



Teaching
Regulation
Agency

Mr Simon Baker: Professional conduct panel meeting outcome

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

March 2022

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

Teacher:	Mr Simon Baker
Teacher ref number:	1284668
Teacher date of birth:	15 January 1983
TRA reference:	18333
Date of determination:	16 March 2022
Former employer:	Christ the King College, Isle of Wight (the “School”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 16 March 2022, remotely, to consider the case of Mr Simon Baker.

The panel members were Mr Paul Hawkins (teacher panellist – in the chair), Ms Julie Beck (lay panellist) and Mr David Raff (lay panellist).

The legal adviser to the panel was Mr Phil Taylor of Eversheds Sutherland (International) 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 Baker that the allegations be considered without a hearing. Mr Baker provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer or Mr Baker.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 1 March 2022.

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

1. On 10 January 2020, at Isle of Wight Magistrates' Court, he was convicted of:
 - a) i. Four counts of 'Making indecent photograph or pseudo photograph of children on 01/01/10 - 24/04/19', contrary to the Protection of Children Act 1978 s'1(a);
 - ii. Two counts of 'Making indecent photograph or pseudo photograph of children on 01/10/10 – 24/04/19', contrary to the Protection of Children Act 1978 s.1 (a);
 - b) One count of 'Possession of extreme pornographic images - of intercourse/oral sex with dead/alive animal on 01/10/10 – 24/04/19', contrary to the Criminal Justice and Immigration Act 2008 s.63(1)(7)(d).
2. On 7 February 2020, at Newport (Isle of Wight) Crown Court, he was sentenced to:
 - a) imprisonment for 24 months wholly suspended for 24 months;
 - b) an unpaid work requirement;
 - c) a rehabilitation activity requirement;
 - d) a Sex offenders notice for 10 years;
 - e) a Sexual harm prevention order for 10 years until further order;
 - f) forfeiture of a Samsung mobile phone and white tower unit;
 - g) a victim surcharge of £140.

Mr Baker has admitted allegations 1 and 2 and has admitted that the facts of these allegations amount to conviction, at any time, of a relevant offence.

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 – pages 3 to 5

Section 2: Notice of Referral, response, and Notice of Meeting – pages 6 to 14

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 15 to 18

Section 4: Teaching Regulation Agency documents – pages 19 to 30

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 Baker on 4 June 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 Baker for the allegation(s) 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 Baker was employed at the School from January 2016 as a Teacher of Science.

Mr Baker was arrested by Hampshire Constabulary on 24 April 2019 and was suspended from work on the same day. He was charged on 11 December 2019 with six offences of making indecent images of children and one offence of possession of extreme pornographic images.

He pleaded guilty to, and was convicted of, the charges on 10 January 2020 at the Isle of Wight Magistrates Court.

On 24 January 2020, the School commenced its disciplinary investigation and Mr Baker was interviewed by the School on 30 January 2020.

On 7 February 2020, Mr Baker was sentenced at Newport (IOW) Crown Court. He attended a disciplinary hearing at the School on the same day.

Findings of fact

The findings of fact are as follows:

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

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

1. On 10 January 2020, at Isle of Wight Magistrates' Court, you were convicted of:

a) i. Four counts of 'Making indecent photograph or pseudo photograph of children on 01/01/10 - 24/04/19', contrary to the Protection of Children Act 1978 s.1(a);

ii. Two counts of 'Making indecent photograph or pseudo photograph of children on 01/10/10 – 24/04/19', contrary to the Protection of Children Act 1978 s.1 (a);

b) One count of 'Possession of extreme pornographic images - of intercourse/oral sex with dead/alive animal on 01/10/10 – 24/04/19', contrary to the Criminal Justice and Immigration Act 2008 s.63(1)(7)(d).

This allegation was admitted and supported by the evidence presented to the panel, in particular the Statement of Agreed Facts signed by Mr Baker, a Committal Record Sheet recording the convictions, and a transcript of the sentencing remarks made by [REDACTED] (Isle of Wight) Crown Court in relation to the convictions.

There was no evidence put before the panel which suggested that there was not a conviction as alleged. The allegation was therefore found proved.

2. On 7 February 2020, at Newport (Isle of Wight) Crown Court, you were sentenced to:

a) imprisonment for 24 months wholly suspended for 24 months;

b) an unpaid work requirement;

c) a rehabilitation activity requirement;

d) a Sex offenders notice for 10 years;

e) a Sexual harm prevention order for 10 years until further order;

f) forfeiture of a Samsung mobile phone and white tower unit;

g) a victim surcharge of £140.

This allegation was admitted and supported by the evidence presented to the panel, in particular the Statement of Agreed Facts signed by Mr Baker, as well as a Committal

Record Sheet recording the convictions and sentences, and a transcript of the sentencing remarks made by [REDACTED] (Isle of Wight) Crown Court.

There was no evidence put before the panel which suggested that Mr Baker had not been sentenced as alleged. The allegation was therefore found proved.

Findings as to conviction of a relevant offence

Having found the allegations proved, the panel went on to consider whether the facts of the proved allegations amounted to conviction, at any time, of a relevant offence.

