



Teaching
Regulation
Agency

Mr Wayne Howe: Professional conduct panel outcome

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

June 2021

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

Teacher: Mr Wayne Howe
Teacher ref number: 8672218
Teacher date of birth: 7 September 1958
TRA reference: 19042
Date of determination: 10 June 2021
Former employer: The Archbishop's School, Canterbury

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 9 June 2021 to 10 June 2021 by way of a virtual hearing, to consider the case of Mr Wayne Howe.

The panel members were Mr Ian Carter (former teacher panellist – in the chair), Ms Dawn Hawkins (teacher panellist) and Ms Caroline Downes (lay panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Michael O'Donohoe of Browne Jacobson LLP solicitors.

Mr Howe was not present or represented.

The hearing took place in public (save for parts heard in private) and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 1 April 2021.

It was alleged that Mr Howe was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at the Archbishop's School between September 2018 and October 2019:

1. He failed to maintain appropriate professional boundaries with Pupil A, including by;
 - a. on or around 30 January 2019, contacting Pupil A's mother to offer Pupil A [redacted];
 - b. on or around 8 March 2019, telling Pupil A that he liked her;
 - c. on or around 8 March 2019, informing Pupil A that his marriage was unstable;
 - d. on or around 8 March 2019, stating to Pupil A that he wanted to ask her to be his girlfriend once she left the school;
2. His behaviour as may be found proven at allegation 1d was conduct of a sexual nature and/or was sexually motivated;
3. He sought to conceal his conduct at allegation 1d, including by on or around 8 March 2019;
 - a. asking Pupil A not to disclose that he had asked her to be his girlfriend;
 - b. suggesting to Pupil A he would lose his job if she disclosed that he had asked her to be his girlfriend;
4. His conduct as may be found proven at 3 above lacked integrity and/or was dishonest.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Howe was not present at the hearing. The presenting officer made an application to proceed in the absence of Mr Howe.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the notice of proceedings had been sent to Mr Howe in accordance with the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018 (“the Procedures”) and that he and his representative had engaged in correspondence with the presenting officer.

The panel was satisfied that Mr Howe was clearly aware of the hearing and had conveyed to the TRA that he would not be attending. Mr Howe had engaged with the TRA by providing documents and correspondence throughout the process. The panel concluded that Mr Howe’s absence was voluntary and that he was aware that the matter would proceed in his absence, and that a prohibition order may be imposed.

The panel noted that Mr Howe had not sought an adjournment to the hearing and it did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Howe was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay.

Having decided that it was appropriate to proceed, the panel was mindful of the need to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Howe was not present.

Admission of additional documents

The panel considered additional documents submitted by the teacher, which were provided to the panel on the morning of the hearing.

The teacher’s documents were: a response from the teacher to Pupil A’s police interview [Redacted].

The documents had not been served in accordance with the requirements of paragraph 4.20 of the Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the Procedures.

The presenting officer had no objection to the admission of the documents.

The panel considered the additional documents were relevant and would assist the panel in determining the issues in the hearing. Accordingly, the documents were added to the bundle at pages 353 to 360.

Decision to hear part of the hearing in private

The panel noted that there were references to the health of Mr Howe and Pupil A in the hearing bundle. In the absence of Mr Howe and Pupil A, the panel considered that any parts of the hearing that referred to their health should be heard in private. The presenting officer did not object to this.

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 3

Section 2: Notice of proceedings and response – pages 5 to 15

Section 3: Teaching Regulation Agency witness statements – pages 18 to 71

Section 4: Teaching Regulation Agency documents – pages 74 to 345

Section 5: Teacher documents – pages 347 to 352

In addition, the panel agreed to accept the following: a response from the teacher to Pupil A's police interview [Redacted] – pages 353 to 360.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

Witnesses

The TRA called the following witnesses to give oral evidence at the hearing:

- Individual A [Redacted] and
- Individual B [Redacted].

Mr Howe was not present or represented and therefore did not provide oral evidence or call any witnesses.

Decision and reasons

The panel announced its decision and reasons as follows:

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

In summary, Mr Howe was employed as a maths teacher at the Archbishop's School ("the School") from 1 September 2018.

