



Teaching  
Regulation  
Agency

# **Mr Iain McDowall: Professional conduct panel outcome**

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

**March 2021**

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

|                               |   |
|-------------------------------|---|
| <b>Teacher:</b>               | Mr Iain McDowall  |
| <b>Teacher ref number:</b>    | 9551452   |
| <b>Teacher date of birth:</b> | 26 November 1971  |
| <b>TRA reference:</b>         | 18747   |
| <b>Date of determination:</b> | 16 March 2021   |
| <b>Former employer:</b>       | Hawkesley Church School, Birmingham (part of Birmingham Diocesan Multi-Academy Trust) |

### Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 16 March 2021 by way of virtual hearing, to consider the case of Mr McDowall.

The panel members were Mr Steve Woodhouse (teacher panellist – in the chair), Ms Maxine Cole (lay panellist) and Mr Nicholas Catterall (lay panellist).

The legal adviser to the panel was Ms Rosie Shipp of Birketts LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr McDowall that the allegations be considered without a hearing. Mr McDowall provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer or Mr McDowall.

The meeting took place in private. The panel’s decision was recorded.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 9 March 2021.

It was alleged that Mr McDowall was guilty of having been convicted of relevant offences, in that, on or around 5 July 2019, he was convicted before HHJ Paul Farrar, Q.C. and a jury sitting on Birmingham Crown Court of offences of:

1. Sexual assault of a female child under 13, on divers days between 31 August 2008 and 31 July 2009, contrary to the Sexual Offences Act 2003, s.7.
2. Assault by penetration of the vagina/anus of a female child under 13 with a part of body/object, on divers days between 31 August 2009 and 31 July 2010, contrary to the Sexual Offences Act 2003, s.6.
3. Sexual assault of a female child under 13, on divers days between 31 August 2009.

Mr McDowall admits the fact that he was convicted and that, by his conviction, he has been convicted of a relevant criminal offence.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

- Section 1: Notice of Referral and Response– pages 2 to 15
- Section 2: Statement of agreed facts and presenting officer representations – pages 17 to 21
- Section 3: Teaching Regulation Agency documents– pages 23 to 40

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

## **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr McDowall on 24 November 2020.

Mr McDowall admitted in the statement of agreed facts that he had been convicted on or around 5 July 2019 at the Birmingham Crown Court of three offences contrary to the Sexual Offences Act 2003. Mr McDowall also admitted that, by his convictions, he has been convicted of a relevant offence.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr McDowall for the allegations to be considered without a hearing. The panel had 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 was necessary or appropriate in this case.

In summary, Mr McDowall was employed as a class teacher at Hawkesley Church School from 1 September 2016 until his dismissal on 31 December 2018.

In around September 2018, Mr McDowall was arrested by West Midlands police on suspicion of historical abuse of children that were in his care and he was immediately suspended from his role as a teacher whilst under investigation.

Mr McDowall was dismissed on 31 December 2018.

On or around 5 July 2019, Mr McDowall was convicted at Birmingham County Court for three offences under the Sexual Offences Act 2003 including one count under section 6 and two counts under section 7. Mr McDowall was sentenced to a total of 10 years' imprisonment as well as being ordered to remain on the sex offenders register indefinitely.

## **Findings of fact**

The findings of fact are as follows:

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

**On or around 5 July 2019, you were convicted before HHJ Paul Farrer, Q.C. and a jury sitting at Birmingham Crown Court of offences of:**

- 1. Sexual assault of a female child under 13, on divers days between 31 August 2008 and 31 July 2009, contrary to the Sexual Offences Act 2003, s.7.**
- 2. Assault by penetration of the vagina/anus of a female child under 13 with a part of body/object, on divers days between 31 August 2009 and 31 July 2010, contrary to the Sexual Offences Act 2003, s.6.**
- 3. Sexual assault of a female child under 13, on divers days between 31 August 2009 and 31 July 2010, contrary to the Sexual Offences Act 2003, s.7.**

In the statement of agreed facts, Mr McDowall accepted that he was convicted of three offences contrary to the Sexual Offences Act 2003. Mr McDowall has further accepted that each of these amounts to a conviction, at any time, of a relevant offence as outlined in the Teacher Misconduct: The Prohibition of Teachers (“the Advice”).

The panel was provided with a copy of HM Courts and Tribunal Services certificate of conviction dated 11 December 2020 confirming that Mr McDowall was convicted of these offences and issued a prison sentence and ordered to remain on the sex offenders register indefinitely. On examination of the documents before the panel, the panel was satisfied that the allegations were proven.

