



Teaching  
Regulation  
Agency

# **Mr Robert Johnson: 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**

<b>Teacher:</b>	Mr Robert Johnson
<b>Teacher ref number:</b>	07/48950
<b>Teacher date of birth:</b>	11 February 1982
<b>TRA reference:</b>	19671
<b>Date of determination:</b>	28 September 2022
<b>Former employer:</b>	St John's Catholic School and Sixth Form College, County Durham

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 28 September 2022, remotely via Microsoft Teams, to consider the case of Mr Johnson.

The panel members were Mr Paul Millett (lay panellist – in the chair), Ms Sonia Fraser (teacher panellist) and Mr Alan Wells (former teacher panellist).

The legal adviser to the panel was Mr Phil Taylor of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Johnson that the allegation(s) be considered without a hearing. Mr Johnson provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer Ms Matilda Heselton, the teacher Mr Johnson, 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.

## **Allegations**

The panel considered the allegation(s) set out in the notice of meeting dated 28 July 2022.

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

1. He was convicted at the Durham Crown Court in October 2020 for two counts of distributing indecent photographs of children between 16 March 2018 and 16 August 2018, contrary to Section 1 of the Protection of Children Act 1978, for which he was sentenced to 27 months imprisonment (including an additional 12 months imprisonment to be served concurrently), added to the sex offenders notice for 10 years, issued with a sexual harm prevention order for 10 years and ordered to pay a victim surcharge of £170.

The teacher admitted the facts as alleged, and admitted that this amounted to conviction of a relevant offence.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology – page 2

Section 2: Notice of Referral, response and notice of meeting – pages 4 to 9b

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 11 to 16

Section 4: Teaching Regulation Agency documents – pages 18 to 138

Section 5: Teacher Documents – pages 140 to 141

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 Johnson on 14 January 2022.

## Decision and reasons

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Johnson for the allegation(s) 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. Taking note of written representations made by the presenting officer on behalf of the TRA in support of disposing of the case without a hearing, the panel did not determine that such a direction was necessary or appropriate in this case.

Mr Johnson was employed as a History Teacher and the Head of Humanities at the School from 1 January 2015.

On 14 March 2019, Mr Johnson was arrested and interviewed by the police. A LADO meeting was held on 18 March, and Mr Johnson was suspended from his role at the School on 20 March.

On 3 July 2019, Mr Johnson was again interviewed by the police. He appeared at Newton Aycliffe Magistrates' Court on 20 February 2020, and pleaded not guilty at a pre-trial hearing at Durham Crown Court on 23 March.

On 22 October 2020, following a jury trial, Mr Johnson was convicted at Durham Crown Court of two counts of distributing indecent photographs of children.

Mr Johnson was sentenced on 23 October 2020 and dismissed from the School the same day, on the grounds of frustration of contract.

## Findings of fact

The findings of fact are as follows:

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

**1. You were convicted at the Durham Crown Court in October 2020 for two counts of distributing indecent photographs of children between 16 March 2018 and 16 August 2018, contrary to Section 1 of the Protection of Children Act 1978, for which you were sentenced to 27 months imprisonment (including an additional 12 months imprisonment to be served concurrently), added to the sex offenders**

**notice for 10 years, issued with a sexual harm prevention order for 10 years and ordered to pay a victim surcharge of £170.**

This allegation was admitted and supported by the evidence presented to the panel, in particular the Statement of Agreed Facts signed by Mr Johnson, as well as: a PNC print produced on 21 December 2020 noting the convictions; and a certificate of conviction dated 4 June 2021 recording convictions at Durham Crown Court on 22 October 2022, which the panel accepted as proof of the commission of the offences concerned.

There was no evidence put before the panel which suggested that there was not a conviction as alleged. The allegation was therefore found proved.

## **Findings as to conviction of a relevant offence**

Having found the allegation proved, the panel went on to consider whether the facts of the proved allegation amounted to conviction of a relevant offence.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as “the Advice”.

