



Teaching
Regulation
Agency

Mr Robert Johnson: Professional conduct panel meeting outcome

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

January 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	4
Documents	4
Statement of agreed facts	5
Decision and reasons	5
Findings of fact	5
Panel's recommendation to the Secretary of State	7
Decision and reasons on behalf of the Secretary of State	10

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

Teacher:	Mr Robert Johnson
Teacher ref number:	0043957
Teacher date of birth:	2 February 1980
TRA reference:	19429
Date of determination:	25 January 2023
Former employer:	Dame Allan's Primary School, Newcastle upon Tyne

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 25 January 2023, via Microsoft Teams, to consider the case of Mr Robert Johnson.

The panel members were Mr Neil Hillman (teacher panellist – in the chair), Ms Kathleen O'Hare (former teacher panellist) and Ms Penny Griffith (lay panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan 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 Johnson that the allegation be considered without a hearing. Mr Johnson provided a signed statement of agreed facts and admitted a conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Ms Amalea Bourne or Mr Johnson.

The meeting took place in private.

Allegations

The panel considered the allegation set out in the notice of meeting dated 16 January 2023.

It was alleged that Mr Robert Johnson was had been convicted of a relevant offence, in that:

1. On or around 10 November 2021, he was convicted at North Northumbria Magistrates Court of five counts of making indecent photograph or pseudo-photographs of children between the following dates:
 - a. 01/09/2018 – 02/06/2020;
 - b. 01/10/2009 – 02/06/2020.

The Above convictions were contrary to S1(a) of the Protection of Children Act 1978.

By a Statement of Agreed Facts, signed by Mr Johnson on 4 December 2022, he admitted the facts of the conviction and that this was a conviction for a relevant offence.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology – page 5

Section 2: Notice of referral, response and Notice of meeting – pages 7 to 19b

Section 3: Statement of Agreed Facts and Presenting Officer Representations: page 21 to 29

Section 4: Teaching Regulation Agency documents – pages 31 to 142

Section 5: Teacher documents – pages 144 to 147

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Johnson on 4 December 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 Johnson 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 Johnson had been employed at Dame Allan's Primary School since June 2010 as a teacher. On 2 June 2020, Mr Johnson attended a voluntary interview at Northumbria Police Station in respect of indecent images of children being on his computer.

Mr Johnson was subsequently charged by the police and, on 10 November 2021, pleaded guilty at North Northumbria Magistrates' Court, to five counts of making indecent photographs or pseudo-photographs of children. Mr Johnson was subsequently sentenced by Newcastle upon Tyne Crown Court, and received a sentence of 12 months' imprisonment (suspended for 24 months), a rehabilitation activity requirement of 40 days and an unpaid work requirement of 200 hours. He was also given a Sexual Harm Prevention Order, and requirement to register with police, for 10 years.

Findings of fact

The findings of fact are as follows:

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

- 1. On or around 10 November 2021, you were convicted at North Northumbria Magistrates Court of five counts of making indecent photograph or pseudo-photographs of children between the following dates:**
 - a. 01/09/2018 – 02/06/2020;**
 - b. 01/10/2009 – 02/06/2020.**

The Above convictions were contrary to S1(a) of the Protection of Children Act 1978.

The panel had sight of the Certificate of Conviction dated 21 January 2021 [sic], which confirmed Mr Johnson's conviction, and also considered the transcript of the sentencing remarks from the hearing on 8 December 2021.

In addition, the panel had sight of the Police National Computer ('PNC') printout, which provided further confirmation of the time-frames referenced in the allegation.,

In the light of the above documentation, and that the allegation was admitted and was supported by evidence presented to the panel within the bundle, the panel found the facts of the allegation proved.

Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether Mr Johnson's conviction was for a relevant criminal offence, which he also admitted.

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

The panel was satisfied that the conduct of Mr Johnson in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Johnson was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

From the sentencing remarks, some of the images made by Mr Johnson were of the most serious category, and his offending behaviour had taken place for over a decade. The severe nature of the offences was reflected by his sentence of imprisonment, (albeit that it was suspended), and that he had been given a sexual harm prevention order for 10 years.

This was a case involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting any such activity, including one off incidents, which the Advice states is likely to be considered a relevant offence.

Although the panel found that the evidence of Mr Johnson's teaching proficiency to be of note, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Johnson's ongoing suitability to teach.

The panel also took account of how the teaching profession is viewed by others. The panel considered that Mr Johnson's behaviour, in committing the offence, would certainly affect public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

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

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of Mr Johnson's 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 a 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;
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Johnson which involved determining that he had been convicted of a relevant offence, and that his behaviour had taken place on

numerous occasions over a ten-year period, there was a strong public interest consideration in respect of the protection of pupils.

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

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

The panel decided that there was some public interest consideration in retaining the Mr Johnson in the profession, since no doubt had been cast upon his abilities as an educator. However, given the serious criminal conviction, any public interest in retaining Mr Johnson in the profession was significantly outweighed by the other considerations against doing so.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Johnson.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Johnson.

The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- a deep-seated attitude that leads to harmful behaviour;
- 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.

Save for Mr Johnson previously having a good history, the panel did not consider there to be any mitigation on his behalf. As the offending behaviour took place during this, apparently, period of 'good history', the panel did not give this potential mitigation any weight in its deliberations.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Johnson of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Johnson.

Mr Johnson had been convicted of creating indecent images of children, during a period of over a decade, and it was clear to the panel that such behaviour was manifestly incompatible with him currently being a teacher.

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. One of these behaviours is any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child. This behaviour mirrored the offending behaviour of Mr Johnson, which led to his conviction and custodial sentence.

The panel decided that the findings clearly indicated a situation in which a review period would not be appropriate and that Mr Johnson was, currently or in the future, not suitable to teach children, especially in circumstances where he is recorded on the sex offender register until 2031. 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 a relevant conviction.

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The findings of misconduct are particularly serious as they include a finding of making indecent photographs or pseudo photographs of children.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Johnson, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "Mr Johnson had been convicted of creating indecent images of children, during a period of over a decade, and it was clear to the panel that such behaviour was manifestly incompatible with him currently being a

teacher.” A prohibition order would therefore prevent such a risk from being present to pupils in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Save for Mr Johnson previously having a good history, the panel did not consider there to be any mitigation on his behalf.” In my judgement, the lack of any mention of insight or remorse, means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils’. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel also took account of how the teaching profession is viewed by others. The panel considered that Mr Johnson's behaviour, in committing the offence, would certainly 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 making indecent photographs or pseudo photographs of children in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Johnson himself. The panel comment “Save for Mr Johnson previously having a good history, the panel did not consider there to be any mitigation on his behalf. As the offending behaviour took place during this, apparently, period of 'good history', the panel did not give this potential mitigation any weight in its deliberations.”

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

In this case, I have placed considerable weight on the panel’s comments, “Mr Johnson had been convicted of creating indecent images of children, during a period of over a decade, and it was clear to the panel that such behaviour was manifestly incompatible with him currently being a teacher.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Johnson has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, 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 findings clearly indicated a situation in which a review period would not be appropriate and that Mr Johnson was, currently or in the future, not suitable to teach children, especially in circumstances where he is recorded on the sex offender register until 2031." I have also noted the advice published by the Secretary of State, "there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours is 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 not allowing for a review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that not allowing for a review period is necessary to achieve the aim of maintaining public confidence in the profession, are the serious nature of the offending and the lack of any evidence of insight or remorse.

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

This means that Mr Robert Johnson is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Robert Johnson shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Robert Johnson has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in blue ink, appearing to be 'A. C. M.', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 31 January 2023

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