



Teaching
Regulation
Agency

Mr Harry Eastham: Professional conduct panel outcome

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

August 2023

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

Teacher:	Mr Harry Eastham
Teacher ref number:	1759625
Teacher date of birth:	1 April 1998
TRA reference:	0020039
Date of determination:	10 August 2023
Former employer:	Christ Church, Church of England Primary School, Erith, Kent

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 6 to 7 March 2023 and 8 to 10 August 2023 by virtual means, to consider the case of Mr Harry Eastham.

The panel members were Ms Jo Palmer-Tweed (teacher panellist – in the chair), Mr Paul Hawkins (lay panellist), and Ms Mona Sood (lay panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP.

The presenting officer for the TRA at the reconvened hearing was Mr Andrew Cullen of Browne Jacobson LLP solicitors.

Mr Eastham was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 18 May 2023.

It was alleged that Mr Eastham was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher at Christ Church, Church of England Primary School (“the School”) in Erith, Kent:

1. He downloaded and/or viewed and/or shared indecent images of children;
2. He engaged in inappropriate discussions on social media, including discussions about sexual activity with children and/or discussions about the exchange of indecent images of children and/or discussions where he pretended to be a 10 year old girl;
3. His behaviour as may be found proven at 1-2 above demonstrates a sexual interest in children.

In the absence of a response from the teacher, neither the facts of the allegations nor that they amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute are admitted.

The allegations were subsequently amended pursuant to an application by the presenting officer.

Preliminary applications

Proceeding in Absence

The hearing of this matter was originally due to be heard from 6 March 2023. The presenting officer’s application to proceed in Mr Eastham’s absence was refused. The hearing was adjourned as the panel was not satisfied that the notice of hearing dated 23 December 2022 had been served on Mr Eastham.

Upon reconvening on 8 August 2023, the panel considered whether the rescheduled hearing should continue in the absence of the teacher.

The panel was satisfied that TRA has complied with the service requirements of paragraph 19(1) (a) to (c) of the Teachers’ Disciplinary (England) Regulations 2012, (the “Regulations”). The panel saw proof of delivery confirming that the notice of hearing sent by post to Mr Eastham’s last known address had been successfully delivered.

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 5.23 and 5.24 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020, (the “Procedures”).

The panel determined to exercise its discretion under paragraph 5.47 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took as its starting point the principle from *R v Jones* that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in *GMC v Adeogba & Visvardis*.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel firstly took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC 1.

- The panel was satisfied that Mr Eastham was aware of the proceedings taking place. The notice of hearing providing the requisite 10 weeks' notice was delivered and signed for by a person who provided their name as "Eastham". Mr Eastham was also sent the bundle in advance of the hearing and two applications that the presenting officer intended to make, but has provided no response. The panel therefore considered that Mr Eastham has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.
- No request for an adjournment was made by Mr Eastham, and there was no indication that an adjournment might result in Mr Eastham attending voluntarily.
- Mr Eastham was not represented as far as the panel is aware, and he expressed no request for an adjournment in order to obtain legal representation.
- The panel had the benefit of Mr Eastham's responses provided during a police interview and this was not a case where the panel had no indication of Mr Eastham's position in respect of the matters to which the allegations relate. The burden rested upon the TRA to prove its case against Mr Eastham. The panel noted that the witness relied upon was to be called to give evidence and the panel was able to test that evidence in questioning that witness, considering any points as were favourable to the teacher, as were reasonably available on the evidence. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of reaching the wrong decision as a result of not having heard the teacher's account.

- No explanation was given by Mr Eastham for his non-attendance and the panel exercised caution, as it was conscious of the risk of reaching an improper conclusion as to the reason for his non-attendance.
- The panel recognised that the allegations against the teacher were serious and that there was a real risk that if proven, the panel would be required to consider whether to recommend that the teacher ought to be prohibited from teaching.
- The panel recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession.
- The panel also noted that there was a witness prepared to give oral evidence, and that it might not be possible for that witness to attend at a future date. Delaying the case further may have impacted upon the memory of that witness.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that in light of:

- Mr Eastham's waiver of his right to appear;
- the possible impact to the witness;
- the seriousness of the allegations and the public interest in this hearing proceeding within a reasonable time;

and by taking such measures referred to above to address any unfairness insofar as is possible, the balance was in favour of this hearing proceeding in Mr Eastham's absence.

