



Teaching  
Regulation  
Agency

# **Nicola Furney: Professional conduct panel meeting outcome**

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

**July 2023**

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

<b>Teacher:</b>	Miss Nicola Furney
<b>Teacher ref number:</b>	448148
<b>Teacher date of birth:</b>	16 September 1983
<b>TRA reference:</b>	0020122
<b>Date of determination:</b>	17 July 2023
<b>Former employer:</b>	Bay Leadership Academy

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually via Microsoft Teams on 17 July 2023, to consider the case of Miss Nicola Furney.

The panel members were Mr Alan Wells (former teacher panellist – in the chair), Mrs Bev Williams (teacher panellist), and Mr Peter Ward (lay panellist).

The legal adviser to the panel was Ms Patricia D’Souza 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 Miss Furney that the allegations be considered without a hearing. Miss Furney 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 Louise Ravenscroft.

The meeting took place in private.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 31 May 2023.

It was alleged that Miss Furney was guilty of having been convicted of a relevant offence, in that:

She was convicted and sentenced on 8 July 2021 at Preston Crown Court of the following relevant offence(s):

1. One or more counts of sexual activity with a female 13-17 offender does not believe victim is over 18 – adult abuse of position of trust on 26/10/2012 – 25/10/2014;
2. One count of engaging in sexual communication with a child on 26/10/2012 – 25/10/2014

Miss Furney has admitted the factual particulars of the above allegations in the Statement of Agreed Facts. She also admits that she has 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 1 to 2

Section 2: Notice of referral and Notice of Meeting – pages 3 to 26

Section 3: Statement of Agreed Facts and Presenting Officer representations – pages 27 to 31

Section 4: Teaching Regulation Agency documents – pages 32 to 92

Section 5: Teacher documents – pages 93 to 94

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

## Statement of agreed facts

The panel considered a Statement of Agreed Facts which was signed by Miss Furney on 20 March 2023.

## Decision and reasons

The panel's decision and reasons are as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Miss Furney 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.

The panel proceeded to consider the case carefully, having read all of the documents, and reached a decision. It accepted the legal advice provided.

Miss Furney was employed as Head of Year and a part-time teacher at the Bay Leadership Academy ("the School"). She held that position from 1 September 2007 until 22 June 2021. On 26 August 2020 the School was informed by the local authority designated officer that a complaint had been made to the police by a former pupil of the School that Miss Furney had undertaken sexual activity with the pupil on or around 2012. In January 2021, the Crown Prosecution Service authorised criminal charges to be brought against Miss Furney. On 8 July 2021, Miss Furney was sentenced at Preston Crown Court to a period of imprisonment for 21 weeks and she was made subject to a sexual harm prevention order for 7 years. She was dismissed by the School on 22 June 2021 for gross misconduct.

## 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:

**You were convicted and sentenced on 8 July 2021 at Preston Crown Court of the following relevant offence(s):**

- 1. One or more counts of sexual activity with a female 13-17 offender does not believe victim is over 18 – adult abuse of position of trust on 26/10/2012 – 25/10/2014;**

## **2. One count of engaging in sexual communication with a child on 26/10/2012 – 25/10/2014**

The above worded allegations, including the date range, were admitted by Miss Furney in the Notice of Referral form she completed on 24 February 2023. The panel noted that there was no certificate or memorandum of conviction in the bundle.

In the Statement of Agreed Facts, dated 20 March 2023, Miss Furney admitted that on 23 April 2021 she pleaded guilty to two counts of engaging in sexual activity with a female child, under the age of 18 years old and one count of engaging in sexual communication with a child.

The panel noted from emails from the police to the School that Miss Furney disputed that the conduct she pleaded guilty to before the criminal courts occurred in 2012. She considered it occurred in 2013. Miss Furney also confirmed that her unlawful conduct took place from December 2013 onwards as reflected in the minutes of the School's disciplinary hearing on 18 June 2021. The disciplinary outcome letter of the School to Miss Furney indicated that Miss Furney explained to the School the discrepancy in the starting date of her unlawful conduct was because the first offence for which she was charged, was not admitted by her.

On the balance of probabilities, the panel determined that allegations 1 and 2 were proven. Miss Furney did not dispute the date range of the allegations in either the Notice of Referral Form or Statement of Agreed Facts which she signed as part of these proceedings. The panel considered her unlawful conduct, based on her admissions in these proceedings, was more likely than not to have occurred on or around 26 October 2012 and 25 October 2014. The panel determined it was more likely than not that Miss Furney was convicted and sentenced on 8 July 2021 at Preston Crown Court.

Allegations 1 and 2 were therefore found proved.

### **Findings as to conviction of a relevant offence**

Having found allegations 1 and 2 proved, the panel went on to consider whether the facts of those proved allegations amounted to convictions 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 Miss Furney in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Miss Furney 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- 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 the behaviour involved in committing the offence had an impact on the safety or security of pupils, given the pupil, subject to Miss Furney's sexual activity or sexual communications, was likely harmed by her conduct. In particular, the panel noted that the nature of the charges clearly indicates that Miss Furney has failed to observe proper boundaries appropriate to a teacher's professional position and she has failed to have regard for the need to safeguard pupils' well-being. These are clear breaches of the Teachers' Standards and the School's safeguarding policy. The panel also noted that Miss Furney undertook a pastoral role at the time.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Miss Furney's behaviour in committing the offence could affect 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 Miss Furney's behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed.

This was a case involving an offence of sexual activity and sexual communication with a child, which the Advice states is likely to be considered a relevant offence.

