



Teaching
Regulation
Agency

Mr Simon Clague: Professional conduct panel meeting outcome

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

June 2023

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

Teacher:	Mr Simon Clague
Teacher ref number:	8838574
Teacher date of birth:	10 March 1966
TRA reference:	0017039
Date of determination:	30 June 2023
Former employer:	Repton Independent School, Derbyshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 30 June 2023 by virtual means, to consider the case of Mr Simon Clague.

The panel members were Mrs Beverley Williams (teacher panellist – in the chair), Mr Stephen Chappell (lay panellist) and Ms Susan Humble (lay panellist).

The legal adviser to the panel was Mrs Luisa Gibbons 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 Clague that the allegations be considered without a hearing. Mr Clague 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, Mr David Collins or Mr Clague.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 14 April 2023.

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

1. On 28 February 2022, he was convicted of eight counts of indecent assault on a girl under 16;
2. On 28 February 2022, he was convicted of gross indecency with a girl under 14.

Mr Clague admitted both the facts alleged and that he had been convicted 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 3 to 4

Section 2: Notice of referral, response and notice of meeting – pages 5 to 25

Section 3: Statement of agreed facts and presenting officer representations – pages 26 to 29

Section 4: Teaching Regulation Agency documents – pages 30 to 81

Section 5: Teacher documents – page 82

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 Clague on 10 August 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 Clague 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 Clague was employed as a PE teacher at the Repton Independent School (“the School”) between 4 September 1989 and 2022. On 21 February 2018, the School was advised that Derbyshire Police were investigating an allegation brought by a former pupil against Mr Clague and Mr Clague was suspended.

Findings of fact

The findings of fact are as follows:

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

- 1. On 28 February 2022, you were convicted of eight counts of indecent assault on a girl under 16;**
- 2. On 28 February 2022, you were convicted of gross indecency with a girl under 14.**

In a statement of agreed facts, Mr Clague admitted the allegations.

The panel has seen the certificate of conviction and accepted it as conclusive proof of both the convictions and the facts necessarily implied by the convictions.

Five counts of indecent assault and the count relating to gross indecency related to Victim P and concerned conduct whilst Victim P was [REDACTED], commencing on 24 June 1993. Two counts of indecent assault related to Victim S and concerned conduct when Victim S was [REDACTED]. One count of indecent assault related to Victim F and occurred when Victim F was [REDACTED], commencing in around August 1994. All three victims were pupils of the School at which Mr Clague taught.

Mr Clague was sentenced to a total of seven years, eleven months’ imprisonment. Mr Clague was required to sign the sex offenders register indefinitely and was [REDACTED].

Findings as to conviction of a relevant offence

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

The offences were committed by Mr Clague prior to the coming into force of Teachers Standards, therefore the panel had regard to its knowledge and experience of teaching standards at that time and considered that the sexual abuse of children was a serious breach.

The panel noted that the individual's actions were relevant to teaching, working with children and working in an education setting. The offences were committed against pupils whom Mr Clague was entrusted to care for.

The panel noted that the behaviour involved in committing the offence had an impact on the safety and security of those pupils, as was illustrated by the victim impact statements that each victim prepared for the criminal court proceedings.

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

The panel noted that Mr Clague's behaviour ultimately led to a sentence of imprisonment, 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 an offence involving sexual activity. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

These were particularly serious offences. Mr Clague groomed the pupils for his own sexual pleasure, irrespective of the harm he caused them.

Mr Clague eventually pleaded guilty to the offences, so the victims did not have to go through the trauma of giving evidence. However, this was after some considerable time after the police started their investigation. This left those victims in a state of uncertainty as to whether they would have to give evidence.

The panel also found that the seriousness of the offending behaviour that led to his convictions was relevant to Mr Clague's fitness to be a teacher. 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 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 Clague 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 the following to be relevant in this case, namely, the safeguarding and wellbeing of pupils; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of the sexual abuse of three children.

Public confidence in the profession could be seriously weakened if such conduct was not treated with the utmost seriousness when regulating the conduct of the profession.

Declaring proper standards of conduct in the profession was also important as the conduct found against Mr Clague was outside that which could reasonably be tolerated.

Whilst Mr Clague had worked at the School, for some considerable time, the adverse public interest considerations above outweigh any interest in retaining Mr Clague in the profession. His behaviour fundamentally breached the standard of conduct expected of a teacher, and he exploited his position of trust.

The panel considered carefully the seriousness of the behaviour. 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 noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will be likely to 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:

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 well-being of pupils, and particularly where there is a continuing risk;

abuse of position or trust (particularly involving vulnerable pupils)

an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;

sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual’s professional position;

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...;

violation of the rights of pupils;

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 to be allowed to continue to teach. The panel went on to consider whether any mitigation had been offered by the teacher or whether there were mitigating circumstances.

