



Teaching
Regulation
Agency

Mr Andrew Colville: Professional conduct panel meeting outcome

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

May 2019

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

Teacher:	Mr Andrew Colville
Teacher ref number:	9655583
Teacher date of birth:	23 December 1969
TRA reference:	12604
Date of determination:	16 May 2019
Former employer:	Royal Masonic School, Hertfordshire

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 16 May 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Mr Andrew Colville.

The panel members were Mr Paul Hawkins (teacher panellist – in the chair), Mrs Kathy Thomson (former teacher panellist) and Mr Maurice McBride (lay panellist).

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

The panel had previously considered this case at an earlier meeting in December 2018, which was adjourned. At a subsequent case management hearing the panel heard representations from both the presenting officer and the teacher at which this meeting was listed.

In advance of this meeting, the TRA agreed to a request from Mr Colville that the allegation be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Colville provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel therefore went on to consider the case at a meeting without the attendance of the presenting officer or Mr Colville.

The meeting took place in private, save for the announcement of the panel's decision, which was announced in public and recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Meeting dated 9 May 2019.

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

1. He has received a conviction of a relevant criminal offence in that he was convicted on or around 30 June 2016 in Harrow Crown Court of the following offence:
 - a. Committing sexual activity with a child between 25 May 2005 and 31 July 2005, contrary to section 9 of the Sexual Offences Act 2003. He was subsequently sentenced to 6 months imprisonment which was wholly suspended for 18 months. He was also made subject to a Sex Offenders Notice for a period of 7 years.

The teacher admitted the fact of the allegation and that this amounted to a conviction of a relevant offence.

C. Summary of evidence

Documents

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

Section 1: Chronology– page 2

Section 2: Notice of Referral, Response and Notice of Meeting – pages 3 to 23

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 24 to 29

Section 4: Teaching Regulation Agency documents – pages 30 to 67

Section 5: Teacher documents – pages 68 to 89

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Colville on 5 July 2018.

D. Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the TRA agreed to a request from Mr Colville that the allegation 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.

Mr Colville was employed as a teacher by the Royal Masonic School from September 1999 to July 2005. It is alleged that whilst employed by the school, he engaged in sexual activity with a child and was subsequently convicted of such an offence.

Findings of fact

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

- 1. You have received a conviction of a relevant criminal offence in that you were convicted on or around 30 June 2016 in Harrow Crown Court:**
 - a. Committing sexual activity with a child between 25 May 2005 and 31 July 2005, contrary to section 9 of the Sexual Offences Act 2003. You were subsequently sentenced to 6 months imprisonment which was wholly suspended for 18 months. You were also made subject to a Sex Offenders Notice for a period of 7 years.**

The panel was provided with the certified memorandum of conviction confirming that Mr Colville was convicted on 30 June 2016 of the offence of sexual activity with a female child under 16 between 25 May 2005 and 31 July 2005.

The panel found this allegation proven.

Findings as to conviction of a relevant offence

The panel is satisfied that the conduct of Mr Colville in relation to the facts it has found proved, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Colville 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 has taken account of how the teaching profession is viewed by others. The panel considered that Mr Colville's behaviour in committing the offence could affect the public confidence in the profession.

The panel has noted that Mr Colville's behaviour has ultimately led him to receiving a sentence of imprisonment, albeit that it is suspended, which is indicative of the seriousness of the offence committed. The panel went on to consider the remarks of the sentencing Judge that, "*the least sentence that I can impose upon you is one of six months' imprisonment*" and this was ultimately the sentence which was imposed.

This is a case involving an offence involving sexual activity, which the Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice", states is likely to be considered a relevant offence.

The panel has taken into account the written evidence that has been adduced attesting to the teacher's exemplary record as a teacher. The panel has also taken into consideration Mr Colville's account of the emotional difficulties that he describes he was suffering from at the time of committing the offence.

Although the panel finds the evidence of Mr Colville's teaching proficiency to be of note, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to the teacher's ongoing suitability to teach. The panel considers that a finding that this conviction is a relevant offence is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of a conviction of a relevant offence, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely the protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Colville, which involved his conviction for engaging in sexual activity with a child through a single kiss on one occasion, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Colville 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 Colville 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 Colville.

