



Teaching
Regulation
Agency

Mr Robert Nixon: Professional conduct panel outcome

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

November 2019

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

Teacher:	Mr Robert Nixon
Teacher ref number:	1244283
Teacher date of birth:	6 April 1991
TRA reference:	18086
Date of determination:	27 November 2019
Former employer:	Wickersley School, Rotherham, South Yorkshire

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 27 November 2019 at Cheylesmore House, Quinton Road, Coventry, CV1 2WT to consider the case of Mr Robert Nixon.

The panel members were Ms Nicolé Jackson (lay panellist – in the chair); Mr Alex Osiatynski (teacher panellist), and Ms Jean Carter (lay panellist).

The legal advisor to the panel was Mr Tom Walker of Blake Morgan LLP, solicitors.

In advance of the meeting, the TRA agreed to a request from Mr Nixon that the allegation be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Nixon provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Nixon or his representative.

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

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 20 May 2019.

It was alleged that Mr Nixon was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed as a teacher at the Wickersley School ("the School") in the academic year 2018/19:

1. He engaged in and/or developed an inappropriate relationship with a vulnerable pupil in academic year 2018/2019 including by;
 - a) giving Pupil A one or more gifts
 - b) hugging Pupil A
 - c) kissing Pupil A
2. He failed to follow a management instruction on more than one occasion in relation to Pupil A.
3. His behaviour as may be found proven at 1 above was conduct of a sexual nature and/or was sexually motivated.

Mr Nixon admitted all of the allegations save for the following: Mr Nixon did not accept that his conduct at allegation 1c was sexually motivated. However, Mr Nixon accepted that his conduct amounted to unacceptable professional conduct and conduct which brought the profession into disrepute.

C. Summary of evidence

Documents

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

Section 1: Chronology and Anonymised Person List – pages 1 to 4;

Section 2: Notice of Referral, Response and Notice of Meeting – pages 6 to 11B;

Section 3: Statement of Agreed Facts and Presenting Officer representations – pages 13 to 18;

Section 4: Teaching Regulation Agency documents – pages 20 to 66;

Section 5: Employment documents – pages 68 to 76.

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Nixon on 15 August 2019.

D. Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the TRA agreed to a request from Mr Nixon that the allegations be considered without a hearing.

Whilst one element of the case was denied by Mr Nixon (the issue of sexual motivation as opposed to conduct of a sexual nature in allegation 3) the panel took the view that this issue could be determined by reference to the evidence and there was no need to hold a hearing. The panel was satisfied that the issue of sexual motivation was a matter of interpretation and judgement based on the agreed facts.

The panel has 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 consider that such a direction was necessary or appropriate in this case.

The panel proceeded to carefully consider the case, having read all the documents, and reached a decision.

Mr Nixon held the role of History Teacher from 1 September 2013 and was Head of Year 13 from 1 October 2015 at Wickersley School ("the School"). As Head of Year 13, Mr Nixon would have had pastoral responsibilities for pupils in his care.

Concerns about the relationship Mr Nixon had with Pupil A were raised with him by the School, and following an investigation, Mr Nixon made admissions and resigned from his position on 25 January 2019. Mr Nixon was subsequently referred to the TRA.

In considering the allegations, the panel did not rely upon any findings made or opinions expressed in papers which formed part of the documentation for the investigation undertaken by the School. It formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

Our findings of fact are as follows:

1. You engaged in and/or developed an inappropriate relationship with a vulnerable pupil in academic year 2018/2019 including by;

a) giving Pupil A one or more gifts

b) hugging Pupil A

c) kissing Pupil A

Mr Nixon admitted the facts of allegations 1 to 3 with the exception that he denies sexual motivation (allegation 3).