Adjournment

The presenting officer applied for a short adjournment until the second day of the hearing to facilitate the attendance of the witness to be called on behalf of the TRA. The panel was satisfied that it was in the interests of justice to accede to the application. There was good reason for the witness not being able to attend on the first day of the hearing and it was in the interests of justice that the witness be available to verify the contents of her written evidence and to address any questions. The panel considered this to be part of its usual case management. Since the hearing was not being re-scheduled outside of the period listed to hear the case, it was not necessary for notice to be given of a re-scheduled date.

Late admission of documents

The presenting officer applied for permission to rely upon evidence which had not been properly served in compliance with paragraph 5.35 or paragraph 5.36 of the Procedures. The presenting officer explained that the TRA had received further evidence from the police on 26 May 2023, shortly before the TRA was required to serve a complete bundle of evidence on which it intended to rely. Given the sensitive nature of the evidence, the TRA decided that it ought, in the first instance, to alert Mr Eastham to the nature of the evidence and the TRA's intention to rely upon it. The panel saw a letter dated 31 May 2023 to Mr Eastham providing him with the opportunity to confirm his contact details in order that the documentation could be safely sent. As a result of this decision, the complete evidence on which the TRA intended to rely was not sent ten weeks or more before the reconvened hearing, nor was it sent as soon as such evidence was available.

The panel noted its discretion pursuant to paragraph 5.33 of the Procedures to admit any evidence, if it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel first considered whether such evidence was relevant. The panel was satisfied that the additional evidence identifying the intelligence that the police received in respect of Mr Eastham's alleged online activity was relevant to allegation 1.

The panel went on to consider whether it was fair for such evidence to be admitted. The panel was satisfied that the evidence had only been made available to the TRA shortly before it was required to serve the bundle of its evidence. The panel considered that it was an appropriate step to warn Mr Eastham of the sensitive nature of the evidence. The panel noted that no response had been received to the letter of 31 May 2023 informing Mr Eastham of the TRA's intention to rely upon the evidence, nor did Mr Eastham make any representations having received a bundle that was despatched to him on 16 June 2023 containing the evidence. This was consistent with Mr Eastham's previous lack of response. The panel noted that the witness who adduced the evidence would be called to give oral evidence and can answer questions upon it. The panel considered that it was fair in the circumstances for the evidence to be admitted.

The panel acceded to the presenting officer's application and admitted the evidence.

Previous application to admit late documents

The panel noted that at the adjourned hearing in March 2023, the presenting officer had applied to admit descriptions provided to replace images that had been redacted from the bundle. At that hearing, the panel decided that it was not fair for these descriptions to be added since the descriptions had not been agreed with Mr Eastham, nor had he had sufficient time to object to them. The panel was also concerned that the descriptions

were subjective and went further than the descriptions of the images already provided by the [REDACTED] who had exhibited the images to [REDACTED] statement. Those descriptions remained present in the bundle provided for the reconvened hearing (on pages 13 to 15). However, the panel put these descriptions out of their minds.

Application to amend the allegations

An application was made by the presenting officer to amend the stem of the allegation as set out in the Notice of Proceedings to read “You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed and/or engaged to be employed as a Teacher at Christ Church, Church of England Primary School in Erith, Kent...”. The additional words were to reflect the evidence suggesting that the particulars of allegation 1 allegedly occurred around April 2020, after Mr Eastham was offered a position at the School, but before taking up that position. The panel has the power to, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

The panel were concerned that this application was made at such a late stage in the proceedings, and exercised caution to ensure that there was no unfairness to the teacher. The panel also exercised caution given that Mr Eastham had waived his right to appear and thereby to make representations regarding the amendment.

The panel considered that the amendment proposed did not change the nature or seriousness of the allegations. Although Mr Eastham has not responded to the allegations set out in the notice of hearing, he did respond to the conduct alleged in a police interview. The panel did not consider Mr Eastham would have responded differently, if at all, in the present proceedings had the amendment been made at an earlier stage.