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 Colville. 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:

- sexual misconduct
- 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.

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 accepts the teacher's evidence that his actions were not deliberate. The panel accepts that the teacher was acting under emotional duress at the moment that he kissed a pupil at the school.

The teacher did have a previously good history and the panel accepts that the incident was out of character. In this regard, the panel noted Mr Colville's prompt guilty plea and that he has consistently accepted responsibility for his actions, stating, "*I accept*

everything that was found against me by the Courts.” Mr Colville also stated, “In a case like this the adult simply must bear legal and moral responsibility.”

The panel has been provided with a significant amount of mitigation evidence by the teacher. In particular, the panel noted that in passing sentence for this conviction, the Judge stated that, *“As far as mitigation is concerned in your favour, you are not just of otherwise good character but I accept that you are a positive good character having read the fulsome references provided to me...I take into account that there has been nothing of this nature since this offence.”* The Judge also acknowledged Mr Colville’s, *“deep remorse.”*

[Redacted]

[Redacted]

The panel was also provided with six character references from a diverse range of individuals, including a County Councillor (and retired school master) who stated that, *“in nearly 40 years professional work in a secondary school, having taught many thousands, Andrew stands out. He was always just very balanced, like, principled, good natured, able in every way and aware of others.”*

A further character reference was provided by a friend of Mr Colville, who stated, *“Whilst the incident of kissing an underage female student represents terrible breach of trust, this is out of character for the Andrew I know and I fully support and admire him... He has shown huge remorse and regret.”*

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 a proportionate and appropriate response. Given that the nature and severity of the behaviour is at the less serious end of the possible spectrum and in light of the mitigating factors that were present in this case, the panel has determined that a recommendation for a prohibition order will not be appropriate in this case. The panel particularly noted that the offence occurred in 2005, and following an extensive police investigation, it was concluded that there had been no other incident either prior to, or subsequent to, the matters relating to Mr Colville’s conviction. The panel considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and meets the public interest requirement of declaring proper standards of the profession.

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.

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 the single allegation proven and found that the facts amount to a finding of a relevant conviction.

The panel has recommended that the findings of a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Colville 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 indicates that it has also, "taken account of how the teaching profession is viewed by others." The panel say that it, "considered that Mr Colville's behaviour in committing the offence could affect the public confidence in the profession."

The finding of a relevant conviction is particularly serious as on this occasion the conviction is for sexual activity with 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 a relevant conviction, 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 Colville, 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, "This is a case involving an offence involving sexual activity, which the Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice", states is likely to be considered a relevant offence." Mr Colville's conviction related to a pupil at his school. A prohibition order would therefore prevent such a risk from being present in the future for other pupils at schools at which he may teach. I recognise that the likelihood of this risk occurring is dealt with elsewhere, but it is nonetheless true that a prohibition order would prevent this risk from occurring whilst it is in operation.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, " In this regard, the panel noted Mr Colville's prompt guilty plea and that he has consistently accepted responsibility for his actions, stating, *"I accept everything that was found against me by the Courts."* Mr Colville also stated, *"In a case like this the adult simply must bear legal and moral responsibility."*

[Redacted]

I have also taken into account the panel's comment that, "The panel accepts the teacher's evidence that his actions were not deliberate. The panel accepts that the teacher was acting under emotional duress at the moment that he kissed a pupil at the school."

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that it has, "taken account of how the teaching profession is viewed by others. The panel considered that Mr Colville's behaviour in committing the offence could affect the public confidence in the profession."

The panel has noted that, "Mr Colville's behaviour has ultimately led to him receiving a sentence of imprisonment, albeit that it is suspended, which is indicative of the seriousness of the offence committed. The panel went on to consider the remarks of the sentencing Judge that, *"the least sentence that I can impose upon you is one of six months' imprisonment"* and this was ultimately the sentence which was imposed."

