



Teaching  
Regulation  
Agency

# **Mr Kevin Shaw: 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**

<b>Teacher:</b>	Mr Kevin Shaw
<b>Teacher ref number:</b>	8571892
<b>Teacher date of birth:</b>	22 July 1964
<b>TRA reference:</b>	18772
<b>Date of determination:</b>	18 March 2022
<b>Former employer:</b>	Winifred Holtby Academy, Hull

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 18 March 2022 by way of a virtual meeting, to consider the case of Mr Kevin Shaw.

The panel members were Mr Peter Ward (lay panellist – in the chair), Dr Angela Brown (lay panellist) and Mr Steve Woodhouse (teacher panellist).

The legal adviser to the panel was Ms Natalie Kent 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 Shaw that the allegation be considered without a hearing. Mr Shaw 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, Ms Sarah Ellson of Fieldfisher LLP, Mr Shaw or any representative for Mr Shaw.

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 22 February 2022.

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

1. On 3 September 2019, he was convicted of indecent assault on a boy under 16 between 29 January 1993 and 28 January 1995, contrary to section 15 of the Sexual Offences Act 1956

Mr Shaw admitted the facts of allegation 1. and that his behaviour amounted to a conviction of a relevant offence, as set out in the response to the notice of referral dated 22 March 2021 and in the statement of agreed facts signed by Mr Shaw on 6 August 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: Chronology – page 1
- Section 2: Notice of referral, response and notice of meeting – pages 2 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 55
- Section 5: Documents received from Humberside police – pages 56 to 79
- Section 6: Documents received from Hull Crown Court – pages 80 to 89
- Section 7: Teacher documents – pages 90 to 92

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 Shaw on 6 August 2021.

## **Decision and reasons**

The panel carefully considered the case and reached the following decision and reasons:

In advance of the meeting, the TRA agreed to a request from Mr Shaw for the allegation 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 Shaw was employed by Winifred Holtby Academy ('the School') as Vice Principal, from 14 June 1986.

On 27 February 2018, the LADO contacted the School to confirm that Mr Shaw was being investigated by Humberside police for a historical incident of assault against a pupil. Mr Shaw was suspended from the School as a result and remained suspended until his resignation in August 2019.

On 3 September 2019, Mr Shaw was tried and convicted at Hull Crown Court of the offence of indecent assault on a boy under 16 contrary to section 15 of the sexual offences act 1956.

On 4 October 2019, Mr Shaw was sentenced to 15 months imprisonment and registered on the sex offenders list for 10 years for the offence.

## **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 3 September 2019, you were convicted of indecent assault on a boy under 16 between 29 January 1993 and 28 January 1995, contrary to section 15 of the Sexual Offences Act 1956**

The panel had been provided with a copy of the certificate of conviction from Hull Crown Court, which detailed that Mr Shaw had been convicted of one count of indecent assault on a boy under 16.

The panel noted page 8 of the Teacher Misconduct: The Prohibition of Teachers ('the Advice') which states that where there has been a conviction, at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction that establishes the relevant facts, unless exceptional circumstances apply. The panel did not consider that there were any exceptional circumstances present.

On examination of the documents before the panel, including the police report and the certificate of conviction the panel was satisfied that the facts of allegation 1 were proven.

### **Findings as to conviction of a relevant offence**

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

In doing so, the panel had regard to the Advice.

The panel was satisfied that the conduct of Mr Shaw in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Shaw 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
  - showing tolerance of and respect for the rights of others
- 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 noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public.

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

The panel noted that Mr Shaw's behaviour ultimately led to a sentence of 15 months imprisonment, which was indicative of the seriousness of the offence committed.

This was a case involving an offence of sexual activity, which the Advice states is more likely to be considered a relevant offence.

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

## **Panel's recommendation to the Secretary of State**

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

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

The panel had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Shaw, which involved indecent assault on a boy under 16, who was a pupil of Mr Shaw's, 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 Shaw 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 Shaw 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 Shaw.

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 Shaw. 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.
- 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 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;
- violating of the rights of pupils;
- sustained or serious bullying, or other 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 Shaw's actions were not deliberate. In fact, the panel determined that his actions were deliberate and required at least some degree of pre-meditation and/or planning.

There was no evidence to suggest that Mr Shaw was acting under extreme duress, and, in fact, the panel found Mr Shaw's actions to be calculated and motivated.