The panel therefore decided that it was in the interests of justice to amend the allegation to properly reflect the alleged conduct, but subject to a refinement so that the stem of the allegation would read:

“You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed and/or around the time of being engaged to be employed as a Teacher at Christ Church, Church of England Primary School in Erith, Kent...”.

Application to confirm jurisdiction

Having amended the allegations, the presenting officer applied for the panel to consider as a preliminary point whether it had jurisdiction to consider the case.

The conduct set out in Allegation 1 was alleged to have taken place in April 2020. Mr Eastham was offered the position of class teacher at the School on 2 March 2020 starting

on 1 September 2020, and was afforded the opportunity to start on 1 July 2020 as an unqualified teacher in the interim. The intelligence giving rise to the police investigation related to an image that had been identified as having been uploaded on 26 April 2020, before Mr Eastham became employed at the School.

The issue for the panel to determine was whether the phrase “is employed or engaged to carry on teaching work” within section 141A of the Education Act 2002 (the “Act”) and paragraph 2 of the Regulations, encompasses the situation in this case. The Panel was advised that s141B of the Act allows the Secretary of State to investigate a case where an allegation is referred to the Secretary of State that a person meeting the definition within s141A - a) may be guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or b) has been convicted (at any time) of a relevant offence.

It appeared more probable than not that Mr Eastham had been engaged to carry out teaching work at the time that the image referred to in the intelligence was uploaded. He had been offered a position, and it is clear that he must have accepted it as he became employed from 1 July 2020. The panel considered that he would have been engaged to carry out teaching work from the point when he accepted the position. This was more likely than not, given the date of the offer made to him, before the alleged uploading of the image on 26 April 2020. However, since the panel did not know precisely when that acceptance occurred, the panel also went on to consider whether the legislation was wide enough to encompass conduct alleged to have taken place before the teacher was employed or engaged to carry on teaching work.

The panel was advised that the legal meaning of an enactment is the meaning that corresponds to the legislator’s intention in passing the enactment. The panel was advised to consider the words used in section 141A and regulation 2 in the context of the enactment as a whole, and the panel’s attention was specifically drawn to section 141D which applies where an employer has ceased to use the services of a teacher or the teacher has ceased to provide those services. The panel understands that the legislation plainly provides for circumstances in which a referral can be made, even when a teacher is no longer teaching, and therefore is wider in its coverage than only those who are currently teaching.

The panel was advised to consider whether it was of the view that the legal meaning of the phrase “is employed or engaged to carry on teaching work” was plain and unequivocal or ambiguous because there were alternative ways of interpreting the phrase. The panel was advised that if it considered the legal meaning of the phrase to be plain, then it would not need to interpret the phrase further.

However, if the panel did consider the phrase to be ambiguous, then the panel should consider what the intended legal meaning was, and that it should reach a balanced and common sense judgement. The panel were directed to the following principles that it may wish to consider in determining this, including that the law should:

- serve the public interest;
- be just;
- be certain and predictable; and
- be coherent and self-consistent.

The panel was also told that it should be presumed that Parliament will have intended:

- for the provision to be given its literal meaning on an ordinary and natural interpretation;
- the provision to meet the legislative purpose and remedy the issue it was directed towards;
- the provision not to be interpreted in a way that produces an absurd, unworkable or impractical result;
- the provision not to be interpreted in a way that produces unjustifiable inconvenience in terms of unnecessary technicalities, inconvenience to business, taxpayers or legal proceedings;
- the provision not to be interpreted in a way that produces an anomaly;
- the provision not to be interpreted in a way that produces a futile, pointless or artificial result, including pointless legal proceedings.

The panel's attention was drawn to the decision of the High Court in Zebaida v Secretary of State for Education (2016), a conviction case. This stated that a common sense and plain reading of the legislation allows for referral to the Secretary of State of a person who is employed or engaged in teaching (whenever the conduct giving rise to concern takes place) or who was so employed or engaged at the time the conduct complained of takes place or comes to light.

