

Mr Simon Gray: Professional conduct panel meeting 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 Simon Gray

Teacher ref number: 0055527

Teacher date of birth: 12 April 1979

TRA reference: 20982

Date of determination: 23 November 2023

Former employer: Hurworth School, Darlington

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 23 November 2023 by virtual means to consider the case of Mr Simon Gray.

The panel members were Mr Terry Hyde (former teacher panellist – in the chair), Mrs Bev Williams (teacher panellist) and Mrs Rachel Curry (lay panellist).

The legal adviser to the panel was Ms Anna Marjoram of Eversheds Sutherland (International) 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 Simon Gray that the allegations be considered without a hearing. Mr Gray provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer Ms Louise Murphy-King, Mr Simon Gray or his representative Gareth Robson.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 11 September 2023.

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

- 1. Between summer 2022 and March 2022, he sent an inappropriate and /or excessive number of emails to:
 - a. Pupil 1; and/or
 - b. Pupil 2; and/or
 - c. Pupil 3;
- 2. Between summer 2020 and March 2022, he sent emails of an inappropriate nature to:
 - a. Pupil 1; and/or
 - b. Pupil 2; and/or
 - c. Pupil 3;
- 3. He purchased one or more gifts for Pupil 2;
- 4. On or around 17 January 2022, he emailed Pupil 2 to request that he collect a present he had purchased for his brother (a former pupil);
- 5. On or around 31 January 2022 he provided another pupil's homework to Pupil 2 by leaving it under a keyboard for him and asked Pupil 2 not to tell anyone about it;
- 6. He invited Pupil 2 and/or Pupil 3 to a Year 11 school trip that he organised on the weekend of Friday 11 March to Sunday 13 March 2022, even though they were not part of the cohort;
- 7. He took Pupil 3 running alone before 7am on Saturday 12 March 2022;
- 8. His conduct as outlined in allegation 5 above was dishonest;
- 9. His conduct as outlined in allegations 1 and/or 2 and/or 3 and/or 4 and/or 6 and/or 7 above represents a breach of professional boundaries.

Mr Gray admitted the facts of all the allegations, as confirmed in his response to the Notice of Referral Form dated 24 January 2023, and in the Statement of Agreed Facts signed by Mr Gray on 28 April 2023. Mr Gray admitted that the was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in the same documents.

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, anonymised pupil list and list of key people – pages 7 to 11

Section 2: Notice of referral, response and notice of meeting – pages 12 to 32

Section 3: Statement of agreed facts – pages 33 to 39

Section 4: Teaching Regulation Agency documents – pages 40 to 464

Section 5: Teacher documents – pages 465 to 496

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 Simon Gray on 28 April 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 Simon Gray 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.

Mr Gray was employed as a Geography Teacher at Hurworth School ("the School") from 22 February 2016. He had responsibility for inductions and he was the student visits coordinator.

On 8 March 2022, the School received a disclosure from Pupil 1 in relation to an email sent to him by Mr Gray. This was recorded as a cause for concern by the School. In order

to investigate further, Mr Gray's school email account was checked, and a large volume of relevant emails were recovered.

On 15 March 2022, a multi-agency meeting and Mr Gray was interviewed by the police. On 16 March 2022, he was suspended from the School.

The School commenced an internal investigation in May 2022, and an investigation meeting was held on 23 May 2022. A disciplinary hearing was scheduled to take place on 29 June 2022 but was postponed.

On 7 July 2022, Mr Gray resigned from 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:

- 1. Between summer 2022 and March 2022, he sent an inappropriate and /or excessive number of emails to:
 - a. Pupil 1; and/or
 - b. Pupil 2; and/or
 - c. Pupil 3;

The panel had regard to Mr Gray's admissions relating to this allegation, including as contained in the Statement of Agreed Facts, Mr Gray's response to the Notice of Referral Form dated 24 January 2023 and his representative's submissions to the TRA dated 18 November 2022. In all accounts Mr Gray accepted that he had sent an excessive number of emails, and that those emails were sent during evenings, on weekends and during holiday periods. The panel also had the benefit of reports which confirmed a large number of emails had been sent to Pupils 1, 2 and 3, including emails sent outside of school hours.

This allegation was therefore found proved.

