



Teaching
Regulation
Agency

Mr James Morley: Professional conduct panel outcome

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

February 2021

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

Teacher:	Mr James Morley
Teacher ref number:	3955407
Teacher date of birth:	6 March 1991
TRA reference:	19095
Date of determination:	16 February 2021
Former employer:	Bede Sixth Form College, Stockton on Tees (“the College”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by virtual means on 16 February 2021, to consider the case of Mr James Morley.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Ms Alison Feist (former teacher panellist) and Mr Adnan Qureshi (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

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

Mr James Morley was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 15 December 2020.

It was alleged that Mr James Morley was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed at Bede Sixth Form College as a Teacher of Religion, Philosophy and Ethics, between January 2019 and January 2020, he:

1. Posted and/or retained on his Instagram account one or more inappropriate images and/or inappropriate comments, including the following images and/or comments:
 - a. *'In class discussing the purposes of sex with my students:*

Student: the purpose of sex is to show love. You should be in love to have sex. Me (knowing perfectly well I've put my dick in more strangers than people I've known the name of): Yeah you make a good point';
 - b. An image of a coffee/tea flask with a label which said *'I won't leak!'*, which was accompanied with the following caption: *'When you've just finished being the only bottom at the raw orgy but know you're still tight af';*
 - c. *'I'm not judging, but I'm surprised he can still walk'*, which was a comment made in reference to you friend's sexual experiences;
 - d. A picture which you had drawn during school hours, which had as a label or title *'whore house on the hill'*, and which was accompanied with the following caption: *'This is how bored I got today. I can't draw for shit but I had nothing*

Mr Morley did not provide a response to the allegations as set out in the Notice of Proceedings. In the absence of a response from the teacher, the allegations were treated as not admitted.

Preliminary applications

The panel considered an application from the presenting officer to proceed in the absence of Mr Morley. After receiving legal advice, the chair announced the decision of the panel as follows:

'The panel was satisfied that the Notice of Proceedings dated 15 December 2020 had been sent to Mr Morley in accordance with Rules 4.11 and 4.12 of the Teacher

Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures"). Accordingly, the requirements for service had been satisfied.

The panel was informed that, prior to the hearing date being fixed, in an email dated 20 October 2020 addressed to the presenting officer Mr Morley said:

'a. I voluntarily waive my right to attend the hearing.

b. I am content for the panel to make a decision in my absence.

c. I understand that a decision may be made against me which could result in a prohibition order.

d. I am content for the final hearing to be a video conference.

e. I waive my right to the hearing notice period.'

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great care and caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Morley was not in attendance and not represented at this hearing and the extent of the disadvantage to him as a consequence.

Given the express confirmation from Mr Morley that he was not going to attend and his consent to the hearing proceeding in his absence, the panel concluded that the hearing should proceed. The panel was satisfied that Mr Morley's absence was voluntary and he had waived his right to attend. There was no indication that Mr Morley might attend at a future date and no purpose would be served by an adjournment.

The panel also took account of the fact that there is a public interest in hearings taking place within a reasonable time. The panel also noted that Mr Morley had consented to the hearing taking place as a virtual hearing.

Summary of evidence

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of Proceedings and response – pages 4 to 22

Section 3: Teaching Regulation Agency witness statements – pages 24 to 42

Section 4: Teaching Regulation Agency documents – pages 44 to 91

Section 5: Teacher documents – pages 92 to 94

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

Witnesses

The panel heard oral evidence from Witness A, [redacted].

Decision and reasons

The panel carefully considered the case before it and reached a decision.

Mr James Morley was employed as Teacher of Religion, Philosophy and Ethics at the College. His employment started on 7 January 2019.

On 15 January 2020, a tutor was in conversation with a group of sixth form students when comments were made about Mr Morley's Instagram account. The students said that the account was public and was *'highly sexual in nature and content'*. The tutor then viewed Mr Morley's Instagram account together with a member of the management team. It was noted that the Instagram account had a picture of Mr Morley as the profile picture. The account had not been set to private.

The member of the management team spoke to Mr Morley the same day. He advised him to set the account to 'private' and informed him that he would be asked to attend a meeting with the College Principal the following morning.

On 16 January 2020, Mr Morley attended a meeting with the College Principal. Mr Morley was then suspended pending a disciplinary investigation. Witness A, [redacted], was appointed to conduct the investigation. During the investigation, Mr Morley was interviewed on 23 January 2020.

