



Teaching
Regulation
Agency

Mr Mark Perry: Professional conduct panel meeting outcome

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

June 2022

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

Teacher: Mr Mark Perry

Teacher ref number: 9655880

Teacher date of birth: 1 December 1960

TRA reference: 18206

Date of determination: 14 June 2022

Former employer: The Brooksbank School, Elland

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 14 June 2022 remotely via Microsoft TEAMS, to consider the case of Mr Perry.

The panel members were Mr Maurice McBride (lay panellist – in the chair), Miss Sue Davies (lay panellist) and Mrs Sonia Fraser (teacher panellist).

The legal adviser to the panel was Miss Sarah Price of Blake Morgan 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 Perry that the allegation(s) be considered without a hearing. Mr Perry provided a signed statement of agreed facts and admitted a conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Perry or his representative.

The meeting took place in private.

Allegations

The panel considered the allegation(s) set out in the notice of meeting dated 1 June 2022 and agreed statement of facts signed on 20 May 2022.

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

He was convicted on the 30 April 2021 and sentenced on 28 May 2021 of the following relevant offences:

Three counts of making an indecent photograph or pseudo-photograph of children between 5 July 2009 and 27 February 2020, contrary to the Protection of Children Act 1978, S1 (a).

Mr Perry admitted the allegation in its entirety.

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 – page 3

Section 2: Notice of Referral, response and Notice of Meeting – pages 4 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 34

Section 5: Teacher documents – page 35

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 Perry on 20 May 2022.

Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the TRA agreed to a request from Mr Perry 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 Perry had been employed as a Maths Teacher at The Brooksbank School between 1 September 2018 and 28 February 2019. On 27 February 2019, Mr Perry was arrested for accessing child pornography. Following a police investigation, Mr Perry was charged with three offences of Making of Indecent Photographs of Children contrary to Section 1(a) of the Protection of Children Act 1978. Mr Perry pleaded guilty to the three offences at Bradford Magistrates Court on 30 April 2021. The matter was committed to Bradford Crown Court for sentencing, due to the seriousness of the offence. On 28 May 2021, Mr Perry received the following sentence:

- i. Suspended Sentence Order – 9 months custody, suspended for 24 months;
- ii. Mandatory attendance of 'Maps for Change' course;
- iii. Up to 50 mandatory Rehabilitation Activity Requirement days;
- iv. 120 hours of unpaid community service;
- v. Notification Requirement for a period of 10 years (Sex offenders register);
- vi. Sexual Harm Prevention Order enforced for 10 years;
- vii. Costs in the sum of £510;
- viii. Victim surcharge (amount unknown).

Findings of fact

The panel found the following particulars of the allegations against you proved, for these reasons:

You were convicted on the 30 April 2021 and sentenced on 28 May 2021 of the following relevant offences:

1. Three counts of making an indecent photograph or pseudo-photograph of children between 5 July 2009 and 27 February 2020, contrary to the Protection of Children Act 1978, S1 (a).

The allegation was admitted and was supported by evidence presented to the panel within the bundle. In particular, the panel noted the Certificate of Conviction and took this as proof of the commission of the offence concerned.

The allegation was therefore, found proved.

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 a conviction 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 Perry in relation to the facts it found proved involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Perry 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 Mr Perry’s actions were relevant to teaching, working with children and working in an education setting, as the offence involved images of children.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Perry’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 Perry’s behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended) and there were considerable community penalties, which was indicative of the seriousness of the offences committed.

This was a case involving an offence of any 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 found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Perry’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 a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found all of them to be relevant in this case, namely the safeguarding and wellbeing of pupils and protection of other members of the public, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct, and striking the right balance between the rights of the teacher and the public interest.

In the light of the panel's findings against Mr Perry, which involved a finding that he had been convicted of a relevant offence, which was a serious offence involving child pornography, 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 Perry 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 Perry 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 Perry.

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 Perry. 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- 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;

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 evidence that Mr Perry's actions were deliberate. There was no evidence to suggest that Mr Perry was acting under duress.

The panel took into account the sentencing remarks made by the Recorder when sentencing Mr Perry for the offences. In particular, the fact that Mr Perry had offered a guilty plea, had no previous convictions and had "*an exemplary good character*", having "*dedicated a substantial proportion*" of his life to educating young people without complaint by them. However, the panel noted that the Recorder was mindful that Mr Perry had been accessing child pornography for over a decade (2009-2019), without having previously been caught and had not taken steps to stop his behaviour, until after he had been caught.

The panel noted that Mr Perry had accessed a significant volume of indecent images. The seriousness of the offence was reflected in his sentence, which included a (suspended) custodial sentence, a number of community penalties, a Sexual Harm Prevention Order for 10 years and registration on the Sex Offender Register for 10 years.

The panel was not provided with any evidence from Mr Perry that provided any further mitigation.

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 Perry 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 Perry. The serious nature of the offence which included indecent images of children, was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes 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 Perry was guilty of a relevant offence, which included the making indecent images of children.

The panel noted that in the sentencing remarks, the Recorder stated "*I accept that you have demonstrated remorse*", however, the Recorder identified that this was double edged. The panel was not provided with any further evidence from Mr Perry that demonstrated insight or remorse. This was particularly concerning as the panel was unclear whether Mr Perry had full insight in to his actions. The panel determined that the offence was serious and Mr Perry is subject to a Sexual Harm Prevention Order and has been placed on the Sex Offender Register for 10 years, which would make him incompatible with being a teacher.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

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

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

The findings of misconduct are particularly serious as they include a conviction of three counts of making an indecent photograph or pseudo-photograph of 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 Perry, 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 pupils. The panel has observed, "In the light of the panel's findings against Mr Perry, which involved a finding that he had been convicted of a relevant offence, which was a serious offence involving child pornography, there was a strong public interest consideration in respect of the protection of pupils". 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, set out as follows, "The panel noted that in the sentencing remarks, the Recorder stated *"I accept that you have demonstrated remorse"*, however, the Recorder identified that this was double edged. The panel was not provided with any further evidence from Mr Perry that demonstrated insight or remorse. This was particularly concerning as the panel was unclear whether Mr Perry had full insight in to his actions." 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 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 Perry'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 a conviction involving indecent images 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 Perry himself and the panel comment "The panel took into account the sentencing remarks made by the Recorder when sentencing Mr Perry for the offences. In particular, the fact that Mr Perry

had offered a guilty plea, had no previous convictions and had "*an exemplary good character*", having "*dedicated a substantial proportion*" of his life to educating young people without complaint by them."

A prohibition order would prevent Mr Perry 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 seriousness of the offence "Mr Perry's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended) and there were considerable community penalties, which was indicative of the seriousness of the offences committed."

I have also placed considerable weight on the finding of the panel that "the offence was serious and Mr Perry is subject to a Sexual Harm Prevention Order and has been placed on the Sex Offender Register for 10 years, which would make him incompatible with being a teacher."

The findings are serious, Mr Perry accessed a significant volume of indecent images for over a decade and had not taken steps to stop his behaviour.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Perry 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. One of these behaviours includes 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 Perry was guilty of a relevant offence, which included the making indecent images of children."

I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient

to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings 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 Mark Perry 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 Perry 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 Mark Perry 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: 16 June 2022

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