



Teaching
Regulation
Agency

Mr Timothy Wilkins: Professional conduct panel outcome

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

November 2023

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

Teacher: Mr Timothy Wilkins
Teacher ref number: 0045838
Teacher date of birth: 29 March 1979
TRA reference: 17248
Date of determination: 14 November 2023
Former employer: Theale C of E Primary School, Berkshire

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 14 November 2023 by way of a virtual hearing, to consider the case of Mr Timothy Wilkins.

The panel members were Mr Nicholas Catterall (lay panellist – in the chair), Mrs Christine McLintock (teacher panellist) and Dr Steven Berryman (teacher panellist).

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

The presenting officer for the TRA was Ms Cher Lyne Peh of Browne Jacobson LLP solicitors.

Mr Wilkins was not present and was not represented.

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

Allegations

The panel considered the allegations set out in the notice of proceedings dated 28 April 2023.

It was alleged that Mr Wilkins was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. On or around 06/06/2017 to 06/06/2018 he was in possession of indecent images of a child contrary to the Criminal Justice Act 1988 section 160; and
2. His conduct as referred to at 1 above constituted a criminal offence, for which he accepted a caution on or around 20/05/2020.

Mr Wilkins provided no admission or denial of fact to the allegations above.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Wilkins was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Wilkins.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Wilkins in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the 'Procedures').

The panel noted that the Notice of Hearing was sent to Mr Wilkins by email and to his last known postal address on 1 September 2023. Mr Wilkins subsequently emailed the presenting officer on 4 September 2023 confirming that he was aware that the hearing had been listed for 14 November 2023.

On 13 October 2023, the presenting officer emailed Mr Wilkins providing a copy of the proposed hearing bundle and to confirm that the Notice of Hearing had been returned to the TRA as undeliverable. The presenting officer also requested an updated postal address for Mr Wilkins and reminded Mr Wilkins that the hearing had been listed for 14 November 2023.

On 13 October 2023, Mr Wilkins responded to the presenting officer by email to confirm that he had been considering whether there would be any benefit to attending the hearing

on 14 November 2023, but that he did not believe his attendance at the hearing would change the outcome of such hearing and that he had decided that he would not be attending.

The panel therefore concluded that Mr Wilkins absence was voluntary and that he was aware that the matter would proceed in his absence.

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

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

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the Procedures apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures 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 proceedings and response – pages 3 to 14
- Section 2: TRA documents – pages 16 to 34
- Section 3: Teacher documents – none provided

In addition, the panel agreed to accept the TRA's application to proceed in the absence of the teacher.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing. The panel also confirmed that they had read the additional documents relevant to the application to proceed in the absence of the teacher.

Witnesses

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

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Wilkins was a franchisee of Company A, a tutoring service in Maths and English for children aged 6-16. Mr Wilkins was also a part-time Maths teacher at Theale C of E Primary School ('the School'). In August 2017, intelligence was received by the police, that, indecent images of children were uploaded to a computer at Company A's IP address.

On 6 June 2018, Mr Wilkins was arrested and released under investigation on suspicion of:

1. possessing an indecent photograph/pseudo photograph of a child; and
2. [redacted]

Mr Wilkins admitted to committing the offence of possession of three indecent images contrary to Criminal Justice Act 1988 section 160 and accepted a simple caution on 20 May 2020.

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 or around 06/06/2017 to 06/06/2018 you were in possession of indecent images of a child contrary to the Criminal Justice Act 1988 section 160.**
- 2. Your conduct as referred to at 1 above constituted a criminal offence, for which you accepted a caution on or around 20/05/2020.**

The panel noted page 8 of the document Teacher misconduct: The prohibition of teachers ('the Advice'), which states that where there has been a police caution, this establishes that the teacher has made a clear admission of guilt in respect of committing the offences for which the caution has been given. Whilst a panel cannot deem evidence of a caution to be conclusive of relevant facts in the same way as a conviction, it will carry significant weight in the panel's considerations.

The panel considered the certificate of police caution submitted as part of the bundle, which detailed that Mr Wilkins had admitted to the offence of possession of three indecent images contrary to section 160 of the Criminal Justice Act 1988 and accepted a simple caution. The panel noted that the simple caution was issued to Mr Wilkins on 20 May 2020 and had been signed on the same day.

The panel also noted the main points of Mr Wilkins' statement that were contained in the police investigation crime report, where he accepted that he was in possession of three images found on a device that was seized from the boot of his car on 6 June 2018.

On examination of the documents before the panel, including the certificate of police caution, the panel found allegations 1 and 2 proven.

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

Having found 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 Wilkins, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel noted that Part 2 of the Teachers' Standards begins that a teacher is expected to demonstrate consistently high standards of personal and professional conduct. The panel considered that, by reference to Part 2, Mr Wilkins 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- 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 Wilkins amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Wilkins conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that the offence of 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 was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that it was inconsequential that the evidence was not clear when Mr Wilkins had accessed the indecent images as he had in any event admitted to having possession of the indecent images and these were contained on his work device. Further, the evidence suggested that these images were accessed from Company A's IP address where Mr Wilkins provided tutoring services to children aged 6-16. The panel therefore believed that Mr Wilkins' conduct was intrinsically linked with his profession as a teacher.