On 30 January 2019, Mr Howe engaged in unsolicited email correspondence with Pupil A's mother regarding [redacted] for Pupil A. Pupil A's mother indicated that Pupil A did not require [redacted]. Despite this, Mr Howe sent a further two emails on the same day, which Pupil A's mother reported to [Redacted].

Mr Howe then sent a further email to Pupil A's mother in/around February 2019 despite having been told not to contact her by the School's management.

On 8 March 2019, Mr Howe approached Pupil A and other pupils before the start of the school day in the school canteen to speak to them about the results of a [redacted] test they had taken. Mr Howe then asked to speak to Pupil A alone [redacted]. It was alleged that Mr Howe then told Pupil A that: (a) he liked her, (b) he wanted to ask her to be his girlfriend once she left school and (c) his marriage was unstable. It was further alleged that Mr Howe asked Pupil A not to disclose that he had asked her to be his girlfriend and suggested that he would lose his job if she did.

Mr Howe was suspended from work on 8 March 2019.

Following a police investigation, in June 2019, the police notified the School that the evidence did not meet the threshold for a criminal prosecution.

A school disciplinary hearing took place on 18 October 2019, and Mr Howe was subsequently dismissed from his position at the School. He appealed against his dismissal and his appeal was not upheld.

Findings of fact

The findings of fact are as follows:

At the outset, the panel identified that there was hearsay evidence in the hearing bundle. The panel was advised that hearsay evidence is admissible in civil proceedings but that it should be recognised as hearsay and the panel should determine the weight to be placed on it.

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

- 1. You failed to maintain appropriate professional boundaries with Pupil A, including by;**
 - a. on or around 30 January 2019, contacting Pupil A's mother to offer Pupil A [redacted];**
 - b. on or around 8 March 2019, telling Pupil A that you liked her;**
 - c. on or around 8 March 2019, informing Pupil A that your marriage was unstable;**
 - d. on or around 8 March 2019, stating to Pupil A that you wanted to ask her to be your girlfriend once she left the school;**

Allegation 1.a.

In respect of allegation 1.a., the panel noted that in Mr Howe's response to the TRA's investigation (which was unsigned and undated), Mr Howe admitted that he had emailed Pupil A's mother. However, he stated that he did not 'offer' [redacted], but that Pupil A had asked Mr Howe [redacted]

Mr Howe admitted that his subsequent emails to Pupil A's mother should not have been sent, but submitted that he has [redacted] with emails and has to keep replying until he has the last word. The panel was provided with copies of the emails exchanged between Mr Howe and Pupil A's mother. The panel was not provided with any medical evidence indicating that Mr Howe [redacted]

The panel concluded that this allegation was well founded. The panel was provided with evidence of the emails that had been sent. The panel considered that Mr Howe had offered [redacted] to Pupil A and was not persuaded by his explanation in this regard.

The panel was of the view that Mr Howe's conduct in sending the emails amounted to a failure to maintain appropriate professional boundaries given his persistence in emailing Pupil A's mother, the frequency of the emails and the time of day that they were sent (the emails were sent between 8.12am and 8.56pm on 30 January 2019). The panel was also mindful that Mr Howe had offered to [redacted] Pupil A [redacted] and that he appeared to have looked up her home address on SIMS (School Information Management System). The panel considered that offering [redacted] and looking up a pupil's address for that purpose, was a key professional boundary that should not be crossed.

The panel was concerned that, in offering Pupil A [redacted], Mr Howe was seeking to gain and/or increase his access to Pupil A.

Allegation 1.b.

The panel noted that Mr Howe admitted he told Pupil A he liked her, but asserted that it was not in the context alleged.

The panel noted the following comments from Mr Howe in the bundle of documents before it:

"Telling someone you like them is not a safeguarding issue. The word like is being misconstrued. I had already told the whole class I liked them as they were the nicest and most hard-working class I've ever taught. I was trying to gauge if she respected me enough to listen to my advice and was unable to say what I wanted to say."

"I wanted to find out if she respect [sic] me as a person and my teaching. When I said, "I like you, what do you think of me." I wanted to see if she respected me, but I couldn't get the words out."

The panel also considered a statement from Pupil A within which she stated: *“Mr Howe responded, I really like you...”*

Furthermore, the panel was provided with a statement from Pupil A’s mother. Within this statement Pupil A’s mother referred to a parents’ evening that took place in November 2018 during which Mr Howe asked Pupil A’s mother *“if Pupil A liked him”*.

