



Teaching
Regulation
Agency

Mr Jonas Diete: Professional conduct panel outcome

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

September 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	4
Documents	4
Witnesses	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	9
Decision and reasons on behalf of the Secretary of State	12

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

Teacher: Jonas Diete
TRA reference: 19439
Date of determination: 29 September 2023
Former employer: Valley Primary Academy, Norwich

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 25 to 27 September 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, and virtually on 29 September 2023, to consider the case of Mr Jonas Diete.

The panel members were Mr Diarmuid Bunting (lay panellist – in the chair), Mr Tom Snowdon (teacher panellist) and Ms Gill Lyon (teacher panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

The presenting officer for the TRA was Mr Mark Millin of Kingsley Napley LLP.

Mr Diete was present and was represented by Ms Maria Aisha, instructed by the National Education Union.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 10 July 2023. It alleged that Mr Diete was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

1. On 8 July 2020 while employed by the Heart Education Trust as a year 6 teacher in Valley Primary Academy, he:
 - a) between in or around 15:14 and 15:19 used a school laptop whilst in incognito mode on Google Chrome to:
 - i. search for terms including "teen pussy" and/or "picture of the vagina" and/or "Vulva" and/or "Genital Piercing" and/or "Bikini Waxing";
 - ii. access images of an inappropriate and/or pornographic nature.
 - b) His conduct as set out in allegation 1a)i and/or 1a)ii was sexually motivated and/or of a sexual nature.

Mr Diete admitted allegation 1a)i, in so far as it applied to the phrase 'teen pussy', but denied searching for the remaining terms.

Mr Diete further admitted allegation 1a)ii and 1b), in so far as it applied to his admission at allegation 1a)1 and that it would amount to unacceptable professional conduct and conduct that might bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Index, chronology and anonymised pupil list – pages 1 to 5

Section 2: Notice of proceedings and response – pages 6 to 16

Section 3: Teaching Regulation Agency witness statements – pages 17 to 24

Section 4: Teaching Regulation Agency documents – pages 25 to 166

Section 5: Teacher documents – pages 167 to 198

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

Witnesses

The panel heard oral evidence from the following witnesses called by the TRA:

- [REDACTED] ([REDACTED] at Valley Primary Academy);
- [REDACTED] ([REDACTED]).

The panel heard oral evidence from the following witnesses called by the teacher:

- Mr Jonas Diete (the teacher).

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 Diete took up his first substantive teaching post in 2012, following his entry into the profession. From September 2019, Mr Diete was employed as a Year 6 teacher at Valley Primary Academy (“the School”).

On 8 July 2020, the School’s IT systems detected that a concerning search term had been entered into one of its devices. Following initial enquiries of the school IT logs, the device in question was identified as Mr Diete’s work issued laptop. The School referred the situation to the Local Authority Designated Officer. The police also became involved and seized the relevant laptop and a number of other electronic devices personally belonging to Mr Diete. Subsequently, no illegal material was found on those devices and the police took no further action. Following the School’s investigation, they made a referral to the TRA.

In his evidence before the TRA, Mr Diete explained that during the afternoon of 8 July 2020, he was working at home due to the Coronavirus pandemic. He had completed his work for the afternoon and had logged off Google Classroom at 15:10. At 15:14 he entered the search term ‘teen pussy’ into a Yahoo search page on a Google Chrome browser, whilst in ‘incognito mode’ (a private browsing setting). He then clicked on the images tab and further clicked on a number of search results, including taking him to WebMD and Wikipedia articles on the topics of ‘picture of vagina’, ‘vulva’, ‘genital piercing’ and ‘bikini waxing’. Some of those pages had been visited as a result of clicking a further link in the preceding articles he visited. Mr Diete did not specifically type in these other terms.

After a few minutes of browsing, Mr Diete noticed that he was still using his work laptop. In his evidence, Mr Diete explained that he had not intended to use his work laptop for this purpose and had simply forgotten he was still using it as opposed to his personal laptop. This was a result of a similarity between the physical appearance of both his personal and work laptops and how the desktop and browsers were set up. It was also due to the fact that by working at home, there became a blurring of the boundaries between his work and personal life. This included sometimes using his personal laptop to undertake his professional work whilst at home, which he understood was acceptable practice within the School at the time.

Before the panel was a screenshot of Mr Diete's work laptop at the time he entered the words 'teen pussy' into the search engine. This was because his work laptop contained keylogging software, which flagged the word 'pussy' and took a screenshot at that point in time for IT staff to later review. Also before the panel was a copy of the web addresses that Mr Diete had visited. These were consistent with both the TRA's evidence and Mr Diete's account.

Findings of fact

The findings of fact are as follows:

- 1. On 8 July 2020 while employed by the Heart Education Trust as a year 6 teacher in Valley Primary Academy, you:**
 - a) between in or around 15:14 and 15:19 used a school laptop whilst in incognito mode on Google Chrome to:**
 - i. search for terms including "teen pussy" and/or "picture of the vagina" and/or "Vulva" and/or "Genital Piercing" and/or "Bikini Waxing";**

In essence, Mr Diete admitted the majority of the factual allegations. He accepted entering the search term 'teen pussy' into Yahoo search. His only dispute related to the terms: 'picture of vagina', 'vulva', 'genital piercing' and 'bikini waxing'. He accepted that they were inappropriate to access, but that did not amount to 'searching for terms' in relation to those specific words.

