



Teaching  
Regulation  
Agency

# **Mr Richard Swinnerton: Professional conduct panel meeting outcome**

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

**28 February 2023**

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

<b>Teacher:</b>	Mr Richard Anthony Shaw Swinnerton
<b>Teacher ref number:</b>	1057675
<b>Teacher date of birth:</b>	10 October 1989
<b>TRA reference:</b>	19315
<b>Date of determination:</b>	28 February 2023
<b>Former employer:</b>	St Clare's Primary School Middlesborough

### **Introduction**

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened virtually on 28 February 2023 to consider the case of Mr Richard Anthony Shaw Swinnerton.

The panel members were Mr Neil Hillman (teacher panellist – in the chair), Ms Susan Ridge (lay panellist) and Ms Christine McLintock (teacher panellist).

The legal adviser to the panel was Mrs Alexandra Byard of Eversheds Sutherland (International) LLP, solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Swinnerton that the allegations be considered without a hearing. Mr Swinnerton provided a signed Statement of Agreed Facts and admitted a conviction of relevant offences. The panel considered the case at a meeting without the attendance of the presenting officer Jack Ashford or Mr Swinnerton.

The meeting took place in private.

## Allegations

The panel considered the allegations set out in the Notice of Meeting dated 13 December 2022.

It was alleged that Mr Swinnerton was guilty of having been convicted of a relevant offence, in that:

1. On 14 September 2020, at Teeside Magistrates Court, the Teacher was convicted of:
  - a. 'POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD. For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph, namely Category A both still and moving of a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988';
  - b. 'POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph, namely Category B both still and moving of a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988';
  - c. 'POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph, namely Category C images a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988'.

Mr Swinnerton admitted both the facts of the allegations and that he is guilty of having been convicted of relevant offences.

## 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: Index, Chronology and List of Key People – pages 1 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  
- 23

Section 4: Teaching Regulation Agency documents – pages 24 to 116

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 Swinnerton on 22 November 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 Swinnerton 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 Swinnerton had been employed as a deputy headteacher and deputy designated safeguarding lead at St Clare's Primary School, part of Nicholas Postgate Catholic Academy Trust from 1 September 2019 until 20 May 2020. On 15 May 2020, the police executed a search warrant at Mr Swinnerton's home and he was arrested for the offence of possessing indecent photographs or pseudo-photographs of a child. Mr Swinnerton's laptop contained 95 indecent images of children, 87 Category A images, seven Category B images and one Category C image. Mr Swinnerton resigned from his position.

## **Findings of fact**

The findings of fact are as follows:

The panel found the following particulars of the allegations against Mr Swinnerton proved, for these reasons:

- 1. On 14 September 2020, at Teeside Magistrates Court, the Teacher was convicted of:**
  - a. 'POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD. For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph,**

**namely Category A both still and moving of a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988’;**

**b. ‘POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph, namely Category B both still and moving of a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988’;**

**c. ‘POSSESS INDECENT PHOTOGRAPH / PSEUDO-PHOTOGRAPH OF A CHILD For that he Richard SWINNERTON on 15/05/2020 at MIDDLESBROUGH had in his possession an indecent photograph, namely Category C images a child Contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988’.**

In response to the Notice of Referral of the allegations, Mr Swinnerton admitted the allegations.

The panel has seen the Certificate of Conviction dated 9 August 2022 confirming the offences and accepts the certificate as proof of the conviction and the facts necessarily implied by that conviction.

The panel finds the allegation proven, in its entirety.

## **Findings as to conviction of relevant offences**

Having found the allegation proved, the panel went on to consider whether the facts of those proved allegations amounted to conviction of a relevant offence.

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 Swinnerton, in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Swinnerton 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, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that Mr Swinnerton's actions were relevant to teaching, working with children and/or working in an education setting. The panel noted that the behaviour involved in committing the offences would have been likely to have had an impact on the safety and/or security of pupils and/or members of the public.

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

The panel noted that Mr Swinnerton's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed, and which the Advice states is likely to be considered "a relevant offence".

