



Teaching
Regulation
Agency

Mr Scott Leavold- Davey: Professional conduct panel meeting outcome

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

December 2020

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

Teacher:	Mr Scott Leavold-Davey
Teacher ref number:	1557568
Teacher date of birth:	6 September 1990
TRA reference:	18977
Date of determination:	8 December 2020
Former employer:	Open Academy, Norwich

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 8 December 2020 over Microsoft Teams to consider the case of Mr Leavold-Davey.

The panel members were Mr Paul Hawkins, teacher panellist – in the chair, Ms. Alison Platts, lay panellist and Mr Adnan Qureshi, lay panellist.

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from the teacher that the allegations be considered without a hearing. Mr Leavold-Davey 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 or Mr Leavold-Davey.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the Notice of Meeting dated 12 November 2020.

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

1. Whilst employed as a teacher at the Open Academy in 2018-19, he engaged in and/or developed an inappropriate relationship with Former-Pupil B, a [REDACTED] pupil who had attended the school until approximately July 2018, in that he:
 - a. exchanged e-mails with her;
 - b. met with her, including at the gym;
 - c. met with her at school in or around October 2018;
 - d. kissed and/or touched her;
 - e. resigned from your teaching post in order to continue and /or pursue a romantic and/or sexual relationship with her.
2. His conduct as may be found proven at Allegation 1 was in spite of the fact:
 - a. that he had first met Former-Pupil B whilst working as her teacher;
 - b. that as a consequence of having been Former-Pupil B's teacher, he was aware that [REDACTED];
 - c. that Former Pupil B was considered to be a [REDACTED]
 - d. that he had received management advice in respect of his conduct towards pupils in or around January 2018.
3. His conduct as may be found proven at Allegation 1 was sexually motivated.

Mr Leavold-Davey admitted the facts alleged within the statement of agreed facts which is dated 26 October 2020 ('the Statement') and is signed by both the teacher and the TRA's presenting officer.

Within the Statement, Mr Leavold-Davey has admitted that his conduct amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of proceedings, response and Notice of Meeting – pages 5 to 12C

Section 3: Statement of agreed facts and the presenting officer representations - pages 14 to 19

Section 4: Teaching Regulation Agency documents – pages 21 to 95

Section 5: Teacher documents – pages 97 to 103.

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

Statement of agreed facts

The panel considered the Statement, which was signed by Mr Leavold-Davey on 26 October 2020.

The panel has also considered all the other evidence within the documents.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Leavold-Davey for the allegations to be considered without a hearing. The panel is aware of its power to direct that the case be considered at a hearing but does not consider that such a direction was necessary, appropriate or in the interests of justice in this case.

Mr Leavold-Davey was employed as a maths teacher at the Open Academy in Norwich ("the Academy") from 1 September 2015 until 18 January 2019.

Former Pupil B was a pupil at the Academy until around July 2018, Mr Leavold-Davey taught former Pupil B maths [REDACTED]. He had been made aware that she was [REDACTED].

In January 2018, due to an unrelated and unfounded investigation, Mr Leavold-Davey was issued with a letter which advised that he: "not undertake any one to one sessions

with students; not to engage in any lunch time sporting activity with students and to maintain professional boundaries from students".

On 14 January 2019 Mr Leavold-Davey indicated his intention to resign from his employment with effect from 18 January 2019. On 17 January 2019, an allegation was received from a third party that Mr Leavold-Davey and former Pupil B were in a relationship.

It transpires that, at some stage after former Pupil B left the Academy's roll in July 2018, she and Mr Leavold-Davey re-established contact and entered into a relationship. Moreover, it is apparent from the statement of Mr Leavold-Davey that they remain in a relationship and are living together.

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:

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

1. Whilst employed as a teacher at the Open Academy in 2018-19, you engaged in and/or developed an inappropriate relationship with Former-Pupil B, a [REDACTED] pupil who had attended the school until approximately July 2018, in that you:

- a. exchanged e-mails with her;**
- b. met with her, including at the gym;**
- c. met with her at school in or around October 2018;**
- d. kissed and/or touched her;**
- e. resigned from your teaching post in order to continue and /or pursue a romantic and/or sexual relationship with her.**

The panel noted that Mr Leavold-Davey had unequivocally accepted the facts of these particulars within the Statement. On the basis that he, along with former Pupil B, was best placed to confirm the events that took place between the two of them, the panel considered his admissions within the Statement to prove the facts.

With consideration to the fact that Mr Leavold-Davey had, until July 2018, been former Pupil B's teacher, the panel also determined that commencing a relationship with her so soon after leaving the Academy, to be inappropriate.

The panel therefore found allegation 1 proved in its entirety.