A disciplinary hearing was held on 30 January 2020, which resulted in Mr Morley's dismissal. Mr Morley appealed this decision, but his appeal was dismissed.

Findings of fact

The findings of fact are as follows:

It was alleged that you were guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed at

Bede Sixth Form College as a Teacher of Religion, Philosophy and Ethics, between January 2019 and January 2020, you:

1. Posted and/or retained on your Instagram account one or more inappropriate images and/or inappropriate comments, including the following images and/or comments:

a. *'In class discussing the purposes of sex with my students:*

Student: the purpose of sex is to show love. You should be in love to have sex. Me (knowing perfectly well I've put my dick in more strangers than people I've known the name of): Yeah you make a good point';

b. An image of a coffee/tea flask with a label which said *'I won't leak!'*, which was accompanied with the following caption: *'When you've just finished being the only bottom at the raw orgy but know you're still tight af';*

c. *'I'm not judging, but I'm surprised he can still walk'*, which was a comment made in reference to your friend's sexual experiences;

d. A picture which you had drawn during school hours, which had as a label or title *'whore house on the hill'*, and which was accompanied with the following caption: *'This is how bored I got today. I can't draw for shit but I had nothing else to so'.*

Witness A gave evidence that, when Mr Morley was interviewed as part of her disciplinary investigation on 23 January 2020, he was shown screenshots of the posts on his Instagram account that are the subject of allegations 1a to d. Mr Morley confirmed during that interview that the posts had been made by him on his Instagram account. Mr Morley said in one of his responses during interview:

'I think it is perfectly acceptable to have a sense of humour but not to be on a public platform. I understand that they could bring the college into disrepute, I'm not going to defend the posts. It won't happen again and I have taken steps to prevent this, including removing posts from my account and making it private.'

Mr Morley also said during his interview that he had approximately 200 followers, but that he was not aware that any of the followers were students. The panel noted that Mr Morley's image appeared on each of the posts and so he was identifiable. A number of students at the College had attributed the posts to him. The panel also noted that Mr Morley had included hashtags at the end of each post, indicating that he was intending to reach a wider audience.

Section 7.6 of the College's Social Media and Web Policy stated: *'Staff members may use social media/networking sites or services and may identify themselves as a college employee or agency worker in their profile, but the college requires that those persons:*

7.6.6 Must never carry out any action which adversely affects the College's reputation or undermines its core business or related interests.'

Witness A gave evidence that the post referred to in 1c had been posted by Mr Morley on 3 January 2019, which was before he commenced his employment at the College. However, the post had been retained on his Instagram account after he started that employment. The other posts referred to in 1a, 1b and 1d were posted by Mr Morley during his employment at the College.

As to 1a, the panel noted that Mr Morley's post ridiculed the comments of a pupil, whilst also discussing his own sexual activity. He was also discussing what had taken place in the classroom when he was teaching. The panel was satisfied that the post was inappropriate.

As to 1b, the panel was satisfied that the post was inappropriate in that it described sexual activity in a graphic and/or offensive way.

As to 1c, the panel was satisfied that Mr Morley was referring to his friend's sexual experiences. The panel was satisfied that this was inappropriate.

As to 1d, the panel noted that, during his disciplinary hearing, Mr Morley claimed that he had not been working on 13 May 2019 as he did not work on a Monday. Witness A confirmed that Mr Morley was not a full-time teacher. However, she said that, as part of her investigation she established that Mr Morley was working on 13 May 2019. The panel was satisfied, on the balance of probabilities, that Mr Morley had posted a drawing that he had drawn during working hours. The post contained offensive language and connotations of a sexual nature. The panel was satisfied that the post was inappropriate.

The panel found allegations 1a to d proved.

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

Having found allegations 1a to d proved, the panel went on to consider whether the facts of those proven 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 was satisfied that the conduct of Mr Morley, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Morley 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
 - showing tolerance of and respect for the rights of others
- 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 also considered whether Mr Morley's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mr Morley amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel noted that the posts were made by Mr Morley on his personal Instagram account and, therefore, did not take place during the performance of his professional duties. However, he was clearly identifiable in the posts and his posts had been viewed by a number of students at the College. In one or more of the posts, he described what had happened in a lesson in which he had been teaching.

Accordingly, the panel was satisfied that Mr Morley was guilty of unacceptable professional conduct.

As to conduct that may bring the profession into disrepute, 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 that they behave.

The panel considered the fact that Mr Morley's Instagram account was accessible to a far reaching audience. He had not taken any steps to make his account private and his use of hashtags indicated that he wanted to reach a wider audience.

