



Teaching  
Regulation  
Agency

# **Mr David Stus: Professional conduct panel outcome**

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

**December 2021**

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

<b>Teacher:</b>	Mr David Stus
<b>Teacher ref number:</b>	0141875
<b>Teacher date of birth:</b>	01 February 1980
<b>TRA reference:</b>	19622
<b>Date of determination:</b>	16 December 2021
<b>Former employer:</b>	Ridgewood High School, Stourbridge

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 1, 2, 3 and 16 December 2021, to consider the case of Mr Stus.

The panel members were Mr Chris Ruston (lay panellist – in the chair), Mrs Dawn Hawkins (teacher panellist) and Mr Maurice McBride (lay panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

The presenting officer for the TRA was Ms Sey Shabani on 1, 2 and 3 of December 2021 and Mr Ben Bentley on 16 December 2021, both of Browne Jacobson LLP.

Mr Stus was present and represented by Mr Andrew Faux of counsel.

The hearing took place in public and was recorded.

## Allegations

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

It was alleged that Mr Stus was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Ridgewood High School in or around November 2018 he:

1. Took video footage of Child A whilst she was bending over which:
  - a. Focused on her bottom;
  - b. Was recorded without her knowledge and/or consent.
2. Edited the video footage filmed at allegation 1 which repeatedly showed the same image of Child A's bottom.
3. His conduct as may be found proven at allegation 1a and/or 2 above was conduct of a sexual nature and/or sexually motivated.

The allegations were made subject to a minor amendment by the TRA, at the invitation of the panel. The amendment merely corrected the grammatical construction of the allegations and did not change the case against Mr Stus. The amendment was not opposed by Mr Faux, the teacher's representative.

Mr Stus accepted that he was responsible for filming the initial footage which included Child A. However, his position was that the footage was taken accidentally and that he did not focus on her bottom. He accepted any footage filmed of Child A would have been without her knowledge and consent.

Mr Stus denied editing any of the footage. He also denied any sexual element in his actions and as the filming was accidental, his conduct did not amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## Preliminary applications

The panel considered an application by the TRA to admit a number of documents into the evidence which was opposed by Mr Faux, the teacher's representative.

In accordance with paragraph 4.22 of the 2018 Disciplinary Procedures, the disputed evidence was provided to the parties and the panel's legal adviser. The panel was not provided with a copy of the disputed evidence.

The panel heard representations from both parties. Miss Shabani, for the TRA, invited the panel to admit the evidence as it contained material of evidential value to these proceedings.

Mr Faux invited the panel to exclude the evidence as it was not relevant to the issue before the panel. He accepted that some parts of the material would have evidential value and those parts were in fact already exhibited as other pages in the agreed bundle. He submitted the only material remaining was irrelevant, as it contained information about previous investigations, opinion evidence and TRA procedural documents.

Having not seen the disputed material, the panel firstly considered if it could properly make a decision without reviewing the documents. The panel had the benefit of submissions from both parties, who were legally represented, the title of those documents from the bundle index and the descriptions of the material provided. The panel was satisfied that it would not be necessary to look at those documents in order to make a decision.

The panel considered the submissions and legal advice and was satisfied that the disputed material would not be relevant to the considerations of the issues before the panel as the relevant parts of those documents had already been exhibited in the agreed bundle.

Having determined that the disputed documents were not relevant, the panel decided not to admit them.

The panel also noted that during the preparation for the hearing it became evident that several pages in the agreed bundle were highlighted when it was intended to be redacted. Following the above decision the panel would disregard the highlighted areas.

The panel also considered an application from Mr Faux that some parts of hearing should be held in private which touched on the health and family relationship of the various witnesses. It decided that it was in the public interest for the hearing to be held in public but decided it would hear those parts of the witnesses' evidence in private.

## **Documents**

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

Section 1: Notice of proceedings and response – pages 1 to 6

Section 2: Teaching Regulation Agency documents – pages 7 to 99

Section 3: Teaching Regulation Agency witness statements – pages 100 to 159

Section 4: Teacher documents – pages 160 to 202

In addition, the panel agreed to accept the following documents, which both parties agreed to:

Statement of Pupil A – pages 203 to 204

Statement of Mr Stus's [REDACTED] – pages 205 to 206

Mr Stus's [REDACTED] – pages 207 to 212

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 heard oral evidence from the following witnesses called by the TRA:

- Child A's [REDACTED];
- Child A;
- Witness 1, [REDACTED]

The panel also heard oral evidence from the following witnesses called by Mr Stus:

- Mr David Stus;
- Witness 2, [REDACTED]

## **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 April 2019, Child A's [REDACTED] received some videos from her [REDACTED], who had been Mr Stus's [REDACTED]. These videos contained footage of Child A at Mr Stus's home address. Child A could be seen moving items from a car and around the property. It appeared when Child A was bending over to pick up or put down an item, that the camera was focused on her bottom. Some of the footage had been edited, so that where Child A was bent over, the footage looped on repeat.

