



Teaching
Regulation
Agency

Mr Stephen Hepworth: Professional conduct panel outcome

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

March 2019

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

Teacher: Mr Stephen Hepworth
Teacher ref number: 0041777
Teacher date of birth: 28/02/1973
TRA reference: 17045
Date of determination: 7 March 2019
Former employer: The Archbishop Lanfranc Academy

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 7 March 2019 at Cheylesmore House, 5 Quinton Road, Coventry CV1 2WT to consider the case of Mr Stephen Hepworth.

The panel members were Ms Alison Walsh (teacher panellist – in the chair), Mr Peter Cooper (teacher panellist) and Mr Kevin Robertshaw (lay panellist).

The legal adviser to the panel was Mr Nick Leale of Blake Morgan solicitors.

The presenting officer for the TRA was Ms Natalie Millington of Browne Jacobson solicitors.

Mr Hepworth was present and represented by Mr Tom Stephens of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 20 December 2018.

It was alleged that Mr Stephen Hepworth was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at The Archbishop Lanfranc Academy he:

1. Retained and/or accessed an image of two female former pupils which he had obtained as a result of his earlier employment at Shirely High School, Croydon between 1 Sept 2009 and 31 December 2014.
2. On or around December 2015 and whilst on school premises he was recorded on video using the image described at Allegation 1 above to;
 - a. view the image to look between the legs and/or at the underwear of one of the pupils;
 - b. zoom in between the legs and/or on the underwear of one of the pupils;
 - c. create one or more "upskirt" images of one of the pupils.
3. His actions as may be found proven at allegations 1-2 above were sexually motivated.

Mr Hepworth admitted paragraphs 1 and 2 in full. Paragraph 3 was denied.

C. Preliminary applications

Mr Hepworth applied to admit his signed witness statement dated 7 March 2019. This was not opposed and the panel agreed to add the statement to the bundle. It was added at pages 56 to 63.

Mr Hepworth also requested that any part of the hearing that made reference to his health be held in private. The panel agreed to this request.

A minor amendment was made to the factual allegations. In paragraph 1, the word 'in' was replaced with the word 'between', with the agreement of the panel.

Documents

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

Section 1: Chronology and list of key people – pages 2 to 3

Section 2: Notice of Proceedings and Response – pages 5 to 20

Section 3: Teaching Regulation Agency witness statements – pages 22 to 23

Section 4: Teaching Regulation Agency documents – pages 25 to 55

In addition, the panel agreed to accept Mr Hepworth's statement into the bundle at pages 56-63, as stated above.

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

Witnesses

The panel heard oral evidence solely from Mr Hepworth.

E. Decision and reasons

The panel announced its decision and reasons as follows:

We have carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

This case relates to a teacher who was filmed by pupils creating a magnified "upskirt" image of the upper inner thigh and genital area of one of his female former pupils while using a school computer. It was alleged that he did this for sexual gratification.

Findings of fact

Our findings of fact are as follows:

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

1. You retained and/or accessed an image of two female former pupils which you had obtained as a result of your earlier employment at Shirely High School, Croydon between 1 Sept 2009 and 31 December 2014.

This factual particular was admitted by Mr Hepworth. The admission was further supported by Mr Hepworth's written statement and evidence under oath. The panel finds this proven.

2. On or around December 2015 and whilst on school premises you were recorded on video using the image described at Allegation 1 above to;

a. view the image to look between the legs and/or at the underwear of one of the pupils;

b. zoom in between the legs and/or on the underwear of one of the pupils;

c. create one or more "upskirt" images of one of the pupils.

These factual particulars were admitted by Mr Hepworth. These admissions were further supported by Mr Hepworth's written statement and evidence under oath. He fully and unequivocally accepts that this is what he did. The videos we have watched confirm that he acted as described above and admitted by him.

3. Your actions as may be found proven at allegations 1-2 above were sexually motivated.

The panel find Mr Hepworth's actions as admitted and proved in relation to the facts as described in paragraphs 1 and 2 above to have been sexually motivated. It is, in the panel's view, clear that Mr Hepworth acted as he did for sexual gratification.

The panel watched two videos created on pupils' mobile phones, Mr Hepworth accessing an image of two female former pupils sitting on a table on a school computer. One of the girls was wearing a skirt that was set well above the knee line. He then proceeds to zoom in on the part of the image that shows the pupil's upper thigh and genital area. It is not possible to make out the pupil's underwear but several times on the video Mr Hepworth is seen to zoom in on that part of her body. His view is focused on her upper thighs and up her skirt. He proceeds to refine and crop the image on at least two occasions in order to restrict the view to the area up her skirt, at the top of her thighs and, although in darkness, her genital area. After zooming in and cropping the image he stops to stare at it for more than a few seconds. The videos are cumulatively approximately two minutes long and focused entirely on the part of the pupil's body as referred to above.