Mr Nixon accepts that:

- Pupil A was in [REDACTED] at the time of the allegations;
- [REDACTED];
- He engaged in and developed an inappropriate relationship with Pupil A in the academic year 2018/19;
- He gave Pupil A a book as a gift ahead of her upcoming [REDACTED] (allegation 1a);
- Pupil A had hugged him and he had hugged her back on a number of occasions, albeit he had on one occasion expressed his concerns about this to Pupil A stating that he viewed the conduct as inappropriate (allegation 1b);
- He kissed Pupil A on the school premises approximately five times between early and mid-December 2018 (allegation 1c).

The panel agreed and concluded that the evidence before it was consistent with Mr Nixon's admissions.

It therefore found the facts of allegations 1a to 1c proved.

2. You failed to follow a management instruction on more than one occasion in relation to Pupil A

Mr Nixon admitted the facts of allegation 2.

Mr Nixon admitted that Pupil A was known to both him and the school as a vulnerable pupil. On 23 October 2018, there was a specific safeguarding incident involving both Pupil A and Mr Nixon, the details of which will not be referred to in the public decision. For the avoidance of doubt, this incident did not involve any misconduct on the part of Mr Nixon but rather an incident in which he played a supportive role.

Mr Nixon had a part in [REDACTED].

Following this incident, there were concerns at the School that the relationship between Mr Nixon and Pupil A was becoming too close, and that Pupil A was becoming too reliant on him. The Director of Sixth Form advised Mr Nixon that if there were any other issues concerning Pupil A, he was to report it as a safeguarding concern as he was not equipped to deal with this situation alone. This included advice that if Pupil A attended school early he was to report this. The panel takes the view that in the circumstances this advice from a manager is equivalent to an instruction.

Notwithstanding this, on 13 December 2018, Pupil A was recorded on CCTV attending school at 6.38am and immediately going to a private office with Mr Nixon. On 17 December 2018, a pupil reported seeing Mr Nixon with Pupil A at approximately 7am in a back office within the school.

Mr Nixon accepts that he ignored the instruction he had been given.

Accordingly, the panel found allegation 2 proved.

3. Your behaviour as may be found proven at 1 above was conduct of a sexual nature and/or was sexually motivated.

Mr Nixon admitted the facts of allegation 3, save that he denied that his conduct at allegation 1 was sexually motivated. Mr Nixon admits that his conduct in respect of kissing Pupil A (allegation 1c) was conduct of a sexual nature.

The panel is of the view that the accepted evidence in this case is consistent with the evidence of Mr Nixon. This was clearly conduct of a sexual nature. However, there is no evidence that Mr Nixon's conduct was primarily motivated by the intention to attain sexual gratification or engage in a sexual relationship. There is no evidence that the inappropriate relationship continued over a long period of time or escalated beyond kissing. The panel makes a finding that allegation 3 is proved on the basis that allegation 1c was conduct of a sexual nature as opposed to conduct which was sexually motivated.

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

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

Mr Nixon admitted that the facts found proven in relation to all of the allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Whilst the panel took this admission into account, it formed its own judgment.

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 Nixon in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mr Nixon 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 was satisfied that the conduct of Mr Nixon amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Nixon's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel took the view that one such associated behaviour was present in this case, namely sexual activity.

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.

Mr Nixon's conduct amounted to a serious safeguarding failure and presented a risk of harm to a pupil in his care. His conduct impacted upon Pupil A and the School; it also had the potential to impact on pupils and the School community more broadly in so far as his inappropriate contact with Pupil A had been witnessed and reported by staff and other pupils.

For these reasons, the panel was satisfied that Mr Nixon's actions amount to unacceptable professional conduct, which he admitted.

In considering whether Mr Nixon's conduct 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 took account of the uniquely influential role that teachers can hold in pupils’ lives and that pupils must be able to view teachers as role models in the way they behave.

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

The panel therefore found that Mr Nixon's actions constituted conduct that may bring the profession into disrepute, which he also admitted.