2. Your conduct as may be found proven at Allegation 1 was in spite of the fact:

- a. that you had first met Former-Pupil B whilst working as her teacher;
- b. that as a consequence of having been Former-Pupil B's teacher, you were aware that she was [REDACTED];
- c. that Former Pupil B was considered to be a [REDACTED];
- d. that you had received management advice in respect of his conduct towards pupils in or around January 2018.

For the same reasons as above, the panel accepted Mr Leavold-Davey's admissions to these facts and his awareness of the circumstances surrounding former Pupil B.

The panel also had sight of documentation, such as the letter sent to Mr Leavold-Davey in January 2018, none of which contained any evidence that may cast doubt on the admissions given within the Statement.

On that basis, the panel found all particulars proved.

3. Your conduct, as may be found proven at Allegation 1, was sexually motivated.

The panel accepted the legal advice on this matter, and noted Mr Leavold-Davey's admission, in the Statement, that his conduct had been sexually motivated.

When determining the state of mind of a person, a panel must give weight to that person's explanation of what their state of mind was, or had been, at the relevant time. That person would be best placed to give such evidence, rather than the panel having to rely on possible inferences.

The facts relating to allegation 1 suggested to the panel that Mr Leavold-Davey's actions with former Pupil B may have been sexually motivated, albeit not necessarily in a deliberately exploitative manner. When considered along with Mr Leavold-Davey's admission and explanation of his motivation, the panel determined that this allegation was also proved.

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

Having found all of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel noted that Mr Leavold-Davey accepted that his behaviour amounted to both unacceptable professional conduct and conduct that may bring the profession into

disrepute. However, such a decision was one for the panel to turn its own, independent mind to, and it did so without consideration to Mr Leavold-Davey's position.

The panel was satisfied that the conduct of Mr Leavold-Davey in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Leavold-Davey was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Leavold-Davey fell significantly short of the standards expected of the profession. Whilst the panel accepted that there was no evidence of any relationship between him and former Pupil B whilst she was on the roll of the Academy, their relationship commenced almost immediately after she left the roll and their knowledge of each other was on a pupil-teacher basis.

Whilst the panel does not consider all relationships between a teacher and former pupil to be inappropriate, in circumstances when there is such close proximity between the pupil leaving and the relationship starting, the panel did determine it to be so in this case. This consideration is of even greater importance, and care required to ensure all conduct by a teacher is appropriate, when the pupil is considered [REDACTED].

The panel also considered whether Mr Leavold-Davey's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that the offence of sexual activity to be of relevance.

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 noted that the allegations took place outside the education setting. Nevertheless, as stated above, the allegations arose from a personal relationship between a teacher and former pupil, who had left imminently before it commenced, and Mr Leavold-Davey's conduct is clearly applicable to his role as a teacher.

Similarly, the panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way they behave.

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

Having found the facts of all allegations proved, and for the reasons given above, the panel further found that Mr Leavold-Davey's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

- the protection of pupils;
- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Leavold-Davey, which involved him entering into, and furthering, a personal relationship with a former pupil who had recently been taught by him, there was a strong public interest consideration in respect of the protection of pupils. This was of even greater importance considering Mr Leavold-Davey had been given advice in January 2018 regarding his interactions with pupils. Whilst the panel accepted that that the matter of complaint in that instance was unfounded, and played no part of its consideration in terms of sanction, it did consider the advice given to be clear and unambiguous, which should have been adhered to.

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

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

The panel decided that there was some public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator to make a valuable contribution to the profession. The panel noted that there was some independent evidence as to Mr Leavold-Davey's qualities as a teacher.

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 Leavold-Davey.

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 Leavold-Davey. 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;
- 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 vulnerable pupils) or violation of the rights of pupils;
- sexual misconduct.

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

In the light of the panel's findings, there was no evidence that Mr Leavold-Davey's actions were not deliberate or that he was acting under duress. Mr Leavold-Davey did, however, have a previously good history.

The panel was assisted, in its deliberations, by two references in support of Mr Leavold-Davey. In particular, it noted that:

- [REDACTED], a previous student of Mr Leavold-Davey, described him as being *"...passionate aboutteaching...it's a shame kids are missing out on such a good learning experience";* and
- [REDACTED], a current colleague of Mr Leavold-Davey, states that Mr Leavold-Davey has *"...strong morals and has a very trustworthy personality....he cares about the people around him and that's what motivates him to do a great job...he is very passionate about helping people and this is clear in his teaching passion...he displays a superb love for Maths and wanting to make those he teaches better...I trust him whole heartedly."*

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 Leavold-Davey 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 Leavold-Davey. The panel considered that a teacher entering into a personal relationship with a former pupil, who had only left the role of the Academy imminently beforehand, was of a serious concern and was a significant factor in forming that opinion. This concern was exacerbated by the fact that Mr Leavold-Davey should have been more aware of his actions, and that appropriate boundaries must be adhered to, considering the advice he was given in January 2018.

