



Teaching
Regulation
Agency

Mr Samuel Kin On Wong: Professional conduct panel meeting outcome

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

December 2021

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

Teacher: Mr Samuel Kin On Wong

Teacher ref number: 0059730

Teacher date of birth: 13 July 1961

TRA reference: 19624

Date of determination: 7 December 2021

Former employer: Simply Education Ltd

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 7 December 2021 by way of a virtual meeting, to consider the case of Mr Samuel Kin On Wong.

The panel members were Ms Asma Majid (lay panellist – in the chair), Mr Ian Carter (teacher panellist) and Ms Jo Palmer-Tweed (teacher panellist).

The legal adviser to the panel was Mrs Rebecca Utton of Birketts 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 Wong that the allegation be considered without a hearing. Mr Wong provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr David Collins of Capsticks Solicitors LLP, Mr Wong or Mr Wong’s representative.

The meeting took place in private by way of a virtual meeting, save for the announcement of the panel’s decision, which was announced in public and recorded.

Allegations

The panel considered the allegation set out in the notice of meeting dated 10 September 2021.

It was alleged that Mr Wong was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

1. On 6 October 2020, while working as a supply teacher at John Colet School, he watched adult pornography on school IT equipment during the teaching day.

Mr Wong admitted the facts of allegation 1 and that his behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, as set out in the response to the notice of referral, dated 19 April 2021, and in the statement of agreed facts signed by Mr Wong on 26 July 2021.

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, identification key and list of key people – pages 4 to 5
- Section 2: Notice of referral, response and notice of meeting – pages 6 to 19
- Section 3: Statement of agreed facts and presenting officer representations – pages 20 to 22
- Section 4: Teaching Regulation Agency documents – pages 23 to 223
- Section 5: Teacher documents – not provided

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 Wong on 26 July 2021 in which Mr Wong admitted the allegation in its entirety.

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 Wong 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 Wong joined Simply Education Ltd ('the Agency') in 2009. Mr Wong started work at John Colet School ('the School') as a supply teacher on 1 October 2020.

Mr Wong accessed adult pornography on the School's IT software during his Planning, Preparation and Assessment time ('PPA'), on 6 October 2020.

On 7 October 2020, Mr Wong ceased working at the School. The matter was later referred to the Local Authority Designated Officer ('LADO'), on 12 October 2020.

The Agency's investigation and the LADO concluded that the matter was substantiated, on 23 October 2020. The Agency ceased offering work to Mr Wong from 26 October 2020.

On 12 November 2020, the Agency referred Mr Wong to the TRA.

Findings of fact

The findings of fact are as follows:

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

- 1. On 6 October 2020, while working as a supply teacher at John Colet School, you watched adult pornography on school IT equipment during the teaching day.**

The panel noted that, within the response to the notice of referral dated 19 April 2021, and the statement of agreed facts signed by Mr Wong on 26 July 2021, Mr Wong admitted the facts of allegation 1.

Notwithstanding this, the panel considered the evidence provided in the bundle and made its own determination based on the evidence available to it.

The panel considered the evidence which identified that on 6 October 2020, Mr Wong streamed online adult pornography using the School's IT system during his PPA time.

The conduct was detected by the School's eSafe software system and Mr Wong was removed from his booking with the School the following day. During the Agency's investigation, Mr Wong fully admitted to accessing adult pornography on the School's IT equipment during the teaching day.

The panel identified in the bundle there was evidence of several instances where Mr Wong fully admitted his conduct and the access to adult pornography was supported by technical and documentary evidence.

The panel found allegation 1 proved.

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

Having found the allegation proved, the panel went on to consider whether the facts of the proved allegation amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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 Wong, in relation to the facts found proved, involved a breach of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Wong was in breach of the following standard:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel was satisfied that the conduct of Mr Wong fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Wong's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences were relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that the allegation took place inside an education setting and during the teaching day. Further it was noted that Mr Wong used the School IT equipment to view adult pornography which was in clear contravention of the Teachers' Standards.

