



Teaching
Regulation
Agency

Mr Joshua Barraclough: Professional conduct panel meeting outcome

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

March 2023

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

Teacher:	Mr Joshua Barraclough
Teacher ref number:	3542067
Teacher date of birth:	21 November 1991
TRA reference:	20071
Date of determination:	13 March 2023
Former employer:	Minsthorpe Community College

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 13 March 2023 by way of a virtual meeting, to consider the case of Mr Joshua Barraclough.

The panel members were Mr Paul Hawkins (lay panellist – in the chair), Mrs Sharon Bhogal (teacher panellist) and Mr Diarmuid Bunting (lay panellist).

The legal adviser to the panel was Ms Lucy Churchill 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 Barraclough that the allegation be considered without a hearing. Mr Barraclough provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Ms Kiera Riddy of Browne Jacobson LLP solicitors, Mr Barraclough or any representative for Mr Barraclough.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegation set out in the notice of meeting dated 3 March 2023.

It was alleged that Mr Barraclough was guilty of having been convicted, at any time, of a relevant offence in that:

1. On or around 26 January 2022, he was convicted at Leeds Crown Court of the offence of 'cause/incite a girl [REDACTED] to engage in sexual activity – offender 18 or over'.

Mr Barraclough admitted the facts of allegation 1 and that his behaviour amounted to a conviction of a relevant offence, as set out in the response to the notice of proceedings dated 15 February 2023 and in the statement of agreed facts signed by Mr Barraclough on 5 January 2023.

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: Notice of referral and response – pages 4 to 15
- Section 2: Statement of agreed facts and presenting officer representations – pages 17 to 21
- Section 3: TRA documents – pages 23 to 173
- Section 5: Teacher documents – none provided

The TRA provided the panel and legal adviser with a copy of the notice of meeting dated 3 March 2023 and notice of referral form ahead of the virtual meeting.

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 Barraclough on 5 January 2023 and subsequently signed by the presenting officer on 10 January 2023.

Decision and reasons

The panel carefully considered the case and reached the following decision and reasons:

In advance of the meeting, the TRA agreed to a request from Mr Barraclough 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 Barraclough was employed as a general classroom teacher and teacher of science at Minsthorpe Community College ('the College'), from 1 September 2019.

The LADO contacted the College on 22 January 2021 to inform them of an ongoing police investigation involving Mr Barraclough.

The College held a dismissal hearing and, on 14 May 2021, made the decision to dismiss Mr Barraclough from the College.

Mr Barraclough was charged with the offence of cause/incite a girl [REDACTED] to engage in sexual activity – offender 18 or over. Mr Barraclough pleaded guilty to the offence and was later sentenced in the Leeds Crown Court. Mr Barraclough was sentenced to 21 months imprisonment, suspended for 18 months.

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 or around 26 January 2022, you were convicted at Leeds Crown Court of the offence of 'cause/incite a girl [REDACTED] to engage in sexual activity – offender 18 or over'.**

The panel noted that in the statement of agreed facts, Mr Barraclough admitted to allegation 1, and that those admitted facts amounted to a conviction of a relevant offence. Notwithstanding this, the panel made its own determination based on the evidence before it.

The panel noted page 8 of the Teacher misconduct: The prohibition of teachers ('the Advice') which states that where there has been a conviction at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel had been provided with a copy of the certificate of conviction from Leeds Crown Court, which detailed that Mr Barraclough had been convicted of one count of cause/incite a girl [REDACTED] to engage in sexual activity – offender 18 or over. The panel specifically noted that the sentencing remarks stated that Mr Barraclough had been convicted upon a guilty plea.

In respect of the allegations, Mr Barraclough was sentenced at Leeds Crown Court on 26 January 2022 to 21 months' imprisonment, suspended for 18 months. In addition, he was ordered to undertake a rehabilitation activity requirement for a maximum of 15 days; undertake rehabilitation activity requirements as directed by an authorised provider of probation; carry out unpaid work for 100 hours before 7 March 2023; and was placed on the Sex Offenders Register for a period of 10 years.

On examination of the documents before the panel, the panel was satisfied that the facts of allegation 1 was proven.

Findings as to conviction of a relevant offence

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

In doing so, the panel had regard to the Advice. The panel noted that an offence can be considered relevant even if it did not involve misconduct in the course of teaching and is required to make a judgment on relevance considering all the facts of the case.

