



Teaching
Regulation
Agency

Mr Ashley Bakewell: Professional conduct panel meeting outcome

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

April 2018

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

Teacher:	Mr Ashley Bakewell
Teacher ref number:	0671194
Teacher date of birth:	18 November 1984
TRA case reference:	16019
Date of determination:	13 April 2018
Former employer:	South Wiltshire Grammar School for Girls, Salisbury

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“TRA”) convened on 13 April 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Ashley Bakewell.

The panel members were Mrs Mahfia Watkinson (lay panellist – in the chair), Mr John Matharu (lay panellist) and Mr Peter Cooper (teacher panellist).

The legal adviser to the panel was Mr Nick Leale of Blake Morgan solicitors.

In advance of the meeting, TRA agreed to a request from Mr Ashley Bakewell that the allegations be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Bakewell provided a signed Statement of Agreed Facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Bakewell or his representative.

The meeting took place in private.

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 28 March 2018.

It was alleged that Mr Bakewell was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that he, during the course of his employment as a teacher of Computing at South Wiltshire Grammar School for Girls ('the School'):

1. On one or more occasions, including on 16 December 2016, took inappropriate photos of one or more pupils without their knowledge;
2. Stored photos of pupils from the School on one or more personal devices;
3. His conduct at (1) above was sexually motivated and/or was of a sexual nature.

Mr Bakewell had admitted the allegations in full in advance of the meeting by way of a signed Statement of Agreed Facts dated 25 January 2018 (also signed by the Presenting Officer on 5 February 2018). In this Statement of Agreed Facts Mr Bakewell also admitted that they amounted to unacceptable professional conduct and 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 hearing, the panel received a bundle of documents which included:

Section 1: Chronology – pages 1 to 2.

Section 2: Notice of Referral and response – pages 3 to 7.

Section 3: Statement of Agreed Facts and Presenting Officer Representations– pages 8 to 14b.

Section 4: TRA documents – pages 15 to 59.

Section 5: Teacher documents – pages 60 to 62.

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

Statement of Agreed Facts

The panel considered a Statement of Agreed Facts which was signed by Mr Bakewell on 25 January 2018.

D. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

In advance of the meeting, The National College for Teaching and Leadership (now Teaching Regulation Agency) agreed to a request from Mr Bakewell that the allegations be considered without a hearing. The panel has 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 is necessary or appropriate in this case.

This case relates to a teacher who on one or more occasions took inappropriate photos of pupils at the school at which he worked without their knowledge and through sexual motivation. He had been employed as a Teacher of Computing at South Wiltshire Grammar School for Girls ("the School") since January 2012, until his resignation in February 2017.

Findings of fact

Our findings of fact are as follows:

The panel has found all three of the factual particulars below proved:

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that during the course of your employment as a Teacher of Computing at South Wiltshire Grammar School for Girls, you:

- 1. On one or more occasions including on 16th December 2016, you took inappropriate photos of one or more pupils without their knowledge;**
- 2. You stored photos of pupils from SWGS on one or more personal devices;**
- 3. Your conduct at (1) above was sexually motivated and/or was of a sexual nature.**

Mr Bakewell admitted all of the particulars of allegation. These admissions are unequivocal in that he fully accepts that he took inappropriate photos of pupils without their knowledge and admits that this was over the period of around a year. He further accepts that he stored the photos on his personal devices and that he took them out of sexual motivation, stating in the Statement of Agreed Facts that he was particularly attracted to the relevant pupils' long hair. He fully accepts that taking and storing such images was inappropriate.

The evidence that the panel has read is entirely consistent with the admissions made - from the accuracy of dates, the lack of knowledge of his actions on the part of the pupils involved and nature of the images that Mr Bakewell stored on his devices. The panel have read unequivocal evidence (in the Disciplinary Evidence Report) that numerous such images were viewed on Mr Bakewell's phone by those investigating this matter at the School. Mr Bakewell provided consent for the images to be viewed on his personal device. They were dated 16 December 2016, which was the date that pupils at the School reported Mr Bakewell's inappropriate conduct. The images were taken from behind and of female pupils. In some of the images evidence indicates that they were pupils in various academic years. The 16 December was a non-uniform day at the School.

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

Having found all 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 Mr Bakewell in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Bakewell 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;
 - 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 is satisfied that the conduct of Mr Bakewell amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession. He breached the trust and confidence placed in him through his position as a teacher by, without their knowledge, taking images of children, repeatedly, over a long period of time. The images were stored on his personal devices. Mr Bakewell had received all relevant safeguarding training and confirmed that he had brought himself up to date on safeguarding expectations by reference to the School's current Safeguarding Handbook.

