



Teaching
Regulation
Agency

Mr Ben Symons: Professional conduct panel meeting outcome

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

February 2022

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

Teacher:	Mr Ben Symons
Teacher ref number:	1172417
Teacher date of birth:	28 November 1986
TRA reference:	18802
Date of determination:	28 February 2022
Former employer:	St Pauls Catholic High School

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 28 February 2022 by way of a virtual meeting, to consider the case of Mr Ben Symons.

The panel members were Ms Alison Feist (former teacher panellist – in the chair), Ms Oluremi Alabi (lay panellist) and Mr Steve Woodhouse (teacher panellist).

The legal adviser to the panel was Ms Rebecca Utton 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 Symons that the allegations be considered without a hearing. Mr Symons 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, Mr Michael O’Donohoe of Browne Jacobson LLP solicitors, Mr Symons or any representative for Mr Symons.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegations set out in the notice of meeting dated 17 February 2022.

It was alleged that Mr Symons was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a supply teacher:

- 1) On one or more occasions in or about 2018 or 2019 he possessed and/or viewed inappropriate pornographic imagery which depicted:
 - a) children under the age of 18;
 - b) bestiality
- 2) Such conduct as may be proved at 1(a) above is indicative of a sexual interest in children.
- 3) Such conduct as may be proved at 1) above was sexually motivated.

Mr Symons admitted the facts of allegations 1 to 3 and that his behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, as set out in the Statement of Agreed Facts signed by Mr Symons on 30 November 2021.

Preliminary applications

There were no preliminary applications.

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the "May 2020 Procedures"). The panel understands that the earlier provisions contained within the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 (the "April 2018 Procedures") apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Notice of referral, response and notice of meeting – pages 2 to 9
- Section 2: Statement of agreed facts and presenting officer representations – pages 11 to 17
- Section 3: Teaching Regulation Agency documents – pages 20 to 61
- Section 4: Teacher documents – pages 63 to 76
- Notice of meeting – provided separately
- CCTV footage of police interview – provided separately

The panel members confirmed that they had read all of the documents within the bundle, and viewed the CCTV footage of police interview in advance of the meeting.

Statement of agreed facts

The panel considered a statement of agreed facts signed by Mr Symons on 30 November 2021 and by the presenting officer on 2 December 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 Symons 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.

Mr Symons worked for Worldwide Teaching, a supply agency ('the Agency') as a supply teacher. While registered with the Agency, he worked at St Pauls Catholic High School, Manchester, on the 10 and 11 October 2019.

On 15 October 2019, Mr Symons' home address was raided by the police. Mr Symons informed the police officers that he wanted to come clean and had been looking at "*weird stuff*" online. Mr Symons was arrested and his electronic devices were seized by the

police. Mr Symons was later interviewed under caution and during his interview, Mr Symons admitted to being “*attracted to lots of different things*”.

On 15 October 2019, the Agency were contacted by Greater Manchester Police who stated that Mr Symons was in custody for child related offences and therefore must not be allowed to work with children.

Mr Symons was bailed for 28 days subject to conditions not to undertake paid or voluntary work in any educational establishment and not to have any unsupervised contact with any child under the age of 18. No further action was taken by the police.

The matter was referred to the TRA by both the Agency and the police.

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) On one or more occasions in or about 2018 or 2019 you possessed and/or viewed inappropriate pornographic imagery which depicted:**
 - a) children under the age of 18;**
 - b) bestiality**

The panel noted that in the statement of agreed facts, which Mr Symons signed on 30 November 2021, Mr Symons admitted the facts of allegations 1(a) and 1(b).

Mr Symons admitted that he possessed and viewed inappropriate pornographic images, including those which depicted children under the age of 18 and bestiality.

Mr Symons admitted that his interests in hentai and furry pornography developed into him viewing hentai and other artwork of underage children. Mr Symons further admitted that, while he did not view indecent photographs or pseudo-photographs of children, he did view artwork which portrayed underage children engaged in sexual activity, including oral sex, on one or more occasions. The images were therefore inappropriate and/or pornographic in nature.

