



Teaching
Regulation
Agency

Mr William Turnbull: Professional conduct panel outcome

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

September 2018

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

Teacher: Mr William Turnbull
Teacher ref number: 0781549
Teacher date of birth: 20 February 1977
TRA reference: 16790
Date of determination: 27 September 2018
Former employer: The Grove School, Market Drayton

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 26 to 27 September 2018 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Mr William Turnbull.

The panel members were Ms Margaret Wilson (teacher panellist – in the chair), Mr Tony Heath (lay panellist) and Mr John Matharu (lay panellist).

The legal adviser to the panel was Mr Nick Leale of Blake Morgan solicitors.

The presenting officer for the TRA was Ms Naomh Gibson of Browne Jacobson LLP solicitors.

Mr Turnbull was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 4 July 2018.

It was alleged that Mr William Turnbull was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Form Tutor and Mathematics Teacher at The Grove School Market Drayton ('the School') from 1st September 2008 to 27th March 2017:

1. He failed to maintain appropriate professional boundaries toward and/or engaged in an inappropriate relationship with Pupil A, in or around the period 6 May 2016 to 2 February 2017, including in that he:
 - a. corresponded with Pupil A by text message;
 - b. accepted a watercolour picture and/or a poem as gifts from Pupil A;
 - c. gave a lift to Pupil A in his car on one or more occasions;
 - d. met with Pupil A while she was unsupervised outside of School on one occasion or more;
 - e. engaged in sexual activity with Pupil A on one occasion or more.
2. His conduct as may be found proven at allegation 1 was sexually motivated.

All of the allegations were denied by Mr Turnbull by way of his response to the Notice of Proceedings Form dated 7th August 2018.

C. Preliminary applications

There were a number of preliminary applications.

- i) Mr Turnbull was not present and not represented. He had indicated that this would be the position in his Notice of Proceedings response. He had not offered any reason for his non-appearance and has made no further contact with the Presenting Officer. The Presenting Officer applied to proceed with the hearing in Mr Turnbull's absence on the basis that Mr Turnbull had voluntarily absented himself from the hearing. The panel agreed and, while exercising the utmost caution in relation to proceeding in a teacher's absence, was firmly of the view that Mr Turnbull had voluntarily absented himself from the hearing and had no interest in attending or being represented. The panel concluded that a postponement of the hearing due to Mr Turnbull's absence would not result in his attendance at a reconvened hearing. The panel therefore directed that the hearing should proceed in Mr Turnbull's absence. For completeness, the panel confirmed that the Notice of Proceedings had been served

in accordance with the Rules and indeed had been received by Mr Turnbull as he had responded to it.

- ii) Mr Turnbull, in his response to the Notice of Proceedings, stated his belief that the hearing should be held in private as a public hearing 'would be distressing to elderly parents'. This was treated by the panel as an application for the hearing to be held in private. The panel rejected this application. It would be contrary to the vital public interest in these types of disciplinary hearings being held in public and seen to be held in public if the hearing were to be held in private. The interests of justice demanded that the hearing being held in public and not in private.
- iii) The Presenting Officer applied to amend the allegations by adding the word 'relationship' after inappropriate in the preamble to the factual allegation and by way of the addition of a further factual particular (as 1.c) that read "Gave a necklace as a gift to Pupil A". The panel were satisfied that the first amendment was due to typographical error and it must have been the intention to include that word. The amendment was allowed. With regards to the second amendment, which really amounted to the addition of an extra factual particular, the panel were satisfied that Mr Turnbull had received notice of the Presenting Officer's intention in this regard by way of letter dated 14 September 2018. He had not responded to that letter. Mr Turnbull had previously had possession of the evidence in support of the new allegation. The panel were satisfied that Mr Turnbull would suffer no undue prejudice as a result of the inclusion of the additional factual particular and that it was therefore in the interests of justice for the amendment to be allowed. The panel felt that the new allegation was an important part of the wider events in question.
- iv) The Presenting Officer applied to add further documents in evidence for consideration by the panel. These papers took the form of more extensive text message print outs from Mr Turnbull's phone, that had recently been obtained from the police, compared with the records contained within the original bundle. The new bundle of text message records contained a print out of all of the messages already appearing in the bundle together with additional print-outs. Mr Turnbull had been sent these documents on 20th September 2018 and a Royal Mail track and trace record confirmed that he received them on 21st September 2018. He had offered no objection to the admission in evidence of the additional records. The panel concluded that these additional documents were relevant to issues in the case and could fairly be admitted in evidence, having taken into account their apparent reliability and also taking into account that Mr Turnbull had been able to view them and had made no comment to the Presenting Officer in relation to their admissibility or reliability.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 4