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 two years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes serious sexual misconduct, although the panel also did not consider there was any evidence of there being deliberate exploitation by Mr Leavold-Davey.

The panel found that Mr Leavold-Davey was responsible for commencing a relationship with former Pupil B. Considering that the pupil had only recently left the Academy, the panel felt that there was a minor distinction as to whether she was deemed a pupil or former pupil, although it accepted that there was no evidence that there was any relationship whilst she was at the Academy.

Mr Leavold-Davey had clearly, and deliberately, crossed boundaries that should be in place between a teacher and pupil. These boundaries should be unambiguous but he failed to adhere to them.

Nevertheless, the panel did consider Mr Leavold-Davey's conduct to be potentially remediable over time. It noted that he had made full and early admissions to his conduct, and had expressed remorse as to the effects his behaviour had on the Academy and his department, which was to his credit.

Mr Leavold-Davey had also explained that he has reflected on his actions and states that he has "*...learnt a lot about myself and my limitations, how my empathy has caused me to overstep the boundaries...I accept full responsibility for my actions*".

Mr Leavold-Davey's admissions, and reflections, indicate that he has started to develop some insight into his actions and is capable of remediating the concerns. The concerns are, however, extremely serious especially after advice having been given. Remediation will require time to be evidenced and for Mr Leavold-Davey to demonstrate an imbedded appreciation of the appropriate professional standards that he must adhere to.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period after seven years. The panel hopes that, by that stage, Mr Leavold-Davey can evidence significant evidence of his understanding of, and adherence to, professional boundaries and safeguarding measures.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Leavold-Davey should be the subject of a prohibition order, with a review period of seven years.

In particular, the panel has found that Mr Leavold-Davey 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 finds that the conduct of Mr Leavold-Davey fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding that Mr Leavold-Davey engaged in and/or developed an inappropriate relationship with a [REDACTED] former pupil, which was sexually motivated.

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 Leavold-Davey, 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. In the light of the panel's findings against Mr Leavold-Davey, which involved him entering into, and furthering, a personal relationship with a former pupil who had recently been taught by him, there was a strong public interest consideration in respect of the protection of pupils. This was of even greater importance considering Mr Leavold-Davey

had been given advice in January 2018 regarding his interactions with pupils". 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, "he had made full and early admissions to his conduct, and had expressed remorse as to the effects his behaviour had on the Academy and his department, which was to his credit" and "Mr Leavold-Davey's admissions, and reflections, indicate that he has started to develop some insight into his actions and is capable of remediating the concerns".

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Leavold-Davey was not treated with the utmost seriousness when regulating the conduct of the profession". I am particularly mindful of the finding of commencing a relationship with a [REDACTED] former pupil 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 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 Leavold-Davey himself. Although he is no longer teaching at the Academy, the panel noted his previous good history and they considered a number of references, one of which stated that Mr Leavold-Davey has "*...strong morals and has a very trustworthy personality....he cares about the people around him and that's what motivates him to do a great job...he is very passionate about helping people and this is clear in his teaching passion...he displays a superb love for Maths and wanting to make those he teaches better...I trust him whole heartedly.*"

A prohibition order would prevent Mr Leavold-Davey 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.

I have also placed considerable weight on the finding of the panel that "Mr Leavold-Davey had clearly, and deliberately, crossed boundaries that should be in place between

a teacher and pupil. These boundaries should be unambiguous but he failed to adhere to them”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Leavold-Davey 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, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

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

I have considered the panel’s comments “remediation will require time to be evidenced and for Mr Leavold-Davey to demonstrate an imbedded appreciation of the appropriate professional standards that he must adhere to”.

The panel has also said that “in all the circumstances for the prohibition order to be recommended with provisions for a review period after seven years” and by that stage, “Mr Leavold-Davey can evidence significant evidence of his understanding of, and adherence to, professional boundaries and safeguarding measures”.

I have considered whether a seven 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, a number of factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are; the seriousness of commencing a relationship with a former pupil almost immediately after the pupil left the Academy and that their knowledge of each other was on a pupil-teacher basis, despite Mr Leavold-Davey being advised previously regarding his interactions with pupils and that the panel noted he had only started to develop sufficient insight into his actions.

I consider therefore that a seven year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Leavold-Davey 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 17 December 2027, seven 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 Leavold-Davey remains prohibited from teaching indefinitely.

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

Mr Leavold-Davey 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 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 11 December 2020

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