

Mr Simon Tidbury: Professional conduct panel meeting outcome

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

October 2022

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

Teacher:	Mr Simon Tidbury
Teacher ref number:	1048788
Teacher date of birth:	18 September 1989
TRA reference:	19378
Date of determination:	24 October 2022
Former employer:	Bishop William Ward Church of England Primary School, Colchester.

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by virtual means, to consider the case of Mr Simon Tidbury.

The panel members were Mr Clive Ruddle (lay panellist – in the chair), Ms Charlotte Kelly (lay panellist) and Mrs Christine McLintock (teacher panellist).

The legal adviser to the panel was Mrs Luisa Gibbons 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 Tidbury that the allegation be considered without a hearing. Mr Tidbury 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, Louise Ravenscroft of Capsticks LLP or Mr Tidbury.

The meeting took place in private.

Allegations

The panel considered the allegation set out in the notice of meeting dated 11 October 2022.

It was alleged that Mr Tidbury was guilty of having been convicted of a relevant offence, at any time, in that:

1. On 16 February 2021, he was convicted of 2x without consent/ reasonable belief in consent record image under clothing to observe another and 1x consent/ reasonable belief in consent operate equipment beneath clothing of another contrary to the Sexual Offences Act 2003.

Mr Tidbury admitted both the facts of the allegation and that his conduct 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 and List of Key People – pages 3 to 4

Section 2: Notice of referral, response and notice of meeting – pages 5 to 22

Section 3: Statement of agreed facts and presenting office presentations – page 23 to 31

Section 4: Teaching Regulation Agency documents – pages 32 to 48

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 Tidbury on 16 May 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 Tidbury for the allegation 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 Tidbury was employed as a classroom teacher at Bishop William Ward Church of England Primary School (“the School”) from 1 January 2014. On 26 June 2020, Mr Tidbury was arrested. His employment at the School came to an end on 31 December 2020.

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 16 February 2021, you were convicted of 2x without consent/ reasonable belief in consent record image under clothing to observe another and 1x without consent/ reasonable belief in consent operate equipment beneath clothing of another contrary to the Sexual Offences Act 2003.

The panel has available to it the memorandum of conviction and print out of a PNC record confirming Mr Tidbury’s convictions of the above offences. The panel accepted the memorandum of conviction as proof of the commission of the offences concerned.

Findings as to conviction of a relevant offence

The panel was satisfied that the conduct of Mr Tidbury in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Tidbury 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

- showing tolerance of and respect for the rights of others.

The panel noted that the individual’s actions were relevant to teaching and working in an education setting. The victim of the criminal offences committed by Mr Tidbury was employed as a [REDACTED] at the School and he has admitted that the offences were committed on School premises. His actions fundamentally undermined the trust and confidence placed in him by the School and his ability to work with others in an education setting.

The panel noted that the behaviour involved in committing the offence would have been likely to have had an impact on the safety and security of members of the public, in the sense that his actions undermined his colleague's right to feel safe and secure in her workplace. His actions resulted in a restraining order being imposed, and Mr Tidbury was required to register with the police in accordance with the Sexual Offences Act 2003 for a period of 5 years.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Tidbury's behaviour in committing the offence would be likely to affect public confidence in the teaching profession if Mr Tidbury was allowed to continue teaching.

The panel noted that Mr Tidbury's behaviour did not lead to a sentence of imprisonment.

However, this was a case concerning an offence involving voyeurism (including upskirting). The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

The panel also noted that Mr Tidbury's sentence required him to participate in a Horizon programme for 31 days, to comply with any instructions to attend rehabilitation appointments, or participate in rehabilitation activity for up to 20 days and carry out 100 hours of unpaid work. As referred to above, in addition, Mr Tidbury received a restraining order not to contact the victim, nor to attend the School until 16 March 2023. He was also required to register with the police in accordance with the Sexual Offences Act 2003 for a period of 5 years.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Tidbury's fitness to be a teacher. The panel found that this was a conviction of a relevant offence. Such a finding was necessary to reaffirm standards of expected behaviour and maintain 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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Tidbury and whether a prohibition order is necessary and proportionate. 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 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 Tidbury, there was a strong public interest consideration in respect of the protection of members of the public, given that Mr Tidbury has been convicted for acts of voyeurism against a colleague.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Tidbury were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was 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 Tidbury was outside that which could reasonably be tolerated.

