



Teaching
Regulation
Agency

Mr Jordan Gilland: Professional conduct panel outcome

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

July 2022

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

Teacher: Mr Jordan Gilland
TRA reference: 0020051
Date of determination: 20-21 July 2022
Former employer: Edgbarrow School, Berkshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually via Microsoft Teams on 20-22 July 2022, to consider the case of Mr Jordan Gilland.

The panel members were Ms Caroline Downes (lay panellist – in the chair), Mrs Bev Williams (teacher panellist) and Mr Nigel Shock (lay panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Matilda Hesleton of Browne Jacobson LLP solicitors.

Mr Jordan Gilland was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 5 May 2022 (as amended).

It was alleged that Mr Gilland was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

- 1. He failed to maintain appropriate boundaries with Pupil A, including by:**
 - a. In or around February to March 2020, agreeing to maintain confidentiality when it was not appropriate to do so;**
 - b. In or around March 2020, providing Pupil A with his personal email address;**
 - c. Between around July 2020- March 2021, engaging in email correspondence with Pupil A;**
 - d. On or around 10 July 2020, asking Pupil A not to tell [REDACTED] parents or the School about his correspondence;**
 - e. On or around 10 July 2020, telling Pupil A, 'I hate the way that the school phones people's parents up straight away';**
 - f. In or around September 2020, providing Pupil A with his SnapChat contact details;**
 - g. Between around September 2020-March 2021, corresponding with Pupil A via Snapchat;**
 - h. Between around March 2020-March 2021, speaking with Pupil A on the phone when he had no professional reason to do so.**
- 2. On or around 24 July 2020, he engaged in inappropriate and/or unprofessional behaviour on one or more occasions towards Pupil A by advising [REDACTED], 'if you want to try a different way to distract yourself put one or two elastic bands around your arm and ping them anytime...it stings like a b**** but it only leaves a mark for a little while.'**
- 3. His conduct as may be found proven at 2 above placed Pupil A at risk of harm;**
- 4. He failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A between March 2020 – March 2021, despite being aware that Pupil A was experiencing [REDACTED];**

5. His conduct as may be found proven at allegation 1(c) - 1(h) above was despite concerns around professional boundaries and/or following safeguarding procedures as raised with him by email from Individual A on or around 9 July 2020.

The panel was presented with an email from Mr Gilland dated 14 July 2022 in which he confirmed his agreement to the contents of a Statement of Agreed Facts, which was otherwise unsigned.

Pursuant to that statement, Mr Gilland accepted the facts of the allegations and that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

Application to proceed in the absence of Mr Gilland

The panel considered an application from the presenting officer to proceed in the absence of Mr Gilland.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice of Hearing had been sent in accordance with the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures") and that the requirements for service had been satisfied.

Mr Gilland was aware of the proceedings as had engaged with the TRA, expressly confirming that he would not be attending the hearing.

The panel went on to consider whether to proceed in Mr Gilland's absence or to adjourn, in accordance with Rule 5.45 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Gilland is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to him as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mr Gilland for the following reasons in particular:

- The panel was satisfied that Mr Gilland's absence was voluntary and he had waived his right to attend. Whilst Mr Gilland alluded to [REDACTED] by way of explanation for his absence, there was no [REDACTED] before the panel indicating he was unfit to attend the hearing.
- Whilst Mr Gilland alluded to a desire to be represented, there was no indication he had taken any steps in that regard.
- There was no indication that Mr Gilland might attend at a future date. As such, the panel concluded that no purpose would be served by an adjournment, which had not been requested by Mr Gilland.
- There is a public interest in hearings taking place within a reasonable time.
- There is an obligation on all professionals who are subject to a regulatory regime to engage with their regulator.
- The risk of reaching the wrong conclusion as a result of not being able to hear from Mr Gilland was reduced in this case given the admissions he had made.

Having decided that it was appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mr Gilland is neither present nor represented.

Application to admit late documents

The panel considered an application made on behalf of the TRA to admit the following documents:

- Correspondence post-dating the Notice of Hearing; and
- An unsigned Statement of Agreed Facts.

The panel agreed to admit these documents. They were clearly relevant to the issues the panel would need to consider, including the application to proceed in the absence of Mr Gilland.