The panel's attention was also drawn to the decision of the High Court in Alsaifi v Secretary of State for Education (2016) which drew a distinction between conviction cases and other conduct. The Panel were advised that the Court in Alsaifi had noted that the Zebaida case involved a conviction for a sexual offence and that therefore under 141B(1)(b) of the Act, the teacher's conviction *at any time* could trigger a referral. The Court distinguished this from the situation where a person was not a teacher at the time of the alleged misconduct, but was at the time of the reference (as is the circumstance in the present case). The court noted that s141B(1)(a) of the Act contained no reference to the conduct being *at any time*. In those circumstances the court did not consider that it was obvious that it was the intention of Parliament that such a person should be subject to investigation but for the purpose of the case before it, did not need to reach a determination on this point, merely stating there were arguments both for and against such an interpretation.

The legal adviser suggested that the Panel may wish to take into account the following arguments for and against jurisdiction, drawn from the Alsaifi case, when reaching its determination:

- 1) the absence of reference to “at any time” in s141B(1)(a) in contrast to its presence in s141B(1)(b);
- 2) whether the alleged conduct could bring the teaching profession into disrepute if the person in question is not a teacher at the time;
- 3) the Guidance which states that conduct outside of the education setting will only amount to unacceptable professional conduct if it affects the way the person fulfils their teaching role, or if it may lead to pupils being exposed to or influenced by such behaviour in a harmful way;
- 4) whether the conduct in question casts doubt on a person’s suitability to teach such that Parliament must have intended that it could be investigated;
- 5) whether conduct could be described as unprofessional if it was committed at a time when the person was not a teacher.

The panel was reminded that each case should turn on its own facts.

Having reviewed the legislative provision, the panel did not accept that the legal meaning of the provision is plain. It noted the ambiguity as to the point of time at which the phrase “is employed or engaged relates”. The panel therefore sought to achieve a balanced view and reach a common sense judgement as to the legal meaning of the phrase. It recognised that the legal meaning is Parliament’s intention. The panel drew upon the helpful guidance from the court in Zebaida and Alsaifi. In particular, the panel noted that at paragraph 65 of the Alsaifi judgment, it was stated:

“There are respectable arguments for and against that interpretation. Unfortunately because of the way this case developed, I did not hear them. I have already mentioned the indications in this statute itself and in the interpretation of the regulations in the guidance to the NCTL that favour the more restrictive interpretation. On the other hand, if the conduct in question casts doubt on such a person’s suitability to teach children and young persons, then arguably it should qualify for investigation – dishonesty of any kind, for example, or inappropriate behaviour towards someone in respect of who the individual concerned was in a position of authority of trust, even in a different kind of job.”

The panel considered that this case falls squarely within that category of case, where, if proven, the alleged conduct was of a nature that was fundamentally incompatible with being a member of the profession and cast significant doubt on Mr Eastham’s suitability to teach children. The panel was satisfied that in such a case, where the allegations include that the conduct demonstrates a sexual interest in children, that safeguarding concerns are paramount in the event of such allegations being found proven. It would therefore serve the public interest if such allegations could be considered, even if the conduct concerned occurred at a time prior to Mr Eastham taking up his role as a teacher. It was noteworthy that Mr Eastham completed his BA (hons) Primary Education with QTS in 2020 so would have been fully aware of safeguarding duties associated with being a teacher for the duration of the vocational course he had undertaken.

If allegations of this nature could not be considered, it would produce an anomaly in the sense that it would preclude prohibition being considered and imposed in circumstances

where an individual has demonstrated a sexual interest in children, prior to joining the very profession that allows that individual access to children.

The panel was therefore satisfied that it had jurisdiction to consider and determine all of the allegations in this case.

Summary of evidence

Documents

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

Section 1: Notice of hearing and response – pages 4 to 7

Section 2: Teaching Regulation Agency witness statements – pages 8 to 59

Section 3: Teaching Regulation Agency documents – pages 60 to 118

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that were admitted. These consisted of evidence of service of the notice of hearing, evidence of service of the bundle, correspondence sent to Mr Eastham in advance of sending the final bundle, a third witness statement of the detective constable and its exhibit.

Witnesses

The panel heard oral evidence from a [REDACTED] in the Online Child and Sex Abuse Exploitation unit, called by the presenting officer.