We entirely reject Mr Hepworth's suggestion that he was simply "playing around" and was acting in no more than a "thoughtless" way. We reject the suggestion that his motive was "trying out" an updated media player. If that was the situation he would have had no reason to spend the time he did zooming in on and cropping an image of the aforementioned part of the girl's body. We believe it is no coincidence that he was viewing the image that he was; he was simply doing it for sexual gratification.

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

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

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which we refer to as "the Advice".

The panel is satisfied that the conduct of Mr Hepworth in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Hepworth 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Mr Hepworth amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Mr Hepworth has been found guilty of using a school computer during working hours for actions motivated by the pursuance of sexual gratification. He accessed an image of two pupils and created a zoomed in, upskirt image of one pupil's upper inner thighs / underwear area. He did not act accordingly for a few seconds but rather for at least two minutes during which time he stared at the image and repeatedly magnified or cropped the image. He explains the behaviour as "playing around" or "thoughtlessness" when in fact it is clear to the panel that there cannot have been no motive other than a sexual motive for his actions.

Accordingly, the panel is satisfied that Mr Hepworth is guilty of unacceptable professional conduct.

The panel has taken into account how 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 has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception. This has to follow from our factual findings, that included the panel being satisfied that Mr Hepworth acted, as found proved, through sexual motivation and therefore for the purposes of sexual gratification.

The panel therefore also finds that Mr Hepworth's actions constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it is 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 has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely: the protection of pupils/the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Hepworth, which involved in the panel's view serious sexual misconduct, there is a strong public interest consideration in respect of the protection of pupils given the findings of inappropriate actions motivated by sexual gratification.

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

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Hepworth was outside that which could reasonably be tolerated.

In view of 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 Hepworth.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Hepworth. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the well-being of pupils, and particularly where there is a continuing risk;

- abuse of position or trust;
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use of 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 panel took particular account of Mr Hepworth's limited insight into his behaviour. The panel cannot, in such circumstances, ignore the possibility of risk of repeat behaviour.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel has concluded that there is no evidence that the teacher's actions were not deliberate, or indeed that Mr Hepworth's actions were anything other than calculated and motivated.

The panel has heard and accepted that Mr Hepworth does have a previously good history.

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 is sufficient.

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

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Hepworth. Mr Hepworth's lack of proper insight was a significant factor in forming that opinion, alongside the seriousness of the sexual misconduct involved, which the panel has reminded itself, took place in school hours and in such a way that pupils were able to film him behaving in the way that he did on their mobile phones. His actions had the potential to harm the pupil whose image had been manipulated but it also had the potential to harm the two pupils who witnessed Mr Hepworth manipulating the image.

Accordingly, the panel makes 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 them to recommend that a review period of the order should be considered. The panel were mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours is 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 their professional position to influence or exploit a person or persons. Another is any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. The image created was morally offensive in a sexual way. It was therefore indecent.

As stated above, the panel has found that Mr Hepworth has been responsible for serious sexual misconduct. He manipulated and modified an innocent image that he possessed and turned it into something indecent for the purpose of sexual gratification.

The panel felt the nature of the findings of serious sexual misconduct and, particularly, Mr Hepworth's limited insight into his behaviour, indicated a situation in which a review period would not be appropriate. The ability for Mr Hepworth to apply at any time for his prohibition to be set-a-side would, in the panel's view, not sufficiently protect the public interest in protecting pupils, maintaining confidence in the profession and declaring and upholding proper standards of conduct. As such, the panel 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 conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Hepworth 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include a finding of sexual misconduct.

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 Hepworth, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, "In light of the panel's findings against Mr Hepworth, which involved in the panel's view serious sexual misconduct, there is a strong public interest consideration in respect of the protection of pupils given the findings of inappropriate actions motivated by sexual gratification." A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Hepworth's limited insight into his behaviour." The panel went on to say of this lack of insight, "The panel cannot, in such circumstances, ignore the possibility of risk of repeat behaviour." In my judgement, the lack of insight means that there is some risk

of the repetition of this behaviour and this puts at risk future pupils' safeguarding. 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 profession could be seriously weakened if conduct such as that found against Mr Hepworth were not treated with the utmost gravity when regulating the conduct of the profession." I am particularly mindful of the finding of sexual misconduct 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 Hepworth himself. "The panel has heard and accepted that Mr Hepworth does have a previously good history."

A prohibition order would prevent Mr Hepworth 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 lack of insight.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Hepworth 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 panel has found that Mr Hepworth has been responsible for serious sexual misconduct. He manipulated and modified an

innocent image that he possessed and turned it into something indecent for the purpose of sexual gratification.” The panel has also said it, “felt the nature of the findings of serious sexual misconduct and, particularly, Mr Hepworth's limited insight into his behaviour, indicated a situation in which a review period would not be appropriate.”

I have also consider the behaviours listed in the Advice.

I am in agreement with the panel and am of the view that the serious nature of the misconduct and the lack of insight mean a lesser review period is not sufficient to achieve the aim of maintaining public confidence in the profession.

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 Stephen Hepworth 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 Hepworth 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 Hepworth has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'Dawn Dandy', with a stylized, flowing script.

Decision maker: Dawn Dandy

Date: 11 March 2019

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