It was also appropriate to admit them in the interests of a fair hearing. There was no prejudice to Mr Gilland on the basis that the documents were procedural in nature. Indeed, the agreed statement purported to set out his response to the allegations before the panel. Whilst it was unsigned, the panel was presented with an email from Mr Gilland dated 14 July 2022 in which he confirmed his agreement to the contents of the statement.

The documents were accordingly added to the case papers.

Application to proceed in private

The panel considered an application for any part of the hearing in which [REDACTED] are addressed, on the part of Pupil A and Mr Gilland, to be heard in private.

The application was essentially made on a joint basis in that Mr Gilland confirmed his agreement to it by email dated 7 July 2022.

The panel took into account that there is a presumption that these proceedings will take place in public and there is a public interest in the openness and transparency of the disciplinary process.

The panel also noted that the outcome of the hearing will be announced in public.

However, it was clear that health issues on the part of both Pupil A and Mr Gilland were a central feature of this case and it would be contrary to their interests and the interest of justice for such information to be addressed in public.

The panel therefore agreed to the application and directs that if, at any stage, matters pertaining to [REDACTED] arise, that part of the hearing should proceed in private.

Further, insofar as documents pertaining to [REDACTED] are included within the hearing papers these would be taken as read.

The presenting officer is requested to notify the panel if, at any stage, it is anticipated that [REDACTED] may arise.

Application to amend allegation 1(a)

An application was made by the TRA to amend allegation 1(a) to amend the date specified from '*March 2020*', as originally pleaded, to '*February to March 2020*'.

Mr Gilland had been put on notice of the application and had not objected to it.

The panel agreed to the application.

It was limited in scope and did not alter the substance of what was alleged. There was no prejudice to Mr Gilland, who admitted the amended allegation within the Statement of Agreed Facts.

The amendment was also necessary in the public interest, whereby it was important that allegations are accurately pleaded and there was a need to avoid the risk of allegations failing on a technical basis, particularly when there was nothing in dispute in relation to this allegation.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 5 to 6

Section 2: Notice of hearing and response – pages 8 to 11

Section 3: Teaching Regulation Agency witness statements – pages 13 to 16

Section 4: Teaching Regulation Agency documents – pages 18 to 26

Section 5: Correspondence with teacher – pages 177 to 187

In addition, the panel agreed to accept additional correspondence, post-dating the Notice of Hearing, and a Statement of Agreed Facts.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

Witnesses

The panel heard oral evidence from [REDACTED] called by the presenting officer. [REDACTED]

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Introduction

Mr Gilland was previously employed by Edgbarrow School ("the School") as a maths teacher.

Mr Gilland began working at the School on 1 September 2017 as a newly qualified teacher. He received Level 1 Universal Safeguarding training on 7 September 2017 and 5 December 2020 respectively.

In March 2021, concerns arose in relation to Mr Gilland's interactions with a pupil at the School, who is referred to as Pupil A. Specifically, Mr Gilland reported to the School that he had engaged in personal communications with Pupil A outside the School environment. Pupil A was taught by Mr Gilland.

Pupil A had known vulnerabilities, particularly as a consequence of [REDACTED], and was receiving support from her head of year.

The School subsequently suspended Mr Gilland and a LADO referral was made.

[REDACTED] was appointed to undertake an investigation. A copy of his investigation report was included in evidence.

The School proceeded to commence a disciplinary process, culminating in a hearing on 7 May 2021.

Mr Gilland was subsequently referred to the TRA.

Evidence considered by the panel

The panel carefully considered all of the written and oral evidence presented. It accepted the legal advice provided.

The panel heard oral evidence from [REDACTED] who was called by the presenting officer. [REDACTED]

Mr Gilland did not attend the hearing and nor was he represented.

At the outset of the hearing, the panel was presented with a Statement of Agreed Facts ("the Agreed Statement") in which all of the allegations were admitted. Whilst it was unsigned, the panel was presented with an email from Mr Gilland dated 14 July 2022 in which he confirmed his agreement to the contents of the Agreed Statement. Nonetheless, in his absence, the panel proceeded with caution and had in mind the need to ensure that the recorded admissions were consistent with the wider evidence available.