On the basis of the evidence before it, the panel concluded that this allegation was well founded. Mr Howe admitted to telling Pupil A that he liked her. The panel was not persuaded by the explanation provided by Mr Howe in the bundle of documents. Whilst the panel appreciated that a teacher may say that they “like” their class, this was not the context in which Mr Howe made the comment to Pupil A. Mr Howe had asked to speak to Pupil A alone and he had told Pupil A that he liked her. The panel considered that this was a failure to maintain appropriate professional boundaries.

Allegation 1.c.

Mr Howe denied that he said anything about his marriage to Pupil A.

The panel was provided with a statement from Pupil A within which she stated that, on 8 March 2019, Mr Howe had told her: *“I know I’m married but I’m unstable”*. The panel considered that this wording was different to the wording of allegation 1.c. The words used by Pupil A suggest that Mr Howe had told her that he was unstable and not that his marriage was unstable.

Whilst there were witness statements from other individuals in the bundle which indicated that Mr Howe had referred to leaving his wife, the panel was not presented with any evidence that demonstrated that Mr Howe had told Pupil A that his marriage was unstable.

Therefore, on a strict interpretation of the wording of allegation 1.c., the panel did not find this allegation proven.

Allegation 1.d.

The panel was provided with evidence that Mr Howe had told Pupil A that he wanted to ask her to be his girlfriend once she left school. This included a statement from Pupil A and other witnesses.

The panel noted that Mr Howe initially admitted to saying this.

Mr Howe spoke to Individual A on the telephone a short time after the incident had taken place (at 9.13am and at 9.23am). Individual A provided witness evidence, based upon the contemporaneous notes he had taken at the time, that Mr Howe had referred to [Redacted] and had then gone on to say:

“He replied that he wanted to tell Pupil A about his feelings and said he asked her to be his girlfriend. Mr Howe then said that he had read it all wrong and that he had made a mistake, which were Mr Howe’s exact words as I wrote down what he said.”

“Mr Howe called me back at 09.23 and I asked him to go through the incident again. Mr Howe said “[Pupil A] is perfect and I loved her the moment I saw her. I want her to be my girlfriend.”

Furthermore, following Mr Howe’s arrest on 8 March 2019 (and after having been cautioned) Mr Howe told a police officer that he had said: *“If I asked you a question after you left school would you be my girlfriend?”*. Mr Howe went on to clarify *“after you leave school means after completion of education not of her school day”*. These comments were recorded in the police officer’s pocketbook and Mr Howe signed it.

The panel was aware, from the documents provided to it, that Mr Howe had subsequently changed his position in this regard and had asserted at various times that: there was a pause between the words “girl” and “friend”; he had only said “friend”; and that he did not intend to say this to Pupil A at all. [Redacted]

The panel was not compelled by Mr Howe’s later explanation. The panel concluded that Mr Howe’s admission immediately following the incident was more likely to be the truth. [Redacted]. The panel was also mindful that [Redacted] Mr Howe did not attend the hearing to provide witness evidence in respect of it.

The panel was mindful that Mr Howe had provided various differing accounts in respect of this allegation over time. The panel preferred the documentary evidence that was provided from Pupil A and the oral witness evidence it heard. The panel considered that Mr Howe’s conduct amounted to a failure to maintain appropriate professional boundaries.

Accordingly, the panel considered this allegation to be well founded.

In summary, the panel found allegations 1.a., 1.b. and 1.d. to be proven. The panel did not find allegation 1.c. proven.

2. Your behaviour as may be found proven at allegation 1d was conduct of a sexual nature and/or was sexually motivated;

Having found allegation 1.d. proven, the panel went on to consider whether Mr Howe’s conduct was conduct of a sexual nature and/or was sexually motivated.

The panel considered Mr Howe’s explanation in respect of allegation 1.d. as referred to above.

The panel's attention was drawn to section 78 *Sexual Offences Act 2003* and to the cases of *Sait v The General Medical Council [2018]*, *Basson v General Medical Council [2018]* and *The General Medical Council v Haris [2020] EWHC 2518*.

The panel considered whether the conduct was sexually motivated. It noted that in *Basson* it was stated that “*A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship*”.