There was no evidence that Mr Shaw had demonstrated exceptionally high standards in both personal and professional conduct and no evidence that he had contributed significantly to the education sector.

The panel saw evidence that Mr Shaw was also subject to a disciplinary hearing which related to a similar admitted incident involving the use of corporal punishment in 1999. The panel felt that this demonstrated a pattern of behaviour which was indicative of a prolonged serious departure from the personal and professional conduct elements of the Teachers' Standards.

The panel noted the sentencing remarks submitted as part of the bundle which made reference to Mr Shaw's [redacted] and good character. However, the panel was not provided with any mitigation evidence, nor was it provided with a mitigation statement from Mr Shaw or any character references.

Although Mr Shaw admitted his actions, he denied that they were sexual in nature. Mr Shaw, as set out in the email to the TRA dated 2 December 2021, submitted that his actions were disciplinary although totally inappropriate. Further, Mr Shaw submitted that he regretted the upset caused to the victim by his actions and the way he tarnished his own 33 years as a teacher. The panel noted the absence of any apology from Mr Shaw to either his victim or the profession generally. The panel also considered that Mr Shaw's use of the term "tarnish" did not demonstrate an appreciation of the severity of his misconduct. The panel did not feel there was any insight which would ensure there was no repetition of this incident in the future. The panel did not feel Mr Shaw had demonstrated any insight into his behaviour and the consequences to both the victim and the profession.

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 Shaw 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 Shaw. The seriousness of the conviction, and in particular the profound detrimental impact that the incident had on the victim (which was evident from both the victim police statement and sentencing remarks which were submitted as part of the bundle), 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, which 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 and any sexual misconduct involving a child. The panel found that Mr Shaw was responsible for indecent assault of a boy under 16.

The Advice also indicates that there are behaviours, including violence, that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found that Mr Shaw's actions were violent in nature.

The panel decided that the findings indicated a situation in which a review period would not be appropriate, in particular due to the severity of the offence, the fact it resulted in a prison sentence and the profound impact it had on the victim, 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 the allegations proven and found that the proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mr Shaw 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
- showing tolerance of and respect for the rights of others
- 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 findings of misconduct are particularly serious as they include a finding of indecent assault on a boy under 16.

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 Shaw, 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 or safeguard pupils. The panel has observed, "that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public." 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 noted the absence of any apology from Mr Shaw to either his victim or the profession generally. The panel also considered that Mr Shaw's use of the term "tarnish" did not demonstrate an appreciation of the severity of his misconduct. The panel did not feel there was any insight which would ensure there was no repetition of this incident in the future. The panel did not feel Mr Shaw had demonstrated any insight into his behaviour and the consequences to both the victim and the profession."

In my judgement, the lack of 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 also took account of the way the teaching profession is viewed by others. The panel considered that Mr Shaw's behaviour in committing the offence 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 indecent assault 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 Shaw himself. The panel comment "There was no evidence that Mr Shaw had demonstrated exceptionally high standards in both personal and professional conduct and no evidence that he had contributed significantly to the education sector."

The panel also say that it, "saw evidence that Mr Shaw was also subject to a disciplinary hearing which related to a similar admitted incident involving the use of corporal punishment in 1999. The panel felt that this demonstrated a pattern of behaviour which was indicative of a prolonged serious departure from the personal and professional conduct elements of the Teachers' Standards."

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

I also noted the panel's observation, that it, "noted the sentencing remarks submitted as part of the bundle which made reference to Mr Shaw's [redacted] and good character. However, the panel was not provided with any mitigation evidence, nor was it provided with a mitigation statement from Mr Shaw or any character references."

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse.

I have also placed considerable weight on the finding of the panel that Mr Shaw, "was responsible for indecent assault of a boy under 16."

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

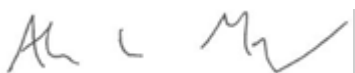
I have considered the panel's comments and I support them. The advice published by the Secretary of State is also clear. I have therefore considered whether allowing for no review reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that allowing for a no review is necessary are the serious nature of the conviction and the lack of 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 Kevin Shaw 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 Kevin Shaw 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 Kevin Shaw 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 blue ink, appearing to be 'AL C M' followed by a flourish.

**Decision maker: Alan Meyrick**

**Date: 22 March 2022**

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