The issue between the parties was therefore not a factual dispute, but a dispute as to the interpretation of wording of the 'search for the terms' element of the allegation. The TRA's case was that it should be interpreted as encompassing the search term entered and the resulting actions of clicking the various links. [REDACTED] submitted that this element should only be interpreted as encompassing what words were actually entered into the search engine as the allegations made a separate provision for what was 'accessed' under allegation 1a)ii.

The panel agreed with [REDACTED] submission that allegation 1a)i should be interpreted as only including the actual terms he entered into the search engine. The panel also considered that the action of 'searching' for terms was a proactive decision, whereas Mr Diете's reactive actions in clicking on links and/or accessing pages was not akin to searching.

Accordingly, the panel found allegation 1a)i proved, but only in so far as it applied to the term 'teen pussy'.

ii. access images of an inappropriate and/or pornographic nature.

Mr Diете admitted this allegation. The panel was satisfied that the admission was unequivocal and consistent with the surrounding evidence.

Accordingly, the panel found this sub-allegation proved.

b) Your conduct as set out in allegation 1a)i and/or 1a)ii was sexually motivated and/or of a sexual nature.

Mr Diете accepted that his motivation in entering this search term and the subsequent pages he accessed was for the purpose of obtaining sexual gratification.

The panel was satisfied that the admission was unequivocal and consistent with the surrounding evidence.

The TRA advanced the case that by including the word 'teen' in his search, Mr Diете was seeking to obtain pornography of children under the age of 18, as the term implied an age range of 13 years old to 19 years old. Mr Diете denied this aspect and in his evidence, he stated that he only considered that the term related to those aged over 18, as this was a 'category' of pornography that he had seen on other websites before. His evidence suggested 'teen' was a category within online pornography, which related to a body type, rather than age group as such. He also emphasised that when he had viewed pornography which was categorised as 'teen', this had always been accompanied by a declaration that the images were of persons aged 18 or over. Mr Diете did, however, concede there was an ambiguity that could be more widely inferred from the term outside of this pornographic categorisation.

The panel accepted Mr Diете's explanation of the categorisation of pornography and also took into account that the police found no other material in relation to material containing underage children. The panel was therefore satisfied that Mr Diете's intentions were to access adult pornography only.

The panel therefore found that Mr Diете's conduct was sexually motivated and as a result of that finding, it was of a sexual nature.

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”.

Mr Diete accepted that his conduct amounted to unacceptable professional conduct.

Whilst the panel recognised boundaries had been blurred between Mr Diete’s home and work life, there was an attributable failure by him to ensure that he was not using school equipment to access pornography, which was in plain breach of the School’s IT use policy and code of conduct. The panel considered this failure brought Mr Diete’s conduct within the education setting.

The panel was satisfied that the conduct of Mr Diete, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Diete was in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel also considered whether Mr Diete’s conduct displayed behaviours associated with any of the offences listed on pages 12 to 14 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct. The panel gave consideration to the behaviours that would be present in offences relating to indecent images of children, but owing to its findings at allegation 1b), did not consider the teacher had displayed behaviours associated with this offence. The panel also considered none of the other offences listed as relevant.

In balancing these factors, the panel was satisfied that the conduct of Mr Diete amounted to misconduct of a serious nature, which fell significantly short of the standards expected of the profession and therefore was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others 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 findings of misconduct are serious.

The panel considered that a well-informed member of the public would probably have considered that searching for the term ‘teen pussy’, on a school laptop, even taking into account that there was no intention to view illegal pornography, would have a negative impact on their perception of Mr Diете as a teacher.

The panel therefore found that Mr Diете’s actions also 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 should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct;
- the interest of retaining the teacher in the profession.

In the light of the panel’s findings against Mr Diете which involved a significant oversight by him in failing to ensure he was not on his work laptop accessing pornography whilst at home, there was a public interest consideration in maintaining public confidence in the profession which could be weakened if conduct such as that found against Mr Diете were not treated seriously when regulating the conduct of the profession.

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

The panel decided that there was a strong public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator and there was evidence that he was able to make a very valuable contribution to the profession.

As Mr Diете's conduct related only to adult pornography and there was no evidence of illegal pornography on his devices searched by the police, the panel was satisfied that it did not need to further consider the protection of pupils and the public.

In view of the 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 Diете.

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 Diете. 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;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature.

