



Teaching
Regulation
Agency

Mr Gary Ryan: Professional conduct panel outcome

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

June 2018

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Professional conduct panel decision

Teacher: Mr Gary Ryan
Teacher ref number: 0107913
Teacher date of birth: 11 September 1981
TRA reference: 015187
Date of determination: 1 June 2018
Former employer: The Ebbsfleet Academy, Kent

A. Introduction

A professional conduct panel (“the Panel”) of the Teaching Regulation Agency (“the Agency”) convened on 31 May 2018 to 1 June 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Gary Ryan.

The panel members were Miss Polly O’Malley, (lay panellist – in the chair), Ms Fiona Tankard, (teacher panellist) and Dr Robert Cawley (teacher panellist).

The legal adviser to the panel was Ms Surekha Gollapudi of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the Agency was Mr Andrew Cullen of Browne Jacobson LLP solicitors.

Mr Ryan was present and was represented by Mr Philip Dayle of Counsel.

The hearing took place in public and was recorded save for information relating to private medical data which was heard in private.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 23 January 2018.

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

1. He visited one or more inappropriate websites/chat rooms, including the website/chatroom 'Motherless Chat';
2. He engaged in one or more inappropriate conversations with one or more individuals on 'Motherless Chat' and/or on other websites, including conversations where:
 - i. he told an individual that he had sex with one or more of his pupils, including a pupil who was 14 years of age;
 - ii. this individual told him that she had sexually abused her own children.
3. He admitted during Police interview in relation to these matters that he may have accessed and/or viewed images which included children aged 14 – 16 in poses on one or more occasions.
4. His conduct, as may be found proven at allegations 1 and/or 2 and/or 3, was sexually motivated.

Mr Ryan admitted allegations 2 and 3. Mr Ryan did not admit allegations 1 and 4.

Mr Ryan admitted that the facts of allegations 2 and 3 amount to 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 hearing, the panel received a bundle of documents which included:

Section 1: Notice of Proceedings and Response – pages 1 to 8

Section 2: Teaching Regulation Agency documents – pages 9 to 117

Section 3: Teacher documents – pages 118 to 127

In addition, the panel agreed to accept the following:

Additional Teacher documents – pages 128 to 131

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

Witnesses

The presenting officer did not call any witnesses. Mr Ryan gave oral evidence on his own behalf.

E. Decision and reasons

The panel announced its decision and reasons as follows:

Mr Ryan was employed at The Ebbsfleet Academy from 1 September 2015 as a teacher of PE and Head of House. Between 1 April 2016 and 11 April 2016 it was alleged that Mr Ryan visited an inappropriate website, had inappropriate conversations with an individual on that site and that he may have viewed images of 14 to 16 year old girls. It was further alleged that his actions were sexually motivated.

Findings of fact

Our findings of fact are as follows:

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

- 2. You engaged in one or more inappropriate conversations with one or more individuals on ‘Motherless Chat’ and/or on other websites, including conversations where:**
 - i. you told an individual that you had sex with one or more of your pupils, including a pupil who was 14 years of age**
 - ii. this individual told you that she had sexually abused her own children**

Mr Ryan admitted this allegation within his written statement and in oral evidence.

The panel noted that Mr Ryan made these admissions during his interview with the police at the outset of their investigation.

[redacted]. The panel found allegation 2 proven.

- 3. You admitted during Police interview in relation to these matters that you may have accessed and/or viewed images which included children aged 14 – 16 in poses on one or more occasions**

Mr Ryan gave oral evidence that on two occasions whilst in a chat room he clicked on links to images (without knowing the content of the images in advance) which may have been of girls aged between 14 to 16 years old. Mr Ryan went on to say that he clicked on the two links within a short space of time and closed the images immediately as he felt uncomfortable with them.

Mr Ryan did confirm this course of events to the police during his police interview.

The panel noted a letter from Kent police in the bundle which stated, "Mr Ryan's computer and mobile phone were seized and examined but no indecent images of children were discovered."

The panel found allegation 3 proven.

4. Your conduct, as may be found proven at allegations 1 and/or 2 and/or 3, was sexually motivated

The panel considered whether, on the balance of probabilities, reasonable persons would think the words and actions found proven at allegations 2 and 3 could be sexual. The panel then considered whether, in all the circumstances of the conduct in the case, it was more likely than not that the teacher's purpose of such words and actions was sexual.

