



Teaching  
Regulation  
Agency

# **Mr James Shawley: Professional conduct panel meeting outcome**

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

**October 2023**

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

<b>Teacher:</b>	Mr James Shawley
<b>Teacher ref number:</b>	9743061
<b>Teacher date of birth:</b>	22 March 1976
<b>TRA reference:</b>	19028
<b>Date of determination:</b>	23 October 2023
<b>Former employer:</b>	St Bartholomew Primary School

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually via Microsoft Teams on 23 October 2023 to consider the case of Mr James Shawley.

The panel members were Ms Penny Griffith (lay panellist – in the chair), Mr Alan Wells (former teacher panellist) and Ms Rosemary Joyce (teacher panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Shawley that the allegations be considered without a hearing.

Mr Shawley provided a signed statement of agreed facts and admitted conviction of a relevant offence.

The panel considered the case at a meeting without the attendance of a presenting officer, Mr Shawley or any representative appointed on his behalf.

The meeting took place in private.

### **Allegations**

The panel considered the allegations set out in the notice of meeting dated 9 August 2023.

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

- 1. On 14 May 2021, he was convicted of one count of attempting to engage in sexual communication with a 14 year old child, contrary to section 15A of the Sexual Offences Act 2003;**
- 2. On 14 May 2021, he was convicted of two counts of attempting to incite a child to engage in sexual activity, contrary to section 10(1)(a) of the Sexual Offences Act 2003;**
- 3. On 14 May 2021, he was convicted of one count of attempting to arrange or facilitate the commission of a child sex offence, contrary to section 14 of the Sexual Offences Act 2003.**

Mr Shawley admitted the facts of the allegations and that each of the offences amounted to a conviction for a relevant offence.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology and anonymised individual list – pages 3 to 4

Section 2: Notice of referral, response and notice of meeting – pages 5 to 11a

Section 3: Statement of agreed facts and presenting officer representations – pages 12 to 16

Section 4: TRA documents – pages 17 to 38

Section 5: Teacher's responses – pages 39 to 41

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

### **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr Shawley on 28 January 2023.

## Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Shawley for the allegations to be considered without a hearing.

The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

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

Mr Shawley was previously employed as the headteacher of St Batholomew Primary School ("the School"). He commenced work at the School in 2016.

On 23 December 2019, Mr Shawley was arrested at home and subsequently interviewed under caution following communications with an undercover officer, acting pursuant to a covert operation and posing as a child, from 9 to 22 December 2019.

Following this, Mr Shawley was suspended by the School.

On 16 January 2020, Mr Shawley was referred to the TRA by Lincolnshire Police.

On 14 May 2021, Mr Shawley was convicted of four offences contrary to the Sexual Offences Act 2003 at Lincoln Crown Court.

## Findings of fact

The findings of fact are as follows:

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

- 1. On 14 May 2021, you were convicted of one count of attempting to engage in sexual communication with a 14 year old child, contrary to section 15A of the Sexual Offences Act 2003;**
- 2. On 14 May 2021, you were convicted of two counts of attempting to incite a child to engage in sexual activity, contrary to section 10(1)(a) of the Sexual Offences Act 2003;**

**3. On 14 May 2021, you were convicted of one count of attempting to arrange or facilitate the commission of a child sex offence, contrary to section 14 of the Sexual Offences Act 2003.**

The panel considered allegations 1, 2 and 3 together.

The panel was presented with a statement of agreed facts, signed by Mr Shawley, in which all of the allegations were admitted.

The following matters were agreed:

(Redacted)

The panel was also presented with a certificate of conviction from Lincoln Crown Court and a copy of Mr Shawley's PNC record, confirming that Mr Shawley was convicted, on 14 May 2021, of each of the offences particularised in allegations 1, 2 and 3.

He was sentenced to:

- a. A term of imprisonment, totalling 4 years 6 months;
- b. A sexual harm prevention order for 15 years; and
- e. Be placed on the Barring List and registered under section 92 of the Sexual Offences Act 2003 indefinitely.

The panel was presented with the sentencing remarks of the presiding judge sitting at Court on 14 May 2020, summarising the offences and the reasons for the sentence imposed.

The panel accepted the certificate of conviction as conclusive proof of the commission of these offences by Mr Shawley.