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 Eastham was employed at the School from 1 July 2020 initially as an unqualified class teacher, and from 1 September 2020 as a class teacher. On 9 December 2020, Mr Eastham was arrested by the police. No criminal charges were subsequently brought against Mr Eastham. On 22 February 2021, Mr Eastham was dismissed from his role at the School.

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:

Whilst employed and/or around the time of being engaged to be employed as a teacher at Christ Church, Church of England Primary School in Erith, Kent:

1. You downloaded and/or viewed and/or shared indecent images of children;

The [REDACTED] gave evidence that three devices were seized from Mr Eastham. On one device two images were recovered. One of those images depicted a cartoon female toddler naked. The other image depicted a female on a beach with a bikini. The age of the female could not be ascertained from the photo. The [REDACTED] stated that the cartoon image could be defined as a pornographic image under s62 Coroner's Act 2009 but did not fall within any of the categories of images set out in the Sentencing Guidelines for prohibited images. As such, the panel did not base its conclusions on these particular images.

The [REDACTED] produced evidence of the intelligence that led to the police investigation. This intelligence provided information that two files had been uploaded to an Instagram account and that Instagram had become aware of the upload on 26 April 2020. The panel questioned the [REDACTED] to satisfy itself of the veracity of the intelligence provided. The [REDACTED] stated that one of those images was not on the Child Abuse Images Database (CAID). However, [REDACTED] was able to view the other file on CAID and it was a moving image of 23 seconds. This image had been categorised by numerous police forces as being a Category A image and depicted a child aged approximately six years' old. The intelligence captured the internet provider address of the upload. Mr Eastham lived at that address, and during his police interview he admitted creating an Instagram account with the account name that had been identified as having uploaded the file. The [REDACTED] confirmed that Mr Eastham would have had to download the file from somewhere, in order to upload it to the Instagram account. That file was not found on any of Mr Eastham's devices that were seized, although it was noted that Mr Eastham confirmed in interview that he had an old mobile phone that was not seized by the police.

The [REDACTED] produced a transcript of Mr Eastham's police interview. During that interview, Mr Eastham stated that he had been using a fake account in around April 2020 to communicate with someone on Instagram who had sent him indecent images of children that he forwarded on to someone else. He stated that there were three or four images of young girls, around the age of 5 or 6 who were unclothed. He stated that he had been having a general conversation that had become sexual with chat about "little girls", asking if Mr Eastham had "done anything with younger children". He stated that he was asked if he wanted to see pictures and that he had responded "yes". He confirmed that the images would have saved to his phone. He had deleted the images and initially said there had been only the one occasion when he had passed such images on.

After Mr Eastham was told that his phone would be forensically examined, Mr Eastham stated that the same thing had happened using his fake Twitter account, in that someone had messaged him asking if he wanted to see pictures and he had said “yes”. He stated that the images had been indecent, and confirmed that the images were of naked under age girls of about the same age, i.e. primary school age. He stated that he had sent those images on to one or two other male users.

In the interview, the police officer explained the definitions of various categories of images to ensure Mr Eastham understood what was meant by an indecent image. Mr Eastham confirmed he had had one Category A image sent to him and that he had seen and distributed Category B and Category C images.

Given Mr Eastham’s admissions during his police interview, the panel found this allegation proven.

2. You engaged in inappropriate discussions on social media, including discussions about sexual activity with children and/or discussions about the exchange of indecent images of children and/or discussions where you pretended to be a 10 year old girl.

In his police interview, Mr Eastham described having general conversations on Instagram that became sexual. He confirmed that the chat was about little girls, and he was asked during those conversations if he had ever “done anything with younger children”.

Mr Eastham stated in his police interview that, on Twitter, the same sort of thing happened. He stated that he was “trying to find people to talk to and then someone messaged [him] asking if [he] wanted to see pictures, so [he] said yes”. He described exchanging private messages talking about sexual things like stories, legal sexual stories and there were indecent images sent to him.