The panel considered whether, even in the absence of any direct evidence, sexual motivation should be inferred from all the circumstances of the case. The panel had in mind the evidence of the teacher's character and considered whether such evidence had any bearing on the teacher's credibility or propensity to have carried out the alleged facts or to the circumstances in which the teacher found himself.

The panel considered the statements made by Mr Ryan during a conversation in a private chat room in which he indicated that he was a teacher and had in the past had sex with seven of his pupils. Mr Ryan gave evidence that he described that these sexual encounters took place in a number of locations including his home, his car and the school. The panel accepted Mr Ryan's evidence that his statements to the individual online were untrue, and that he made these statements with the purpose of pursuing a sexual encounter with the individual with whom he was chatting. The panel noted that Mr Ryan's comments were made in response to the individual's own comments about the sexual abuse of her own children.

The panel accepted that Mr Ryan's primary sexual motivation was in relation to the person to whom he was speaking online, and whom he believed to be an adult woman. The panel accepted Mr Ryan's statement that he had no sexual motivation towards children. However, using pupils in response to her comments and as part of an ongoing conversation was inherently sexual, and was therefore sexually motivated.

The panel found sexual motivation proven in relation to allegation 2.

The panel went on to consider whether Mr Ryan's actions in viewing images of children who may have been 14 to 16 years old was sexual and found that because Mr Ryan was unaware of the content of the links before he opened them, his actions in viewing the specific images were not sexually motivated.

The panel found sexual motivation not proven in relation to allegation 3.

The panel has found the following particulars of the allegations against you not proven, for these reasons:

1. You visited one or more inappropriate websites/chat rooms, including the website/chatroom 'Motherless Chat'

The panel heard oral evidence from Mr Ryan that he accessed the "Motherless" website and chat rooms within this website. Mr Ryan further stated that he did not believe this website was inappropriate as it was advertised as being age restricted to those over 18 years old and it was not an illegal website.

Mr Ryan confirmed that whilst on the website, he was "unsure about some of the things [he] saw on the website and would close anything that [he] was unhappy about."

The panel was not provided with any evidence that the website promoted inappropriate content or behaviour and noted from Mr Ryan's oral evidence that there were rules which governed the content shared between users. The panel accepted that Mr Ryan, and others, did not consistently abide by these rules.

The panel carefully considered whether the website itself was inappropriate and was not satisfied that the existence of some inappropriate content on a website made the website inherently inappropriate.

The panel found allegation 1 not 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 had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice".

The panel was satisfied that the conduct of Mr Ryan in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Ryan 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 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 Ryan fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Ryan's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and found that the offences of sexual activity and 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 any such activity, including one off incidents, are 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.

The panel found that whilst Mr Ryan viewed images which he thought may have been of children aged between 14 and 16 years old, he did not intend to view these images. The panel accepted Mr Ryan's evidence that he clicked on the links to these images without knowing the content in advance and closed the images straight away. The panel further noted that the police did not find any illegal images on his electronic devices.

The panel noted that the allegations took place outside of the education setting but included Mr Ryan's statements to an individual online that he had engaged in sexual activity with pupils.

The panel took into account the way in which 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 took 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.

Having found the facts of particulars 2, 3 and 4 proved, the panel further found that Mr Ryan'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/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 considered 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 reviewed 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 and declaring and upholding proper standards of conduct.

The panel's findings against Mr Ryan involved his online conversations with an individual in which the individual stated she sexually abused her children and Mr Ryan's response that he had previously had sexual intercourse with pupils. Whilst the panel accepted that Mr Ryan's statements were not true, Mr Ryan should have immediately reported the possible sexual abuse of children to the authorities rather than engaging in further conversation.

Additionally, whilst the panel found that Mr Ryan did not intentionally view images of 14 to 16 year old girls in poses, he missed an opportunity to report the images to the authorities.

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

The panel found that there was a strong public interest consideration in declaring proper standards of conduct in the profession. The conduct found against Mr Ryan was outside that which could reasonably be tolerated.

The panel also noted that there was a public interest consideration in retaining the teacher in the profession, since no doubt was cast upon his abilities as an educator and he could continue to make a valuable contribution to the profession.

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 Ryan.