Whilst there were references to opinions expressed during the course of the earlier investigation and subsequently, these were disregarded. The panel formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

The findings of fact are as follows:

- 1. You failed to maintain appropriate boundaries with Pupil A, including by:**
 - a. In or around February to March 2020, agreeing to maintain confidentiality when it was not appropriate to do so;**
 - b. In or around March 2020, providing Pupil A with your personal email address;**

- c. **Between around July 2020- March 2021, engaging in email correspondence with Pupil A;**
- d. **On or around 10 July 2020, asking Pupil A not to tell [REDACTED] parents or the School about your correspondence;**
- e. **On or around 10 July 2020, telling Pupil A, 'I hate the way that the school phones people's parents up straight away';**
- f. **In or around September 2020, providing Pupil A with your SnapChat contact details;**
- g. **Between around September 2020-March 2021, corresponding with Pupil A via Snapchat;**
- h. **Between around March 2020-March 2021, speaking with Pupil A on the phone when you had no professional reason to do so.**

In March 2021, Mr Gilland notified the School that he had been communicating with Pupil A, including via email and social media. No complaint had been made by the pupil or her family.

It was agreed that:

- Mr Gilland was first approached by Pupil A in February 2020.
- Specifically, he had a conversation with Pupil A after class, in which he raised the issue of a mark he observed on [REDACTED] arm. Mr Gilland's position was that when Pupil A suggested that if Mr Gilland told someone about this '*it would make matters worse*', or said words to that affect, he agreed not to tell anyone
- Mr Gilland further admits that during a second, in-person conversation with Pupil A, [REDACTED] stated that [REDACTED] would never tell [REDACTED] head of year anything as it 'goes back to' [REDACTED] mother.
- Mr Gilland proceeded to provide Pupil A with his e-mail address, at some point in or around March 2020.
- In July 2020, Pupil A sent an email to Mr Gilland, who responded and they began to exchange further emails. The emails were sent by Pupil A to Mr Gilland's personal email account, not a professional school account, and copies were included in the hearing papers.
- No report was made by Mr Gilland to the School at the time.

- On 10 July 2020, Mr Gilland sent an email to Pupil A in which he stated:

"I hate to say this but it should be obvious, please don't mention me if you tell your mum/the school, in all honesty I hate the way that the school phones peoples parents up straight away I want to help you/give you some advice and let you work through things on your own terms." (sic)

- Pupil A responded the same date indicating, *"of course I won't mention it"*.

The panel therefore found particulars (a) to (e) proved on the basis of Mr Gilland's recorded admissions, which were consistent with the other evidence before it, particularly the emails he exchanged with Pupil A.

In relation to the wording of particular (a), the panel considered that it was, clearly, not appropriate to agree to maintain confidentiality in this manner. This is addressed further below, with reference to the stem of allegation 1.

In relation to particulars (f) to (g), there was similarly no dispute as regards to the fact that Mr Gilland communicated with Pupil A via Snapchat, having offered his details to [REDACTED] at some point in or around September 2020.

Mr Gilland's position was that this was in response to Pupil A suggesting [REDACTED] did not email him more because e-mails are saved, and therefore permanent, as opposed to Snapchat messages, which are not stored or saved.

Mr Gilland admitted that, following Pupil A being provided with his Snapchat details, they exchanged messages via Snapchat on more than one occasion between September 2020 and March 2021.

The panel therefore also found particulars (f) to (g) proved on the basis of Mr Gilland's admissions, which were consistent with the evidence before the panel.

Finally, in relation to particular (h), Mr Gilland admitted that that he communicated with Pupil A via telephone on more than one occasion from March 2020 to March 2021.

That culminated in the incident on 15 March 2021, when Pupil A contacted Mr Gilland by telephone, late at night, indicating [REDACTED], prompting Mr Gilland to contact the emergency services and the School.

Mr Gilland accepted that these telephone conversations were not directly relevant to his teaching but Pupil A's personal and private circumstances.

The panel, therefore, also found particular (h) proved.

Having found particulars (a) to (h) proved, the panel went on to consider the stem of allegation 1, namely whether Mr Gilland's actions were such that he failed to maintain appropriate boundaries with Pupil A.

This was accepted by Mr Gilland pursuant to the Agreed Statement.

Clearly, Mr Gilland had a duty to maintain appropriate professional boundaries with all of his pupils.

