



Teaching
Regulation
Agency

Mr Tony Fraine: Professional conduct panel meeting outcome

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

May 2022

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

Teacher:	Mr Tony Fraine
Teacher ref number:	0447302
Teacher date of birth:	12 May 1983
TRA reference:	19337
Date of determination:	31 May 2022
Former employer:	Hinckley Academy and John Cleveland Sixth Form Centre, Leicestershire (the "School")

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 31 May 2022, remotely, to consider the case of Mr Tony Fraine.

The panel members were Ms Kulvinder Sandal (teacher panellist – in the chair), Ms Kelly Thomas (lay panellist) and Mr Roger Woods (former teacher 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 Fraine that the allegations be considered without a hearing. Mr Fraine 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 Sherelle Appleby, Mr Fraine, or a representative of Mr Fraine.

The meeting took place in private.

Allegations

The panel considered the allegation set out in the notice of meeting dated 29 March 2022.

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

1. On or around 11/09/20 he was convicted at Leicester Crown Court of one count of Sexual activity with a child by a person in a position of trust, contrary to section 16(1) of the Sexual Offences Act 2003;
2. On or around 11/09/20 he was convicted at Leicester Crown Court of one count of causing or inciting a child to engage in sexual activity by a person in a Position of Trust, contrary to Section 17(1) of the Sexual Offences Act 2003.

Mr Fraine admitted allegations 1 and 2 and admitted that the facts of these allegations amount to conviction 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: Teacher's response to notice of referral and notice of meeting – pages 4 to 10

Section 2: Statement of agreed facts – pages 12 to 14

Section 3: Teaching Regulation Agency documents – pages 16 to 73 (excluding pages 53 to 69)

Section 4: Teacher documents – page 75

The panel members confirmed that they had read all of the relevant documents within the bundle, in advance of the meeting.

Pages 53 to 69 of the bundle were disregarded as they were erroneously included in the bundle. These pages were replaced by a document entitled 'Teacher misconduct referral form for use by employers' which was supplied to the panel and the legal adviser by the TRA hearing clerk at the start of the meeting.

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Fraine on 16 February 2022.

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 Fraine 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 Fraine was appointed as a newly qualified teacher on 30 June 2005 and was employed as head of science at the School from 2010.

On 27 November 2019, the School received an allegation from 2 pupils that Mr Fraine had been sending inappropriate messages of a sexual nature to Pupil A. The matter was reported to the LADO and the police.

On 28 November 2019, Mr Fraine was suspended from the School whilst the police investigation took place. He was arrested on the same date. Following the police investigation, a prosecution was brought against Mr Fraine by the CPS.

On 12 March 2020, following the School's investigation, a disciplinary hearing took place, and it was decided Mr Fraine should be summarily dismissed as of that date.

On 11 September 2020 Mr Fraine attended Leicester Crown Court where he pleaded guilty to 2 counts laid against him. On 2 October 2020, Mr Fraine was sentenced at Leicester Crown Court to 24 months imprisonment and a Sexual Harm Prevention Order for a period of 10 years and was placed on the sex offenders register for 10 years.

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 or around 11/09/20 you were convicted at Leicester Crown Court of one count of Sexual activity with a child by a person in a position of trust, contrary to section 16(1) of the Sexual Offences Act 2003;

2. On or around 11/09/20 you were convicted at Leicester Crown Court of one count of causing or inciting a child to engage in sexual activity by a person in a Position of Trust, contrary to Section 17(1) of the Sexual Offences Act 2003.

These allegations were admitted and supported by the evidence presented to the panel, in particular the statement of agreed facts signed by Mr Fraine, a certificate of conviction from HM Courts & Tribunals Service dated 22 October 2021, and a transcript of the sentencing remarks made by [redacted] on 2 October 2020 at Leicester Crown Court.

There was no evidence put before the panel which suggested that there was not a conviction 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 those proved allegations amounted to 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 Fraine, in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Fraine 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 was satisfied that the conduct of Mr Fraine, in relation to the facts it found proved, involved breaches of the Teachers' Standards.

The panel noted the sentencing judge's comments that Mr Fraine "had groomed [Pupil A] over a substantial period of time which amounts to planning and you exercised a corruptive influence over her", that the grooming behaviour and conduct "was deliberate, manipulative and predatory from the start". The judge had also commented that Mr Fraine, "set about making your victim feel responsible for keeping you safe from your crimes".

The panel considered that Mr Fraine's actions were relevant to teaching, working with children and working in an education setting. The conduct found proven, involving grooming behaviour and serious offences relating to sexual activity with a pupil and sharing sexual images with that pupil, 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 also took account of the way the teaching profession is viewed by others. The panel considered that Mr Fraine's behaviour in committing the offence would be likely to affect public confidence in the teaching profession if Mr Fraine was allowed to continue teaching, given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mr Fraine's behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed, and which the Advice states is likely to be considered "a relevant offence". Further, this was a case concerning an offence involving sexual activity; sexual communication with a child; activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child; and controlling or coercive behaviour. The Advice indicates that a conviction that relates to or involves such offences is likely to be considered "a relevant offence".

