



Teaching
Regulation
Agency

Mr Philip Wilkinson: Professional conduct panel meeting outcome

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

November 2018

Contents

A. Introduction	3
B. Allegations	4
C. Summary of evidence	4
Documents	4
Statement of agreed facts	4
D. Decision and reasons	5
Panel's recommendation to the Secretary of State	7
Decision and reasons on behalf of the Secretary of State	10

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

Teacher: Mr Philip Wilkinson
Teacher ref number: 3349113
Teacher date of birth: [Redacted]
TRA reference: 16883
Date of determination: 15 November 2018
Former employer: [Redacted]

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 15 November 2018 at Cheylesmore House, Quinton Road, Coventry, CV1 2WT to consider the case of Mr Philip Wilkinson.

The panel members were Mrs Mary Speakman (teacher panellist – in the chair), Mrs Mel Gunstone (lay panellist) and Mr Tony Heath (lay panellist).

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

In advance of the meeting, the TRA agreed to a request from Mr Wilkinson that the allegations be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Wilkinson provided a signed Statement of Agreed Facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Wilkinson 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 Meeting dated 9 November 2018.

It was alleged that Mr Philip Wilkinson was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed as a teacher at [Redacted], he:

1. Engaged in inappropriate electronic communications with a former pupil of the School in or around September 2017;
2. In doing so at allegation 1, his conduct was sexually motivated.

Mr Wilkinson unequivocally accepted the facts of both allegations and also that his conduct amounted 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 and anonymised pupil list – pages 0.1 to 0.2

Section 2: Notice of Referral – pages 1 to 4

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 5 to 35

Section 4: Teaching Regulation Agency documents – pages 37 to 60

Section 5: Teacher documents – page 60

In addition, the panel agreed to accept the following:

- Notice of Proceedings dated 15 August 2018; and
- Notice of Meeting dated 9 November 2018.

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 Wilkinson on 22 October 2018.

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 Wilkinson 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.

Mr Wilkinson had been employed at [Redacted] ('the School') as an ICT teacher from November 2007. On dates unknown between 2012 and 2016, he taught Pupil A prior to her leaving in July 2016.

In January and February 2017, emails were exchanged between Mr Wilkinson and Pupil A using the School's email account, which Pupil A had retained access to. At this time, Pupil A was aged 16. Further emails were exchanged between the two in September 2017, the contents of which concerned Pupil A sufficiently for her ask for advice from her employer. The employer subsequently reported the concerns to the School and Mr Wilkinson was summarily dismissed from his position at the School in November 2017.

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 teacher at [Redacted], you:

1. Engaged in inappropriate electronic communications with a former pupil of the School in or around September 2017

The panel noted that within the bundle were screenshots of a partial email exchange between Mr Wilkinson and Pupil A. This exchange included questions from Mr Wilkinson, seemingly without any prompting, as to whether Pupil A had ever had sex with a man and asking her for a 'recent pic' of herself.

The panel also noted that in the Statement of Agreed Facts, Mr Wilkinson unequivocally admitted that the email exchange was inappropriate.

For the reasons given, the panel finds this allegation proved.

2. In doing so at allegation 1, your conduct was sexually motivated.

The panel noted the language used by Mr Wilkinson in the screenshots between pages 25 to 29, which included questions to Pupil A about her having sex and asking her for photos of herself. These questions and requests appeared to have been made solely at Mr Wilkinson's instigation and without invitation from Pupil A, who concluded the exchange with the message "No, I don't think we should speak anymore".

The panel also noted, and accepted, Mr Wilkinson's unequivocal admission that his conduct was sexual and, in light of the inherently sexual nature of his language, there was no other credible explanation other than it being sexually motivated.

For the reasons given, the panel finds this allegation proved.

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

Having found both 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 Wilkinson in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Wilkinson 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

In the panel's view, there are clear and obvious boundaries that must exist between a teacher and pupil, or former pupil, and these boundaries had blatantly been crossed by Mr Wilkinson.

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

The panel has also considered whether Mr Wilkinson's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and the panel found that none of these offences are relevant.

The panel notes that the allegations took place outside of the education setting and Pupil A was no longer a pupil at the School or in education. Nevertheless, the 'relationship' that existed with Mr Wilkinson arose as a result of him being her teacher at the School, from where she had left only relatively recently, and had continued with emails being exchanged using the School's email system.

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.

