



Teaching
Regulation
Agency

Mr Anthony Canavan: Professional conduct panel meeting outcome

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

August 2018

Contents

A. Introduction	3
B. Allegations	4
C. Summary of evidence	4
Documents	4
Statement of agreed facts	5
D. Decision and reasons	5
Panel's recommendation to the Secretary of State	9
Decision and reasons on behalf of the Secretary of State	11

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

Teacher:	Mr Anthony Canavan
Teacher ref number:	9549696
Teacher date of birth:	28 June 1960
TRA reference:	15508
Date of determination:	9 August 2018
Former employer:	Manchester Communication Academy, Manchester ("the School")

A. Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on the 9 August 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Anthony Canavan.

The panel members were Mr Brian Hawkins (teacher panellist – in the chair), Ms Karen McArthur (lay panellist) and Mr Roger Woods (former teacher panellist).

The legal adviser to the panel was Ms Rachael Pye of Eversheds Sutherland International LLP.

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

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 allegations set out in the Notice of Proceedings dated 5 July 2018.

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

1. You engaged in inappropriate communications with Pupil A in or around March 2016 to May 2016 including:
 - a. becoming friends with her on Facebook;
 - b. exchanging private messages with her;
 - c. receiving one or more nude images of her;
 - d. sending her one or more nude image of yourself;
 - e. discussing engaging in sexual activity with her if you met.
2. Your conduct at Allegation 1. above was sexually motivated;
3. In respect of your conduct at Allegation 1. above you received a caution on or around 2 August 2016 for possessing an indecent photograph or pseudo-photograph of a child on 1 June 2015 - 1 June 2016 contrary to the Criminal Justice Act 1988 s.160.

Mr Canavan has signed a Statement of Agreed Facts dated 19 February 2018 in which he admits the above allegations and further admits that the facts of the allegations amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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 Proceedings and Response – pages 4 to 10B

Section 3: Statement of Agreed Facts and presenting officer Representations – pages 11 to 16

Section 4: Teaching Regulation Agency documents – pages 18 to 66

Section 5: Teacher documents – pages 68 to 69

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 Canavan on 19 February 2018 in which Mr Canavan admits the allegations in their entirety.

The panel did note that the dates in the Statement of Agreed Facts relating to when Pupil A commenced and left the School might not have been correct. However, the panel was satisfied that this ambiguity was immaterial to the allegations as drafted and the admissions contained within the Statement of Agreed Facts. The panel felt it did not affect their ability to rely on the Statement of Agreed Facts insofar as it related to Mr Canavan's admissions of the allegations.

D. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

In advance of the meeting, the TRA agreed to a request from Mr Canavan that the allegations be considered without a hearing. The panel has the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction is necessary or appropriate in this case.

The School from September 2010 employed Mr Canavan as a teacher until his termination by way of resignation on 31 August 2016. Mr Canavan taught Pupil A science when she was in Year 7 at the School. Pupil A became Facebook friends with Mr Canavan. This was followed by the exchange of numerous messages and photographs between Mr Canavan and Pupil A. These included photographs of Mr Canavan naked from the waist down and naked photographs of Pupil A. The messages were overtly sexually suggestive regarding sexual contact between the two if they were to meet. Messages between Pupil A and Mr Canavan ceased in or around May 2016. In June 2016, Mr Canavan was arrested for possessing an indecent image of a child in relation to the six photographs Mr Canavan had of Pupil A on his phone at the time of his arrest. On 2 August 2016, Mr Canavan received a police caution for possessing an indecent photograph or pseudo-photograph of a child.

Findings of fact

Our findings of fact are as follows:

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

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

- 1. You engaged in inappropriate communications with Pupil A in or around March 2016 to May 2016 including:**
 - a. becoming friends with her on Facebook;**
 - b. exchanging private messages with her;**
 - c. receiving one or more nude images of her;**
 - d. sending her one nude image of yourself;**
 - e. discussing engaging in sexual activity with her if you met.**

The panel had regard to the signed Statement of Agreed Facts in which Mr Canavan admitted this allegation in its entirety.

The panel also considered the evidence provided in the bundle, namely evidence of the School's investigation report, the Notice of Referral form completed by Mr Canavan and the notes from the LADO meeting, which showed that from an early stage, Mr Canavan, had admitted the facts of this allegation. The panel noted that Mr Canavan's admission was consistent and there was no evidence that Mr Canavan had attempted to change his story or deny the allegations at any stage.

The panel also considered evidence contained in the police records, which made reference to multiple texts and photos being sent and received by Mr Canavan and Pupil A. The police records showed that Mr Canavan had messaged Pupil A stating, *"I know you're 17 I can't do anything yet. I will wait until you're 18. Take you out for a drink and get a hotel"*. Mr Canavan had also sent Pupil A another message asking, *"will you have sex with me"*.

In light of this evidence, the panel was satisfied that there was sufficient evidence to find this allegation proven.

- 2. Your conduct at Allegation 1. above was sexually motivated;**

The panel had regard to the signed Statement of Agreed Facts in which Mr Canavan admitted this allegation. The panel also considered the evidence provided in the bundle,

namely the police records, which described the nature and content of some of the messages and photographs, sent between Mr Canavan and Pupil A.

The police records showed that Mr Canavan had sent numerous text messages asking to meet Pupil A for sex. For example, Mr Canavan sent a message to Pupil A stating, *“I know that you’re 17 I can’t do anything yet. I will wait until you’re 18. Take you out for a drink and get a hotel.”* The panel also considered evidence of further messages sent by Mr Canavan stating, *“Will you have sex with me?”* The panel also noted that the police records stated that messages between Pupil A and Mr Canavan were *“nearly always dirty talk.”*

The police records also showed that the photos sent by Mr Canavan were photographs of Mr Canavan’s naked lower body and that Mr Canavan received photographs of Pupil A’s naked upper and lower body. The panel felt that given the nature of the photographs and messages between Mr Canavan and Pupil A and Mr Canavan’s clear attempts to arrange to meet Pupil A for sex, Mr Canavan’s conduct in respect of allegation 1. was sexually motivated.