The panel therefore regarded this as a very serious and concerning offence.

The panel took into account the fact that Mr Fraine had pleaded guilty at the first opportunity in court and that he had no previous convictions, as noted by the sentencing judge. The panel noted the judge's comments that "people generally, of course, think and have thought highly of [Mr Fraine]", but noted there was no further evidence of mitigating circumstances or details of Mr Fraine's record as a teacher.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Fraine'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Fraine and whether a prohibition order is necessary and proportionate. 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, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

There was a strong public interest consideration in respect of the protection of pupils and other children given the very serious findings relating to sexual activity with a pupil and conduct associated with grooming.

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

The panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Fraine in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils)
- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children; and
- violation of the rights of pupils.

Even though the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

According to the evidence presented to the panel, Mr Fraine 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 clear evidence of deliberate and repeated actions according to the remarks by the sentencing judge. Mr Fraine had not been acting under duress. The panel had not been provided with any mitigation evidence from the teacher, including references from colleagues that could attest to Mr Fraine's abilities as a teacher.

Proportionality

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 would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Fraine 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 Fraine. The seriousness of the offences including the grooming behaviour which took place over a substantial period of time 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 for it to decide to recommend a review period of the order. 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, for example: 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 or her professional position to influence or exploit a person or persons; any sexual misconduct involving a child; and any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image.

The panel found that Mr Fraine was responsible for serious misconduct with a number of aggravating factors as highlighted by the judge when considering the appropriate sentence, including: persistent grooming behaviour, a significant degree of planning, solicitation and recording of sexual images, and that Pupil A had been compelled to leave the School. In the panel's view, these were clearly relevant to the types of conduct set out in the Advice.

The panel also took note of the following remarks of the sentencing judge relating to the teacher's remorse: "Your repeated references to inappropriate conduct of course entirely misstate the serious crimes that you perpetrated on a girl who should have been able to trust you and it is difficult not to conclude that any remorse you feel is directed towards yourself and the position you now find yourself in rather than your victim."

There was nothing before the panel to suggest that Mr Fraine had committed any previous misconduct, and it was clear to the panel that Mr Fraine had taken a cooperative attitude towards the TRA proceedings. However, the panel regarded the aggravating factors to be particularly significant in this case. In addition, the panel had

not been presented with any evidence as to the teacher seeking to address his behaviours beyond a brief comment in the sentencing judge's remarks.

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

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

The findings of misconduct are particularly serious as they include a finding of a conviction related to sexual activity with a pupil.

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 Fraine, 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, "There was a strong public interest consideration in respect of the protection of pupils and other children given the very serious findings relating to sexual activity with a pupil and conduct associated with grooming." 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 also took note of the following remarks of the sentencing judge relating to the teacher's remorse: "Your repeated references to inappropriate conduct of course entirely misstate the serious crimes that you perpetrated on a girl who should have been able to trust you and it is difficult not to conclude that any remorse you feel is directed towards yourself and the position you now find yourself in rather than your victim." In my judgement, the lack of full 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, "Mr Fraine's behaviour in committing the offence would be likely to affect public confidence in the teaching profession if Mr Fraine was allowed to continue teaching, 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 sexual activity with a pupil 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 Fraine himself and the panel comment "According to the evidence presented to the panel, Mr Fraine 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 Fraine 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 lack of insight or remorse. The panel has said, "The panel also took note of the following remarks of the sentencing judge relating to the teacher's remorse: "Your repeated references to inappropriate conduct of course entirely misstate the serious crimes that you perpetrated on a girl who should have been able to trust you and it is difficult not to conclude that any remorse you feel is directed towards yourself and the position you now find yourself in rather than your victim."

I have also placed considerable weight on the finding "The panel noted the sentencing judge's comments that Mr Fraine "had groomed [Pupil A] over a substantial period of time which amounts to planning and you exercised a corruptive influence over her", that the grooming behaviour and conduct "was deliberate, manipulative and predatory from the start". The judge had also commented that Mr Fraine, "set about making your victim feel responsible for keeping you safe from your crimes".

Mr Fraine's offending behaviour was serious, concerning sexual activity with a pupil, which ultimately led to a sentence of imprisonment, which I agree with the panel is relevant to his ongoing suitability to teach.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Fraine 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 panel had not been presented with any evidence as to the teacher seeking to address his behaviours beyond a brief comment in

the sentencing judge's remarks." The panel has also said "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."

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 case and the lack of either 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 Tony Fraine 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 Fraine 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 Tony Fraine 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 'S Buxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 1 June 2022

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