The panel was satisfied that the conduct of Mr Johnson in relation to the facts it found proved involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Johnson 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
  - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that the Mr Johnson’s actions were relevant to teaching, working with children and working in an education setting due to the nature of his conviction. Similarly, the panel also noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Johnson’s behaviour in committing the offences 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 Johnson’s behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed. Further, this was a case involving offences of any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or

pseudo photograph or image of a child, or permitting any such activity, including one off incidents, which the Advice states is likely to be considered a relevant offence.

The panel also noted that Mr Johnson had admitted in the Statement of Agreed Facts that the facts of the allegations against him amounted to a conviction, at any time, of a relevant offence.

There was no evidence put before the panel relating to Mr Johnson's teaching proficiency other than some brief positive comments made by a former colleague and found in the transcript of the judge's summing up at the Crown Court trial in October 2020.

The panel considered that a finding that this conviction was for a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of 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 at page 14 of the Advice and, having done so, found all of them to be relevant in this case, namely the safeguarding and wellbeing of pupils and protection of other members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Johnson, which involved a conviction for two counts of distributing indecent images of children over a period of approximately 5 months, there was a strong public interest consideration in respect of the protection of pupils and other children.

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

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 Johnson. 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils; and
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents.

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.

The panel saw no evidence that Mr Johnson was previously subject to disciplinary proceedings or warnings or had any previous convictions. The meeting bundle contained some brief evidence relating to Mr Johnson's character, found in a transcript of the judge's summing up at the end of the Crown Court trial in October 2020.

However, there was no evidence put before the panel that Mr Johnson's actions were anything other than deliberate. There was also no evidence to suggest that Mr Johnson was acting under duress.

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 Johnson 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 Johnson. The seriousness and nature of his conviction, involving indecent images of children, was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate 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 any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. The panel found that Mr Johnson was responsible for such activities specifically, as found proven at the first stage of its deliberations.

The panel had seen no evidence of the teacher showing insight or remorse in relation to his actions. Although the teacher had co-operated with the TRA's process and had admitted the facts of the allegations and that those facts amounted to conviction of a relevant offence, the panel noted that he had previously pleaded not guilty in Court.

Finally, the panel took into account that, in the Statement of Agreed Facts, Mr Johnson "acknowledged the sexual nature of his misconduct is likely to be considered as permanently incompatible with the teaching profession ..."

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

## **Decision and reasons on behalf of the Secretary of State**

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

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

In this case, the panel has found 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 Johnson should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Johnson 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
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The findings of a relevant conviction are particularly serious as they include a finding of distributing indecent photographs of children.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of 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 Johnson, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed that it, "also noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel had seen no evidence of the teacher showing insight or remorse in relation to his actions. Although the teacher had co-operated with the TRA's process and had admitted the facts of the allegations and that those facts amounted to conviction of a relevant offence, the panel noted that he had previously pleaded not guilty in Court."

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

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel considered that Mr Johnson’s behaviour in committing the offences could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.”

I am particularly mindful of the finding of a relevant conviction in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of a relevant conviction, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Johnson himself. The panel comment “The panel saw no evidence that Mr Johnson was previously subject to disciplinary proceedings or warnings or had any previous convictions. The meeting bundle contained some brief evidence relating to Mr Johnson’s character, found in a transcript of the judge’s summing up at the end of the Crown Court trial in October 2020.”

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

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse.

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

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

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

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These

behaviours include any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. The panel found that Mr Johnson was responsible for such activities specifically, as found proven at the first stage of its deliberations.”

I have considered whether not allowing a review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that allowing a no review is necessary are the nature of the conviction and the lack of insight or remorse.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

**This means that Mr Johnson 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 allegation found proved against him, I have decided that Mr Johnson 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 Johnson 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 'Alan Meyrick', with a vertical line at the end.

**Decision maker: Alan Meyrick**

**Date: 29 September 2022**

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