The panel noted the contents of the CCTV footage of Mr Symons’ police interview, in which he admitted allegations 1(a) and 1(b).

The panel found both allegations 1(a) and 1(b) proved.

2) Such conduct as may be proved at 1(a) above is indicative of a sexual interest in children.

The panel noted that in the statement of agreed facts, signed by Mr Symons on 30 November 2021, Mr Symons admitted the facts of allegation 2.

Mr Symons admitted that his conduct as admitted to at allegation 1(a) is indicative of a sexual interest in children. Accordingly, Mr Symons admitted allegation 2 in its entirety.

The panel noted the contents of the CCTV footage of Mr Symons' police interview, in which he admitted allegation 2.

The panel found allegation 2 proved.

3) Such conduct as may be proved at 1) above was sexually motivated.

The panel noted that in the statement of agreed facts signed by Mr Symons on 30 November 2021, Mr Symons admitted the facts of allegation 3.

Mr Symons admitted that the conduct at allegation 1 was sexually motivated. Mr Symons admitted that he engaged in sexual acts whilst viewing such material detailed in allegation 1, thus using it for his own sexual gratification. Accordingly, Mr Symons admitted allegation 3 in its entirety.

The panel further noted the contents of the CCTV footage of Mr Symons' police interview, in which he admitted allegation 3.

Having considered all the evidence before them, the panel determined that it could not be concluded anything other than Mr Symons' conduct was sexually motivated. The panel therefore found allegation 3 proved.

In summary the panel found allegations 1(a), 1(b), 2 and 3 proved.

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 Symons, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Symons 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
 - 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 Symons fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Symons' conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The panel considered those applicable to be sexual activity and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one-off incidents was relevant. The panel however noted in relation to images, that Mr Symons' conduct solely involved viewing and possessing. The panel further noted that the images possessed and/or viewed by Mr Symons were depictions of pornographic images rather than images of actual children.

The Advice indicates that where behaviours associated with such conduct exists, a panel is more likely to conclude that an individual's actions would amount to unacceptable professional conduct.

The panel noted that the allegations took place outside the education setting. Mr Symons viewed pornographic images from a website whilst at home and outside of working hours. However, the panel considered that Mr Symons' misconduct was serious and his actions would have a negative impact on his status as a teacher and, further, as also set out below, would be likely to damage the public perception of teachers.

Accordingly, the panel was satisfied that Mr Symons 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 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, potentially damaging the public perception.

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

Having found the facts of particulars 1(a), 1(b), 2 and 3 proved, the panel further found that Mr Symons' 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/or 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 safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest.

In the light of the panel's findings against Mr Symons, which involved possessing and/or viewing inappropriate imagery depicting children under the age of 18, there was a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children.

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

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 Symons. 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;
- 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 indecent pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- sustained deliberate behaviour that undermines pupils, the profession, the school or colleagues;

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 Symons' actions were anything other than deliberate and this was fully accepted by Mr Symons.

There was no evidence to suggest that Mr Symons was acting under extreme duress.

There was a lack of evidence submitted to attest to Mr Symons' previous history as a teacher. However, the panel noted that there was no indication in the evidence before them that Mr Symons had anything other than a good teaching history.

The panel noted the email from Mr Symons to the TRA, dated 21 May 2020. Mr Symons submitted that he was fully aware his actions were wrong and had taken the advice from the police and other agencies very seriously. Mr Symons had cooperated with the police fully throughout the entire process and admitted the allegations at the earliest

opportunity. In addition, the panel considered that Mr Symons had co-operated fully with the TRA.

The panel placed significant weight on Mr Symons' openness, honesty and the levels of insight and remorse that he had shown.

The panel was impressed that Mr Symons had sought immediate professional help following his police interview, at his own expense by referring himself to [Redacted] to engage in [Redacted] for the prevention of [Redacted]. Further, the panel noted that Mr Symons stated that he had attended regular [Redacted] sessions and refrained from viewing the relevant websites linked to his misconduct.

