



Teaching
Regulation
Agency

Mr Khalid Miah: Professional conduct panel outcome

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

August 2021

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

Teacher: Mr Khalid Miah
Teacher ref number: 0153545
Teacher date of birth: 24 December 1979
TRA reference: 18993
Date of determination: 27 August 2021
Former employer: Lealands High School, Luton

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 27 August 2021 by video conference, to consider the case of Mr Khalid.

The panel members were Mr Ian Carter (former teacher panellist – in the chair), Mr Alf Bean (lay panellist) and Mrs Kulvinder Sandal (teacher panellist).

The legal adviser to the panel was Ms Surekha Gollapudi of Eversheds Sutherland (International) LLP solicitors.

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

Mr Miah was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation(s) set out in the notice of proceedings dated 29 June 2021.

It was alleged that Mr Miah was guilty of having been convicted of a relevant offence, in that:

1. On or about 5 June 2020 he was convicted of:
 - a. Two counts of Attempt/Engage in Sexual Communications with a Child Contrary to s.15A(1) of the Sexual Offences Act 2003;
 - b. One count of Attempt/Engage Child Under 16 to Watch a Sexual Act contrary to s. 12(1)(a); and
 - c. One count of Possessing an Indecent Photograph or pseudo-Photograph of a Child contrary to s.16-of the Criminal Justice Act 1988.

The teacher admitted the facts of the allegations and that they amounted to conviction of a relevant offence.

Preliminary applications

The panel considered whether the hearing should continue in the absence of the teacher.

The panel was satisfied that TRA complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took as its starting point the principle from *R v Jones* that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in *GMC v Adeogba & Visvardis*.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel firstly took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1.

In correspondence with the presenting officer, the teacher confirmed that he preferred not to attend the hearing, and that he wanted it to be concluded as soon as possible. The teacher did not indicate that he would attend if the hearing were to be adjourned to a future date. The teacher admitted the facts of the allegations in correspondence and the panel also noted the evidence of the Certificate of Conviction which clearly set out the conviction.

The panel recognised that the allegations against the teacher are serious and that there is a real risk that if proven, the panel will be required to consider whether to recommend that the teacher ought to be prohibited from being a teacher.

The panel recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that in light of the teacher's waiver of his right to appear; by taking such measures referred to above to address that unfairness, insofar as is possible; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time was in favour of this hearing continuing today.

The panel went on to consider an application by the presenting officer to admit an email sent to the teacher attaching the notice of proceedings, together with additional emails between the presenting officer and teacher.

The panel went on to consider an application made by the presenting officer to amend the Notice of Proceedings by amending the date of the conviction from 13 July 2020 to 5 June 2020. The panel noted that it has the power to, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

The panel considered that the amendment proposed, being a correction of a typographical error, did not change the nature, scope or seriousness of the allegations. There was no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher. The panel therefore decided to amend the allegation as proposed.

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 – page 2

Section 2: Notice of proceedings and response – pages 4 to 22

Section 3: Teaching Regulation Agency documents – pages 24 to 92

In addition, the panel agreed to accept the following:

Email from TRA to the teacher enclosing Notice of Proceedings

Notice of Proceedings

Emails between the teacher and the TRA regarding the hearing

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 panel did not hear oral evidence from any witnesses.

Decision and reasons

The panel announced its decision and reasons as follows:

The teacher had been employed by Lealands High School as the Director of Maths from 1 January 2017. On 21 November 2019, the teacher was arrested by police in relation to offences relating to sexual communications with a child and causing a child under 13 to watch a sexual act. On 5 June 2020 the teacher pleaded guilty to four offences including attempting to engage in sexual communication with a child, attempting to cause a child to look at an image of sexual activity and possessing an indecent photograph of a child.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proved, for these reasons:

You have been convicted, at any time, of a relevant offence in that:

1. **On or about 5 June 2020 you were convicted of:**
 - a. **Two counts of Attempt/Engage in Sexual Communications with a Child Contrary to s.15A(1) of the Sexual Offences Act 2003;**
 - b. **One count of Attempt/Engage Child Under 16 to Watch a Sexual Act contrary to s. 12(1)(a); and**
 - c. **One count of Possessing an Indecent Photograph or pseudo-Photograph of a Child contrary to s.16-of the Criminal Justice Act 1988.**

The panel had regard to the Certificate of Conviction which noted that on 5 June 2020, Mr Khalid Miah was convicted of:

1. *“Attempt to engage in sexual communication with a child*
2. *Attempt to cause a child 13 to 15 to watch / look at an image of sexual activity;*
3. *Attempt to engage in sexual communication with a child*
4. *Possess an indecent photograph of a child”*

The Certificate of Conviction went on to confirm Mr Miah was sentenced to imprisonment for these offences on 13 July 2020.

Whilst the panel took the Certificate of Conviction as conclusive proof of the convictions, the panel also noted that it was supported by the evidence provided by the School’s investigation and Mr Miah’s own admissions.

Findings as to conviction of a relevant offence

Having found the allegation proven, 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 Miah, in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Miah 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, and maintain high standards in their own attendance and punctuality.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and/or security of pupils.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Miah'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 Miah's behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed.

This was a case concerning offences involving sexual activity and activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting any such activity, including one-off incidents, 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 Miah's ongoing suitability to teach. The panel considered that finding these convictions were relevant offences 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 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 the light of the panel's findings against Mr Miah, which related to sexual offences involving children, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of inappropriate electronic communication with children.

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

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 Miah. 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. 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;

- 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;

- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents; and

- 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.

The panel noted that in sentencing the teacher, the Judge commented that, *“there’s nothing been brought to my attention that you’ve had anything recorded against you with regard to your teaching profession thus far.”* The panel was satisfied that this indicated the teacher had a previously good history.

[Redacted]

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 would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Miah 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 Miah. 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. 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 and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child.

Mr Miah did admit the offences at the outset of the criminal investigation and demonstrated some insight into his offences.

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 provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of 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 Khalid Miah should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Miah 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.

The findings of a relevant conviction are particularly serious as they include a finding of, "an attempt to cause a child 13 to 15 to watch / look at an image of sexual activity; an attempt to engage in sexual communication with a child and possession of an indecent photograph of a child."

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether 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 Miah, 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, “that the behaviour involved in committing the offence could have had an impact on the safety and/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, “Mr Miah did admit the offences at the outset of the criminal investigation and demonstrated some insight into his offences.

In my judgement, the seriousness of the convictions means that is not outweighed in this case even by this level of insight. I have therefore given element considerable weight in reaching my overall 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 Miah’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 serious nature of the convictions 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 a relevant conviction, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the finding that has been made in this case.

I have also considered the impact of a prohibition order on Mr Miah himself. The panel reference the judges’s remarks “*there’s nothing been brought to my attention that you’ve had anything recorded against you with regard to your teaching profession thus far.*” The panel was satisfied that this indicated the teacher had a previously good history.

A prohibition order would prevent Mr Miah from teaching and would also clearly deprive the public of him 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 conviction found, “which related to sexual offences involving children, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of inappropriate electronic communication with children.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Miah 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.

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 and the Advice, "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. 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 and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child."

I have considered whether allowing for no review is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that a no review is necessary and in the public interest are the seriousness of the conviction against Mr Miah as set out previously.

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 Khalid Miah 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 Khalid Miah 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 Khalid Miah has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.



Decision maker: Alan Meyrick

Date: 3 September 2021

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