Whilst the panel had regard to the fact that no pupils were present at the time of the incident, the panel did consider that as a teacher Mr Wong was likely to be viewed as a role model by pupils. The panel believed Mr Wong's behaviour would undoubtedly

damage the public's perception of the teaching profession and there were public interest factors to consider.

Accordingly, the panel was satisfied that Mr Wong 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 perception.

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

Having found the facts of the particulars of allegation 1 proved, the panel further found that Mr Wong's conduct amounted to both unacceptable professional conduct and 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 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Wong, which involved watching adult pornography during the school day and using the School's equipment, there was a strong public interest consideration.

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

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 Wong. 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, the one relevant in this case is:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

Even though 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 regarded Mr Wong's actions as deliberate and noted that there was not any evidence to suggest that he was acting under duress.

The panel was not presented with any mitigation evidence by Mr Wong nor any evidence to attest to his previous good history as a teacher.

The panel was referred in the evidence bundle to a previous incident, which was entirely dissimilar in nature, to allegation 1. Due to the lack of similarity and the fact this incident was found to be unsubstantiated, it was disregarded by the panel and did not form any part of their considerations.

The panel noted that there was evidence in the bundle that Mr Wong had apologised for his behaviour. However, as Mr Wong had not presented any mitigation to the panel, they were unable to assess his level of remorse, regret or insight into his behaviour.

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 Wong 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 Wong. The lack of insight or remorse for his actions 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. The panel found that Mr Wong was not responsible for any such behaviours.

The panel was mindful that whilst Mr Wong's behaviour was serious and in breach of the Teachers' Standards, there are other types of misconduct of this nature, not attributed to Mr Wong that would feature higher on the scale of seriousness. The panel balanced this against the lack of mitigation presented that Mr Wong has reflected or has any insight into his behaviour.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a 5 year 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 allegation 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 Samuel Kin On Wong should be the subject of a prohibition order, with a review period of 5 years.

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

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

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

The findings of misconduct are serious as they include a finding of watching adult pornography on school IT equipment during the teaching day.

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

I have also taken into account the panel's comments on insight and remorse, set out as follows, "there was evidence in the bundle that Mr Wong had apologised for his behaviour. However, as Mr Wong had not presented any mitigation to the panel, they were unable to assess his level of remorse, regret or insight into his 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' wellbeing. 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 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 perception."

“In light of the panel’s findings against Mr Wong, which involved watching adult pornography during the school day and using the School’s equipment, there was a strong public interest consideration.”

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 Wong himself and “The panel was not presented with any mitigation evidence by Mr Wong nor any evidence to attest to his previous good history as a teacher.”

However, Mr Wong was placed by the Agency as a supply teacher at the School. A prohibition order would prevent Mr Wong 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.

I have placed considerable weight on the finding of the panel that “Whilst the panel had regard to the fact that no pupils were present at the time of the incident, the panel did consider that as a teacher Mr Wong was likely to be viewed as a role model by pupils. The panel believed Mr Wong’s behaviour would undoubtedly damage the public’s perception of the teaching profession and there were public interest factors to consider.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Wong 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 a 5 year review period.

I have considered the panel’s comments “The panel was mindful that whilst Mr Wong’s behaviour was serious and in breach of the Teachers’ Standards, there are other types of

misconduct of this nature, not attributed to Mr Wong that would feature higher on the scale of seriousness. The panel balanced this against the lack of mitigation presented that Mr Wong has reflected or has any insight into his behaviour” and “decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a 5 year review period.”

I have considered whether a 5 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, Mr Wong had not presented evidence of reflection or insight into his behaviour, which in my view means that a 2 year review period is not sufficient to achieve the aim of maintaining public confidence in the profession.

I consider therefore that a 5 year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Samuel Kin On Wong is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. He may apply for the prohibition order to be set aside, but not until 15 December 2026, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Wong remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr Wong 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.



Decision maker: Sarah Buxcey

Date: 9 December 2021

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