The panel considered Mr Howe's comment to Individual A that he had “*read it all wrong*” and concluded that Mr Howe had believed that Pupil A liked him and/or might want to pursue a relationship with him.

The panel was of the view that there was no evidence to suggest that Mr Howe's conduct was done in the pursuit of sexual gratification. However, it considered that, on the balance of probabilities, his conduct was in the pursuit of a sexual relationship.

The panel reached this conclusion on the basis that Mr Howe had told Pupil A that he wanted to ask her to be his girlfriend. The panel was therefore of the view that Mr Howe wanted to pursue a romantic relationship with Pupil A, which was likely to involve and/or develop into a sexual relationship. The panel felt that, in speaking to Pupil A as he did, Mr Howe was seeking to lay the foundations for a future relationship with Pupil A and that his conduct was, on balance, in pursuit of a sexual relationship.

The panel therefore found this allegation proven.

3. You sought to conceal your conduct at allegation 1d, including by on or around 8 March 2019;

a. asking Pupil A not to disclose that you had asked her to be your girlfriend;

b. suggesting to Pupil A you would lose your job if she disclosed that you had asked her to be your girlfriend;

The panel noted that in Mr Howe's response to the TRA investigation, Mr Howe denied that he asked Pupil A not to disclose what he had said. However, he admitted that he said “*I will lose my job for this*”, but he said that he was saying this to himself.

The panel noted that Pupil A had referred to Mr Howe saying this in a statement that was taken from her immediately after the incident and also during a police interview.

The panel concluded that, in order to seek to conceal Mr Howe's conduct as described at allegation 1.d., he did ask Pupil A not to disclose their conversation and he did say that he would lose his job if she disclosed it.

The panel therefore found this allegation proven.

4. Your conduct as may be found proven at 3 above lacked integrity and/or was dishonest

The panel noted that in Mr Howe's response to the TRA investigation, Mr Howe denied that his conduct lacked integrity or that he was being dishonest.

Further, he submitted that he phoned a colleague, Individual C, after the incident to tell him what had happened and also explained what had happened to Individual A. He therefore asserts that he did not lie or hide what had happened.

The panel concluded that Mr Howe's conduct did lack integrity and/or was dishonest in that he had sought to conceal his conversation with Pupil A by asking her not to disclose it and by reference to the fact that he might lose his job if she did.

The panel therefore found this allegation proven.

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

Having found a number of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Howe in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Howe 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 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 was satisfied that the conduct of Mr Howe amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Howe's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

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

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

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Mr Howe's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1.a., 1.b., 1.d., 2, 3 and 4 proved, the panel further found that Mr Howe's conduct amounted 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 was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the

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 Howe which involved a failure to maintain appropriate professional boundaries, sexually motivated conduct, dishonesty and a lack of integrity, there was a 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 Howe were not treated with the utmost seriousness when regulating the conduct of the profession.

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

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 Howe. The panel took further account of pages 12 and 13 of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- 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 (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up; and
- 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.

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.

In light of the panel's findings, the panel considered that Mr Howe's actions were deliberate. There was no evidence to suggest that Mr Howe was acting under duress.

The panel was not presented with any detailed or compelling evidence in respect of Mr Howe's abilities as a teacher. Mr Howe had not provided any character references that could attest to his ability as a teacher, nor had he provided any detailed comments on this himself. Accordingly the panel was unable to assess Mr Howe's abilities as an educator, his contribution to the teaching profession or public interest in retaining Mr Howe in the profession.

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 had regard to the documentary evidence it had been provided with by Mr Howe within which he refers to [Redacted]

The panel also considered comments made by Mr Howe about poor behaviour in the school, which had caused him stress. However, the panel preferred the witness evidence it heard from Individual A and Individual B that the behaviour at the school was not unusual for a secondary school.

In his written statements, Mr Howe stated that he wanted to apologise to Pupil A and her parents and that "*Words can never express how sorry I am.*" He also acknowledged the distress he had caused to the school, his family and to having let down his pupils. The panel took this into account.