The panel was satisfied that, given his conduct, he failed to do so in relation to Pupil A.

Mr Gilland may have been motivated only by a desire to help Pupil A. The panel noted that the outcome of the LADO referral was that the intent behind Mr Gilland's behaviour was not deemed to be a matter of concern (for example, grooming or sexual).

However, through his actions, professional boundaries, that he had a duty to maintain, had become blurred.

In particular, it was highly inappropriate to agree to maintain confidentiality in relation to Pupil A's ongoing [REDACTED]. Mr Gilland was not necessarily suitably trained or qualified to offer advice, receive information or otherwise address Pupil A's needs. His actions risked undermining the wider efforts being taken, in [REDACTED] best interests, by the School, [REDACTED] family and any other agencies involved. Mr Gilland's behaviour also created a risk of dependency on the part of Pupil A.

As well as behaving in a manner that risked Pupil A's best interests being compromised, Mr Gilland also risked compromising his own position.

It was a matter of particular concern that as well as engaging in communications of this nature and extent, he encouraged Pupil A to keep their communications a secret. The use of Snapchat was an aspect of this. It was apparent that this was to avoid messages being saved or stored, which resulted in a lack of transparency and accountability.

The panel therefore found allegation 1 proved in its entirety.

- 2. On or around 24 July 2020, you engaged in inappropriate and/or unprofessional behaviour on one or more occasions towards Pupil A by advising [REDACTED], 'if you want to try a different way to distract yourself put one or two elastic bands around your arm and ping them anytime...it stings like a b**** but it only leaves a mark for a little while.'**
- 3. Your conduct as may be found proven at 2 above placed Pupil A at risk of harm.**

The panel considered allegations 2 and 3 together.

The panel was presented with a copy of an email sent by Mr Gilland to Pupil A, at 17:04 on 24 July 2020, in which he stated, *inter alia*:

"The last point on your list says "it distracts you from thinking", do you mind telling me what you usually think about?"

*If you want to try a different way to distract yourself put one or two elastic bands round your arm and ping them anytime you need a distraction it stings like a b**** but it only leaves a mark for a little while."*

The fact that Mr Gilland offered advice in these terms was therefore apparent from the email and formally admitted. Whilst the allegation referred to this advice being provided on one or more occasions, the panel proceeded on the basis that this was the only occasion when this specific advice was given.

The panel went on to consider whether, by providing this advice, Mr Gilland had engaged in inappropriate and/or unprofessional behaviour and placed Pupil A at risk of harm, which he also admitted.

The panel had in mind that it was not Mr Gilland's role to provide advice of this nature and nor was he suitably qualified to do so. Once again, his actions risked undermining the efforts of others who may have been supporting Pupil A at this time. His actions were both inappropriate and unprofessional and did pose a risk of harm to Pupil A.

The panel therefore found allegations 2 and 3 proved.

4. You failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A between March 2020 – March 2021, despite being aware that Pupil A was experiencing [REDACTED];

Mr Gilland admitted the facts of allegation 4. He accepted he failed to take appropriate action, or ensure appropriate action was taken, to safeguard Pupil A between March 2020 to March 2021, despite being aware that Pupil A was experiencing [REDACTED].

It was clear from the panel's findings in relation to allegation 1 that Mr Gilland took it upon himself to seek to address the [REDACTED] concerns Pupil A disclosed to him.

As one of [REDACTED] teachers and someone with specific knowledge of [REDACTED] circumstances and personal difficulties, Mr Gilland had a duty to safeguard Pupil A. That included ensuring [REDACTED] was directed, where necessary, to appropriate care and support. His actions were such that he failed in that duty.

It could not be said that Pupil A's stated intention to harm herself in March 2021 was a direct, or even indirect, consequence of Mr Gilland's action or inaction.

However, it nevertheless served to demonstrate that Pupil A was an extremely vulnerable individual, [REDACTED].

Against this backdrop, what Mr Gilland did and, more importantly, did not do, were such that he did fail to ensure Pupil A was safeguarded as far as was possible.

The panel therefore found allegation 4 proved.

5. Your conduct as may be found proven at allegation 1(c) - 1(h) above was despite concerns around professional boundaries and/or following safeguarding procedures as raised with you by email from Individual A on or around 9 July 2020.

