



Teaching
Regulation
Agency

Mr Robert Howe: Professional conduct panel meeting outcome

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

May 2023

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

Teacher: Mr Robert Howe

Teacher ref number: 0975690

Teacher date of birth: 25 July 1986

TRA reference: 20028

Date of determination: 12 May 2023

Former employer: Tudor Grange Academy, Worcester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 12 May 2023 via Microsoft Teams, to consider the case of Mr Robert Howe.

The panel members were Mrs Beverley Williams (teacher panellist – in the chair), Ms Penny Griffith (lay panellist) and Mr Ian Hylan (teacher panellist).

The legal adviser to the panel was Ms Clare Strickland of Blake Morgan 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 Howe that the allegations be considered without a hearing. Mr Howe 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 or Mr Howe.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 1 March 2023.

It was alleged that Mr Howe was guilty of having been convicted of one or more relevant offences, in that:

1. On 20 May 2021 he was convicted of one offence of attempting to engage in sexual communication with a child, between 13 April 2021 and 21 April 2021, contrary to section 15A(1) Sexual Offences Act 2003.
2. On 20 May 2021 he was convicted of one offence of attempting to arrange or facilitate the commission of a child sex offence between 13 April 2021 and 21 April 2021, contrary to section 14 Sexual Offences Act 2003.

Mr Howe admits the facts alleged, and admits conviction of 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 and list of key people – pages 1 to 2

Section 2: Notice of referral, response, and notice of meeting – pages 3 to 8

Section 3: Statement of agreed facts and presenting officer representations – pages 9 to 12

Section 4: Teaching Regulation Agency documents – pages 13 to 65

Section 5: Teacher documents – pages 66 to 67

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 Howe on 4 October 2022.

Decision and reasons

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Howe 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 Howe was employed as lead teacher of geography at Tudor Grange Academy, Worcester, from November 2017 until 21 May 2021.

From 13 April – 21 April 2021, Mr Howe exchanged messages with an undercover police officer purporting to be a 15-year-old boy. They agreed to meet in person on 22 April 2021 to engage in sexual activity of a penetrative nature. On the morning of 22 April 2021, Mr Howe blocked any further contact from the "boy". He was arrested later that day and charged with the two offences set out in the allegations. On 20 May 2021, he pleaded guilty to those offences, and on 17 June 2021, he was sentenced to 2 years' immediate imprisonment, a sexual harm prevention order and sex offender notification requirements for a period of 10 years.

Although the person with whom Mr Howe was communicating was not in fact a child, the information available to Mr Howe suggested that they were a child, and as such would have been a pupil at a school.

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 20 May 2021 you were convicted of one offence of, between 13 April 2021 and 21 April 2021, contrary to section 15A(1) Sexual Offences Act 2003.**
- 2. On 20 May 2021 you were convicted of one offence of attempting to arrange or facilitate the commission of a child sex offence between 13 April 2021 and 21 April 2021, contrary to section 14 Sexual Offences Act 2003.**

The allegations were admitted and were supported by evidence presented to the panel within the bundle, including the certificate of conviction dated 19 May 2022. The allegations were therefore found proved.

Findings as to conviction of a relevant offence

Having found the allegations proved, the panel went on to consider whether the facts of those proven allegations amounted to convictions for 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”.

This was a case involving offences of attempting to engage in sexual communication with a child and attempting to arrange sexual activity with a child. The Advice states that such offences are likely to be considered a relevant offence.

The panel was satisfied that the Mr Howe's conduct involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Howe 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
 - Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
 - not undermining ... the rule of law
- 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 panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Howe's behaviour in committing the offence would seriously undermine public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mr Howe's behaviour ultimately led to a sentence of two years' imprisonment, and he was made subject to a sexual harm prevention order and required to comply with the sex offender notification requirements for a period of 10 years. This is indicative of the seriousness of his offences.

The panel took account of the mitigating circumstances surrounding the offence, as set out in the sentencing comments. These were reflected in the criminal sentence. They also had regard to Mr Howe's account of his health and personal problems, but concluded that these did not mitigate the seriousness of the offending.

Notwithstanding any mitigation, the panel had no doubt that the seriousness of the offending behaviour that led to the convictions was relevant to Mr Howe's ongoing suitability to teach. The panel considered that a finding that these convictions were for relevant offences 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 convictions of relevant offences, 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 and other members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Howe, which involved criminal offences of sexual misconduct towards a child, there was a strong public interest consideration in respect of the protection of pupils. When sentenced in May 2021, he was assessed as posing a medium risk to children. The panel has been provided with no evidence which shows that risk has reduced.

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

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 Howe. 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature ...;
- 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.

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.

The panel concluded that there was no evidence that Mr Howe's actions were not deliberate or that he was acting under duress. He had no previous convictions and was described in criminal proceedings as being of good character. There was no evidence about his previous record as a teacher.

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 Mr Howe 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 Howe. The seriousness of his offending behaviour 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. 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. The panel concluded that Mr Howe's offending fell into that category.

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 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 Howe should be the subject of a prohibition order with no provision for a review period. The panel has recommended that the findings of a relevant conviction should be published and that such an action is proportionate and in the public interest.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by

- Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
 - not undermining ... the rule of law
- 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.

In its considerations, the panel also took 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature ...;
- 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.

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

The findings of misconduct are particularly serious as they include a finding of a relevant conviction of attempting to engage in sexual communication with a child and a finding of a relevant conviction of attempting to arrange or facilitate the commission of a child sex offence. I have given this considerable weight in reaching my decision.

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 or conduct likely to 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 Howe, 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. In its recommendation the panel states that “In the light of the panel’s findings against Mr Howe, which involved criminal offences of sexual misconduct towards a child, there was a strong public interest consideration in respect of the protection of pupils. When sentenced in May 2021, he was assessed as posing a medium risk to children. The panel has been provided with no evidence which shows that risk has reduced.”. A prohibition order would therefore prevent such a risk from being present in the future. I have given this element considerable weight in reaching my decision.

In reaching my decision I have noted that the panel did not comment on or provide evidence of Mr Howe offering insight or remorse for his actions. I have also noted the panel’s conclusion “that there was no evidence that Mr Howe’s actions were not deliberate or that he was acting under duress.”. In my judgement, the lack of evidence of insight and relevant mitigating factors 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 considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Howe were not treated with the utmost seriousness when regulating the conduct of the profession.”. I have therefore given this element considerable weight in reaching my decision.

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 Howe himself. The panel notes that “prior to these events he had no previous convictions and was described in

criminal proceedings as being of good character.”. However, the panel goes on to state that “There was no evidence about his previous record as a teacher.”. Given this, and the seriousness of the panel’s findings, I have given this element less weight in my considerations.

A prohibition order would prevent Mr Howe 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 considering whether a prohibition order should be imposed on Mr Howe, I have noted the panel’s remarks that “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 Howe 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 Howe. The seriousness of his offending behaviour 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.

In my view, it is necessary to impose a prohibition order in order to protect pupils and maintain public confidence in the profession. A published decision does not in my view satisfy the public interest requirement concerning either the protection of pupils or 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 whether not allowing a 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, 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 panel’s findings of relevant convictions for attempting to engage in sexual communication with a child and attempting to arrange or facilitate the commission of a child sex offence as well as the lack of evidence of insight or remorse.

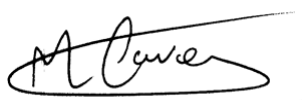
I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Robert Howe 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 Howe 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 Howe 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 'M Cavey', enclosed within a rectangular box.

Decision maker: Marc Cavey

Date: 19 May 2023

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