Having found the facts of allegations 1 to 3 proven, the panel further found that Mr Nixon'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 went on to consider whether it was 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 is an appropriate and proportionate measure, and whether it was 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 has considered 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 and other members of the public; the maintenance of public confidence in the profession; and the declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Nixon, which involved serious safeguarding failings, there is a strong public interest consideration in respect of the protection of pupils and others.

Mr Nixon had several years of teaching experience, and was, or should have been, very familiar with safeguarding principles and procedures. Mr Nixon was also promoted to a pastoral role during his employment. Mr Nixon was involved in a serious incident involving Pupil A (as referred to above), and whilst the panel notes that this will inevitably have caused distress and upset to Mr Nixon, it also should have represented a very clear sign to him that Pupil A was vulnerable, and he needed to ensure that she was properly supported by appropriately trained people.

Mr Nixon was expressly advised of this (allegation 2) but instead ignored this instruction and opted to continue his contact with Pupil A which involved close discussions on school premises outside of normal hours. Whilst the panel has taken careful note of Mr Nixon's representations and has sympathy with the pressure he was under, and the fact that he was genuinely concerned about Pupil A's welfare, he had a professional responsibility

which was made clear to him, and which he ignored. In these circumstances, the panel is of the view that, whilst Mr Nixon states that he allowed Pupil A to persist with this relationship, he should have recognised his responsibility as a teaching professional and taken steps to prevent this relationship from developing inappropriately.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nixon was not treated with the utmost seriousness when regulating the conduct of the profession. These are serious matters and there is a strong public interest in maintaining public confidence in the profession in this case.

The panel also considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Nixon was outside that which could reasonably be tolerated. His conduct fell significantly short of the standard of conduct expected of him.

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 Nixon.

In carrying out the balancing exercise, the panel considered the public interest considerations as well as the interests of Mr Nixon.

Whilst there was no evidence that Mr Nixon was anything other than a good teacher, the panel did not receive any evidence that there was a compelling public interest in Mr Nixon remaining in the teaching profession presently.

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 proven.

In the list of such behaviours, those relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the 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, e.g. 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.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate

measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel considered the following mitigating factors were present in this case:

- Mr Nixon had a previous good history. There was no evidence that Mr Nixon had been subject to any previous regulatory or disciplinary proceedings. There was no evidence of any prior complaints in relation to his conduct;
- Mr Nixon had fully engaged in these proceedings and made early admissions;
- Mr Nixon has shown regret and remorse, [REDACTED];
- Mr Nixon has shown some insight into the effect of his conduct and the impact of this upon Pupil A, other students and the school.

The panel considered Mr Nixon's submission that he was suffering from work-related pressures and a loss of professional self-esteem but noted that there was no specific evidence presented in support of this submission. The panel therefore did not regard this as amounting to a mitigating feature. Similarly, Mr Nixon refers to the agency of Pupil A in developing the relationship, but the panel took the view that Mr Nixon had the primary responsibility as a teaching professional to safeguard Pupil A and ensure that this relationship did not develop.

Weighed against these matters, the panel considered there were a number of aggravating factors, including:

- Mr Nixon's actions were deliberate and he was not acting under such pressure that could amount to duress;
- Whilst his actions may be viewed as a 'one-off episode', the potential repercussions were serious. His conduct constituted a serious safeguarding breach that had the potential to cause significant harm.

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 was sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order is not a proportionate and appropriate response in this case. Recommending that publication of adverse findings is sufficient would unacceptably compromise the public interest considerations present, despite the severity of consequences for Mr Nixon of prohibition.

The panel was of the view that prohibition is both proportionate and appropriate and that the public interest considerations outweighed the interests of Mr Nixon.

Mr Nixon's actions presented a risk of harm to a Pupil in his care, and his actions could have impacted on the reputation of the School.