The panel was informed that in July 2020, during the lockdown occasioned by the Covid-19 pandemic, Mr Gilland met with [REDACTED]. He did so without recording the meeting or informing the pupil's head of year as per the School's procedures and guidance.

Whilst nothing untoward was said to have occurred and it was suggested the concerns were principally related to compliance with Covid protocols, this prompted [REDACTED] to speak to Mr Gilland on 9 July 2020. [REDACTED] subsequently sent an email to Mr Gilland including advice, a copy of which was included in evidence.

The email included, though was not limited to, advice that:

- Students who need additional support should be discussed with the head of year and an appropriate 'safe plan' put in place.
- Urgent support should be directed to student support via the School's email or telephone.
- The head of year is the point of contact for any concerns and additional support.

It followed that Mr Gilland's proven conduct, in relation to allegations 1(c) to (h), took place despite this email having been sent, which Mr Gilland accepted.

The panel therefore found allegation 5 proved.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found all of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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 Gilland, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Gilland 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
 - ... 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 considered whether Mr Gilland's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

However, the panel found that none of these offences was relevant.

Over and above the breaches of the Teachers' Standards identified above, the panel had in mind that Mr Gilland was in a position of trust and responsibility and was a role model.

Mr Gilland had received appropriate safeguarding training and specific advice, as found proved in relation to allegation 5. He was fully aware of this pupil's [REDACTED].

The panel took into account that the evidence suggested that Mr Gilland was motivated by a desire to help Pupil A. However, it was nevertheless satisfied that his conduct, in relation to each of the allegations, considered individually and together, amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

His actions amounted to a prolonged failure to maintain appropriate professional boundaries and included distinct and multi-faceted failings. The panel was not considering an isolated incident but failings over a long period of time evidencing poor judgment on his part.

In particular, he engaged in private, secretive communication with Pupil A and agreed to maintain confidentiality when it was not appropriate to do so. The use of Snapchat and

the consequential lack of transparency were particularly concerning as was the fact that Mr Gilland took action outside his remit and for which he was not specifically trained. That resulted in a risk of harm and a failure to take appropriate action to ensure Pupil A was effectively safeguarded.

The element of secrecy, coupled with the fact that Mr Gilland was on notice as to the School's expectations, were such that the panel considered he knew that what he was doing was wrong yet carried on regardless.

Accordingly, the panel was satisfied that Mr Gilland was guilty of unacceptable professional conduct.

In relation to whether Mr Gilland's actions may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

Whilst he may have been attempting to help Pupil A, he did so unilaterally, did not follow proper channels and acted outside his remit. The public, rightly, do not expect teachers to engage in secretive communication with pupils or to behave in a way that poses a risk of harm to pupils. In one email exchange, Mr Gilland made reference to the School's policy in relation to contacting pupils' parents and stated he did not agree with it.

In context, the findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore found that Mr Gilland's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 to 5 proved, the panel further found that Mr Gilland's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 protection of pupils, the maintenance of public confidence in the profession and the declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Gilland, which involved a prolonged failure to maintain appropriate professional boundaries and a failure to take appropriate steps to safeguard a pupil, there was a strong public interest consideration in 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 Gilland were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was also of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Gilland was outside that which could reasonably be tolerated.

The panel also considered there was a public interest element in retaining Mr Gilland in the profession, even if it could not be said to be a particularly strong consideration in this case. In particular, there was no evidence before the panel that he was someone who ought to be regarded as an outstanding or exceptional practitioner. For example, Mr Gilland had not provided any information by way of character references or testimonials. It was also apparent that he had no immediate intention to return to teaching.

However, the allegations in this case did not concern Mr Gilland's performance in the classroom and the panel heard evidence from [REDACTED], who spoke about Mr Gilland in positive terms. The panel therefore proceeded on the basis that Mr Gilland was a competent practitioner. There was a public interest in qualified, competent and well-regarded teachers remaining in the profession and this would have to be considered alongside the other public interest considerations Mr Gilland's actions gave rise to.

In view of 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 Gilland.

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 Gilland. 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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- failure to act on evidence that indicated a child's welfare may have been at risk e.g. failed to notify the designated safeguarding lead and/or make a referral to children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;
- 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 (as set out in Part 1 of KCSIE); and
- collusion or concealment including:
 - concealing inappropriate actions;
 - encouraging others to break rules.