The panel also noted page 8 of the Advice, which states that where there has been a conviction, at any time, of a criminal offence, the meeting will not re-examine the facts of the case and the panel will accept the conviction as conclusive proof that establishes relevant facts.

The panel noted that Mr McDowall pleaded not guilty to the criminal charges and that he has continued to maintain his innocence in this regard. However, notwithstanding this, for the reasons set out above, the panel found the allegations to be proven.

## **Findings as to conviction of a relevant offence**

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position

- having regard to the need to safeguard pupils' wellbeing, in accordance with statutory provisions
- showing tolerance 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, 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 noted that Mr McDowall's convictions related to conduct while he was working in an education setting and did have an impact on the safety or security of pupils.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr McDowall's behaviour in committing the offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mr McDowall's behaviour ultimately led to a sentence of 10 years' imprisonment, which was indicative of the seriousness of the offences committed.

This was a case involving an offence of sexual activity, which the Advice states is likely to be considered a relevant offence.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr McDowall's ongoing suitability to teach. The panel considered that a finding that this conviction was for a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of a conviction of a relevant offence, 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 highly 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, and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr McDowall, which involved sexual offences against children, there was a very strong public interest consideration in respect of the protection of pupils.

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

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

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr McDowall. 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. 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 wellbeing of pupils, and particularly where there is a continuing risk;
- abuse of position or trust;
- sexual misconduct, for example, 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

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.



There was evidence that Mr McDowall's actions were deliberate and there was no evidence to suggest that he was acting under duress.

The panel noted limited evidence in the bundle to suggest that Mr McDowell had a previously good professional history. However, this was not considered to be convincing mitigation, especially in light of Mr McDowall's complete lack of remorse and insight in to his actions.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr McDowall 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 McDowall. The seriousness of the offences committed by Mr McDowall was a significant factor 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 to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours include serious sexual misconduct, such as where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr McDowall was responsible for serious sexual offences against children, which would indicate that no review period should be given.

The panel noted that two of the victims were children aged 5 or 6 at the time of the offence, which occurred when Mr McDowell was their class teacher in a position of trust. The panel considered Mr McDowall's actions to be at the most serious end of the scale of misconduct.

There was no indication that Mr McDowall is remorseful for his actions, or that he has demonstrated any insight in to the impact that they had. The panel noted that Mr McDowall still maintains his innocence but did not consider this to be a relevant factor for the purposes of these proceedings.

The panel decided 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 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 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 relevant convictions.

The panel has made a recommendation to the Secretary of State that Mr McDowall should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr McDowall 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 to the need to safeguard pupils' wellbeing, in accordance with statutory provisions
  - showing tolerance 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, 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 findings of relevant criminal convictions are particularly serious as they include a finding of sexual assault against a child aged under 13.

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 McDowall, 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, “Mr McDowall’s convictions related to conduct while he was working in an education setting and did have an impact on the safety or security of pupils.”

A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “There was no indication that Mr McDowall is remorseful for his actions, or that he has demonstrated any insight into the impact that they had.” In my judgement, the lack of insight means that there is 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, “The panel considered that Mr McDowall’s behaviour in committing the offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.”

I am particularly mindful of the finding of sexual assault on a child under the age of 13 in this case and the significant 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 McDowall himself. The panel has noted, “limited evidence in the bundle to suggest that Mr McDowell had a previously good professional history.”

A prohibition order would prevent Mr McDowall 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 also placed considerable weight on the finding of the panel that, “two of the victims were children aged 5 or 6 at the time of the offence, which occurred when Mr McDowell was their class teacher in a position of trust.”

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

I have considered the panel’s comments, “The panel found that Mr McDowall was responsible for serious sexual offences against children, which would indicate that no review period should be given.”

I have considered whether allowing for a no review period reflects the seriousness of the findings and is proportionate and necessary to achieve the aim of maintaining public confidence in the profession. In this case, the serious nature of the convictions which led to a 10 year custodial sentence and the total lack of insight or remorse sufficient to achieve the aim of maintaining public confidence in the profession indicate that a no review is necessary.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

**This means that Mr Iain McDowall 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 Iain McDowall 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 Iain McDowall 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 blue ink, appearing to read 'Alan Meyrick', is written over the text of the decision.

**Decision maker: Alan Meyrick**

**Date: 18 March 2021**

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