I am particularly mindful of the conviction for sexual activity with a child 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 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 relevant conviction, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the relevant conviction that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Colville himself. The panel comment that it, “was also provided with six character references from a diverse range of individuals, including a County Councillor (and retired school master) who stated that, *“in nearly 40 years professional work in a secondary school, having taught many thousands, Andrew stands out. He was always just very balanced, like, principled, good natured, able in every way and aware of others.”*

The panel also reference, “A further character reference was provided by a friend of Mr Colville, who stated, *“Whilst the incident of kissing an underage female student represents terrible breach of trust, this is out of character for the Andrew I know and I fully support and admire him... He has shown huge remorse and regret.”*

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

In this case my view differs from that taken by the panel. I do not believe that the panel has given sufficient weight to the Advice that is published by the Secretary of State concerning a conviction for sexual activity with a child, who was also a pupil. I also do not consider that the panel has given sufficient weight to, or the correct interpretation of, the views of an ordinary, intelligent person in this respect. I fully accept that Mr Colville represents a very low risk of committing any further criminal offences. That is evident by the advice [Redacted] and from the references that were produced by Mr Colville. However, my role is not solely to consider future harm or risk of harm. [Redacted]

Rather, a very important and critical element of my role is to consider the impact on the reputation of the whole profession, of the actions of one member of that profession. In this case, I have taken a different view on this from the one taken by the panel. In my opinion, although the behaviour that led to the conviction for sexual activity with a child, who was also a pupil, took place in 2005, and the conviction itself was not until 2016, the ordinary and intelligent member of the public will, in my opinion, rightly expect that the harm done to the reputation of the profession now, is fully taken into account and acted on in an appropriate way.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Colville 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. The risk of harm to pupils in the present instance is not the sole issue here. I am particularly concerned in relation to the damage to the reputation of the profession by allowing a person who has been found guilty of sexual activity with a child, and who has received a suspended prison sentence of 6 months for that conviction, to be allowed to teach.

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, of course, made no recommendations in this matter.

I accept the finding of the panel that Mr Colville has shown, “ *huge remorse and regret.*”

I also recognise that the activity and behaviour that led to this conviction took place in 2005 and the conviction was received in 2016. Mr Colville has therefore, in some respects, had considerable opportunity to reflect on his behaviour over this time.

The legislation allows me to either impose a prohibition order with no provision for a review, or to impose a prohibition order with a review period, the minimum of which is 2 years.

The Secretary of State’s published Advice is clear that even where there is mitigation, including where the teacher’s actions were not deliberate, the teacher was acting under duress and the teacher has previous good history, that meeting that criteria will not necessarily lead to no prohibition order. The Advice also sets out the factors where a no review period should apply. These include where the act was sexual misconduct, where the act had the potential to harm and where the individual used their professional position to abuse trust.

In this case I recognise that all of these factors are at play to some degree.

In my view a 2 year review period is not sufficient. I believe that a 4 year review period is necessary. There are a number of factors that have taken me in this direction. The act resulted in a conviction for sexual activity with a child. Any act of sexual activity with a child has the potential for harm and also the potential to harm and damage the reputation of the teaching profession significantly. Thirdly, Mr Colville held a position of influence as a teacher and he used this position to exploit a child. I therefore am imposing a prohibition order with a 4 year review period. I have not allowed for no review period in this case because I have taken into account, weighing against all of these very serious factors, the findings of the panel that Mr Colville’s actions were not deliberate, that he was acting under duress, and that he had a previous good history.

I believe therefore that I have appropriately and proportionately balanced, the public interest, the finding of a relevant conviction for sexual activity with a child, the nature and severity of the behaviour found, and the mitigation presented. I believe that a 4 year review period is necessary, even taking into account the fact that the behaviour that led to this conviction took place in 2005 and the conviction was made in 2016. Sexual activity with a child, who is also a pupil, is a fundamental breach of the teaching profession’s standards.

I therefore believe that this will meet the requirements of the ordinary intelligent person who will see that a conviction for sexual activity with a child under the age of 16, who was in addition a pupil at his school, is being properly taken into account when considering the very important issue of the reputation of the teaching profession.

In this case the publication of a finding of a relevant conviction does not in my judgement sufficiently meet either the advice as set out by the Secretary of State, or meet the standards of the ordinary intelligent citizen.

This means that Mr Andrew Colville 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 22 May 2023, 4 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 Andrew Colville remains prohibited from teaching indefinitely.

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

Mr Andrew Colville 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.



Decision maker: Alan Meyrick

Date: 22 May 2019

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