Mr Eastham stated that he had never wanted to engage in any sexual act with children, that he “got on Twitter and Instagram and started talking to people and got involved in that and it was just people talked to me and I don’t know that’s where it started”. He confirmed that this went on for a few weeks. He responded that he did not know why he continued to talk with persons who had started talking to him about underage children in a sexual way.

Mr Eastham confirmed that he had used a false user name and that he purported to be a girl of 18 or 19 although he did not believe he had indicated an age. He stated that he probably would have edited a picture from the internet as a profile and could not remember if that picture was of a young girl. He could not explain why he purported to be a girl, save that he “just started with wanting to talk to people”.

The panel has seen examples of exchanges between Mr Eastham and another individual over a period of time. These include Mr Eastham sending Instagram messages stating “Want you to touch my 10 year old Pussy” and “Can I still be 10?”.

In light of the above statements made by Mr Eastham during his police interview and evidence of exchanges between Mr Eastham and others, the panel found this allegation proven.

3. Your behaviour as may be found proven at 1-2 above demonstrates a sexual interest in children.

Mr Eastham confirmed during his police interview that he was not under the influence of alcohol or drugs at the time of the above matters. He also confirmed that no one was blackmailing him. He also confirmed that there was no lawful purpose for why he chatted to people about the sexual abuse of children in exchange for indecent images. He confirmed that he was not a paedophile hunter.

Mr Eastham stated that he had no sexual interest in children, and never wanted to engage in any sexual act with children, but that he had “started talking to people and got involved in that and it was just people talked to me and I don’t know that’s where it started. He also stated that he supposed that he “was lonely [he] just wanted people to talk to and got talking to the wrong people”.

The conduct found proven continued over a period of time, despite Mr Eastham being fully aware of his safeguarding duties as a teacher. Mr Eastham confirmed that he had sent indecent images on to others. In these circumstances, the panel did not consider that there was any reasonable explanation for Mr Eastham’s conduct other than it demonstrating a sexual interest in children.

The panel found this allegation proven.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found a number of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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 Mr Eastham in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Eastham 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...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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel found that Mr Eastham had breached his overriding responsibility to safeguard the welfare of children, in acting in the manner found proven.

The panel was satisfied that the conduct of Mr Eastham fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Mr Eastham's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offences of sexual activity; any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one-off incidents were relevant.

The Advice indicates that where behaviours associated with such offences exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that the conduct found proven took place outside the education setting. The conduct demonstrates a sexual interest in children, and therefore directly impacts upon Mr Eastham's role as a teacher.

Accordingly, the panel was satisfied that Mr Eastham was guilty of unacceptable professional conduct.

The panel went on to consider the issue of whether Mr Eastham is guilty of conduct that may bring the profession into disrepute.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel also considered whether Mr Eastham's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

As referred to above, the panel found that the offences of sexual activity; any activity involving viewing, taking, making, possessing, distributing or publishing any indecent

photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one-off incidents were relevant.

The Advice indicates that where behaviours associated with such offences exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher.

The panel considered that Mr Eastham's conduct could potentially damage the public's perception of a teacher.

The panel therefore found that Mr Eastham's actions constituted conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 Eastham 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 a number of them to be relevant in this case, namely the safeguarding and wellbeing of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and any interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of downloading, viewing and sharing indecent images of children, and engaging in discussions on social media regarding sexual activity with children, all of which demonstrated that Mr Eastham had a sexual interest in children.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Eastham were 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 Eastham was outside that which could reasonably be tolerated.

Whilst Mr Eastham may have had some ability as an educator, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Eastham in the profession, since his behaviour was fundamentally incompatible with being a teacher.

The panel considered carefully the seriousness of the behaviour, noting that 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 took further account of the Advice, which suggests that a panel will likely 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:

- 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 and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- 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;
- a deep-seated attitude that leads to harmful behaviour; and
- collusion or concealment including: any activity that involves...concealing inappropriate actions;... lying to prevent the identification of wrongdoing.

With respect to the final factor, the panel noted that in his police interview, Mr Eastham stated that he had only engaged in distributing images on one occasion until he was told that his devices were to be forensically examined. Further Mr Eastham used false accounts to engage in the activity found proven.