There was little evidence before the panel which related to mitigating circumstances, or character statements attesting to Miss Furney's exemplary record as a teacher. However, the panel noted that Miss Furney pleaded guilty to the charges of which she was convicted at Preston Crown Court.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Miss Furney'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. The panel therefore found that Miss Furney's convictions amounted to relevant offences.

## 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 protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Miss Furney involved convictions for sexual activity and sexual communication with a child, as a result there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils.

There was also a public interest in the protection of other members of the public, as members of the public (pupils and parents) need to be assured that pupils will be safe when under the care and supervision of teachers.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Miss Furney were not treated with the utmost seriousness when regulating the conduct of the profession. By the standard of the ordinary intelligent and well-informed citizen, who both appreciates the seriousness of the proposed 'sanction' and recognises the high standards expected of all teachers, Miss Furney's conduct would likely have harmed the relevant pupil.

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 Miss Furney was clearly outside that which could reasonably be tolerated.

The panel considered that a prohibition would strike the right balance between the rights of the teacher and the public interest. The public interest considerations outweighed Miss Furney's interests. The panel noted from her email correspondence with the TRA, that Miss Furney indicated that she would not contest the allegations pursued. She indicated that she accepted what she has done and accepted her dismissal and custodial sentence. In addition, she understood she would be barred from teaching.

The panel decided that there was no strong public interest consideration in retaining Miss Furney in the profession as there was little to no evidence of her abilities as an educator.



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 Miss Furney.

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 Miss Furney. 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;
- 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);
- 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, e.g. 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 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;
- 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);
- violation of the rights of pupils;

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 to suggest that Miss Furney's actions were not deliberate. There was no evidence to suggest that Miss Furney was acting under duress, and, in fact, the panel found Miss Furney's actions to be calculated.

The panel was presented with no evidence that suggests Miss Furney was of previous good history. Therefore the panel could not determine if Miss Furney's unlawful conduct towards the pupil concerned was out of character. The panel was in receipt of no evidence, including character references or testimonies, to suggest that Miss Furney demonstrated high standards in both her personal and professional conduct and/or 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 Miss Furney 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 Miss Furney. Subjecting a child to sexual activity and sexual communication 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 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 their professional position to influence or exploit a person or persons and any sexual misconduct involving a child. The panel found that Miss Furney had received a conviction for sexual activity and sexual communication with a child, which was, in the panel's view, serious sexual misconduct which resulted in harm to the pupil concerned. The panel was in no doubt that Miss Furney would have used her professional position to influence the relevant pupil to undertake sexual activity.

The Advice indicates that where a case involved certain behaviours, it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. None of these behaviours are relevant and the panel determined to recommend that there should be no review period.

Although the panel noted that Miss Furney accepted that she would be barred from teaching, the panel did not consider this amounted to a demonstration of insight.

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 to a relevant conviction.

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

In particular, the panel has found that Miss Furney 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Miss Furney, involved breaches of the responsibilities and duties set out in statutory guidance "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)"

The panel finds that the conduct of Miss Furney fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a conviction of sexual activity and sexual communication with a child.

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 Miss Furney, 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, "The panel's findings against Miss Furney involved convictions for sexual activity and sexual communication with a child, as a result there was a strong public interest consideration in respect of the safeguarding and wellbeing 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 from her email correspondence with the TRA, that Miss Furney indicated that she would not contest the allegations pursued. She indicated that she accepted what she has done and accepted her dismissal and custodial sentence. In addition, she understood she would be barred from teaching." The panel have not referred to any further insight or remorse. In my judgement, the lack of evidence of full 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 Miss Furney's behaviour in committing the offence could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community." I am particularly mindful of the finding of sexual activity with a child 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 Miss Furney herself and the panel comment “The panel was presented with no evidence that suggests Miss Furney was of previous good history. Therefore the panel could not determine if Miss Furney’s unlawful conduct towards the pupil concerned was out of character. The panel was in receipt of no evidence, including character references or testimonies, to suggest that Miss Furney demonstrated high standards in both her personal and professional conduct and/or contributed significantly to the education sector.”

A prohibition order would prevent Miss Furney from teaching. A prohibition order would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on following comments from the panel “The panel noted that the behaviour involved in committing the offence had an impact on the safety or security of pupils, given the pupil, subject to Miss Furney’s sexual activity or sexual communications, was likely harmed by her conduct. In particular, the panel noted that the nature of the charges clearly indicates that Miss Furney has failed to observe proper boundaries appropriate to a teacher’s professional position and she has failed to have regard for the need to safeguard pupils’ well-being. These are clear breaches of the Teachers’ Standards and the School’s safeguarding policy. The panel also noted that Miss Furney undertook a pastoral role at the time.”

I have given less weight in my consideration of sanction therefore, to the contribution that Miss Furney 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 full 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 Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These

behaviours 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 their professional position to influence or exploit a person or persons and any sexual misconduct involving a child. The panel found that Miss Furney had received a conviction for sexual activity and sexual communication with a child, which was, in the panel's view, serious sexual misconduct which resulted in harm to the pupil concerned. The panel was in no doubt that Miss Furney would have used her professional position to influence the relevant pupil to undertake sexual activity.”

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 involving sexual activity and sexual communication with a child and the lack of full insight and 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 Miss Furney 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 her, I have decided that Miss Furney shall not be entitled to apply for restoration of her eligibility to teach.

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

Miss Furney has a right of appeal to the King’s Bench Division of the High Court within 28 days from the date she 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: 19 July 2023**

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