Section 2: Notice of Proceedings and Response – pages 6 to 17

Section 3: Teaching Regulation Agency witness statements – pages 19 to 30

Section 4: Teaching Regulation Agency documents – pages 32 to 169.

Section 5: Teacher documents – n/a

In addition, the panel agreed to accept the following:

The enlarged complete bundle of text message records as referred to in the preliminary applications section above. These papers were named bundle 'B'.

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

Witnesses

The panel heard oral evidence from:

- i) Individual A – Police Staff Investigator and former Police Officer;
- ii) Pupil B;
- iii) Pupil C.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

This is a case in which it is alleged that the teacher Mr Turnbull developed a personal relationship with one of his pupils. He exchanged hundreds of text messages with her, bought her a gift and spent time alone with her in his car and at other locations. The relationship then became a sexual relationship which it is alleged is evidenced by way of

text messages exchanged by the teacher and the pupil in which they describe their sexual contact.

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:

Whilst employed as a Form Tutor and Mathematics Teacher at The Grove School Market Drayton ('the school') from 1st September 2008 to 27th March 2017:

1. You failed to maintain appropriate professional boundaries toward and/or engaged in an inappropriate relationship with Pupil A, in or around the period 6 May 2016 to 2 February 2017, including in that you:

a. corresponded with Pupil A by text message;

The panel finds this allegation proved. Mr Turnbull fully admitted in his first police interview that such text messages were exchanged between him and Pupil A. He obtained Pupil A's number from another student and he states himself that the text messages included exchanges of a personal nature and that over time they became of a flirty and suggestive sexual nature.

The panel has seen a large volume of print outs of the hundreds of text messages exchanged between them. The panel are entirely satisfied, on the basis of Mr Turnbull's admission and the evidence of the police officer from whom we have heard evidence, that these definitely are records of exchanges between Mr Turnbull and Pupil A.

b. accepted a watercolour picture and/or a poem as gifts from Pupil A;

The panel finds this allegation proved. Mr Turnbull admitted in his first police interview that he received the watercolour picture from Pupil A and that the poem 'could' have been in Pupil A's handwriting. We accept the evidence put forward that the items were found by Mr Turnbull's partner in Mr Turnbull's bedroom at their property and that therefore Mr Turnbull had received both items from Pupil A.

c. gave a necklace as a gift to Pupil A;

The panel finds this allegation proved. The necklace (which had a gold chain and red stones) that we have seen being worn by Pupil A in photographs, matches the description and appearance of an item bought from the jeweller by a Mr William Turnbull in late November 2016. Pupil A's mother confirmed in her statement that her daughter was given this necklace as a gift at Christmas 2016.

d. gave a lift to Pupil A in your car on one or more occasions;

The panel finds this allegation proved. Mr Turnbull admitted these facts during his first police interview. This is further supported by the evidence of Pupil C at page 23 of the bundle, who on multiple occasions observed Mr Turnbull and Pupil A in his car alone departing the school premises. She also witnessed them arrive at a pub together, again alone in Mr Turnbull's car. Pupil A's mother has also signed a statement (bundle page 27) in which she states that she saw Pupil A alone with Mr Turnbull in his car.

e. met with Pupil A while she was unsupervised outside of School on one occasion or more;

The panel finds this allegation proved. Mr Turnbull admitted these facts during his first police interview. Furthermore, Pupil C saw them arrive together at the pub on the occasion described above. She also saw them alone together on Shrewsbury High Street on one occasion.

f. engaged in sexual activity with Pupil A on one occasion or more.