Following receipt of this footage, Child A's [REDACTED] contacted the police and school where Mr Stus was working. Following a criminal investigation, the police took no further action. The school commenced its own investigation and made a referral to the TRA.

## Findings of fact

The findings of fact are as follows:

- 1. Took video footage of Child A whilst she was bending over which:**
  - a. Focused on her bottom;**
  - b. Was recorded without her knowledge and/or consent.**

It was not disputed that there was footage of Child A recorded on Mr Stus's phone. The panel heard evidence from Child A's [REDACTED], Child A and Mr Stus, that Child A had visited Mr Stus's home address on Bonfire Night in order to pick up a barbeque to use that evening. Mr Stus had back pain and Child A assisted in moving some heavy objects from a car and around the property. At some point during the footage, the camera turned and the person holding the phone could be seen to be Mr Stus. A muffled conversation could be heard between the two of them at times.

The panel heard evidence from Mr Stus that the original footage on his phone was deleted by his former [REDACTED]. He accepted that he must have filmed the footage, but that the filming was accidental.

Mr Stus gave evidence that he often had his phone set to record due to problems with neighbouring properties and that generally he was not very good with phones. He said that he often inadvertently recorded footage accidentally, made pocket dials and had broken or lost many other phones. The other witnesses, include Child A's [REDACTED], Child A and Witness 2 [REDACTED] all gave evidence which corroborated this point.

The original footage was not before the panel. However, Witness 2 received two video files from Mr Stus's [REDACTED] in June 2019, following her request to see the footage. This was supplied to the panel as part of Mr Stus's case.

Both video files, known as SS2 and SS3, are recordings of a phone resting on the arm of a sofa. A finger with a brightly coloured nail could be seen touching the phone and making it play videos that featured footage of Child A. Child's A [REDACTED], Child A and Mr Stus all identified the sofa and the finger in this footage as belonging to Mr Stus's [REDACTED] Child A's [REDACTED]

SS2 was 1 minute and 12 seconds long and appeared to show a continuous recording without any obvious editing (apart from a possible break at 1:05).

The panel considered that a lot of the footage did not appear to be taken with any purpose. At times, the camera appeared to point at the floor or other areas for no clear reason. At other times the footage appears to shake around meaninglessly as Mr Stus

walked around the property. These points in the footage could be consistent with Mr Stus's evidence that he accidentally made the recording.

However, at some points, Child A appeared to be in the centre of the footage. From the start of the footage to 0:18, the footage shows Child A picking up an item, with a close-up of her bottom. Mr Stus remains behind Child A and follows her as she walks to the kitchen. Apart from a brief moment at 0:10, the footage remains centred on Child A's rear for the entirety of that time period.

For the vast majority of this period the footage is not shaky and it does not deviate from a view of Child A from behind. This is in clear contrast with the footage immediately following when Mr Stus walks away from the kitchen.

From 1:00 onwards, Mr Stus appears to be in his kitchen. Again, the footage at this point appears to have no discernible purpose. At 1:10, Child A appears in the shot as she bends over and places an object on the floor. The footage appears to track down and back up again whilst focused on her bottom. The footage of SS3 (which shows a number of different and edited shots) appears to show the continuation of this part of the footage from 1:24 onwards. Child A starts to turn around towards Mr Stus after placing the object on the floor. As she turns towards Mr Stus, the camera quickly moves to face another direction.

The panel considered that this footage could not have been filmed accidentally on a mobile phone camera. From the footage the panel saw, a person would have had to been holding the phone vertically, with a steady hand and pointing it directly at Child A continuously. In the panel's view, it would be highly improbable for this to have happened accidentally.

As such, the panel are satisfied that it was more likely than not, that Mr Stus deliberately filmed Child A from behind. Consequently, the panel find allegation 1a proved.

Child A gave evidence that she was not aware of being filmed and therefore did not consent. This was not disputed by the teacher. Consequently, the panel find allegation 1b proved.

## **2. Edited the video footage filmed at allegation 1 which repeatedly showed the same image of Child A's bottom.**

The panel have viewed five separate versions of footage in this case. Three clips exhibited by the TRA and two by Mr Stus.

The video file labelled SS3 appears to show parts of the footage of Child A being looped, particularly when she is bent over.



The panel has not heard any clear evidence as to the provenance of the various video files, as they had been shared around various people, including Mr Stus's [REDACTED], his [REDACTED], Child A, Child A's [REDACTED] and the police. The panel also heard evidence from Witness 1 [REDACTED] that one video file she saw had a sexually suggestive audio backing. However, the panel could not identify any clip with this sexually suggestive audio.