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 Baker in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Baker 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:
 - ... at all times observing proper boundaries appropriate to a teacher’s professional position
 - showing tolerance of and respect for the rights of others
 - not undermining fundamental British values, including ... the rule of law
- 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 Baker fell significantly short of the standards expected of the profession.

The panel noted that Mr Baker’s actions were relevant to teaching, working with children and working in an education setting. The conduct found proven, involving serious offences relating to images of children, was clearly incompatible with the role of a teacher, who is a person placed in a position of trust with a duty of care to their pupils. The panel considered remarks made by the sentencing judge that the types of material Mr Baker had downloaded had “caused huge distress to the participants, underage children.”

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Baker’s behaviour in committing the offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that, as found proven in relation to allegation 2, Mr Baker's behaviour ultimately led to a sentence of imprisonment (albeit that it was suspended), which was indicative of the seriousness of the offences committed. The sentencing judge had described the offence as "very, very, serious", involving possession of 9,000 or more images over of a period of nine years. Mr Baker had also been made subject to a 10-year sexual harm prevention order and placed on the sex offenders' register for 10 years.

In addition, this was a case involving an offence of "activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting any such activity, including one-off incidents" which the Advice states is likely to be considered a relevant offence.

The panel was not presented with any evidence of mitigating circumstances other than the fact that Mr Baker had pleaded guilty to the criminal charges and the comments made by the sentencing judge that Mr Baker had no previous convictions and was sorry for what he had done. There was no evidence put before the panel of Mr Baker's record as a teacher.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Baker's ongoing suitability to teach. The panel considered that a finding that the convictions were for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of a conviction of a relevant offence, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

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

The panel had regard to the particular public interest considerations set out at page 14 of the Advice, namely: the safeguarding and wellbeing of pupils and protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct within the teaching profession. The panel found all of these to be relevant in this case.

There was a strong public interest consideration in respect of the protection of pupils and other children given the very serious findings relating to possession of a high number of indecent images of children over a significant period of time.

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

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 Baker. 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 set out in the Advice, the panel considered the following to be relevant in this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct;
- 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; and
- a deep-seated attitude that leads to harmful behaviour.

Even though 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.

According to the evidence presented to the panel, before his convictions Mr Baker was previously of good character with no previous criminal record. He had pleaded guilty to the criminal charges and had cooperated with the TRA.

However, in the panel's view, there was evidence of deliberate and repeated actions over a period of nine years, according to the remarks by the sentencing judge. The panel had not been provided with any mitigation evidence from the teacher, including references from colleagues that could attest to Mr Baker's abilities as a teacher.

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 Baker 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 Baker. The particularly extreme nature and scope of the criminal offences 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. These behaviours include serious sexual misconduct relating to children, and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. The panel found that Mr Baker was responsible for repeated behaviour of this nature over a significant period of time, resulting in the possession of approximately 9000 indecent images relating to vulnerable young children.

Although the panel took note of the sentencing judge's remarks relating to the teacher's remorse, and his cooperative attitude towards the TRA proceedings, the panel regarded the aggravating factors to be particularly significant in this case. The panel had not been presented with any evidence as to the teacher seeking to address his behaviours other than the rehabilitation requirements imposed on him as part of his sentence.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mr Baker 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:
 - ... at all times observing proper boundaries appropriate to a teacher's professional position
 - showing tolerance of and respect for the rights of others
 - not undermining fundamental British values, including ... the rule of law
- 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 Baker fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as the panel say they involved, "serious offences relating to images of children, was clearly incompatible with the role of a teacher, who is a person placed in a position of trust with a duty of care to their pupils."

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 a relevant conviction, 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 Baker, 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 and safeguard pupils. The panel has observed that it, “considered remarks made by the sentencing judge that the types of material Mr Baker had downloaded had “caused huge distress to the participants, underage 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 had not been presented with any evidence as to the teacher seeking to address his behaviours other than the rehabilitation requirements imposed on him as part of his sentence.” In my judgement, the lack of any clear evidence of full insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing 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, “The panel considered that Mr Baker’s behaviour in committing the offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.”

I am particularly mindful of the finding of making indecent photograph or pseudo photograph of children 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 Baker himself. The panel say, “before his convictions Mr Baker was previously of good character with no previous criminal record. He had pleaded guilty to the criminal charges and had cooperated with the TRA.”

A prohibition order would prevent Mr Baker 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, “Mr Baker was responsible for repeated behaviour of this nature over a significant period of time,

resulting in the possession of approximately 9000 indecent images relating to vulnerable young children.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Baker has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full 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 Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct relating to children, and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. The panel found that Mr Baker was responsible for repeated behaviour of this nature....”

I have considered whether allowing for no review reflects the seriousness of the findings and is proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that allowing for no review is necessary are the serious nature of the conviction and the lack of full insight or remorse.

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 Simon Baker 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 Simon Baker 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 Simon Baker 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.

Handwritten signature of Alan Meyrick in grey ink.

Decision maker: Alan Meyrick

Date: 21 March 2022

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