The panel had no evidence of Mr Tidbury's ability as an educator. The panel considered that the public interest weighed in favour of prohibition, as against Mr Tidbury's own interests, given that his actions fundamentally undermined his role in the School.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that Mr Tidbury's behaviour exploited his position of trust and should therefore be viewed very seriously in terms of its potential influence on pupils and its threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- 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, paying particular attention to offences that are "relevant matters" for the purposes of the Police Act 1997 and criminal record disclosure;

- abuse of position or trust...;

- 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;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider any mitigation offered by the teacher and/or whether there were mitigating circumstances.

There was no evidence that Mr Tidbury's actions were not deliberate.

There was no evidence to suggest that Mr Tidbury was acting under extreme duress, e.g., a physical threat or significant intimidation.

There was no evidence of Mr Tidbury having demonstrated exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector.

There was no evidence as to whether Mr Tidbury was previously subject to disciplinary proceedings/warnings, or not. The panel has not been informed of any previous disciplinary order imposed by the Secretary of State, the GTCE or any other body responsible for the regulation of teachers.

No evidence has been adduced by Mr Tidbury attesting to his character or his ability as a teacher.

The police summary of evidence states that Mr Tidbury answered "no comment" to all questions relating directly to the upskirt images and how these came to be stored on his phone. He identified the full-length photos taken on the same day of the upskirt photographs as being of the victim. When asked if these photographs were taken for sexual gratification, Mr Tidbury responded "no comment". Mr Tidbury pleaded guilty to having committed the offences at the Magistrates' Court. In these present proceedings, Mr Tidbury responded on 28 April 2022 to the notice of referral, admitting the allegations against him, and has co-operated with these proceedings by signing a statement of agreed facts.

There is no evidence before the panel of Mr Tidbury having expressed any remorse for his actions, nor any insight as to why he committed the offences or of the impact his actions had on the victim and the School community.

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 would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Tidbury 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 Tidbury. The maintenance of public confidence in the profession was a key factor in the panel's decision. 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 for it to decide to recommend a review period of the order. 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, for example where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr Tidbury was responsible for upskirting, thereby committing a sexual offence. The panel has not been made aware of any mitigating circumstances, nor is there any evidence that Mr Tidbury has any insight into his actions, nor of any remorse. There is no evidence that provides any comfort to the panel that the risk of repetition is low.

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 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 Simon Tidbury should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Tidbury 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

- showing tolerance of and respect for the rights of others.

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

The findings of misconduct are particularly serious as they include a relevant conviction for acts of voyeurism against a colleague.

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 Tidbury, 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 pupils. The panel has observed, “The panel noted that Mr Tidbury’s behaviour exploited his position of trust and should therefore be viewed very seriously in terms of its potential influence on pupils and its threat to the public interest.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “There is no evidence before the panel of Mr Tidbury having expressed any remorse for his actions, nor any insight as to why he committed the offences or of the impact his actions had on the victim and the School community.” In my judgement, the lack of insight or remorse means that there is some risk of the repetition of this behaviour. 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, “In the light of the panel’s findings against Mr Tidbury, there was a strong public interest consideration in respect of the protection of members of the public, given that Mr Tidbury has been convicted for acts of voyeurism against a colleague.” And the panel went on to say “public confidence in the profession could be seriously weakened if conduct such as that found against Mr Tidbury were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of a sexual offence 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 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 Tidbury himself the panel comment “There was no evidence of Mr Tidbury having demonstrated exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector.” And that “No evidence has been adduced by Mr Tidbury attesting to his character or his ability as a teacher.”

A prohibition order would prevent Mr Tidbury 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.

In this case, I have placed considerable weight on the panel’s comments concerning the impact on members of the public “The panel noted that the behaviour involved in committing the offence would have been likely to have had an impact on the safety and security of members of the public, in the sense that his actions undermined his colleague’s right to feel safe and secure in her workplace. His actions resulted in a restraining order being imposed, and Mr Tidbury was required to register with the police in accordance with the Sexual Offences Act 2003 for a period of 5 years.”

I have also placed considerable weight on the finding “The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that Mr Tidbury’s behaviour exploited his position of trust and should therefore be viewed very seriously in terms of its potential influence on pupils and its threat to the public interest.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Tidbury 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, for example where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr Tidbury was responsible for upskirting, thereby committing a sexual offence. The panel has not been made aware of any mitigating circumstances, nor is there any evidence that Mr Tidbury has any insight into his actions, nor of any remorse. There is no evidence that provides any comfort to the panel that the risk of repetition is low."

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 seriousness of the findings and the lack of either 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 Simon Tidbury 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 Tidbury 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 Tidbury 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 'S Buxcey', with a stylized, cursive script.

Decision maker: Sarah Buxcey

Date: 25 October 2022

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