As such, the panel finds the TRA has failed to satisfy their burden of proof in showing that Mr Stus edited any video he took and find this allegation not proved.

### **3. Your conduct as may be found proven at allegation 1a and/or 2 above was conduct of a sexual nature and/or sexually motivated.**

As the panel did not find allegation 2 proved, the panel only considered this allegation in respect of allegation 1.

Finding allegation 1 proved, the panel considered the only natural explanation for covertly filming Child A from behind and focusing on her bottom would be for his own sexual gratification. As such, the panel is satisfied that it is more likely than not that Mr Stus's actions were sexually motivated.

Considering the purpose and context of the filming, which was to deliberately obtain footage of Child A's bottom, the panel concluded that the filming was also of a sexual nature.

### **Findings as to unacceptable professional conduct and 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 Stus in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Stus 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.
- 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 Stus amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Stus's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice, but found that none applied.

The panel noted that the allegations took place outside the education setting, but considered that as Mr Stus's sexually motivated misconduct involved a child, it could affect the way he fulfilled his teaching role or may lead to pupils being exposed to, or influenced by his behaviour in a harmful way.

Accordingly, the panel was satisfied that Mr Stus 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 and their sexual nature 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 of the profession.

The panel therefore found that Mr Stus's actions constituted 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 and other members of the public;
- The maintenance of public confidence in the profession;

- Declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Stus, there was a strong public interest consideration in protection of pupils, given the serious findings which involved sexually motivated misconduct involving a child.

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

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 Stus. 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. (The panel recognise that Child A was not a pupil of Mr Stus, but as she was a child within his sphere of influence, the panel considered this factor should still be taken in account.)
- 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 to suggest that Mr Stus was acting under duress, and, in fact, the panel found Mr Stus's actions to be deliberate and sexually motivated.

Mr Stus did have a previously good history and the panel accepted that the incident appeared to be out of character. The panel considered the character reference provided by Mr Stus, but noted that it did not attest to his abilities as a teacher.

The panel also took into account that Mr Stus had previously been involved in an extremely serious incident at the school and had acted heroically following a knife attack and received a police commendation.

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 Stus of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate, this position was accepted by Mr Stus's representative. The panel decided that the public interest considerations outweighed the interests of Mr Stus. The protection of children and upholding the standards of the profession 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. These behaviours include serious sexual misconduct.

The panel spent some time deliberating this issue. The panel did consider that Mr Stus's sexual misconduct could be placed at the lower end of the spectrum (of the types of sexual misconduct that are often subject to these proceedings). However, the panel noted this misconduct involved a 16 year old child, who was effectively his [REDACTED] and with whom he was trusted to be alone. This made the misconduct too serious to be characterised as anything other than serious sexual misconduct.

The panel was also concerned that Mr Stus had not been able to demonstrate any remorse or insight into his behaviour.

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 an allegation 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 David Stus should be the subject of a prohibition order, with no provision for a review period.

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

The findings of misconduct are particularly serious as “the panel is satisfied that it is more likely than not that Mr Stus's actions were sexually motivated.”

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 Stus, 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, “considered that as Mr Stus's sexually motivated misconduct involved a child, it could affect the way he fulfilled his teaching role or may lead to pupils being exposed to, or influenced by his behaviour in a harmful way.” 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, “The panel was also concerned that Mr Stus had not been able to demonstrate any remorse or insight into his behaviour.”

In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour, and this puts at risk the future well-being of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Stus were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding that the conduct of Mr Stus was of a sexual nature and sexually motivated, 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 Stus. The panel observed that “Mr Stus did have a previously good history and the panel accepted that the incident appeared to be out of character. The panel considered the character reference provided by Mr Stus, but noted that it did not attest to his abilities as a teacher.”

A prohibition order would prevent Mr Stus from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has also said, “There was no evidence to suggest

that Mr Stus was acting under duress, and, in fact, the panel found Mr Stus's actions to be deliberate and sexually motivated.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Stus has made to the profession. In my view, it is necessary to impose a prohibition order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel’s comments “The panel did consider that Mr Stus's sexual misconduct could be placed at the lower end of the spectrum (of the types of sexual misconduct that are often subject to these proceedings). However, the panel noted this misconduct involved a 16 year old child, who was effectively his [REDACTED] and with whom he was trusted to be alone. This made the misconduct too serious to be characterised as anything other than serious sexual misconduct.”

I have considered whether allowing a review period reflects the seriousness of the findings and is a proportionate to achieve the aim of maintaining public confidence in the profession. In this case, three factors mean that a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the lack of either insight or remorse, the finding of sexual misconduct and that the misconduct involved a 16 year old child.

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 David Stus 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 Stus 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 Stus 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 that reads "John Knowles". The signature is written in a cursive style with a large initial 'J' and a long, sweeping underline.

**Decision maker: John Knowles**

**Date: 21 December 2021**

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