The panel was satisfied that the conduct of Mr Wilkins fell significantly short of the standards expected of the profession. Accordingly, the panel was satisfied that Mr Wilkins 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 panel noted that the findings of misconduct are serious, and the conduct displayed would be likely to have, not only a negative impact on the individual's status as a teacher, but a seriously damaging impact on the public perception. The panel considered that the public would not expect an individual who had admitted to possession of indecent images to be teaching children of any age and that Mr Wilkins' conduct was therefore incompatible with the teaching profession.

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

Having found the facts of allegations 1 and 2 proved, the panel further found that Mr Wilkins' conduct amounted to both unacceptable professional conduct and 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.

The panel were aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have 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 safeguarding and wellbeing of pupils and the protection of other members of the public;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct; and
- that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Wilkins, which involved receiving a caution for the possession of indecent images of children, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Wilkins was not treated with the utmost seriousness when regulating the conduct of the profession. The panel again noted that the public would not expect an individual who had admitted to the possession of indecent images of children to be involved in the teaching 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 Wilkins was outside that which could reasonably be tolerated.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking

into account the effect that this would have on Mr Wilkins. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Wilkins. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents; and
- 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.

Even though 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 noted that Mr Wilkins had possession of three indecent images of children. However, from the evidence that was available in the bundle, the panel was unable to conclude whether the possession of multiple indecent images meant that Mr Wilkins' actions were deliberate. There was also no evidence to suggest that Mr Wilkins was acting under extreme duress.

No evidence was submitted to attest to Mr Wilkins' history or ability as a teacher, nor was any evidence submitted which demonstrated exceptionally high standards in both his personal and professional conduct or that he contributed significantly to the education sector.

The panel also noted that no mitigating evidence had been submitted.

The panel considered the email from Mr Wilkins dated 13 October 2023, where he stated, *“I can only express my deep regret and sadness at what happened and known I will have to live with the consequences for the rest of my life”*. The panel noted the remorse that Mr Wilkins expressed in this email but was unable to assess further the extent of Mr Wilkins’ insight or remorse due to the lack of evidence submitted in this 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, given the nature and seriousness of the allegations found proven it would not be a proportionate and appropriate response to recommend no prohibition order. The panel considered that 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 Wilkins 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 Wilkins. The nature and seriousness of Mr Wilkins’ conduct were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours include any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Wilkins had received a simple caution for possessing indecent images of children.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel did not find that any of such behaviours were relevant.

The panel decided that the nature of Mr Wilkins’ conduct indicated a situation in which a review period would not be appropriate and, as such, decided that it would be

proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to 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 Timothy Wilkins should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Wilkins 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include a finding of receiving a caution for the criminal offence of possessing indecent images of a child.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to 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 Wilkins, 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, “the evidence suggested that these images were accessed from Company A’s IP address where Mr Wilkins provided tutoring services to children aged 6-16. The panel therefore believed that Mr Wilkins’ conduct was intrinsically linked with his profession as a teacher.” 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 has set out as follows, “The panel considered the email from Mr Wilkins dated 13 October 2023 where he stated, *“I can only express my deep regret and sadness at what happened and known I will have to live with the consequences for the rest of my life”*. The panel noted the remorse that Mr Wilkins expressed in this email but was unable to assess further the extent of Mr Wilkins’ insight or remorse due to the lack of evidence submitted in this regard.” In my judgement, the lack of evidence 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 has observed that “the conduct displayed would be likely to have, not only a negative impact on the individual’s status as a teacher, but a seriously damaging impact on the public perception. The panel considered that the public would not expect an individual who had admitted to possession of indecent images to be teaching children of any age and that Mr Wilkins’ conduct was therefore incompatible with the teaching profession.” I am particularly mindful of the finding of possession of indecent images of a child in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct and conduct likely to 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 Wilkins himself. The panel has noted, “No evidence was submitted to attest to Mr Wilkins’ history or ability as a

teacher, nor was any evidence submitted which demonstrated exceptionally high standards in both his personal and professional conduct or that he contributed significantly to the education sector.”

A prohibition order would prevent Mr Wilkins 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 nature and seriousness of Mr Wilkins’ conduct which resulted in a caution for the possession of indecent images of a child. The panel has noted that “the conduct found against Mr Wilkins was outside that which could reasonably be tolerated” and “there was a strong public interest consideration in respect of the protection of pupils.”

I have also placed considerable weight on the panel’s comments concerning the lack of evidence of full insight or remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Wilkins has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full insight and remorse, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel’s comments, “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours include any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr Wilkins had received a simple caution for possessing indecent images of children.”

I have considered whether not allowing a review period reflects the seriousness of the findings and is proportionate 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 serious nature of the criminal offence for which Mr Wilkins received a caution and the lack of evidence of full insight and 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 Timothy Wilkins 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 Wilkins 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 Wilkins has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'D Oatley', written in a cursive style.

Decision maker: David Oatley

Date: 17 November 2023

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