



Teaching
Regulation
Agency

Mr Timothy Tolhurst: Professional conduct panel meeting outcome

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

November 2021

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	4
Documents	4
Statement of agreed facts	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	9
Decision and reasons on behalf of the Secretary of State	12

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

Teacher:	Mr Timothy Tolhurst
Teacher ref number:	3770020
Teacher date of birth:	24 March 1991
TRA reference:	19646
Date of determination:	1 and 17 November 2021
Former employer:	Astor Secondary School, Kent

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 1 and 17 November 2021 by way of a virtual meeting, to consider the case of Mr Timothy Tolhurst.

The panel members were Mr Ronan Tyer (lay panellist – in the chair), Mr Steve Woodhouse (teacher panellist) and Ms Valerie Purnell-Simpson (lay panellist).

The legal adviser to the panel was Mr Sam Haldane 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 Tolhurst that the allegations be considered without a hearing. Mr Tolhurst 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, Ms Leah Redden of Browne Jacobson LLP solicitors; Mr Tolhurst; or Mr Tolhurst’s representative, Mr Simon Pettet of NASUWT.

The meeting took place in private by way of a virtual meeting, save for the announcement of the panel’s decision, which was announced in public and recorded.

Allegations

The panel considered the allegations set out in the notice of meeting dated 12 August 2021.

It was alleged that Mr Tolhurst was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. He engaged in and/or developed an inappropriate relationship with Pupil A including by;
 - a) exchanging contact details with her in or around March 2020;
 - b) contacting her by telephone and/or social media from approximately March 2020;
 - c) meeting her 1:1 from approximately May 2020;
 - d) engaging in physical activity such as hugging and/or kissing her from approximately May 2020;
 - e) entering into a personal and/or romantic relationship with her from approximately May 2020;
 - f) engaging in sexual activity with her from approximately June 2020.

Mr Tolhurst admitted the facts of allegations 1(a) to 1(f) and that his behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, as set out in the response to the notice of referral dated 9 April 2021, and in the statement of agreed facts signed by Mr Tolhurst on 6 May 2021.

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: Chronology, anonymised pupil list and list of key people – page 2
- Section 2: Notice of referral, response and notice of meeting – pages 4 to 10b
- Section 3: Statement of agreed facts and presenting officer representations – pages 12 to 17
- Section 4: Teaching Regulation Agency documents – pages 19 to 65

- Section 5: Teacher documents – pages 67 to 68

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 Tolhurst on 6 May 2021.

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 Tolhurst 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 Tolhurst was employed as a teacher by Astor Secondary School ('the School') from 1 September 2016. Mr Tolhurst was also a form tutor and deputy head of year 7. The School is part of the Dover Federation for the Arts Multi Academy Trust ('the Trust').

Pupil A was a pupil at the School during this period, albeit not attending lessons or taking exams. In March 2020, Mr Tolhurst exchanged personal contact details with Pupil A, without seeking any appropriate authority. Mr Tolhurst exchanged messages and calls with Pupil A.

In approximately May 2020, Mr Tolhurst began to meet Pupil A in person and developed a personal relationship. In June 2020, Mr Tolhurst also developed a physical relationship with Pupil A.

Mr Tolhurst disclosed his relationship with Pupil A to his mother, who is the company secretary for the Trust, on approximately 31 October 2020. Mr Tolhurst's mother advised him to disclose the relationship to the headteacher.

On 2 November 2020, Mr Tolhurst informed the CEO of the Trust, of the relationship that he had developed with Pupil A. The CEO informed the headteacher of the School. Mr Tolhurst was suspended from the School on 2 November 2020 and a referral was made to the Local Authority Designated Officer ('LADO').

On 4 November 2020, a LADO meeting was held, where it was established that no criminal offences had been committed as Pupil A was 18 at the time the sexual relationship commenced.

An investigation was undertaken by the School, between 2 to 20 November 2020, by an independent HR consultant. Mr Tolhurst resigned from the School on 5 November 2020.

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:

- 1. You engaged in and/or developed an inappropriate relationship with Pupil A including by;**
 - a) exchanging contact details with her in or around March 2020;**
 - b) contacting her by telephone and/or social media from approximately March 2020;**
 - c) meeting her 1:1 from approximately May 2020;**
 - d) engaging in physical activity such as hugging and/or kissing her from approximately May 2020;**
 - e) entering into a personal and/or romantic relationship with her from approximately May 2020;**
 - f) engaging in sexual activity with her from approximately June 2020.**

The panel noted that Mr Tolhurst admitted the facts of allegations 1(a) to 1(f), as set out in the response to the notice of referral dated 9 April 2021, and in the statement of agreed facts signed by Mr Tolhurst on 6 May 2021.