This was a case concerning offences involving the viewing of indecent photographs or images or indecent pseudo photographs or images of a child. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

The panel found that Mr Swinnerton's behaviour and conviction was extremely serious given the nature of the offences. The Panel also found that the Court's comments in the sentencing transcript at page 49 (paragraph F and G) of the bundle state "The aggravating features are the age and vulnerability of the children, that there was discernible pain and distress and that they were moving images". This was considered in the context of paragraph 39 of the Advice.

The panel also read comments in Court's sentencing transcript that Mr Swinnerton was of good standing prior to the conviction.

The panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Swinnerton's fitness to be a teacher. 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 a conviction of a relevant offence, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Swinnerton and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be

punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

- the safeguarding and wellbeing 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; and
- the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Swinnerton, which involved his conviction, there was a strong public interest consideration in safeguarding. There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of possession of indecent images of children. Similarly, the panel considered that public confidence in the profession would be seriously weakened if conduct such as that found against Mr Swinnerton were not treated with the utmost seriousness when regulating the conduct of the profession. The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Swinnerton was outside that which could reasonably be tolerated.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are "relevant matters" for the purposes of the Police Act 1997 and criminal record disclosure;
- misconduct seriously affecting the education and/or safeguarding and wellbeing of pupils, and particularly where there is a continuing risk;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting such activity, including one-off incidents;



- failure to act on evidence that indicated a child's welfare may have been at risk e.g. failed to notify the designated safeguarding lead and/or make a referral to children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified; and
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE).

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

In the light of the panel's findings:

- There was evidence that Mr Swinnerton's actions were deliberate. The panel accepted Mr Swinnerton's evidence that his actions were deliberate;
- There was no evidence to suggest that Mr Swinnerton was acting under extreme duress; and
- The panel also read positive employment references in the evidence which pre-date the offences.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Swinnerton 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 Swinnerton. The gravity of the conviction 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 Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases includes any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents. The panel did note that Mr

Swinnerton was frank and forthcoming when first approached by the Police and has admitted to his actions. However, the panel found that Mr Swinnerton was convicted of possession of indecent images of children which links to the behaviours where the panel should recommend no review period.

The panel therefore decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without 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 a relevant conviction.

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

In particular, the panel has found that Mr Swinnerton 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, and maintain high standards.
- 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 Swinnerton fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include findings of possession of indecent images 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 a relevant conviction, 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 Swinnerton, 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, “that Mr Swinnerton’s actions were relevant to teaching, working with children and/or working in an education setting. The panel noted that the behaviour involved in committing the offences would have been likely to have had an impact on the safety and/or security of pupils and/or members of the public.” 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, “The panel did note that Mr Swinnerton was frank and forthcoming when first approached by the Police and has admitted to his actions.”

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 considered that public confidence in the profession would be seriously weakened if conduct such as that found against Mr Swinnerton were not treated with the utmost seriousness when regulating the conduct of the profession. The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Swinnerton was outside that which could reasonably be tolerated.” I am particularly mindful of the finding of possession of indecent images 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 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 Swinnerton himself and “The panel also read comments in Court’s sentencing transcript that Mr Swinnerton was of good standing prior to the conviction.” and “The panel also read positive employment references in the evidence which pre-date the offences.”

A prohibition order would prevent Mr Swinnerton 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 seriousness of the findings, “The panel found that Mr Swinnerton’s behaviour and conviction was extremely serious given the nature of the offences. The Panel also found that the Court’s comments in the sentencing transcript at page 49 (paragraph F and G) of the bundle state “The aggravating features are the age and vulnerability of the children, that there was discernible pain and distress and that they were moving images”. This was considered in the context of paragraph 39 of the Advice.”

I have also placed considerable weight on the following comment from the panel “In the light of the panel’s findings against Mr Swinnerton, which involved his conviction, there was a strong public interest consideration in safeguarding. There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of possession of indecent images of children.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Swinnerton 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 Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases includes any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents. The panel did note that Mr Swinnerton was frank and forthcoming when first approached by the Police and has admitted to his actions. However, the panel found that Mr Swinnerton was convicted of possession of indecent images of children which links to the behaviours where the panel should recommend no review period.”

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings, the age and vulnerability of the children, that there was discernible pain and distress and that they were moving images. 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 Richard Swinnerton 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 Swinnerton 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 Swinnerton has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath.

**Decision maker: Sarah Buxcey**

**Date: 13 March 2023**

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