The panel therefore found this allegation proven.

3. In respect of your conduct at Allegation 1. above you received a caution on or around 2 August 2016 for possessing an indecent photograph or pseudo-photograph of a child on 1 June 2015 - 1 June 2016 contrary to the Criminal Justice Act 1988 s.160.

The panel had regard to the signed Statement of Agreed Facts in which Mr Canavan admitted this allegation. The panel also considered the evidence provided in the bundle, namely the copy of the PNC record, which showed that Mr Canavan had accepted a police caution for possessing an indecent photograph or pseudo-photograph of a child on 1 June 2015 - 1 June 2016 contrary to the s160 of the Criminal Justice Act 1988.

The panel was therefore satisfied that this allegation was proven.

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

Having found the allegations proven, the panel has gone on to consider whether the facts of the allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

The panel is satisfied that the conduct of Mr Canavan in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Canavan 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.

The panel is satisfied that the conduct of Mr Canavan fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Canavan's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that the offence of possessing an image or pseudo photograph or image of a child for which Mr Canavan received a caution is relevant in this case. 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 also noted that whilst the allegations took place outside of the education setting, the nature of the messages between Mr Canavan and Pupil A were highly inappropriate and would impact negatively on the way the teaching profession is viewed.

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

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

The panel considered that the findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception. The panel therefore finds that Mr Canavan's actions constitute conduct that may bring the profession into disrepute.

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

Panel's recommendation to the Secretary of State

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

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

The panel has considered the particular public interest considerations set out in the Advice and having done so has found 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 Canavan, there is a strong public interest consideration. The panel considers that the public confidence in the profession could be seriously weakened if conduct such as that found against Mr Canavan was not treated with the utmost seriousness when regulating the conduct of the profession. There is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children.

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 Canavan.

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 Canavan. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust particularly involving vulnerable pupils;

- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position; and
- any activity involving possessing 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 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 gave consideration to a letter from Mr Canavan contained in the bundle where Mr Canavan explained that he had been [redacted] during the period he was messaging Pupil A. The panel was not provided with any independent evidence, which corroborated Mr Canavan's [redacted].

Mr Canavan states that he was "*foolish, irresponsible and unprofessional*" and that he deeply regrets it happening. Whilst the panel considered that this showed limited insight into his actions, the panel felt that Mr Canavan showed little remorse for his actions and was attempting to make excuses for his behaviour. The panel was also mindful that Mr Canavan's actions were deliberate and he was not acting under duress.

The panel also considered a character reference provided by a friend of Mr Canavan who stated that he had known Mr Canavan for 14 years both personally and professionally. Whilst this stated that Mr Canavan is "*professional and sets very high standards for himself and hundreds of his students*", the panel was conscious that this was an unsigned character reference from someone known personally to Mr Canavan and therefore felt that it carried little weight.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel is sufficient.

The panel is of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order is not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for Mr Canavan of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Canavan. The serious nature of the offences and the sexual motivation was a significant factor in

forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include, possessing an indecent photograph or pseudo photograph of a child. The panel has considered evidence that Mr Canavan received a police caution for possessing an indecent photograph or pseudo-photograph of a child, which suggests that a review period would not be appropriate in this case.

The panel therefore felt that the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr Canavan should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Canavan 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; and

- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.

The panel has also considered whether Mr Canavan's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that "the offence of possessing an image or pseudo photograph or image of a child for which Mr Canavan received a caution is relevant in this case."

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 findings of misconduct are particularly serious as they include a finding of sexual misconduct and a finding of possession of an indecent image of 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 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 Canavan, 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, "the nature of the messages between Mr Canavan and Pupil A were highly inappropriate and would impact negatively on the way the teaching profession is viewed. "

A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Canavan states that he was *"foolish, irresponsible and unprofessional"* and that he deeply regrets it happening. Whilst the panel considered that this showed limited insight into his actions, the panel felt that Mr Canavan showed little remorse for his actions and was attempting to make excuses for his behaviour." In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this risks 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, "the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the

public perception.” I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Canavan himself. The panel has commented that it, “considered a character reference provided by a friend of Mr Canavan who stated that he had known Mr Canavan for 14 years both personally and professionally. Whilst this stated that Mr Canavan is *“professional and sets very high standards for himself and hundreds of his students”*, the panel was conscious that this was an unsigned character reference from someone known personally to Mr Canavan and therefore felt that it carried little weight.”

A prohibition order would prevent Mr Canavan 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.

In this case I have placed considerable weight on the panel’s comments concerning the, “serious nature of the offences and the sexual motivation.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Canavan 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 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 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 that there should be no provision for a review period.

I have considered the panel’s comments and the guidance published by the Secretary of State, “that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include, possessing an indecent photograph or pseudo photograph of a child. The panel has considered evidence that Mr Canavan

received a police caution for possessing an indecent photograph or pseudo-photograph of a child, which suggests that a review period would not be appropriate in this case.”

I have considered whether allowing for no review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are three factors that in my view mean that a prohibition with no review period is necessary to maintain public confidence in the profession. These elements are the caution for possession of an indecent image of a child, the sexual misconduct and the lack of either insight or remorse.

I consider therefore that a prohibition with no review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Anthony Canavan is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Anthony Canavan shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Anthony Canavan 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: 10 August 2018

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