The panel recognised that in considering these factors, it should not be approached in a simple 'tick box' fashion. The panel noted the following factors that, when considered on the spectrum on sexual misconduct that can be before these panels, indicated it was at the lower end of that spectrum:

- No pupil was directly or indirectly involved;
- Mr Diете was at home and there was no evidence that pupils could have been exposed to any harmful material (as Mr Diете, had logged out Google Classroom and was using incognito mode on the browser);
- This was a short-lived, isolated incident measured in a few minutes and which Mr Diете immediately stopped as soon as he realised he was still inadvertently using the School's equipment;
- Mr Diете's actions were directed to seeking adult pornography only.

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.

Whilst Mr Diете's actions in entering the search term and viewing the related pages were deliberate, the panel accepted that doing so on his school laptop was inadvertent. The panel noted that this period of time was particularly difficult for teachers following the initial lockdown. Teachers were working in a hybrid environment between physical classroom lessons and remotely over the internet, often from their own home. This was

still a relatively early point in the pandemic and teachers were still adapting to new ways of teaching. The panel accepted this did amount to some blurring of the boundaries between the professional and personal life and should be taken into account when assessing Mr Diete's conduct.

Despite the embarrassing nature of this incident, Mr Diete has not sought to minimise or hide his actions. Once disclosed to the School, Mr Diete did not hesitate in attending the School in person to explain the situation to the [REDACTED] and immediately admitted his misconduct. This candidness has continued in his evidence before the panel at this hearing. The panel was satisfied that this suggested Mr Diete had a high level of remorse and insight into his misconduct.

In his evidence, Mr Diete was able to clearly articulate the steps he had taken to ensure such a lapse will not happen again. This included now having a separate workspace at home and keeping a separate laptop for his current online teaching work, which he does not use for any personal purpose. The panel considered this was an isolated incident, which was unlikely to be repeated, particularly with Mr Diete's high level of insight. Along with these further steps undertaken by Mr Diete, the panel was satisfied that the risk of repetition of similar conduct by Mr Diete again was effectively non-existent.

Before the panel was an amount of evidence which spoke to Mr Diete's abilities as a teacher. In [REDACTED] oral evidence, [REDACTED] described him as delivering good quality lessons and that his pupils were making good progress. A number of references spoke to Mr Diete's character and highlighted his good relationships with pupils, colleagues and parents, even when sometimes they were in difficult circumstances. They also commented on his commitment to delivering extra-curricular activities to the benefit of his and other pupils in the schools he taught at.

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, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present and public interest in retaining the teacher in the profession, the panel determined that a recommendation for a prohibition order would not be appropriate in this case, particularly as the teacher's actions were inadvertent and caused no harm or risk of harm to pupils. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirements of declaring proper standards expected of teachers and maintaining confidence in the profession.

Accordingly, the panel made a recommendation to the Secretary of State that no prohibition order be imposed in this case.

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 sanction.

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

However, the panel has found some elements of the allegations not proven. I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

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

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

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

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 Diete, 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, "Whilst the panel recognised

boundaries had been blurred between Mr Diете's home and work life, there was an attributable failure by him to ensure that he was not using school equipment to access pornography, which was in plain breach of the School's IT use policy and code of conduct. The panel considered this failure brought Mr Diете's conduct within the education setting." 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, "Despite the embarrassing nature of this incident, Mr Diете has not sought to minimise or hide his actions. Once disclosed to the School, Mr Diете did not hesitate in attending the School in person to explain the situation to the [REDACTED] and immediately admitted his misconduct. This candidness has continued in his evidence before the panel at this hearing. The panel was satisfied that this suggested Mr Diете had a high level of remorse and insight into his misconduct." Given the degree of remorse and insight demonstrated the risk of a repeat of this behaviour appears low and 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 a well-informed member of the public would probably have considered that searching for the term 'teen pussy', on a school laptop, even taking into account that there was no intention to view illegal pornography, would have a negative impact on their perception of Mr Diете as a teacher." I am mindful that findings of a teacher using a school laptop to access pornography, even inadvertently, have the potential to damage the public's perception of the teaching 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.

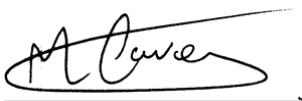
I have also considered the impact of a prohibition order on Mr Diете himself. The panel note that, "Before the panel was an amount of evidence which spoke to Mr Diете's abilities as a teacher". In [REDACTED] oral evidence, [REDACTED] described him as delivering good quality lessons and that his pupils were making good progress. A number of references spoke to Mr Diете's character and highlighted his good relationships with pupils, colleagues and parents, even when sometimes they were in difficult

circumstances. They also commented on his commitment to delivering extra-curricular activities to the benefit of his and other pupils in the schools he taught at.

A prohibition order would prevent Mr Diets 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 concerning the degree of remorse and insight demonstrated by Mr Diets which indicate that the risk of repetition of the misconduct found is low. I have also noted the panel's findings that while the behaviour demonstrated constitutes serious misconduct it was an isolated incident, apparently inadvertent and caused no harm or risk of harm to pupils. I have also taken account the panel's comments regarding mitigating factors and its assessment that "...the nature and severity of the behaviour were at the less serious end of the possible spectrum".

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'A. Diets', enclosed in a thin black rectangular border.

Date: 03 October 2023

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