Having found the facts of particulars 1 and 2 proved, the panel further finds that Mr Wilkinson'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 Wilkinson, which involved him sending a small number of inappropriate emails to a former pupil on one day, there is a strong public interest consideration in ensuring that pupils are protected in the future. Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct, such as that found against Mr Wilkinson, was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also 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 Wilkinson was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Wilkinson, who had indicated a desire to return to teaching in due course.

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 Wilkinson. 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) or violation of the rights of pupils;
- sexual misconduct.

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.

In light of the panel's findings on fact, the panel considered Mr Wilkinson's actions were deliberate and he was not acting under duress. However, in the absence of any evidence to the contrary, the panel did consider him to have a previously good record and having had a successful career as a teacher up to this point. In determining how successful a career this was, the panel would have been assisted by references to Mr Wilkinson's character and professional qualities.

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 Wilkinson. Sexual misconduct, especially that involving a pupil or former pupil, was a significant factor in forming that opinion as was ensuring that pupils are protected. 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. The panel however considered that none of these were applicable.

Whilst the panel has found Mr Wilkinson's actions to have been sexually motivated (and therefore amounting to sexual misconduct), it determined that this was effectively a one-off incident of inappropriate behaviour carried out remotely, rather than in person.

The panel did note that whilst there were earlier email exchanges in the bundle, these had taken place over seven months previously and did not suggest any ongoing pattern of behaviour. The email exchanges in September 2017 appeared opportunistic and, although distasteful, did not appear to be attempts by Mr Wilkinson at subtly grooming Pupil A in any way. Indeed, the actions of Mr Wilkinson were blatant from the beginning.

Whilst the panel considered sexual misconduct to be inherently serious, on the spectrum of seriousness, the panel determined Mr Wilkinson's actions to be very much at the lower end and not amounting to serious sexual misconduct.

In Mr Wilkinson's mitigation, the panel noted that he had expressed remorse and accepted that there were no excuses for his actions. Whilst the panel thought his actions amounted to more than just the 'very poor judgement' due to stress that Mr Wilkinson had

suggested, he had also expressed his appreciation, to some degree, of the effect that his conduct had had on others.

The panel felt 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 two years, at which point the panel hoped Mr Wilkinson could demonstrate how he would deal with any periods of stress in the future.

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

In particular, the panel has found that Mr Wilkinson 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, and maintain high standards in their own attendance and punctuality.
- 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 Wilkinson 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 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 Wilkinson, 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, "In light of the panel's findings against Mr Wilkinson, which involved him sending a small number of inappropriate emails to a former pupil on one day, there is a strong public interest consideration in ensuring that pupils are protected in the future." I note that the panel were of the view, "there are clear and obvious boundaries that must exist between a teacher and pupil, or former pupil, and these boundaries had blatantly been crossed by Mr Wilkinson."

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, "In Mr Wilkinson's mitigation, the panel noted that he had expressed remorse and accepted that there were no excuses for his actions."

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 panel considers that public confidence in the profession could be seriously weakened if conduct, such as that found against Mr Wilkinson, was 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 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 Wilkinson himself. The panel comment “in the absence of any evidence to the contrary, the panel did consider him to have a previously good record and having had a successful career as a teacher up to this point. In determining how successful a career this was, the panel would have been assisted by references to Mr Wilkinson's character and professional qualities.”

A prohibition order would prevent Mr Wilkinson 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 given less weight in my consideration of sanction therefore, to the contribution that Mr Wilkinson 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 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 2 year review period.

I have considered the panel’s comments “Whilst the panel considered sexual misconduct to be inherently serious, on the spectrum of seriousness, the panel determined Mr Wilkinson's actions to be very much at the lower end and not amounting to serious sexual misconduct.” The panel went on to say, “Whilst the panel thought his actions amounted to more than just the 'very poor judgement' due to stress that Mr Wilkinson had suggested, he had also expressed his appreciation, to some degree, of the effect that his conduct had had on others.”

The panel has also said it hoped that a 2 year review period would be the point at which “Mr Wilkinson could demonstrate how he would deal with any periods of stress in the future.”

I have considered whether a 2 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 and I am in agreement with the panel.

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 Philip Wilkinson 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 26 November 2020, 2 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 Wilkinson remains prohibited from teaching indefinitely. This order takes effect from the date on which it is served on the teacher.

Mr Wilkinson 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', with a stylized, elongated tail.

Decision maker: Dawn Dandy

Date: 19 November 2018

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