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.

The panel therefore found that Mr Morley's actions constituted 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 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

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

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Morley 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 Morley.

In carrying out the balancing exercise, the panel had regard to the public interest considerations in favour of prohibition as well as the interests of Mr Morley. 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, the following was relevant in this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards

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

Mr Morley's actions were deliberate. There was no evidence to suggest that Mr Morley was acting under duress.

Mr Morley has not been the subject of any previous disciplinary findings by the TRA, but the panel has not been given any other information about his previous history. No character references have been provided.

Throughout the College's disciplinary process and the subsequent TRA proceedings, Mr Morley demonstrated an inconsistent attitude towards the allegations that were the subject of the investigation.

In his investigation meeting on 23 January 2020, he said:

'I think it is perfectly acceptable to have a sense of humour but not to be on a public platform. I understand that they could bring the college into disrepute, I'm not going to defend the posts. It won't happen again and I have taken steps to prevent this, including removing posts from my account and making it private.'

In a letter to register his appeal against his dismissal, Mr Morley said:

'I argue that the posts were misrepresented, that provocative and subjective language was used to describe them that was not appropriate or accurate. I also argue that dismissing an employee for a relatively minor first offence such as these where no harm was caused to any staff, student, or to the college as a whole, and where the investigation report determined that there was no evidence of disrepute, could amount to wrongful dismissal.'

At his Disciplinary Appeal Hearing on 13 February 2020, he said:

'I think that this has not affected the role of the college or my role within the college. I could understand if I had made reference to ethnic minorities or anything showing impartiality, but I don't see how it could affect the college and its reputation. That's why I removed these and at first I was taken back and initially hostile. Nothing would happen again and I have done everything to be a good teacher to my students.'

In an email dated 6 October 2020, addressed to the TRA's presenting officer, Mr Morley said the following:

'For the sake of expediency and because this whole thing has worn me down to a soulless shell of a human who has lost all interest in ever teaching again I accept the case made against me in its entirety and do not contest anything. Ban me from teaching, don't ban me from teaching, whatever. I just don't care anymore. I worked hard, showed passion and drive, always did the best for my students but that matters so little to any of the people who make these decisions that I have no interest in ever being professionally involved with them again. Have your meeting, make your decision, let me know the outcome and then leave me to live my life that the pathetic idiocy of middle management tried to destroy.

Best of luck with your pointless endeavour of keeping people who make silly jokes in their own time out of a profession they worked hard to enter. Hope the pay cheque is worth it.'

Although Mr Morley had expressed some regret, he had not demonstrated any remorse or insight into the gravity of the situation and the inappropriateness of his conduct. In these circumstances, the panel could not be confident that there was no risk of repetition of his behaviour.

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 would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Morley 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 Morley. His lack of insight and remorse were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. 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 panel was of the view that Mr Morley needs to reflect and appreciate that his misconduct was serious and fell significantly short of the standard expected of a teacher.

If he can do so, he may be able to demonstrate a willingness and ability to meet the personal and professional conduct elements of the Teachers' Standards in the future.

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 after a period of two 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 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 Morley should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Morley 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
 - showing tolerance of and respect for the rights of others
- 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.

In addition the panel "was satisfied that the conduct of Mr Morley amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

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 Morley, 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, "he was clearly identifiable in the posts and his posts had been viewed by a number of students at the College. In one or more of the posts, he described what had happened in a lesson in which he had been teaching."

A prohibition order would therefore prevent the risk of such conduct from taking place in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Although Mr Morley had expressed some regret, he had not demonstrated any remorse or insight into the gravity of the situation and the inappropriateness of his conduct. In these circumstances, the panel could not be confident that there was no risk of repetition of his behaviour."

In my judgement, the lack of remorse or insight means that there is some risk of the repetition of this behaviour and this puts at risk the future well-being of pupils. 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 it, "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 that they behave."

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 Morley himself. The panel observe, “Mr Morley has not been the subject of any previous disciplinary findings by the TRA, but the panel has not been given any other information about his previous history. No character references have been provided.”

A prohibition order would prevent Mr Morley 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, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Morley has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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 two year review period which is the minimum set out in the legal framework.

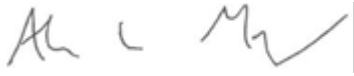
I have considered the panel’s comments “the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review after a period of two years.”

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

This means that Mr James Morley 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 25 February 2023, two 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 James Morley remains prohibited from teaching indefinitely.

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

Mr James Morley 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 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 18 February 2021

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

