



Teaching
Regulation
Agency

Mr Daniel Butterfield: Professional conduct panel meeting outcome

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

May 2021

Contents

Introduction	3
Allegations	4
Preliminary applications	5
Summary of evidence	5
Documents	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	10
Decision and reasons on behalf of the Secretary of State	13

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

Teacher:	Mr Daniel Butterfield
Teacher ref number:	0650539
Teacher date of birth:	21 May 1983
TRA reference:	18716
Date of determination:	06 May 2021
Former employer:	Tidemill Academy, London

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 6 May 2021 by way of virtual hearing, to consider the case of Mr Daniel Butterfield.

The panel members were Mr Steve Woodhouse (teacher panellist – in the chair), Mr Paul Hawkins (lay panellist) and Ms Maxine Cole (lay panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP.

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 Butterfield that the allegations be considered without a hearing. Mr Butterfield provided a signed statement of agreed facts dated 2 March 2021 and an amended statement of agreed facts dated 31 March 2021 and admitted unacceptable professional conduct and/or conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Sherelle Appleby or Mr Butterfield. Mr Butterfield was not represented.

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 allegations set out in the notice of meeting dated 19 April 2021.

It was alleged that Mr Butterfield was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or having been convicted of a relevant offence, in that:

On or around 9 September 2019, he was convicted at The Crown Court at Kingston of offences that occurred whilst employed as assistant head teacher at Tidemill Academy, as follows:

1. Attempt/ Engage in Sexual Communication with a Child on 22/06/18 - 17/08/18
Sexual Offences Act 2003 s.15A (1)
2. Attempt/ Cause/ Incite Female Child U16 Engage Sexual Act Offender 18+
Penetrate Anus/ Vagina/ Mouth By Penis/ Body Part on 22/06/2018 - 17/08/18
Sexual Offences Act 2003 s.10(1)(a)
3. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18
Protection of Children Act 1978 s.1(a)
4. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18
Protection of Children Act 1978 s.1(a)
5. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18
Protection of Children Act 1978 s.1(a)
6. Attempt/ Cause Child Under 16 to Watch a Sexual Act on 22/06/18 - 17/08/18
Sexual Offences Act 2003 s.12(1)(a)
7. Distributing Indecent Photographs or Pseudo - Photographs of Children on
26/10/15 Protection of Children Act 1978 s.1
8. Distributing Indecent Photographs or Pseudo - Photographs of Children on
26/10/15 Protection of Children Act 1978 s.1
9. Distributing Indecent Photographs or Pseudo - Photographs of Children on
23/07/16 - 25/07/16 Protection of Children Act 1978 s.1
10. Distributing Indecent Photographs or Pseudo - Photographs of Children on
23/07/16 - 25/07/16 Protection of Children Act 1978 s.1
11. Distributing Indecent Photographs or Pseudo - Photographs of Children on
11/02/17 - 16/02/17 Protection of Children Act 1978 s.1

12. Distributing Indecent Photographs or Pseudo - Photographs of Children on 11/02/17 - 16/02/17 Protection of Children Act 1978 s.1

13. Distributing Indecent Photographs or Pseudo - Photographs of Children on 11/02/17 - 16/02/17 Protection of Children Act 1978 s.1.

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:

- Presenting Officer's written representations
- Section 1: Notice of Referral and Teachers response – pages 2 to 15
- Section 2: Notice of Meeting – [provided separately]
- Section 3: Statement of agreed facts – pages 18 to 23
- Amended Statement of agreed facts – [provided separately]
- Section 4: Teaching Regulation Agency Documents – 25 to 56
- Section 5: Teacher Documents – pages 58 to 75.

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

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 Butterfield 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 Butterfield was employed as assistant head teacher, at Tidemill Academy, from 1 September 2013 until he resigned on 28 July 2019. Within his role Mr Butterfield also taught Year 6 classes English and Maths.

The school was informed by the police in August 2018 that Mr Butterfield had been arrested for offences relating to sexual communication with a child and indecent images of children. Mr Butterfield was prevented from returning to his role at the school, due to his bail conditions, and he was later suspended on 3 September 2018.