Accordingly, the panel recommends 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 advises 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 proven, would militate against a review period being recommended. One of these behaviours includes serious sexual misconduct, eg 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 their professional position to influence or exploit a person or persons. Whilst the panel is of the view that Mr Nixon is responsible for serious misconduct involving an inappropriate relationship and conduct of a sexual nature it does not take the view that Mr Nixon's actions amount to serious sexual misconduct such that this feature is satisfied. In this case, the conduct did not escalate beyond kissing and hugging, and took place within a limited timeframe.

In considering whether to recommend a review period, the panel took account of the mitigating circumstances present in this case.

Mr Nixon clearly understood that he had departed from acceptable standards. Mr Nixon has expressed comprehensive regret and remorse for his actions. The panel has noted that Mr Nixon refers to the agency of Pupil A in developing the relationship, which the panel found concerning; however in other respects Mr Nixon has demonstrated an ability to develop insight into his actions. Further, the conduct, whilst serious, could be properly characterised as a one-off episode in the context of an otherwise unblemished career.

The panel decided that the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period after 2 years. The panel is of the view that this should be a sufficient length of time for Mr Nixon to reflect further on his behaviour.

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, however in reference to allegation 3 the panel find this is proved on the basis that allegation 1c was conduct of a sexual nature as opposed to conduct which was sexually motivated. The panel found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. Where the panel has found some of allegation 3 not proven, I have put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Nixon should be the subject of a prohibition order, with a review period of two years.

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

The panel also considered whether Mr Nixon's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel took the view that, "one such associated behaviour was present in this case, namely sexual activity".

The findings of misconduct are particularly serious as they include a finding of serious safeguarding failings and conduct of a sexual nature.

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 Nixon, 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, "In light of the panel's findings against Mr Nixon, which involved serious safeguarding failings, there is a strong public interest consideration in respect of the protection of pupils and others."

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 Nixon has shown regret and remorse". The panel has also commented that, "Mr Nixon has shown some insight into the effect of his conduct and the impact of this upon Pupil A, other students and the school." 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 future pupils' safety. 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 Nixon was not treated with the utmost seriousness when regulating the conduct of the profession."

I am particularly mindful of the finding of conduct of a sexual nature 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 Nixon himself. The panel comment, "Whilst there was no evidence that Mr Nixon was anything other than a good teacher, the panel did not receive any evidence that there was a compelling public interest in Mr Nixon remaining in the teaching profession presently"

A prohibition order would prevent Mr Nixon 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.

I have given weight to the panel's comments that, "Whilst his actions may be viewed as a 'one-off episode', the potential repercussions were serious. His conduct constituted a serious safeguarding breach that had the potential to cause significant harm."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Nixon has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full insight does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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 a 2 year review period.

I have considered the panel's comments, "Whilst the panel is of the view that Mr Nixon is responsible for serious misconduct involving an inappropriate relationship and conduct of a sexual nature it does not take the view that Mr Nixon's actions amount to serious sexual misconduct such that this feature is satisfied. In this case, the conduct did not escalate beyond kissing and hugging, and took place within a limited timeframe." The panel also observe, "Mr Nixon clearly understood that he had departed from acceptable standards. Mr Nixon has expressed comprehensive regret and remorse for his actions. The panel has noted that Mr Nixon refers to the agency of Pupil A in developing the relationship, which the panel found concerning; however in other respects Mr Nixon has demonstrated an ability to develop insight into his actions. Further, the conduct, whilst serious, could be properly characterised as a one-off episode in the context of an otherwise unblemished career."

The panel has also said that a 2 year review period would allow, "sufficient length of time for Mr Nixon to reflect further on his behaviour."

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the

profession. I agree with the panel that a 2 year review period is an appropriate and proportionate time required to satisfy the maintenance of public confidence in the profession.

This means that Mr Robert Nixon is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 6 December 2021, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Nixon remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr Nixon 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 'Dawn Dandy', with a stylized flourish at the end.

Decision maker: Dawn Dandy

Date: 2 December 2019

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