The panel took account of a letter from [Redacted], dated 19 November 2021, who confirmed that Mr Symons had attended weekly [Redacted] sessions with him for four months which had continued periodically. Mr Bayley submitted that [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 was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Symons 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 Symons. The sexual motivation element of the misconduct 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 two years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include any sexual misconduct involving a child; and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Symons was responsible for possessing and viewing pornographic imagery depicting children under the age of 18.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found that Mr Symons was not responsible for any such behaviours.

The panel found that although the misconduct involved sexual motivation, looking at the evidence as a whole and assessing the case on its own merits, the level of seriousness was towards the lower end of the spectrum. In reaching this conclusion the panel specifically noted:

- that no harm was caused to anyone, in particular children;
- the risk that Mr Symons posed to children in the panel's view was minimal;
- the images were representations and depictions rather than actual images of children;
- Mr Symons, throughout the police and TRA investigations, fully acknowledged and accepted the inappropriateness of his conduct and the need for professional help;
- the allegations found proved by the panel related to conduct in or about 2018 or 2019;
- Mr Symons had immediately sought to address his behaviour with the assistance of professional help

In light of this the panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a two year 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 Ben Symons should be the subject of a prohibition order, with a review period of two years.

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

The findings of misconduct are particularly serious as they include a finding which involved possessing and/or viewing inappropriate imagery depicting children.

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 Symons, and the impact that will have on the teacher, 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, "In the light of the panel's findings against Mr Symons, which involved possessing and/or viewing inappropriate imagery depicting children under the age of 18, there was a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children." 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 placed significant weight on Mr Symons' openness, honesty and the levels of insight and remorse that he had shown." And, "The panel was impressed that Mr Symons had sought immediate professional help following his police interview, at his own expense by referring himself to [Redacted] to engage in [Redacted] for the prevention of [Redacted]. Further, the panel noted that Mr Symons stated that he had attended regular [Redacted] sessions and refrained from viewing the relevant websites linked to his misconduct."

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 safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest.” I am particularly mindful of the finding of possession and/or viewing pornographic imagery depicting children and bestiality 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 Symons himself and the panel comment “There was a lack of evidence submitted to attest to Mr Symons’ previous history as a teacher. However, the panel noted that there was no indication in the evidence before them that Mr Symons had anything other than a good teaching history.” A prohibition order would prevent Mr Symons 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 panel’s comments concerning the public interest. The panel has said, “The panel decided that the public interest considerations outweighed the interests of Mr Symons. The sexual motivation element of the misconduct was a significant factor in forming that opinion.”

I have also placed considerable weight on the finding of the panel that “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include any sexual misconduct involving a child; and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Symons was responsible for possessing and viewing pornographic imagery depicting children under the age of 18.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Symons has made to the profession. Although the panel felt on the evidence before them that Mr Symons had anything other than a good teaching history, in my view due to the serious nature of the allegations found proven I have given this less weight in reaching my decision. 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 a two year review period.

I have considered the panel's comments "The panel found that although the misconduct involved sexual motivation, looking at the evidence as a whole and assessing the case on its own merits, the level of seriousness was towards the lower end of the spectrum." The panel has also said that "it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a two year review period".

I recognise the serious nature of this case and that Mr Symons admitted he possessed and viewed inappropriate pornographic images, including those which depicted children under the age of 18 and bestiality, and I have carefully considered the significant impact that could have on maintaining public trust in the profession. In balancing my decision, I have also recognised Mr Symons accepted the inappropriateness of his conduct and had sought immediate professional help following his police interview. In my view the panel have given disproportionate weight to the level of seriousness of the findings, which they said "was towards the lower end of the spectrum" and "the images were representations and depictions rather than actual images of children" along with their consideration of the impact on the profession and the risk to children. Due to the nature of the allegations found proven and the damaging effect on the profession, I do not support the panel's recommendation regarding review period.

I have considered whether a two year 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, 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 seriousness of the allegations and the impact they could have on the profession.

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 Ben Symons 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 Symons 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 Ben Symons 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: 2 March 2022

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