Mr Butterfield appeared in court on 9 September 2019 and was convicted of 13 offences, including attempting or engaging in sexual communication with a child and attempting to cause a female child under 16 to engage in sexual activity, all of which he pleaded guilty to.

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:

On or around 9 September 2019, you were convicted at The Crown Court at Kingston of offences that occurred whilst employed as assistant head teacher at Tidemill Academy, as follows:

- 1. Attempt/ Engage in Sexual Communication with a Child on 22/06/18 - 17/08/18 Sexual Offences Act 2003 s.15A(1)**
- 2. Attempt/Cause/ Incite Female Child U16 Engage Sexual Act Offender 18+ Penetrate Anus/ Vagina/ Mouth By Penis/ Body Part on 22/06/2018 - 17/08/18 Sexual Offences Act 2003 s.10(1)(a)**
- 3. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18 Protection of Children Act 1978 s.1(a)**
- 4. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18 Protection of Children Act 1978 s.1(a)**
- 5. Making Indecent Photograph or Pseudo - Photograph of Children on 31/08/18 Protection of Children Act 1978 s.1(a)**
- 6. Attempt/ Cause Child Under 16 to Watch a Sexual Act on 22/06/18 - 17/08/18 Sexual Offences Act 2003 s.12(1)(a)**
- 7. Distributing Indecent Photographs or Pseudo - Photographs of Children on 26/10/15 Protection of Children Act 1978 s.1**

- 8. Distributing Indecent Photographs or Pseudo - Photographs of Children on 26/10/15 Protection of Children Act 1978 s.1**
- 9. Distributing Indecent Photographs or Pseudo - Photographs of Children on 23/07/16 - 25/07/16 Protection of Children Act 1978 s.1**
- 10. Distributing Indecent Photographs or Pseudo - Photographs of Children on 23/07/16 - 25/07/16 Protection of Children Act 1978 s.1**
- 11. Distributing Indecent Photographs or Pseudo - Photographs of Children on 11/02/17 - 16/02/17 Protection of Children Act 1978 s.1**
- 12. Distributing Indecent Photographs or Pseudo - Photographs of Children on 11/02/17 - 16/02/17 Protection of Children Act 1978 s.1**
- 13. Distributing Indecent Photographs or Pseudo - Photographs of Children on 11/02/17 - 16/02/17 Protection of Children Act 1978 s.1**

The panel considered a statement of agreed facts which was signed by Mr Butterfield on 2 March 2021 and an amended statement of agreed facts signed on 31 March 2021.

In the statement of agreed facts, Mr Butterfield fully admitted that he had been convicted on or around 9 September 2019 at Kingston Crown Court of thirteen offences, the details of which are set out above.

Mr Butterfield also accepted, in the statement of agreed facts, that the allegations amount to unacceptable professional conduct. He further accepted that his conduct constituted the commission of a relevant offence, and that commission of such offences are likely to be considered permanently incompatible with teaching.

The panel was provided with copies of the Certificates of Conviction from Kingston Crown Court, which confirmed Mr Butterfield's convictions in respect of the above offences.

In addition, the panel also noted page 8 of the Teacher Misconduct: The Prohibition of Teachers ("the Advice") which states that where there has been a conviction, at any time, of a criminal offence, the hearing will not re-examine the facts of the case and the panel will accept the conviction as conclusive proof that establishes the relevant fact.

On examination of the documents before the panel and on consideration of the wider documentary evidence, the panel was satisfied that the facts of the allegations were proved.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence

The panel was satisfied that the conduct of Mr Butterfield in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Butterfield 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, and maintain high standards in their own attendance and punctuality.
- 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 Butterfield fell significantly short of the standards expected of the profession.

His conduct involved breaches of the Teachers' Standards (as set out above). It also related to offences set out on pages 10 and 11 of the Advice (as referred to below). The Advice indicates that where behaviours associated with such offences exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel was not provided with sufficient information to determine whether or not the allegations took place outside the education setting, although it acknowledged that this was likely to be the case. In any event, the panel's view was that the findings of misconduct were of a serious nature, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

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

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

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

The panel considered that there were breaches of the Teachers' Standards as set out above.

The panel noted that Mr Butterfield's actions were relevant to teaching, working with children and/or working in an education setting.