However, the panel was very concerned that Mr Howe demonstrated a complete lack of insight into his actions. Mr Howe did not admit to all of the allegations and, where he did appear to admit to certain parts of the allegations, he sought to qualify his admissions. He provided differing accounts in respect of allegation 1.d). He also appeared to "victim blame" Pupil A by saying that he had "*read it all wrong*", which the panel felt indicated that Mr Howe believed that he had misread signals given by Pupil A. Mr Howe also said that Pupil A blew a kiss at him on a previous occasion. However, no evidence was presented to the panel to indicate that this was true or that Mr Howe had reported it to the designated safeguarding lead. Mr Howe also asserted that Pupil A (and others) had lied in respect of certain details. The panel took a dim view of these assertions and considered that Mr Howe was seeking to denigrate Pupil A.

The panel felt strongly that, had it not been for Pupil A's courage in reporting this incident, it may never have come to light. The panel commended Pupil A's bravery and it took account of the impact the incident has had on her. The panel was mindful that Pupil A was [Redacted]

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Howe 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 Howe. The serious nature of the misconduct, together with Mr Howe's lack of insight and the impact this matter had on Pupil A were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel did not consider any of the factors set out on page 15 of the Advice were relevant in this case. Whilst the panel had concluded that Mr Howe's conduct was sexually motivated, it did not consider that this amounted to serious sexual misconduct.

However, the panel did not consider Mr Howe's conduct to be acceptable. In particular, the panel was concerned about the persistence with which Mr Howe had sought to provide [redacted] to Pupil A, the wholly inappropriate nature of his conversation with Pupil A on 8 March 2019, his repeated references to Pupil A having lied and/or not told the truth about what happened that day and his complete lack of insight. Of particular concern was the fact that Mr Howe had sought to conceal his actions and, were it not for Pupil A's courage in reporting them, this matter may not have come before a professional conduct panel of the TRA. The panel considered that Mr Howe's conduct bordered on grooming and was incompatible with being a teacher.

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 some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, I have therefore put those matters entirely from my mind.

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

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

The findings of misconduct are particularly serious as they include a finding of a failure to maintain appropriate professional boundaries, sexually motivated conduct, dishonesty and a lack of integrity.

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 Howe, 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, "Of particular concern was the fact that Mr Howe had sought to conceal his actions and, were it not for Pupil A's courage in reporting them, this matter may not have come before a professional conduct panel of the TRA. The panel considered that Mr Howe's conduct bordered on grooming and was incompatible with being a teacher". 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 Howe stated that he wanted to apologise to Pupil A and her parents and that *"Words can never express how sorry I am."* He also acknowledged the distress he had caused to the school, his family and to having let down his pupils. The panel took this into account. However, the panel was very concerned that Mr Howe demonstrated a complete lack of insight into his actions. Mr Howe did not admit to all of the allegations and, where he did appear to admit to certain parts of the allegations, he sought to qualify his admissions.". In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts pupils at risk. 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, "In the light of the panel's findings against Mr Howe which involved a failure to maintain appropriate professional boundaries, sexually motivated conduct, dishonesty and a lack of integrity, there was a strong public interest consideration in respect of the protection of pupils". I am particularly mindful of the finding of sexual motivation 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 Howe himself and the panel comment "The panel was not presented with any detailed or compelling evidence in respect of Mr Howe's abilities as a teacher. Mr Howe had not provided any character references that could attest to his ability as a teacher, nor had he provided any detailed comments on this himself. Accordingly the panel was unable to assess Mr Howe's abilities as an educator, his contribution to the teaching profession or public interest in

retaining Mr Howe in the profession”. However despite lack of evidence to the panel a prohibition order would prevent Mr Howe 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 following comments from the panel “The panel decided that the public interest considerations outweighed the interests of Mr Howe. The serious nature of the misconduct, together with Mr Howe’s lack of insight and the impact this matter had on Pupil A were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Howe 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 fully 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 “Whilst the panel had concluded that Mr Howe’s conduct was sexually motivated, it did not consider that this amounted to serious sexual misconduct. However, the panel did not consider Mr Howe’s conduct to be acceptable. In particular, the panel was concerned about the persistence with which Mr Howe had sought to provide [redacted] to Pupil A, the wholly inappropriate nature of his conversation with Pupil A on 8 March 2019, his repeated references to Pupil A having lied and/or not told the truth about what happened that day and his complete lack of insight”.

I have considered whether not allowing a 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, a number of factors 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 dishonesty found, the lack of full insight or remorse, and the impact this conduct had on the pupil concerned.

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 Wayne Howe 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 Howe 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 Wayne Howe 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 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 16 June 2021

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