Mr Clague’s actions were deliberate. He groomed children for his own sexual pleasure.

There was no evidence to suggest that Mr Clague was acting under extreme duress, e.g. a physical threat or significant intimidation and, in fact, the panel found Mr Clague’s actions to be calculated and motivated.

There had been a number of occasions on which the School had cause to remind Mr Clague of the School’s expectations of professional conduct. There was no evidence of Mr Clague having demonstrated exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector.

Mr Clague has adduced no evidence attesting to his character for these proceedings.

The panel had sight of a letter from Mr Clague dated 4 June 2018 resisting an interim prohibition order in which Mr Clague referred to strongly refuting the allegation that was under investigation, and referred to his belief that he did not present a risk to children. Mr Clague pleaded guilty, but some considerable time after the commencement of the police investigation. The judge recognised there may have been reasons why Mr Clague may have held back from pleading guilty earlier, particularly the [REDACTED], who he was [REDACTED] at the time, who could then [REDACTED] without knowing the horrific

offences he had committed. For the present proceedings before this professional misconduct panel, Mr Clague has co-operated with the TRA, having completed an agreed statement of facts, and writing to state he had no grounds to contest that he had a conviction of a relevant offence.

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 Clague 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 Clague. The gravity of his offences and the serious impact upon the victims were significant factors 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 for it to decide to recommend a review period of the order. 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 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 include serious sexual misconduct, e.g. 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 found that Mr Clague had been convicted of serious sexual offences against three children.

In light of the seriousness of the offending behaviour, there were no mitigating circumstances that could affect the panel's view on whether a review period was appropriate in this case. Mr Clague has received a sentence of imprisonment of a significant duration and required to be on the sex offenders register for life.

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 provision 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 Simon Clague should be the subject of a prohibition order, with no provision for a review period.

The panel noted that the offences were committed by Mr Clague prior to the coming into force of Teachers Standards. Therefore, the panel had regard to its knowledge and experience of teaching standards at that time and considered that the sexual abuse of children was a serious breach.

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

The finding of misconduct is particularly serious as it concerns convictions for eight counts of indecent assault on a girl under 16, as well as for gross indecency with a girl under 14.

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 Clague, 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/safeguard pupils. The panel has observed, "Mr Clague groomed the pupils for his own sexual pleasure, irrespective of the harm he caused them." It also notes that "...the behaviour involved in committing the offence had an impact on the safety and security of those pupils, as was illustrated by the victim impact statements that each victim prepared for the criminal court proceedings." 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, "Mr Clague pleaded guilty, but some considerable time after the commencement of the police investigation. The judge recognised there may have been reasons why Mr Clague may have held back from pleading guilty earlier, particularly the [REDACTED], who he was [REDACTED] at the time, who could then [REDACTED] without knowing the horrific offences he had committed. For the present proceedings before this professional misconduct panel, Mr Clague has co-operated with the TRA, having completed an agreed statement of facts, and writing to state he had no grounds to contest that he had a conviction of a relevant offence." No other evidence of Mr Clague's insight into and remorse for his actions is provided and the lack of such evidence means, in my judgment, that there is a risk that this behaviour could be repeated in the future and this puts at risk the safety and wellbeing of pupils. I have therefore given this element very considerable weight in my considerations.

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 found that the seriousness of the offending behaviour that led to his convictions was relevant to Mr Clague's fitness to be a teacher. 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." I am particularly mindful that the offences that the panel has found Mr Clague to have been convicted of were committed against pupils whom Mr Clague was entrusted to care for, 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 Clague himself. The panel observe, "There had been a number of occasions on which the School had cause to remind Mr Clague of the School's expectations of professional conduct. There was no evidence of Mr Clague having demonstrated exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector." The panel went on to note that "Mr Clague has adduced no evidence attesting to his character for these proceedings."

A prohibition order would prevent Mr Clague 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 seriousness of the offences that Mr Clague has been convicted of, which resulted in a sentence of seven years, eleven months' imprisonment. I have also taken into account the impact of Mr Clague's actions on his pupils.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Clague 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.

In doing so 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 panel also noted that, "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 include serious sexual misconduct, e.g. 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 found that Mr Clague had been convicted of serious sexual offences against three children."

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, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. This element is the seriousness of the finding of convictions for eight counts of indecent assault on a girl under 16 and for gross indecency with a girl under 14, and 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 Simon Clague 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 Clague 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 Clague 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 thin black rectangular border.

Decision maker: Marc Cavey

Date: 3 July 2023

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