



Teaching
Regulation
Agency

Mr Adam Hart: Professional conduct panel outcome

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

August 2023

Contents

Introduction	3
Allegation	4
Preliminary applications	4
Summary of evidence	5
Documents	5
Witnesses	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	8
Decision and reasons on behalf of the Secretary of State	11

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

Teacher:	Mr Adam Hart
Teacher ref number:	1681553
Teacher date of birth:	28 December 1992
TRA reference:	18645
Date of determination:	29 August 2023
Former employer:	Smith's Wood Academy, Birmingham

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 29 August 2023 by way of a virtual hearing, to consider the case of Mr Adam Hart.

The panel members were Ms Jane Gotschel (teacher panellist – in the chair), Mr Kulvinder Sandal (teacher panellist) and Mr Paul Millett (lay panellist).

The legal adviser to the panel was Ms Abigail Reynolds of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Stephen Ferson of 7BR Barristers, instructed by Kingsley Napley LLP.

Mr Hart was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegation

The panel considered the allegation set out in the notice of hearing dated 7 June 2023.

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

1. On 4 April 2022 he was found guilty of one count of sexual activity with a female aged 13-17 (abuse of position of trust), contrary to s.16 Sexual Offences Act 2003.

Mr Hart provided no admission of fact.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Hart was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Hart and provided a bundle of documents which contained evidence of attempts to contact Mr Hart. The panel noted that this included:

- An email from Mr Hart to the TRA dated 27 July 2020 in which he provided the TRA with an updated postal address.
- Letters from the TRA and Kingsley Napley LLP to the updated postal address Mr Hart gave on 27 July 2020.
- Emails from Kingsley Napley LLP to the email address Mr Hart used to reply to the TRA on 27 July 2020.
- Royal mail tracking information which indicated that correspondence was delivered to Mr Hart's updated postal address on 4 August 2023.
- A report from a tracing agent dated 5 April 2023 confirming that Mr Hart's postal address remained the same as the address he gave to the TRA on 27 July 2020.

Save for the email from Mr Hart dated 27 July 2020 there was no evidence that he had otherwise engaged with the TRA or Kingsley Napley LLP.

The panel considered whether this hearing should continue in the absence of the teacher.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the

case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the notice of hearing had been sent to Mr Hart in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures').

The panel concluded that Mr Hart's absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel noted that Mr Hart had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Hart was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Hart was neither present nor represented.

Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

- Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 6
- Section 2: Notice of hearing and response – pages 7 to 13
- Section 3: TRA documents – pages 14 to 250

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

Witnesses

No witnesses were called to provide oral evidence at the hearing.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Mr Hart commenced employment as a teacher of English at Smith's Wood Academy ('the School') on 3 July 2017.

On or around 9 July 2019, a pupil at the School, Pupil A, disclosed concerns about Mr Hart's conduct towards her from around October 2018 to early 2019. Mr Hart was suspended from the School on 5 September 2019 and the School commenced an investigation into the allegations made by Pupil A.

On 4 February 2020, the School was informed by the police that Mr Hart had been charged with an offence of "*sexual activity with a girl 13-17*". On 14 April 2020, Mr Hart pleaded not guilty to this offence at Birmingham Crown Court.

A disciplinary hearing at the School took place on 26 June 2020. A referral was made to the TRA on 22 July 2020.

On 4 April 2022, Mr Hart entered a guilty plea to one offence of sexual activity with a girl 13-17 (abuse of position of trust). On 22 May 2022, Mr Hart received a 3-year community order.

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 4 April 2022 you were found guilty of one count of sexual activity with a female aged 13-17 (abuse of position of trust), contrary to s.16 Sexual Offences Act 2003.**

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 was provided with a copy of the certificate of conviction from the Birmingham Crown Court dated 1 March 2023, which detailed that Mr Hart had been convicted of one count of sexual activity with a girl 13 to 17 – adult abuse of position of trust contrary to section 16 of the Sexual Offences Act 2003 and was sentenced to a 3 year community sentence order, ordered to undertake all rehabilitation activity requirements directed by an authorised provider of probation for 30 days, placed on the sexual offenders register for a period of 5 years and made subject to a sexual harm prevention order for 5 years.