In carrying out the balancing exercise the panel looked at the public interest considerations both in favour of and against prohibition as well as the interests of Mr Ryan. 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 may be:

- serious departure from the personal and professional conduct elements of the Teachers' Standards
- sexual misconduct, e.g. involving actions that were sexually motivated
- 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

Even though there were behaviours that would point to the appropriateness of a prohibition order, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order, particularly taking into account the nature and severity of the behaviour in this case.

The teacher's actions were deliberate and he was not acting under duress. The panel did accept that Mr Ryan was experiencing considerable difficulties in his personal life at the time of the online activity. [redacted]

The teacher did have a previously good history and the panel accepts that the incident was out of character.

The panel had regard to references provided by a previous employer in which Mr Ryan's former headteacher recommended him for a new post stating, "Recommended – will do the job as advertised – a genuine asset" and, "I support the applicant without reservation."

The panel also placed weight on the evidence of Mr Ryan's partner who stated in written evidence that, "I am confident that this incident online was totally out of character and would not have happened [redacted]."

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 recommending no prohibition order was not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient would unacceptably

compromise the public interest considerations present in this case, despite the severity of 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 outweigh the interests of Mr Ryan. A significant factor in forming that opinion was Mr Ryan's lack of understanding at the time of the online conversation of the extremely serious nature of its content. 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 the recommendation of a review period. The panel did not find that these behaviours were relevant.

The panel went on to consider Mr Ryan's evidence that he was deeply ashamed of his actions and it accepted that he showed significant insight into the personal circumstances which were present in his life at the time of the online activity. In particular, the panel had regard to the documentary evidence that Mr Ryan was open and honest with the police from the outset and during their investigation. The panel also noted that Mr Ryan consistently accepted responsibility for his extremely poor judgement whilst suffering from [redacted].

The panel felt 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 provision for a review period of 2 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 a number of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Where the panel has not found facts proven I have put these matters from my mind. The panel has made a recommendation to the Secretary of

State that Mr Ryan should be the subject of a prohibition order, with a review period of two years.

In particular the panel has found that Mr Ryan 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 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 Ryan fell significantly short of the standards expected of the profession.

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 Ryan, 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 no actual harm to children but its finding against Mr Ryan involved, "online conversations with an individual in which the individual stated she sexually abused her children and Mr Ryan's response that he had previously had sexual intercourse with pupils. Whilst the panel accepted that Mr Ryan's statements were not true, Mr Ryan should have immediately reported the possible sexual abuse of children to the authorities rather than engaging in further conversation.

Additionally, whilst the panel found that Mr Ryan did not intentionally view images of 14 to 16 year old girls in poses, he missed an opportunity to report the images to the authorities.”

A prohibition order would therefore prevent such a risk from being present.

I have also taken into account the panel’s comments on insight and remorse which the panel say Mr Ryan had, “showed significant insight”.

The panel has also accepted that Mr Ryan was, “experiencing considerable difficulties in his personal life at the time of the online activity. [redacted]

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 Ryan were not treated with the utmost seriousness when regulating the conduct of the profession.”

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 Ryan himself. The panel comment it, “had regard to references provided by a previous employer in which Mr Ryan’s former headteacher recommended him for a new post stating, “Recommended – will do the job as advertised – a genuine asset” and, “I support the applicant without reservation.”

A prohibition order would prevent Mr Ryan from continuing in the teaching profession. 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 given less weight in my consideration of sanction, to the contribution that Mr Ryan 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

serious misconduct found in this case, 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 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 2 year review period.

I have considered the panel's comments, "The panel went on to consider Mr Ryan's evidence that he was deeply ashamed of his actions and it accepted that he showed significant insight into the personal circumstances which were present in his life at the time of the online activity. In particular, the panel had regard to the documentary evidence that Mr Ryan was open and honest with the police from the outset and during their investigation. The panel also noted that Mr Ryan consistently accepted responsibility for his extremely poor judgement whilst suffering from [redacted]."

The panel has also said that a 2 year review period would "proportionate in all the circumstances".

I have considered the Advice and the panel's view that it found none of the behaviours that would militate against the recommendation of a review period.

I have considered the review period and agree with the panel that 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.

This means that Mr Gary Ryan 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 19 June 2020, 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 Ryan remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'Dawn Dandy', with a stylized, cursive script.

Decision maker: Dawn Dandy

Date: 12 June 2018

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