



Teaching
Regulation
Agency

Mr David Bryan: Professional conduct panel meeting outcome

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

January 2022

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

Teacher:	Mr David Bryan
Teacher ref number:	0455577
Teacher date of birth:	17 August 1983
TRA reference:	19412
Date of determination:	12 January 2022
Former employer:	Twickenham School, Twickenham

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 12 January 2022 by way of a virtual meeting, to consider the case of Mr David Bryan.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mr Maurice McBride (lay panellist) and Ms Esther Maxwell (lay 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 Bryan that the allegation be considered without a hearing. Mr Bryan 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 Matilda Heselton of Browne Jacobson LLP solicitors, Mr Bryan or his representative, Mr Dev Jummoodoo of Rosewood solicitors.

The meeting took place in private by way of a virtual meeting, save for the announcement of the panel’s decision, which was announced in public and recorded.

Allegations

The panel considered the allegations set out in the notice of meeting dated 17 December 2021.

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

1. He was convicted at the Surrey Magistrates Court on 23 February 2021 for three counts of attempting to engage and/or engaging in sexual communications with a child, contrary to Section 15a(1) of the Sexual Offenders Act 2003, for which he was given a suspended period of four months imprisonment which was wholly suspended for 24 months, ordered to undertake a rehabilitation activity, issued a sexual harm prevention order for ten years, issued a sex offenders notice to remain in place for ten years and ordered to pay a surcharge to fund victim services of £156.00 and costs of £85.00.

Mr Bryan 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 19 August 2021, and in the statement of agreed facts signed by Mr Bryan on 21 October 2021.

Preliminary applications

There were no preliminary applications.

The notice of meeting was amended and re-issued to the teacher, on 22 December 2021, to correct an administrative error.

Summary of evidence

Documents

In advance of the meeting, the panel received a bundle of documents which included:

- Section 1: Chronology and anonymised child list – pages 2 to 3
- Section 2: Notice of referral, response and notice of meeting – pages 5 to 10
- Section 3: Statement of agreed facts and presenting officer representations – pages 12 to 18
- Section 4: Teaching Regulation Agency documents – pages 20 to 180

- Section 5: Teacher documents – pages 182 to 183
- Notice of meeting – provided separately

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 Bryan on 21 October 2021.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Bryan that the allegation 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 Bryan was employed as the head of PE at Twickenham School ('the School') from 1 September 2015.

On 5 May 2020, Mr Bryan was arrested at his home address and was interviewed by the police. The School was notified by the LADO of Mr Bryan's arrest.

Mr Bryan was suspended from his role at the School and an allegations against staff and volunteers meeting was held on 6 May 2020. Mr Bryan later resigned from his position at the School, on 5 June 2020.

A second allegations against staff and volunteers meeting was held on 23 June 2020. Mr Bryan was also interviewed by the police on a second occasion, on 7 July 2020. A disciplinary hearing was held on 14 July 2020.

Mr Bryan was convicted of three counts of attempting to engage in sexual communications with a child, on 23 February 2021.

Findings of fact

The findings of fact are as follows:

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

- 1. You were convicted at the Surrey Magistrates Court on 23 February 2021 for three counts of attempting to engage and/or engaging in sexual communications with a child, contrary to Section 15a(1) of the Sexual Offenders Act 2003, for which you were given a suspended period of four months imprisonment which was wholly suspended for 24 months, ordered to undertake a rehabilitation activity, issued a sexual harm prevention order for ten years, issued a sex offenders notice to remain in place for ten years and ordered to pay costs of £156.00 and £85.00.**

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 hearing will not re-examine the facts of the case and the panel will accept the conviction as conclusive proof that establishes the relevant fact.

The panel had been provided with a copy of the certificate of conviction from the Surrey Magistrates’ Court, which detailed that Mr Bryan had pleaded guilty and been convicted of three counts of attempting to engage in sexual communication with a child.

In addition, the panel noted that within the statement of agreed facts, signed by Mr Bryan on 21 October 2021, Mr Bryan admitted the facts of allegation 1.

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

Findings as to a 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 Bryan, in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Bryan 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
- 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 offence had taken place outside of the school setting and had not involved pupils from the School where Mr Bryan worked or other members of staff. However, the panel concluded that Mr Bryan's actions were relevant to teaching, working with children and/or working in an education setting in that Mr Bryan had attempted to engage in sexual communication with children, who each stated that they were 13 years of age. Further, Mr Bryan was responsible for teaching individuals of that age.

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 Bryan'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 Bryan'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 a sexual nature, 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 Bryan'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

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 protection of pupils, 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 the light of the panel's findings against Mr Bryan, which involved finding that he had been convicted of three counts of attempting to engage in sexual communication with a child, 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 Bryan 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 Bryan 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 Bryan.

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 Bryan. 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;
- 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 vulnerable pupils) or violation of the rights of 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;
- 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.

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

No documents were submitted to attest to Mr Bryan's previous history as a teacher, nor were any documents submitted in the form of mitigation. There was no indication from the documents before the panel that Mr Bryan was remorseful or had shown insight into his conduct.

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, in particular the protection of pupils and other members of the public, despite the severity of the consequences for Mr Bryan 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 Bryan. The seriousness of the convictions, the risk posed to pupils and Mr Bryan's lack of remorse 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. The panel

found that Mr Bryan was responsible for three counts of attempting to engage in sexual communications with a child and considered that this was serious sexual misconduct.

The panel decided that the findings indicated a situation in which a review period would not be appropriate, in particular due to the seriousness of the convictions and Mr Bryan's lack of remorse, 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 those proven facts amount a relevant conviction.

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

In particular, the panel has found that Mr Bryan 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
- 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 also "noted that the offence had taken place outside of the school setting and had not involved pupils from the School where Mr Bryan worked or other members of staff." The panel also concluded that, "Mr Bryan's actions were relevant to teaching, working with children and/or working in an education setting in that Mr Bryan had attempted to engage in sexual communication with children, who each stated that they

were 13 years of age. Further, Mr Bryan was responsible for teaching individuals of that age.”

The findings of misconduct are particularly serious as they include a finding of a relevant conviction for attempting to engage in sexual communication with 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 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 Bryan, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “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, “There was no indication from the documents before the panel that Mr Bryan was remorseful or had shown insight into his conduct.”

In my judgement, the lack of insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future well being of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel considered that Mr Bryan’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 relevant conviction for attempted sexual communication with 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 a relevant conviction, 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 Bryan himself. The panel comment “No documents were submitted to attest to Mr Bryan’s previous history as a teacher, nor were any documents submitted in the form of mitigation.”

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

In this case, I have placed considerable weight on the panel’s comments “The panel found that Mr Bryan was responsible for three counts of attempting to engage in sexual communications with a child and considered that this was serious sexual misconduct.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Bryan 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 “the seriousness of the convictions and Mr Bryan’s lack of remorse,”

I have considered whether allowing for a no review period 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 support a no review 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 David Bryan 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 David Bryan 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 David Bryan 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 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 17 January 2022

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