On examination of the documents before the panel, the panel was satisfied that no exceptional circumstances applied. The panel accepted the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction.

The panel was therefore satisfied that the facts of allegation 1 were 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 conviction of a relevant offence.

In doing so, the panel had regard to the Advice.

The panel was satisfied that the conduct of Mr Hart, in relation to the facts it found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Hart 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
- 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 Mr Hart's actions were relevant to teaching, working with children and/or working in an education setting as Mr Hart was convicted of engaging in sexual activity with a child and, specifically, a pupil of the School at which he taught.

The panel noted that the behaviour involved in committing the offence would have had an impact on the safety and/or security of pupils and/or members of the public.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Hart'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. His conduct ran

counter to what should have been at the very core of his practice as a teacher with a duty of care towards children.

The panel noted that Mr Hart's behaviour did not lead to a sentence of imprisonment. However, this was a case concerning an offence involving sexual activity, which the Advice states is more likely to be considered a relevant offence. The panel considered that the offence was serious as the sexual activity involved a vulnerable pupil at the School.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Hart'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.

The panel found that Mr Hart had been convicted of a relevant offence.

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.

The panel were aware that 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 light of the nature of the offences for which Mr Hart was convicted, there was an extremely strong public interest consideration in respect of the protection of pupils and other members of the public. His actions raised obvious and significant public and child protection concerns.

There was a strong public interest consideration in respect of the protection of pupils, given the serious findings of sexual activity with a child.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hart was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Hart was outside that which could reasonably be tolerated.

In view of 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 Hart. 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 Hart. 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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record 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);
- any 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; and
- 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 that Mr Hart's actions were not deliberate.

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

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

As noted above, save for an email dated 27 July 2020, there was no evidence that Mr Hart engaged with the TRA or Kingsley Napley LLP. Therefore, no mitigation evidence was submitted on behalf of the teacher. The panel was unable to assess the extent of Mr Hart's insight or remorse for his actions.

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 Hart 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 Hart. The seriousness of the offence 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 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 behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found that none of these behaviours were relevant.

The Advice also indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. Two of these behaviours include (1) 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 (2) any sexual misconduct involving a child. The panel found that Mr Hart was convicted for an offence of sexual activity with a child aged 13-17.

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

In particular, the panel has found that Mr Hart 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
- 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 finds that the conduct of Mr Hart fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding that Mr Hart had been convicted of one count of sexual activity with a girl 13 to 17.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the

profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of a relevant conviction, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Hart, 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, "There was a strong public interest consideration in respect of the protection of pupils, given the serious findings of sexual activity with a child." 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, "no mitigation evidence was submitted on behalf of the teacher. The panel was unable to assess the extent of Mr Hart's insight or remorse for his actions." 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, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hart was not treated with the utmost seriousness when regulating the conduct of the profession." 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 Mr Hart himself. The panel comment "No evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mr Hart contributed significantly to the education sector."

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of evidence of insight or remorse as the panel said it "was unable to assess the extent of Mr Hart's insight or remorse for his actions."

I have also placed considerable weight on the findings of the panel that "the offence was serious as the sexual activity involved a vulnerable pupil at the School" and that "there was an extremely strong public interest consideration in respect of the protection of pupils and other members of the public".

I have given less weight in my consideration of sanction therefore, to the contribution that M Hart 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 Advice also indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. Two of these behaviours include (1) 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 (2) any sexual misconduct involving a child."

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 conviction for an offence of sexual activity with a child aged 13-17 and the lack of evidence 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 Adam Hart 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 Hart 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 Hart 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 'D Oatley', written in a cursive style.

Decision maker: David Oatley

Date: 30 August 2023

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