



Teaching
Regulation
Agency

Mr Tristan Gasper: Professional conduct panel meeting outcome

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

September 2022

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

Teacher:	Mr Tristan Gasper
Teacher ref number:	1157719
Teacher date of birth:	27 May 1983
TRA reference:	19877
Date of determination:	5 September 2022
Former employer:	Bungay High School, Suffolk ("the School")

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 5 September 2022 via Microsoft Teams, to consider the case of Mr Gasper.

The panel members were Ms Oluremi Alabi (lay panellist – in the chair), Mr Paul Millett (lay panellist) and Mr Clive Sentence (teacher panellist).

The legal adviser to the panel was Ms Clare Strickland of Blake Morgan 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 Gasper that the allegations be considered without a hearing. Mr Gasper 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 Manisha Lad, or Mr Gasper.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 31 August 2022

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

1. On 24 March 2021, he was convicted of the following relevant offences:
 - a. Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003
 - b. Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003
 - c. Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003

Mr Gasper admits the facts alleged.

Mr Gasper admits having been convicted of a relevant offence.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 3 to 5

Section 2: Notice of referral and response – pages 6 to 15

Section 3: Statement of agreed facts and presenting officer representations – pages 17 to 20

Section 4: Teaching Regulation Agency documents – pages 21 to 33

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 Gasper on 1 August 2022.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Gasper for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mr Gasper was employed as a teacher of design and technology at the School from July 2012 until his resignation in February 2021.

In January 2021 he was charged with 3 offences under the Sexual Offences Act 2003. The offences arose in relation to Pupil A, a pupil at the School, with whom Mr Gasper was in a sexual relationship.

Pupil A was [redacted] by Mr Gasper. When she was just [redacted], she began spending her breaks in Mr Gasper's classroom and seeking emotional support from him. By year [redacted], she was spending most of her free school time with him. By year [redacted], when she was [redacted], a full sexual relationship began, and continued over many months.

On 24 May 2021 at Ipswich Crown Court, Mr Gasper pleaded guilty to, and was convicted of 3 counts under Section 16(1) of the Sexual Offences Act 2003. He was sentenced to 2 years imprisonment, suspended for 2 years, with an unpaid work and rehabilitation requirement.

Findings of fact

The findings of fact are as follows:

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

- 1. On 24 March 2021, you were convicted of the following relevant offences:**

- a. **Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003**
- b. **Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003**
- c. **Sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003**

The allegations were admitted and supported by the evidence presented to the panel within the bundle, including a certificate of conviction. The allegations were therefore found proved.

Findings as to conviction of a relevant offence

Having found the allegations proved, the panel went on to consider whether the facts of those proven 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 Gasper in relation to the facts it found proved involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Gasper was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that Mr Gasper's actions occurred while he was directly working with children and working in an education setting. The Advice states that offences involving sexual activity are likely to be a relevant offence.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and well-being of the pupil involved, although there is no information before it about the actual impact on her.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Gasper'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 Gasper's behaviour ultimately led to a sentence of imprisonment (albeit that it was suspended), which was indicative of the seriousness of the offences committed.

The panel took into account evidence of mitigating circumstances identified in the sentencing remarks of His Honour Judge [redacted], including that Mr Gasper had no previous convictions, was remorseful, and had his own [redacted]. He also took account of the fact that no sexual activity took place until Pupil A was [redacted], and that a pre-sentence report considered that there was a low risk of reoffending.

The judge also identified aggravating features, including [redacted], timing and location, and a failure to respond when a concern was raised. Further there was a significant degree of planning, grooming behaviour, and the specific targeting of a vulnerable child.

Taking account of the aggravating and mitigating features, the panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Gasper's ongoing suitability to teach. The panel considered that a finding that these convictions were for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of a conviction of a relevant offence, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order 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 declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Gasper, there was a strong public interest consideration in respect of the protection of pupils given the serious findings of grooming leading to sexual activity with a child. Although a pre-sentence report considered that the risk of re-offending was low, it indicated that work could be undertaken to address offending through a rehabilitation activity requirement. The panel has seen no evidence of any rehabilitative steps completed by Mr Gasper.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Gasper 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 Gasper 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 Gasper.

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 Gasper. 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.

In the light of the panel's findings, the panel concluded that the teacher's actions were deliberate, and he was not acting under duress. In fact, the panel found the teacher's actions were planned, and he groomed Pupil A over a long period of time.

It noted that he had no previous convictions, but there was no other evidence before it about the teacher's record.

It was to Mr Gasper's credit that he admitted the criminal allegations in the proceedings against him, and this was reflected in the sentence imposed by the criminal court. Further, he admitted the allegations in these proceedings.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Gasper 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 Gasper. His conduct was extremely serious, involving the deliberate and planned exploitation of a vulnerable child over a long period of time. It amounted to a serious breach of trust. 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. These behaviours include serious sexual misconduct, such as where the act was sexually motivated and 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. The Advice also says that any sexual misconduct involving a child is likely to weigh in favour of not recommending a review period.

Mr Gasper has committed extremely serious sexual offences involving a vulnerable child in his care.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mr Gasper is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The findings in this case amounting to a relevant conviction are particularly serious as they include three offences of sexual activities with a girl 13-17, contrary to Section 16(1) of the Sexual Offences Act 2003a.

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, 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 Gasper, 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, “The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and well-being of the pupil involved, although there is no information before it about the actual impact on her.” 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, “The panel took into account evidence of mitigating circumstances identified in the sentencing remarks of His Honour Judge [redacted], including that Mr Gasper had no previous convictions, was remorseful, and had his own [redacted]. He also took account of the fact that no sexual activity took place until Pupil A was [redacted], and that a pre-sentence report considered that there was a low risk of reoffending.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observed, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Gasper were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the nature of the offences in this case and the impact that has on the reputation of the profession.

I have also considered the panels comment, “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 Gasper was outside that which could reasonably be tolerated.”

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 the findings, 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 Gasper himself, the panel comment "It noted that he (Mr Gasper) had no previous convictions, but there was no other evidence before it about the teacher's record". A prohibition order would prevent Mr Gasper from teaching and clearly deprive the public of his contribution to the profession for the period that it is in force.

I have also placed considerable weight on the finding of the panel that Mr Gasper's conduct was extremely serious, involving the deliberate and planned exploitation of a vulnerable child over a long period of time, amounting to a serious breach of trust.

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

I have also placed considerable weight on lack of information in relation to insight or remorse, the only reference being within the sentencing remarks of His Honour Judge [redacted].

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel's comments "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as where the act was sexually motivated and 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. The Advice also says that any sexual misconduct involving a child is likely to weigh in favour of not recommending a review period. Mr Gasper has committed extremely serious sexual offences involving a vulnerable child in his care."

I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious sexual offences committed and that the panel found the teacher's actions were planned, as he groomed Pupil A over a long period of time.

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 Tristan Gasper 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 Gasper 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 Gasper has a right of appeal to the King'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 "John Knowles". The signature is written in a cursive, flowing style.

Decision maker: John Knowles

Date: 7 September 2022

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