The panel noted that it should attach appropriate weight and seriousness to online behaviours including, but not limited to online misconduct and facilitating online abuse. The panel regarded Mr Eastham's conduct as particularly serious. It was repeated over a period of time and the exchange of such images supports a market that exploits and abuses children.

Even though some of 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 be allowed to continue to teach, the panel went on to consider whether any mitigation had been offered, or whether there were mitigating circumstances.

Mr Eastham's actions were deliberate.

There was no evidence to suggest that Mr Eastham was acting under extreme duress, e.g. a physical threat or significant intimidation. The panel concluded that his conduct demonstrated his sexual interest in children.

Mr Eastham was a newly qualified teacher. There was no evidence that he demonstrated exceptionally high standards in both his professional conduct or that he contributed significantly to the education sector. His personal conduct was fundamentally at odds with his position as a teacher.

Mr Eastham adduced no evidence of his character, nor did he engage with these proceedings at all. The panel noted that the School had obtained references at the time of his recruitment. A previous employer at a day nursery confirmed there were no safeguarding concerns or issues regarding his suitability during his employment at that nursery. His [REDACTED] at the University where Mr Eastham undertook his degree confirmed he had no hesitation in recommending Mr Eastham to schools for his first teaching post.

There was no evidence for the panel to consider as to Mr Eastham's level of insight or remorse. The panel noted that Mr Eastham answered questions in the police interview and did not exercise his right to remain silent. However, it was apparent that certain information was only provided after Mr Eastham was made aware that the devices that had been seized were to be forensically examined.

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 Eastham 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 Eastham. His conduct was fundamentally incompatible with being a member of the profession. 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...; any sexual misconduct involving a child; any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents; and child cruelty...

Mr Eastham's actions demonstrated his support for a market that preys on young children exploiting and abusing them to meet the demands of those who perceive children as a source of sexual pleasure, irrespective of the harm caused to those children.

Given the absence of any evidence of insight or remorse, and that this conduct took place over a sustained period of time, there was no assurance that the conduct would not be repeated. Mr Eastham was aware of his safeguarding obligations through his training as a teacher, and yet disregarded these in his personal conduct.

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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Eastham 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...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 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 Mr Eastham involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

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

The findings of misconduct are particularly serious as they include findings of downloading, viewing and sharing indecent images of children, and engaging in discussions on social media regarding sexual activity with children.

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 Eastham, 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/or safeguard pupils. The panel has observed, “There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of downloading, viewing and sharing indecent images of children, and engaging in discussions on social media regarding sexual activity with children, all of which demonstrated that Mr Eastham had a sexual interest in children.” 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, “There was no evidence for the panel to consider as to Mr Eastham’s level of insight or remorse. The panel noted that Mr Eastham answered questions in the police interview and did not exercise his right to remain silent. However, it was apparent that certain information was only provided after Mr Eastham was made aware that the devices that had been seized were to be forensically examined.” In my judgement, the lack of evidence of insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils.’ I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Eastham were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of a sexual interest in children 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 unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 Eastham himself and the panel comment “Mr Eastham was a newly qualified teacher. There was no evidence that he demonstrated exceptionally high standards in both his professional conduct or that he contributed significantly to the education sector. His personal conduct was fundamentally at odds with his position as a teacher.”

A prohibition order would prevent Mr Eastham 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 panel's comments, "Mr Eastham's actions demonstrated his support for a market that preys on young children exploiting and abusing them to meet the demands of those who perceive children as a source of sexual pleasure, irrespective of the harm caused to those children."

I have also placed considerable weight on the finding "The panel noted that the conduct found proven took place outside the education setting. The conduct demonstrates a sexual interest in children, and therefore directly impacts upon Mr Eastham's role as a teacher."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Eastham 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 "Given the absence of any evidence of insight or remorse, and that this conduct took place over a sustained period of time, there was no assurance that the conduct would not be repeated. Mr Eastham was aware of his safeguarding obligations through his training as a teacher, and yet disregarded these in his personal conduct."

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, including a sexual interest in children and the lack of either insight or remorse.

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

This means that Mr Harry Eastham 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 Eastham 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 Eastham 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 'SAR Buxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 15 August 2023

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