/pseudo-photograph of a child and 3 counts of committing an act outraging public decency by behaving in an indecent manner, there was a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children.

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

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

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

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 Bensley. 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 proved. 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.
- 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 pupils);
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- violating of the rights of pupils;
- deliberate behaviour that undermines pupils, the profession, the school or colleagues;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Mr Bensley's actions were not deliberate.

There was no evidence to suggest that Mr Bensley was acting under extreme duress, and, in fact, the panel found Mr Bensley's actions to be calculated and motivated.

No evidence was submitted to attest to Mr Bensley's history or ability as a teacher. Nor was any evidence submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Bensley contributed significantly to the education sector.

No mitigation evidence was submitted on behalf of Mr Bensley, nor was any evidence submitted which demonstrated that Mr Bensley had remorse or insight for his actions. The panel did note that Mr Bensley had pleaded guilty and made admissions to the offences preventing potentially vulnerable victims having to give evidence at Court.

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, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Bensley 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 Bensley. The seriousness of the offences and the lack of insight and remorse 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 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 proved, would militate against the recommendation of a review period. Two of these behaviours are, firstly, acts which were sexually motivated and, secondly, any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Bensley was responsible for a conviction of 6 counts of making an indecent photograph/pseudo photographs of a

child and 3 counts of committing an act outraging public decency by behaving in an indecent manner.

The panel decided that 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 provisions 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 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 a relevant conviction.

The panel has made a recommendation to the Secretary of State that Mr Ian Bensley should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Ian Bensley 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
 - showing tolerance of and respect for the rights of others
 - having regard for the need to safeguard pupils wellbeing in accordance with statutory provisions
 - ...at all times observing proper boundaries appropriate to a teacher's professional position.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- 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 Bensley fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a conviction of making an indecent photograph/pseudo photographs of a child.

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 Bensley, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Bensley, which involved a conviction for 6 counts of making an indecent photograph/pseudo-photograph of a child and 3 counts of committing an act outraging public decency by behaving in an indecent manner, there was a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children." 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, "No mitigation evidence was submitted on behalf of Mr Bensley, nor was any evidence submitted which demonstrated that Mr Bensley had remorse or insight for his actions. The panel did note that Mr Bensley had pleaded guilty and made admissions to the offences preventing potentially vulnerable victims having to give evidence at Court." 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, "Mr Bensley's behaviour in committing these offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community."

I am particularly mindful of the serious findings involving children in this case and the impact that such findings have on the reputation 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 a relevant conviction, 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 Bensley and the panel comment “No evidence was submitted to attest to Mr Bensley’s history or ability as a teacher. Nor was any evidence submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Bensley contributed significantly to the education sector.”

A prohibition order would prevent Mr Bensley 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 following comments from the panel, “This was a case of an offence involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one-off incidents and voyeurism (including upskirting) which the Advice states is more likely to be considered a relevant offence. The panel also considered the period of time over which the offending took place and felt that these offences were predatory in nature.”

I have also placed considerable weight on the finding “The panel decided that the public interest considerations outweighed the interests of Mr Bensley. The seriousness of the offences and the lack of insight and remorse was a significant factor in forming that opinion.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Bensley 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.

Mr Bensley’s behaviour led to a sentence of imprisonment and some of the images were of victims of school age. The published Advice makes it clear where cases involve making indecent photographs of children.

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 that no provision should be made for a review period.

I have considered the panel's comments "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. Two of these behaviours are, firstly, acts which were sexually motivated and, secondly, any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Bensley was responsible for a conviction of 6 counts of making an indecent photograph/pseudo photographs of a child and 3 counts of committing an act outraging public decency by behaving in an indecent manner."

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings, the lack of either insight or remorse.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Ian Bensley 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 him, I have decided that Mr Bensley 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 Ian Bensley has a right of appeal to the King'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 read 'S Buxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 27 October 2022

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