



Teaching  
Regulation  
Agency

# **Mr Paul Browning: 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

<b>Teacher:</b>	Mr Paul Browning
<b>Teacher ref number:</b>	9555847
<b>Teacher date of birth:</b>	20 July 1970
<b>TRA reference:</b>	18743
<b>Date of determination:</b>	20 June 2022
<b>Former employer:</b>	Solihull Sixth Form College

### Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 20 June 2022 by way of a virtual meeting, to consider the case of Mr Paul Browning.

The panel members were Mr Paul McGrath (lay panellist – in the chair), Mrs Kelly Thomas (lay panellist) and Mrs Claire Haines (teacher panellist).

The legal adviser to the panel was Ms Samantha Cass 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 Browning that the allegation be considered without a hearing. Mr Browning 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 Laura Hoiles of Capsticks Solicitors LLP, Mr Browning, or any representative for Mr Browning.

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

### Allegations

The panel considered the allegation set out in the notice of meeting dated 14 June 2022.

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

1. On 13 November 2020, at Birmingham Magistrates' Court, he was convicted of, between 01/01/2015 and 01/12/2017, 'recorded another person doing a private act with the intention that you would, for the purpose of obtaining sexual gratification,

look at an image of that other person doing the act, knowing that the other person did not consent to your recording the act with that intention', contrary to section 67(3) and (5) of the Sexual Offences Act 2003.

Mr Browning admitted the facts of allegations 1 and that his behaviour amounted to a conviction of a relevant offence, as set out in the response to the notice of proceedings dated 21 October 2021 and in the statement of agreed facts signed by Mr Browning on 25 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: Chronology, identification key and list of key people – pages 1 to 7
- Section 2: Notice of referral, response and notice of meeting – pages 8 to 21
- Section 3: Statement of agreed facts and presenting officer representations – pages 22 to 26
- Section 4: Teaching Regulation Agency documents – pages 27 to 148
- Section 5: Teacher documents – pages 149 to 162

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 Browning on 25 November 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 Browning 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 Browning commenced his role as a teacher of art (graphic design) at Solihull Sixth Form College ('the College') on 1 September 1996.

On 1 July 2015, the College invited Mr Browning to an investigation meeting following concerns of inappropriate behaviour and comments made during teaching sessions and assessment for learning and feedback that fell below the expected standard and led to poor achievement.

The College held an investigatory meeting with Mr Browning on 9 July 2015.

On 10 November 2015, the College held an informal meeting with Mr Browning following a parent complaint relating to coursework confidentiality, time management, quality of feedback and the assisting and preparing students for their university interviews.

The College concluded that Mr Browning would continue to work with his Curriculum Leader and team to make the necessary improvements in such areas and that his work performance would be monitored by his Curriculum Leader on an ongoing basis.

On 25 September 2019, Mr Browning was arrested by West Midlands Police. Mr Browning provided statements to the police and admitted the offence of recording a female whilst she was showering in his house. The police confirmed that Mr Browning was being investigated for voyeurism. The police held a first and second investigatory interview with Mr Browning. The College was informed that Mr Browning had been arrested and that he was being held in custody.

Mr Browning was suspended from the College with immediate effect.

On 30 September 2019, Mr Browning resigned from his role at the College with immediate effect. A referral was made to the TRA by West Midlands Police.

Mr Browning emailed the College on 4 October 2019 to withdraw his resignation.

On 7 October 2019, Person A and Person B provided statements to the police. The College declined Mr Browning's request to withdraw his resignation and confirmed his last day of employment was 30 September 2019.

The College held investigatory meetings on 18 and 21 of October 2019. The police held a third investigatory interview with Mr Browning on 22 January 2020.

Mr Browning attended a disciplinary hearing on 6 February 2020. The panel concluded that Mr Browning's conduct amounted to gross misconduct and therefore immediate termination of employment was deemed appropriate on the basis that he had brought the College and trust into disrepute and that there were serious child protection issues.

The matter was referred to the TRA by the College, on 8 April 2019.

Mr Browning was convicted of the offence of voyeurism – recording a person doing a private act, on 13 November 2020.

## Findings of fact

The findings of fact are as follows:

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

- 1. On 13 November 2020, at Birmingham Magistrates' Court, you were convicted of, between 01/01/2015 and 01/12/2017, 'recorded another person doing a private act with the intention that you would, for the purpose of obtaining sexual gratification, look at an image of that other person doing the act, knowing that the other person did not consent to your recording the act with that intention', contrary to section 67(3) and (5) of the Sexual Offences Act 2003.**

The panel considered the statement of agreed facts, signed by Mr Browning on 25 November 2021. In that statement of agreed facts, Mr Browning admitted the particulars of allegations 1. Further, it was admitted the facts of the allegations amounted to a conviction of a relevant offence.