The panel was satisfied that Mr Butterfield's behaviour could have had an impact on the safety and/or security of pupils.

The panel considered that Mr Butterfield'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 Butterfield's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended) and to Mr Butterfield being placed on the sex offenders register for a period of 10 years. The panel considered that this was indicative of the seriousness of the offences committed.

The panel noted pages 10 and 11 of the Advice, which state that any activity involving (a) sexual activity and/or (b) 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, is likely to be considered a relevant offence.

Accordingly, the panel was satisfied that Mr Butterfield was convicted of a relevant offence.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct, conduct that may bring the profession into disrepute and 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 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 Butterfield, there was a strong public interest consideration in respect of the protection of pupils given the seriousness of the allegations which relate to sexual offences involving children.

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

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 Butterfield. 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;
- 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;
- 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;
- 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 there was evidence that Mr Butterfield's actions were deliberate and there was no evidence to suggest that he was acting under duress.

The panel was not presented with any substantive or compelling evidence in respect of Mr Butterfield's ability as a teacher and/or his previous history as a teacher. Accordingly, the panel was unable to determine whether Mr Butterfield had a previously good history as a teacher.

The panel considered the bundle of mitigation documents provided by Mr Butterfield. The panel noted that these documents had been prepared in connection with the criminal proceedings that took place in 2019. The panel was not provided with any up to date mitigation evidence.

In particular the panel considered a letter from [Redacted] and a more detailed report from [Redacted] which set out the steps Mr Butterfield had taken, prior to the criminal proceedings, to seek to address his conduct. The panel noted that these documents suggested that Mr Butterfield recognised the seriousness of his offences and therefore demonstrated a level of insight. [Redacted]

However, the panel noted that [Redacted] was unable to state definitively what the motivations for Mr Butterfield's actions were. Whilst the panel acknowledged references

to [Redacted], it did not consider that those factors provided a compelling explanation for Mr Butterfield's actions.

Furthermore, the panel was concerned that [Redacted] did not make an assessment in respect of Mr Butterfield's chance of reoffending. [Redacted]. Accordingly, the panel was concerned that there may be a risk of reoffending which could, in turn, put pupils at risk. The panel was further concerned by the seriousness of the offending behaviour, which it considered to be relevant to Mr Butterfield's ongoing suitability to teach.

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, given that Mr Butterfield's conduct was at the more serious end of the scale. 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 Butterfield 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 Butterfield. The serious nature of Mr Butterfield's offences, the fact that they involved children and the chance of reoffending were significant factors 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. The panel considered that the following were relevant in respect of Mr Butterfield:

- serious sexual misconduct, e.g. 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;

- 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 decided that its 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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and relevant convictions.

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

In particular, the panel has found that Mr Daniel Butterfield 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered the Advice and noted that the findings made, " related to offences set out on pages 10 and 11 of the Advice (as referred to below). The Advice

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

The findings of misconduct are particularly serious as they include convictions for possession of indecent images of children and sexual offences with 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 Butterfield, 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, “Mr Butterfield's behaviour could have had an impact on the safety and/or security of pupils.” 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, “suggested that Mr Butterfield recognised the seriousness of his offences and therefore demonstrated a level of insight.” In my judgement, however the seriousness of the findings overrides and insight or remorse. 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, “that Mr Butterfield'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 serious sexual convictions 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 Butterfield. The panel state it, "was not presented with any substantive or compelling evidence in respect of Mr Butterfield's ability as a teacher and/or his previous history as a teacher. Accordingly, the panel was unable to determine whether Mr Butterfield had a previously good history as a teacher."

A prohibition order would prevent Mr Butterfield 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, "The serious nature of Mr Butterfield's offences, the fact that they involved children and the chance of reoffending were significant factors in forming that opinion."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Butterfield 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.

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 following were relevant in respect of Mr Butterfield:

- serious sexual misconduct, e.g. 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;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child."

I have considered whether allowing for no review reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the advice published by the Secretary of State is very clear and the custodial sentence passed and the serious nature of the convictions themselves all indicate that allowing for no review is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Daniel Butterfield 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 Daniel Butterfield 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 Daniel Butterfield 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 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 7 May 2021

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