Mr Tolhurst admitted that he engaged in an inappropriate relationship with Pupil A. Mr Tolhurst stated that, in retrospect, his initial intention was purely to provide support to Pupil A in uncertain times due to the COVID-19 pandemic.

Mr Tolhurst admitted that he provided his contact details to Pupil A by giving her his personal phone details during the last day of school, before the first lockdown in March 2020.

Mr Tolhurst admitted that he contacted Pupil A by telephone and/or social media in approximately March 2020. Mr Tolhurst admitted that the initial contact was to check on Pupil A's wellbeing but eventually the communication 'got out of hand' and they developed a relationship.

Mr Tolhurst admitted that he met Pupil A, whilst socially distancing, in approximately May 2020. Mr Tolhurst admitted that initially he met up with Pupil A to check on her wellbeing, as she was isolating on her own, however this eventually turned into a relationship.

The Panel found that there was no specific evidence of hugging and kissing but agreed, on the balance of probabilities, that this did include physical activity. The Panel took into account the month of June to be included as approximately May as there were no specific dates provided for when physical activity took place.

Mr Tolhurst admitted that he engaged in physical activity such as hugging and/or kissing Pupil A from approximately May 2020. Mr Tolhurst admitted entering into a personal and/or romantic relationship with Pupil A from approximately May 2020. Mr Tolhurst further admitted engaging in sexual activity with Pupil A from approximately June 2020.

Notwithstanding this, the panel made its own determination on the facts available to it.

The panel concluded that the evidence within the bundle supported the statement of agreed facts. In particular, the panel noted the LADO position of trust meeting report; the notes of the investigation interview conducted on 16 November 2020; the notes of the investigation interview conducted on 18 November 2020; the safeguarding investigation report; the transcript from the interview with the welfare officer on 18 November 2020; and Mr Tolhurst's statement. All of these documents supported the fact that Mr Tolhurst formed an inappropriate relationship with Pupil A.

The panel found the particulars of allegations 1 proved having examined every sub-particular based upon its own merit.

The panel found that Pupil A was considered vulnerable by the school. The welfare officer's notes of interview articulate the specific vulnerabilities that this pupil had and the lack of available support due to the fact Pupil A was living alone. The panel noted that the decision maker had stated 'Pupil A was considered to be vulnerable by the school.... Was under the supervision of the safeguarding team'. Mr Tolhurst was aware of these vulnerabilities prior to the events in question. This is evidenced throughout the bundle.

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

Having found 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 Tolhurst, in relation to the facts found proven, breached the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Tolhurst 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 Tolhurst fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Tolhurst's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that the offence of sexual activity 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. The panel noted that this behaviour was undertaken in pursuit of sexual gratification or in pursuit of a sexual relationship.

The panel noted that allegations 1(b), 1(c), 1(d) and 1(f) took place outside the education setting in that they took place outside of school and messages/calls were exchanged via telephone and/or social media. The panel considered that the nature of Mr Tolhurst's misconduct undermined his position as a teacher and that of the profession in general.

Accordingly, the panel was satisfied that Mr Tolhurst 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 they behave.

The panel took into account that Mr Tolhurst had attended safeguarding training and that he struggled to articulate his reasons for the secrecy around his actions when interviewed. Mr Tolhurst acknowledged that his behaviour would make it difficult for him to continue within the profession and would likely have a negative impact upon the reputation of the school.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher.

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

Having found the facts of particulars 1(a), 1(b), 1(c), 1(d), 1(e) and 1(f) proved, the panel further found that Mr Tolhurst's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel gave consideration to the interview notes of Individual A which although listed in the bundle were initially omitted. This meant the panel had to retire in order to source the missing pages. The panel gave weight to these and found they showed Mr Tolhurst had acted with elements of dishonesty and had not been forthcoming about his actions.

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 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 Tolhurst, which involved forming an inappropriate personal and sexual relationship with a pupil, 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 Tolhurst 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 Tolhurst 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 Tolhurst.

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 Tolhurst. 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 are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- 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.

There was no evidence that Mr Tolhurst's actions were not deliberate nor was there any evidence to suggest that Mr Tolhurst was acting under duress.