The panel finds this allegation proved. It is clear from the text message records that Mr Turnbull's relationship with Pupil A involved sexual contact in addition to sexual references in text messages. The reference to their sexual contact is worded in such a way that it is clearly not fantasy or proposal – it is a description of what they have done together in a sexual way. It is in the past tense which is crucial. Examples include the exchange in bundle B at page 19 where Mr Turnbull says [REDACTED].

The probative value of the evidence above far outweighs the value of Pupil A's short signed statement that she did not partake in a sexual relationship with Mr Turnbull. We reject Pupil A's statement as unreliable. It was not tested under oath and entirely contradicts the content of the text message exchanges between Mr Turnbull and Pupil A.

2. Your conduct as may be found proven at allegation 1 was sexually motivated.

The panel finds this allegation proved. It must follow from the above findings that Mr Turnbull's actions were sexually motivated. The panel has found that Mr Turnbull and Pupil A had a sexual relationship.

It plainly follows that the panel finds the preamble to the factual particulars proved. A relationship between teacher and pupil that features any of the above communications or events is inappropriate and represents a relationship well beyond acceptable professional boundaries.

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

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

In doing so, the panel 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 Turnbull in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Turnbull 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 is satisfied that the conduct of Mr Turnbull amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Turnbull's conduct displayed behaviours associated with any of the offences listed in the Advice.

The panel has found that the offence of sexual activity (in this case with a pupil) is relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

Mr Turnbull met with one of his pupils alone outside school, bought a gift for her, exchanged hundreds of text messages with her and embarked on a sexual relationship with her. Their relationship went far beyond acceptable professional boundaries and clearly involved misconduct of a serious nature that fell very significantly short of the standard of behaviour expected of a teacher.

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

The panel has 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 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 Turnbull's actions also constitute 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 protection of other members of the public/the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Turnbull, which involved him forming a sexual relationship with one of his pupils, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of an inappropriate sexual relationship with a pupil.

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

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 Turnbull. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust;
- 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;

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 though finds that although Mr Turnbull was of previous good character, his actions were entirely deliberate and so serious that a prohibition from teaching was an inevitable outcome.

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 the teacher 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 Turnbull.

The fact that Mr Turnbull's relationship with Pupil A was sexual 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 for them to decide to recommend that a review period of the order should be considered. The panel were mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person, particularly where the individual has used their professional position to influence or exploit a person. Mr Turnbull had a sexual relationship with a pupil.

The panel felt 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 provisions 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 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 Turnbull should be the subject of a prohibition order, with a no review.

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

The findings of misconduct are particularly serious as they include a finding of sexual misconduct.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Turnbull, 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 in light of its findings against Mr Turnbull, "which involved him forming a sexual relationship with one of his pupils, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of an inappropriate sexual relationship with a pupil." A prohibition order would therefore prevent such a risk from being present. I have also taken into account that the panel make no mention of evidence of insight and remorse. In my judgement the absence of insight and remorse means that there is some risk of the repetition of this behaviour and this risks future safeguarding 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 public confidence in the profession could be seriously weakened if conduct such as that found against Mr Turnbull were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Turnbull himself. The panel say that although, “Mr Turnbull was of previous good character, his actions were entirely deliberate and so serious that a prohibition from teaching was an inevitable outcome.”

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

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Turnbull 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 a no review period.

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person, particularly where the individual has used their professional position to influence or exploit a person. Mr Turnbull had a sexual relationship with a pupil.”

The panel has also said that it felt 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 provisions for a review period.”

I have considered whether a 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 two factors that in my view 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 sexual misconduct found and the lack of either insight or remorse.

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

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

A handwritten signature in black ink, appearing to read 'Dawn Dandy', written in a cursive style.

Decision maker: Dawn Dandy

Date: 3 October 2018

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