The panel noted that Mr Barraclough's actions took place outside the education setting; Mr Barraclough was 20 years of age at the time the incident took place, and was not yet a teacher, although he was convicted and sentenced 10 years later. The incident took place outside of the school environment and outside of school hours. The panel noted that at the time, Mr Barraclough was a Scout Leader who met the victim who was [REDACTED] at a [REDACTED]. The panel believed that Mr Barraclough'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 offence could have had an impact on the safety 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 Barraclough's behaviour in committing the offence could

undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mr Barraclough's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offence committed.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Barraclough's ongoing suitability to teach. 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 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 safeguarding and wellbeing of pupils and the protection of other members of the public;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct; and
- that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Barraclough, which involved a conviction of causing/inciting sexual activity of a girl aged [REDACTED], 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 Barraclough 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 Barraclough 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 Barraclough. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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 Barraclough. 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:

- 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.
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- sexual misconduct;
- failure in their duty of care towards a child.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Mr Barraclough's actions were not deliberate.

There was no evidence to suggest that Mr Barraclough was acting under extreme duress.

The panel noted the sentencing remarks submitted as part of the bundle which outlined a number of mitigating factors taken into consideration at the sentencing stage. The Judge noted that Mr Barraclough was clearly not fully mature at the time the incident took place, and was quite confident that should the same thing happen now, Mr Barraclough would not have done it. The Judge noted that no grooming behaviour had taken place, given that it was the girl who had contacted Mr Barraclough and who was leading the sexualised conversation; Mr Barraclough also stopped the conversation. The Judge took

Mr Barraclough's good character into account and assessed the risk of reoffending to be low. However, no mitigation was submitted to the panel on behalf of Mr Barraclough and therefore the panel could not take this into account.

No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Barraclough had contributed significantly to the education sector.

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 Barraclough 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 Barraclough. The seriousness of the offence was a significant factor in forming that opinion. Further, the panel noted that Mr Barraclough had not provided any evidence on insight or remorse for it to consider. 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. These behaviours include serious sexual misconduct, such as 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 his professional position to influence or exploit a person or persons and any sexual misconduct involving a child. The panel noted that whilst the behaviour occurred outside the course of teaching, Mr Barraclough was a scout leader at the time, who was likely to be aware of the importance of safeguarding and maintaining appropriate boundaries with children in his care. The panel found that Mr Barraclough was responsible for a conviction of causing/inciting sexual activity of a girl aged [REDACTED].

The panel noted that Mr Barraclough admitted in the statement of agreed facts, which he signed on 5 January 2023, that the offence he committed is recognised as being permanently incompatible with the teaching profession.

The panel 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 the allegation 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 Joshua Barraclough should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that when looking at the advice published by the Secretary of State, the following behaviours were relevant:

- 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.
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- sexual misconduct; and
- failure in their duty of care towards a child.

The finding of a relevant conviction is particularly serious as it includes engaging a young person in sexual activity.

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 Barraclough, 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, "In the light of the panel's findings against Mr Barraclough, which involved a conviction of causing/inciting sexual activity of a girl aged [REDACTED], there was a strong public interest consideration in respect of the protection of pupils." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "the panel noted that Mr Barraclough had not provided any evidence on insight or remorse for it to consider." In my judgement, the lack of evidence 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 the way the teaching profession is viewed by others. The panel considered that Mr Barraclough's behaviour in committing the offence could undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community." I am particularly mindful of the finding of sexual activity with a young person 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 Barraclough himself. The panel comment “The panel noted that whilst the behaviour occurred outside the course of teaching, Mr Barraclough was a scout leader at the time, who was likely to be aware of the importance of safeguarding and maintaining appropriate boundaries with children in his care. The panel found that Mr Barraclough was responsible for a conviction of causing/inciting sexual activity of a girl aged [REDACTED].”

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

In this case, I have placed considerable weight on the panel’s comments, “The Judge took Mr Barraclough’s good character into account and assessed the risk of reoffending to be low. However, no mitigation was submitted to the panel on behalf of Mr Barraclough and therefore the panel could not take this into account.

No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Barraclough had contributed significantly to the education sector.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Barraclough 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 noted that Mr Barraclough admitted in the statement of agreed facts, which he signed on 5 January 2023, that the offence he committed is recognised as being permanently incompatible with the teaching profession.”

I have considered whether not allowing 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 are the serious nature of the conviction and the lack of either insight or remorse.

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 Joshua Barraclough 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 allegation found proved against him, I have decided that Mr Joshua Barraclough 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 Joshua Barraclough 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 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 14 March 2023

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