Even though some of the behaviour found proved 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.

In the light of the panel's findings, it considered the following mitigating factors were present in this case:

- Mr Gilland had an otherwise good record in that there was no evidence that he had been subject to any previous regulatory or disciplinary proceedings.
- There was some positive evidence of Mr Gilland as a teacher in that [REDACTED] described him as a "*really good teacher*" who was "*well-liked*".
- There was evidence that Mr Gilland had [REDACTED], which the panel carefully considered, and his own experiences were likely to have played at least some part

in his actions. There was reference to the fact that Mr Gilland is continuing [REDACTED], albeit the panel was not presented with [REDACTED].

- [REDACTED] also gave evidence that, through the School's processes, Mr Gilland was open, honest and reflective and appeared to understand and take on board the concerns identified. It followed that whilst Mr Gilland was not open and transparent with the School at the time he was communicating with Pupil A, he ultimately came forward and did not seek to conceal or underplay his actions.
- Mr Gilland had engaged in these proceedings to some extent, albeit he did not attend the hearing, and admitted all of the allegations.
- In his communications with the TRA, Mr Gilland apologised for his actions and accepted that he had made decisions that were wrong. To that extent, Mr Gilland had shown some regret and remorse. In doing so, there was also some evidence that he recognised the safeguarding implications of his actions and the importance of following proper safeguarding processes. He asserted that, should he return to teaching, he would be mindful of the need to comply with safeguarding requirements.
- There was also an indication within the information provided during the School's processes that Mr Gilland acknowledged the impact of his actions on Pupil A.
- The panel was prepared to accept that Mr Gilland was only motivated by a desire to help Pupil A. The panel has already made reference to the outcome of the LADO referral, whereby there was no evidence of an intent going beyond that, for example grooming or any other kind of sexual motivation.
- Mr Gilland was not an experienced teacher at the time of these events. However, that was counterbalanced by the fact that he ought to have known what was expected of him and had been expressly put on notice of the School's expectations and advised about his conduct.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Mr Gilland's actions amounted to a clear breach of the Teachers' Standards.
- Mr Gilland's actions were deliberate and he was not acting under duress. The element of secrecy, coupled with the fact that Mr Gilland was on notice as to the School's expectations, were such that the panel considered he knew that what he was doing was wrong yet carried on regardless. This was an egregious breach of professional boundaries in relation to which Mr Gilland ignored his training and the specific advice provided to him.

- Mr Gilland's behaviour evidenced a lack of understanding of safeguarding issues and his actions posed a risk of harm to a vulnerable pupil.
- Mr Gilland was in a position of responsibility in relation to Pupil A and a role model. He ought to have known what was expected of him and conducted himself accordingly.
- The panel's findings spanned a long period of time and were multi-faceted. This was not an isolated incident.
- Although there was some evidence of insight, given Mr Gilland's absence that was something the panel was unable to explore with him.

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, the recommendation of no prohibition order would be both a proportionate and an appropriate response.

The nature of the proven conduct in this case was serious, for the reasons outlined, and the panel's decision was very finely balanced.

However, having considered the mitigating factors present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case for the following reasons in particular.

First, the panel had in mind that Mr Gilland was motivated by a desire to help Pupil A, albeit he got things badly wrong. Accordingly, considered in its proper context, the panel was not of the view that this proven conduct, even in totality, could be categorised as amongst the most serious forms of professional boundary breaches given Mr Gilland was not motivated by a desire that could be said to be improper or sinister. It was clear that his [REDACTED] played a part in terms of the reasons for Mr Gilland doing what he did.

Secondly, Mr Gilland had accepted responsibility for his failings. Whilst this was a serious breach of safeguarding requirements, Mr Gilland did appear to recognise and understand this, at least to some extent. He had shown some regret and remorse. Whilst it was regrettable Mr Gilland did not appear at this hearing, he had fully admitted all aspects of the case presented against him.

Thirdly, Mr Gilland had made no attempt to cover up his actions. Mr Gilland was the sole source of information regarding his conduct in that he was the one who brought his actions to the attention of the School, albeit belatedly. Mr Gilland had therefore, finally after a sustained period of time, been up front with the School about his action.