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, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel had been provided with a copy of the certificate of conviction from Birmingham and Solihull Magistrates Court, which detailed that Mr Browning had been convicted of recording another person doing a private act with the intention that he would, for the purpose of obtaining sexual gratification, look at an image of that other person doing the act, knowing that the other person did not consent to his recording of the act with that intention, contrary to section 67(3) and (5) of the Sexual Offences Act 2003.

In respect of the allegations, Mr Browning was sentenced to 26 weeks' imprisonment suspended for 24 months. In addition, Mr Browning must comply with the following requirements: a) a mental health treatment requirement; and 2) a rehabilitation activity requirement. Mr Browning was also ordered to pay £500 in compensation; to pay a victim surcharge of £128; to pay costs of £185 to the Crown Prosecution Service; and made subject to a collection order. Mr Browning was also sentenced to registration with the police in accordance with the Sexual Offences Act 2003 from 13 November 2020 for 7 years.

On examination of the documents before the panel, the panel was satisfied that the facts of allegations 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 a conviction of a relevant offence.

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

The panel was satisfied that the conduct of Mr Browning, in relation to the facts it found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Browning 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; and
  - 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, and maintain high standards in their own attendance and punctuality.

- 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 Browning's actions took place outside of the education setting, in that he recorded an individual in a private setting which was at his home address and did not involve any pupils or colleagues of the College. However, the panel believed Mr Browning's actions touched upon his profession as a teacher.

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 Browning'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 Browning's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed.

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

The panel took into account Mr Browning's account of the emotional difficulties he described that he was suffering at the relevant time as a result of a [Redacted].

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Browning'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; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Browning, which involved a conviction of recording another person doing a private act without consent, 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 Browning 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 Browning 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 Browning.

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 Browning. 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.
- 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;
- a deep-seated attitude that leads to harmful behaviour; and
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests.

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 Browning's actions were not deliberate.

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

No evidence was submitted to attest to Mr Browning's previous history as a teacher or which showed that he demonstrates exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.

In Mr Browning's undated letter to the presenting officer firm, Mr Browning outlined the personal issues he was suffering with at the time of the incident. [Redacted]. Whilst the panel considered this, it was not of the view that this made Mr Browning's behaviour any less serious in nature.

Mr Browning submitted that he had admitted the allegations and had complied with the process throughout. Mr Browning expressed his sincerest apologies. The panel noted that there was a lack of evidence of insight from Mr Browning as to the effect that this incident had on Person A.

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 Browning 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 Browning. The seriousness of the offence and the fact that it was discovered rather than disclosed were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate 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 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. Mr Browning was convicted of recording another person doing a private act with the intention that he would, for the purpose of obtaining sexual gratification, look at an image of that other person doing the act, knowing that the other person did not consent to the recording the act with that intention, contrary to the Sexual Offences Act 2003. The panel found that Mr Browning's conviction led to a strong public interest in respect of the protection of pupils.

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 Paul Browning should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Browning 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; and

- 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, and maintain high standards in their own attendance and punctuality.
- 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 Browning fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a conviction of the offence of voyeurism.

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 Browning, 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 Browning, which involved a conviction of recording another person doing a private act without consent, 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, which the panel sets out as follows, "Mr Browning submitted that he had admitted the allegations and had complied with the process throughout. Mr Browning expressed his sincerest apologies. The panel noted that there was a lack of evidence of insight from Mr Browning as to the effect that this incident had on Person A." In my judgement, the lack of full 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 seriousness of the offending

behaviour that led to the conviction was relevant to Mr Browning'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."

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 Browning himself and the panel comment "No evidence was submitted to attest to Mr Browning's previous history as a teacher or which showed that he demonstrates exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector."

A prohibition order would prevent Mr Browning 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, "Mr Browning was convicted of recording another person doing a private act with the intention that he would, for the purpose of obtaining sexual gratification, look at an image of that other person doing the act, knowing that the other person did not consent to the recording the act with that intention, contrary to the Sexual Offences Act 2003. The panel found that Mr Browning's conviction led to a strong public interest in respect of the protection of pupils."

I have also placed considerable weight on the finding of the panel that "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."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Browning 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 insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

The findings in this case are particularly serious, resulting in a conviction and a sentence of imprisonment (albeit suspended).

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 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."

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 conviction and the lack of insight.

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 Paul Browning 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 Browning 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 Browning 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.



**Decision maker: Sarah Buxcey**

**Date: 22 June 2022**

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