In light of this and Mr Shawley's admissions, it found allegations 1, 2 and 3 proved.

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

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to a conviction of a relevant offence, which Mr Shawley admitted.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Further and in addition, the panel noted that, pursuant to the Advice it is likely that:

- A conviction for any offence that led to a term of imprisonment, including any suspended sentence will be considered "a relevant offence".
- A conviction for any offence that relates to, or involves, sexual communication with a child will be considered "a relevant offence".

Over and above these matters, the panel determined that Mr Shawley's actions were clearly relevant to teaching, working with children and working in an education setting. Each of these offences were very serious in nature and related to children, although it is important to record that there was no link with Mr Shawley's former employer.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Shawley's behaviour in committing these offences would 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 be at the very core of the practice of a teacher with a duty of care towards children. As the Court recognised when imposing sentence, Mr Shawley was "*more aware than most of the need to protect young people*".

Mr Shawley's behaviour ultimately led to a lengthy term of imprisonment, which demonstrated the public and child protection issues engaged by his actions together with the other aspects of the sentence imposed.

The panel did not consider there to be any relevant mitigating circumstances in relation to the commission of these offences.

In conclusion and for all these reasons, the panel found that the seriousness of the offending behaviour that led to the conviction was directly relevant to Mr Shawley's ongoing suitability to teach. The panel considered that a finding that this conviction was for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of a conviction of relevant offences, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

- the safeguarding and wellbeing of pupils and other members of the public;
- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

In the light of the nature of the offences for which Mr Shawley was convicted and having regard to the specific context, with particular reference to the sentencing remarks, there was an extremely strong public interest consideration in respect of the safeguarding and wellbeing of pupils and other members of the public. Mr Shawley's actions raised obvious and significant public and child protection concerns.

The panel considered that public confidence in the profession would be seriously weakened if conduct such as that found against Mr Shawley was not treated with the utmost seriousness when regulating the profession. This was conduct that was extremely serious.

For the same reasons, the panel decided that a strong public interest consideration in declaring proper standards of conduct in the profession was also present.

Whilst no doubt had been cast upon Mr Shawley's abilities as an educator, given the nature of the allegations in this case the panel concluded there was not a strong public interest consideration in retaining him in the profession.



Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Shawley.

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 Shawley. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved.

In the list of such behaviours, those that are relevant in this case are set out below. In making its assessment, the panel treated '[redacted]

as though he was a real child and, given he was 14 years old, a pupil in terms of Mr Shawley's understanding at the time:

- 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- violation of the rights of pupils;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel considered that the following mitigating factors are present in this case:

- Mr Shawley appeared to have had an otherwise unblemished record. There was evidence of good character prior to his conviction.
- Although the panel was not presented with positive references or testimonials regarding his practice as a teacher, Mr Shawley's abilities as an educator had not

been challenged and there was positive reference to his career in teaching. He had reached the position of headteacher.

- Mr Shawley had engaged with the TRA and made full admissions.

Weighed against this, the aggravating features in this case included that:

- Mr Shawley's actions were deliberate and he was not acting under duress.
- In his response to the TRA, Mr Shawley stated that he accepted responsibility for his actions. However, he initially denied wrongdoing, putting forward what the Court described as a "*wholly implausible defence*". In his response to the TRA dated 9 December 2022, Mr Shawley made reference to the fact that he was on an adult site. On balance, the panel therefore considered that Mr Shawley had only demonstrated minimal insight. There was, similarly, limited evidence of regret and remorse.
- Mr Shawley's actions amounted to a clear breach of the Teachers' Standards and raised serious public and child protection concerns.
- Mr Shawley has been convicted of and sentenced for very serious offences involving a child, for which he received a custodial sentence, was subject to a sexual harm prevention order for 15 years and is on the Barring List and registered under section 92 of the Sexual Offences Act 2003 indefinitely.
- His actions involved the potential for harm and abuse to children. The Court, in accordance with applicable authority and guidance, treated [redacted] as an actual child and noted the significant difference in age, the planning involved and there being a grooming element.
- There was a significant amount of communication between Mr Shawley and [redacted] and the Court noted it was Mr Shawley who moved the discussion to sexual matters.
- Mr Shawley was an experienced teacher and leader who was in a position of trust and responsibility. He was also a role model. He had fallen far short of the standards expected of him in that regard.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would

unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Shawley of prohibition.