Ultimately, the School came down on the side of not dismissing Mr Gilland, having in mind its view of him as a teacher and taking account of [REDACTED].

Fourthly, there was some evidence, if only from [REDACTED], that Mr Gilland was viewed by the School as a good teacher. In time, following further reflection and when his [REDACTED] allows him to do so, he could return to the profession and be a positive influence. In the specific circumstances of what occurred, and whilst this was a serious departure from the personal and professional conduct elements of the Teachers' Standards, the panel concluded, on balance, that Mr Gilland's conduct was not fundamentally incompatible with him being a teacher. Whilst in no way binding upon the panel, the School's conclusion in relation to Mr Gilland's conduct was nonetheless persuasive.

Fifthly, whilst it was regrettable that the panel was unable to explore Mr Gilland's level of insight, having gone through this process, the panel considered it unlikely that Mr Gilland would put himself in the same situation again, though plainly that possibility could not be entirely excluded.

Mr Gilland had made serious mistakes and exhibited very poor judgment. The damage to his reputation will continue as a consequence of the panel's findings and no doubt Mr Gilland will have to demonstrate to a potential future employer that he has learnt necessary lessons. To that end, he may benefit from a period of further reflection as regards the nature and implications of his actions and he may be assisted by undertaking further safeguarding training.

However, in all the circumstances, the panel was persuaded that some lessons had been learnt and that process needs to continue as a result of the panel's findings.

In light of all these matters and the other mitigating factors identified above, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel did not consider, on balance, that its findings warranted the imposition of a prohibition order. It concluded it would be punitive in circumstances where publication of these findings does not, in the panel's view, unacceptably compromise the public interest considerations identified.

The panel was, therefore, satisfied that the publication of the adverse findings it has made would be sufficient to send an appropriate message as to the standards of behaviour that were not acceptable.

The panel considered this is a proportionate outcome, which struck a fair balance between the public interest and Mr Gilland's interests.

In the panel's judgment, the public interest in the safeguarding and wellbeing of pupils was not a continuing concern, on balance, for the reasons identified above. In the

specific circumstances of this case, the panel was also satisfied that its decision is sufficient to maintain public confidence and uphold professional standards.

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 sanction.

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 unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Jordan Gilland 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
 - ... 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 was satisfied that the conduct of Mr Gilland involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

The panel finds that the conduct of Mr Gilland fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include findings which involved a prolonged failure to maintain appropriate professional boundaries and a failure to take appropriate steps to safeguard 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 Gilland, 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/safeguard pupils. The panel has observed, "Mr Gilland took action outside his remit and for which he was not specifically trained. That resulted in a risk of harm and a failure to take appropriate action to ensure Pupil A was effectively safeguarded." 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 Gilland had shown some regret and remorse. In doing so, there was also some evidence that he recognised the safeguarding implications of his actions and the importance of following proper safeguarding processes. He asserted that, should he return to teaching, he would be mindful of the need to comply with safeguarding requirements."

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, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Gilland were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the findings in this case, of failing to maintain appropriate boundaries with a pupil and of a failure to take appropriate action to safeguard a pupil, and the impact that such findings have 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 Gilland himself, the panel comment “there was a public interest element in retaining Mr Gilland in the profession, even if it could not be said to be a particularly strong consideration in this case. In particular, there was no evidence before the panel that he was someone who ought to be regarded as an outstanding or exceptional practitioner.” A prohibition order would prevent Mr Gilland from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

I note that the panel considered “The nature of the proven conduct in this case was serious, for the reasons outlined, and the panel's decision was very finely balanced.”

I have taken in to account the mitigating factors that the panel considered when recommending that a prohibition order would not be appropriate. I have placed considerable weight on the panel's comments, “The panel considered this is a proportionate outcome, which struck a fair balance between the public interest and Mr Gilland's interests.”

The panel also observed, “In the panel's judgment, the public interest in the safeguarding and wellbeing of pupils was not a continuing concern, on balance, for the reasons identified above. In the specific circumstances of this case, the panel was also satisfied that its decision is sufficient to maintain public confidence and uphold professional standards.”

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.



Decision maker: John Knowles

Date: 22 July 2022

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