Although Mr Tolhurst only disclosed his relationship with Pupil A to the School when confronted, he was open and honest throughout the entire process.

Mr Tolhurst showed some insight into his actions, as shown in the undated statement he provided to the TRA, whereby he stated that "*The disclosure reflected my knowledge that*

my initial well intended actions had resulted in a situation which snowballed and put the reputation of my colleagues, the Trust and the profession in jeopardy.”

Mr Tolhurst believed that the extreme circumstances and challenges of lockdown, due to the COVID-19 pandemic, clouded his judgement. However, Mr Tolhurst regretted his actions and acknowledged letting down his colleagues and the students. Mr Tolhurst accepted full responsibility for his actions.

The panel noted the character reference provided by Individual B, [REDACTED], who knew Mr Tolhurst in his capacity as a teacher. In particular, the panel noted the following:

- *“During this time, he worked extremely hard and was an excellent role model to new teachers and pupils.”*
- *“I believe that Timothy has reflected on his actions and can see how, with hindsight, that starting this relationship was wrong.”*
- *“I fully believe that had this relationship not started, Timothy would have had a long and highly successful career in teaching. I am hopeful that he will rebuild his career as he has a lot to offer any further employer and has been a great loss to the maths department at Astor School.”*

No further evidence was provided to attest to Mr Tolhurst’s previous history as a teacher nor was any other mitigation provided.

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 Tolhurst 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 Tolhurst. Forming a personal and sexual relationship with a pupil 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 Tolhurst was responsible for forming a sexual relationship with Pupil A.

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 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 Timothy Tolhurst should be the subject of a prohibition order, with no provision for a review period.

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

The findings of misconduct are particularly serious as they include a finding which involved forming an inappropriate personal and sexual relationship with a vulnerable pupil.

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 Tolhurst, 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, Mr Tolhurst used his professional position to develop an inappropriate and sexual relationship with a pupil. 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 Tolhurst showed some insight into his actions, as shown in the undated statement he provided to the TRA, whereby he stated that *"The disclosure reflected my knowledge that my initial well intended actions had resulted in a situation which snowballed and put the reputation of my colleagues, the Trust and the profession in jeopardy."*

Mr Tolhurst believed that the extreme circumstances and challenges of lockdown, due to the COVID-19 pandemic, clouded his judgement. However, Mr Tolhurst regretted his actions and acknowledged letting down his colleagues and the students. Mr Tolhurst accepted full responsibility for his actions."

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 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." I am particularly mindful of the finding of forming a sexual relationship with a pupil 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 Tolhurst himself “The panel noted the character reference provided by Individual B, [REDACTED], who knew Mr Tolhurst in his capacity as a teacher. In particular, the panel noted the following:

- *“During this time, he worked extremely hard and was an excellent role model to new teachers and pupils.”*
- *“I believe that Timothy has reflected on his actions and can see how, with hindsight, that starting this relationship was wrong.”*
- *“I fully believe that had this relationship not started, Timothy would have had a long and highly successful career in teaching. I am hopeful that he will rebuild his career as he has a lot to offer any further employer and has been a great loss to the maths department at Astor School.”*

A prohibition order would prevent Mr Tolhurst 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, although there was some evidence of insight and remorse I have placed considerable weight on the following comments from the panel “Mr Tolhurst had attended safeguarding training and that he struggled to articulate his reasons for the secrecy around his actions when interviewed” and “Mr Tolhurst had acted with elements of dishonesty and had not been forthcoming about his actions.”

I have also placed considerable weight on the finding of the panel that “Pupil A was considered vulnerable by the school. The welfare officer’s notes of interview articulate the specific vulnerabilities that this pupil had and the lack of available support due to the fact Pupil A was living alone. The panel noted that the decision maker had stated ‘Pupil A was considered to be vulnerable by the school.... Was under the supervision of the safeguarding team’. Mr Tolhurst was aware of these vulnerabilities prior to the events in question.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Tolhurst has made and is making 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, 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 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 Tolhurst was responsible for forming a sexual relationship with Pupil A."

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 review period is not sufficient to achieve the aim of maintaining public confidence in the profession, Mr Tolhurst knew the pupil to be vulnerable and formed an inappropriate sexual relationship, which he struggled to articulate the reasons for his actions.

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 Timothy Tolhurst 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 Tolhurst 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 Timothy Tolhurst 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: Sarah Buxcey

Date: 26 November 2021

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