Mr Shawley's actions were fundamentally incompatible with his being a teacher. This was conduct at the serious end of the spectrum. The nature and gravity of these offences was a matter of significant concern.

There were, accordingly, particularly strong public interest considerations in this case in terms of the safeguarding and wellbeing of pupils and other members of the public, public confidence in the teaching profession and the declaring of proper standards of conduct in this case.

Mr Shawley's behaviour led to him receiving a significant sentence, which is indicative of the seriousness of the offences.

The panel was therefore of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Shawley.

Accordingly, it made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered.

The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period.

These behaviours include any sexual misconduct involving a child, which was directly applicable in this case.

In light of this and the panel's comments, above, regarding the seriousness of these offences, the panel decided its findings indicated a situation in which a review period would not be appropriate.

The public interest considerations that Mr Shawley's conviction give rise to were such that this was necessary, appropriate and proportionate.

Having regard to the nature of the offences and the sentence he received, Mr Shawley's actions are fundamentally incompatible with his being a teacher.

## Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to a relevant conviction.

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ...
- 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 Shawley involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE), namely "failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE)".

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

The findings of misconduct are particularly serious as they include convictions for attempting to engage in sexual communication with a child, attempting to incite a child to

engage in sexual activity, and attempting to arrange or facilitate the commission of a child sex offence.

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 Shawley, 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, "In the light of the nature of the offences for which Mr Shawley was convicted and having regard to the specific context, with particular reference to the sentencing remarks, there was an extremely strong public interest consideration in respect of the safeguarding and wellbeing of pupils and other members of the public. Mr Shawley's actions raised obvious and significant public and child protection concerns." The panel also observed, "His actions involved the potential for harm and abuse to children. The Court, in accordance with applicable authority and guidance, treated [redacted] as an actual child and noted the significant difference in age, the planning involved and there being a grooming element." 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 set out as follows, "In his response to the TRA, Mr Shawley stated that he accepted responsibility for his actions. However, he initially denied wrongdoing, putting forward what the Court described as a "*wholly implausible defence*". In his response to the TRA dated 9 December 2022, Mr Shawley made reference to the fact that he was on an adult site. On balance, the panel therefore considered that Mr Shawley had only demonstrated minimal insight. There was, similarly, limited evidence of regret and remorse." In my judgement, the lack of full insight and 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 observed, "Mr Shawley's behaviour in committing these offences would undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community." I am particularly mindful of the finding of a conviction for very serious offences involving a child 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 Shawley himself. The panel commented, “Mr Shawley appeared to have had an otherwise unblemished record. There was evidence of good character prior to his conviction.” It also noted, “Although the panel was not presented with positive references or testimonials regarding his practice as a teacher, Mr Shawley’s abilities as an educator had not been challenged and there was positive reference to his career in teaching. He had reached the position of headteacher.”

A prohibition order would prevent Mr Shawley 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 that Mr Shawley had demonstrated only minimal insight and that there was limited evidence of his remorse.

I have also placed considerable weight on the finding of the panel that “Mr Shawley was an experienced teacher and leader who was in a position of trust and responsibility. He was also a role model. He had fallen far short of the standards expected of him in that regard.”

I have also placed considerable weight on the finding that “Mr Shawley’s actions were fundamentally incompatible with his being a teacher. This was conduct at the serious end of the spectrum. The nature and gravity of these offences was a matter of significant concern.”

Mr Shawley received a custodial sentence for very serious offences involving a child, was made subject to a sexual harm prevention order for 15 years and was placed on the Barring List and registered under section 92 of the Sexual Offences Act 2003 indefinitely.

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

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.

The panel has noted that the Advice indicates that there are behaviours that militate against allowing a review period and that these behaviours include any sexual misconduct involving a child. The panel has noted that this was directly applicable in this case and “Mr Shawley's actions are fundamentally incompatible with his being a teacher”.

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 the very serious nature of the offences of which Mr Shawley was convicted, the lack of full insight and remorse, and the damage to the public's perception of the teaching profession.

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 James Shawley 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 Shawley 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 Shawley 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', with a large, sweeping flourish at the end.

**Decision maker: David Oatley**

**Date: 25 October 2023**

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