On any level, Mr Bakewell's conduct extensively failed to uphold the public trust in the teaching profession and amounted to behaviour that failed to observe proper boundaries appropriate to a teacher's professional position of trust.

Accordingly, the panel is satisfied that Mr Bakewell is guilty of unacceptable professional conduct.

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

The panel therefore, for similar reasons as stated above, finds that Mr Bakewell's actions constitute conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2. and 3. proved, the panel further found that Mr Bakewell's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel 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 all of them to be relevant in this case, namely: the protection of pupils; the protection of other members of the public; the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct in the teaching profession.

In light of the panel's findings against Mr Bakewell, which involved sexual misconduct, there is a strong public interest consideration in this case.

There is a strong public interest consideration in respect of the protection of pupils given the serious findings of Mr Bakewell having, without their knowledge, taken and stored photos of numerous pupils, from behind, on a non-uniform day. Further the panel note Mr Bakewell's admission that he took and stored photos over a period of around a year.

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

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

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 Bakewell.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Bakewell. 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;
- abuse of position or trust or violation of the rights of pupils (for example, their privacy);
- sexual misconduct, e.g. actions that were sexually motivated, of a sexual nature and exploit the trust derived from the individual's professional position;

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate

measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel finds that Mr Bakewell's actions were deliberate and that he was not acting under duress. The panel is however also aware that, to his credit, Mr Bakewell has a previously good record and was co-operative with the School and police investigations from the start, consistently accepting his wrongdoing as matters progressed and resigning his position in the course of the disciplinary investigation and before a disciplinary hearing was to take place.

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.

Page 10 of the 'prohibition guide' states that a teacher's behaviour will be considered to be incompatible with being a teacher if there is evidence of sexual misconduct (i.e. actions that were sexually motivated or exploited the trust derived from the individual's professional position) in the facts found proved. This case has sexual misconduct at its core and therefore the panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the mitigation present. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person. The panel has found that Mr Bakewell has been responsible for misconduct of a sexual nature. The panel was not however satisfied that the sexual misconduct was of such a serious nature that inclusion of a review period would not be appropriate. No harm was caused or potentially caused to the individuals whose images were taken. The photos although inappropriate were not

indecent. This was not a sexual misconduct case that involved any direct relevant or physical contact or communication between teacher and pupil. Mr Bakewell's remorse is clear and he has demonstrated insight into his behaviour. He is attending counselling sessions in order to assist in him taking preventative steps to ensure that this behaviour is not repeated.

The panel felt the circumstances as a whole 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 provision for a review period of 5 years.

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 also 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 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 Bakewell should be the subject of a prohibition order, with a review period of five years.

In particular the panel has found that Mr Bakewell 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;
 - 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 findings of misconduct are particularly serious as they include a finding of sexual misconduct.

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 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 Mr Bakewell, and the impact that will have on him, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed that Mr Bakewell, “breached the trust and confidence placed in him through his position as a teacher by, without their knowledge, taking images of children, repeatedly, over a long period of time.” 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, “Mr Bakewell’s remorse is clear and he has demonstrated insight into his behaviour.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has 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 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 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 Bakewell himself. I have taken account of the panel’s comments that, “to his credit, Mr Bakewell has a previously

good record and was co-operative with the School and police investigations from the start, consistently accepting his wrongdoing as matters progressed and resigning his position in the course of the disciplinary investigation and before a disciplinary hearing was to take place.”

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

I have also placed considerable weight on the finding of the panel that this case, “has sexual misconduct at its core.”

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

For 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 a 5 year review period.

I have considered the panel’s comments “The panel has found that Mr Bakewell has been responsible for misconduct of a sexual nature. The panel was not however satisfied that the sexual misconduct was of such a serious nature that inclusion of a review period would not be appropriate. No harm was caused or potentially caused to the individuals whose images were taken. The photos although inappropriate were not indecent. This was not a sexual misconduct case that involved any direct relevant or physical contact or communication between teacher and pupil.”

The panel has also said that a 5 year review period would be appropriate and proportionate.

I have considered whether a 5 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. In this case, there are factors that in my view mean that a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession, but that a no review period would be excessive. These elements are the sexual misconduct found, the repeated nature of the offences and the insight shown so far.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession and to give Mr Bakewell opportunity to address his behaviour to ensure that it is not repeated.

This means that Mr Ashley Bakewell 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 27 April 2023, 5 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 Ashley Bakewell remains prohibited from teaching indefinitely.

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

Mr Ashley Bakewell has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in blue ink, appearing to read 'Alan Meyrick', is written over a faint, illegible stamp.

Decision maker: Alan Meyrick

Date: 20 April 2018

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