- 2. Between summer 2020 and March 2022, he sent emails of an inappropriate nature to:
 - a. Pupil 1; and/or
 - b. Pupil 2; and/or
 - c. Pupil 3;

The panel had sight of numerous emails sent by Mr Gray to Pupils 1, 2 and 3; and the panel carefully considered the content of these messages. The panel concluded that the nature of these messages were over-familiar, unprofessional and not respectful of the boundary between teacher and pupil. For example, on 30 April 2021 in an email exchange with Pupil 2 about parents evening, Mr Gray says "That really pzxxxx me off, we had sorted that one! I will have words with him,"; and on 1 October 2021 he emailed Pupil 3 about another teacher, stating "BTW I don't get along with [her] that well!".

In particular, the panel noted a number of messages which referred to secrecy between the pupils and Mr Gray. By way of example, on 8 March 2021 Mr Gray sent an email to Pupil 1 which said, "Told you it's information for you only and you promised not to spread"; and on 17 May 2021 an email to Pupil 3 stated "can I ask that you don't say anything?". He similarly messaged Pupil 2 stating "...You can trust me! What we say between each other is between us", and "Don't forget things we talk about are just between you and I?".

The panel also had regard to Mr Gray's admissions in respect of these allegations, contained with the Statement of Agreed Facts, his response to the Notice of Referral Form, and his representative's submissions.

This allegation was therefore found proved.

3. He purchased one or more gifts for Pupil 2;

The panel considered on Mr Gray's admission to purchasing a £1 bar of chocolate for Pupil 2, contained with the Statement of Agreed Facts, his response to the Notice of Referral Form, and his representative's submissions. On the balance of probabilities, the panel found this allegation proved.

4. On or around 17 January 2022, he emailed Pupil 2 to request that he collect a present he had purchased for his brother (a former pupil);

The panel had sight of the email exchange between Mr Gray and Pupil 2 on 17 January 2022, as well as the benefit of Mr Gray's admissions in relation to this allegation. The panel therefore found this allegation proved.

5. On or around 31 January 2022 he provided another pupil's homework to Pupil 2 by leaving it under a keyboard for him and asked Pupil 2 not to tell anyone about it;

The panel reviewed the email exchange between Mr Gray and Pupil 2 on 31 January 2022 which referred to homework being left for Pupil 2, and in which Mr Gray requests that Pupil 2 collects it at a time "so no else sees," as well as asking "pls don't tell anyone". The panel also noted Mr Gray's admissions in relation to this allegation. The panel therefore found this allegation proved.

6. He invited Pupil 2 and/or Pupil 3 to a Year 11 school trip that he organised on the weekend of Friday 11 March to Sunday 13 March 2022, even though they were not part of the cohort;

The panel considered the evidence before it, in particular Mr Gray's admissions and the accounts of Mr Gray's colleagues provided as part of the School's investigation. This allegation was therefore found proved.

7. He took Pupil 3 running alone before 7am on Saturday 12 March 2022;

The panel considered the evidence before it, in particular Mr Gray's admissions and the accounts of Mr Gray's colleagues provided as part of the School's investigation. This allegation was therefore found proved.

8. His conduct as outlined in allegation 5 above was dishonest;

Although Mr Gray had indicated on his response to the Notice of Referral Form dated 24 January 2023 and in the Statement of Agreed Facts signed by Mr Gray on 24 April 2023 that he did accept this behaviour was dishonest, the panel also had regard to his representative's statement dated 18 November 2022 which disputed this position and the reasons for this.

The panel considered the email exchange on 31 January 2022 at the centre of allegation 5, and had particular regard to Mr Gray's request for secrecy. The panel also considered that the act of sharing homework in this way could be considered cheating. The panel therefore felt that Mr Gray's actions were deliberate and knowingly dishonest.

For these reasons, the panel found this allegation proved.

9. His conduct as outlined in allegations 1 and/or 2 and/or 3 and/or 4 and/or 6 and/or 7 above represents a breach of professional boundaries.

The panel considered all the evidence before it and had particular regard to the email exchanges Mr Gray had with Pupils 1, 2 and 3. There was an element of familiarity that would not be expected in communications between teachers and pupils; and there was a large number of messages, sent out of school hours. Some messages related to matters unrelated to teaching. Mr Gray behaved in a way that was not transparent in communicating his actions. The panel also noted the School's policies in relation to these issues.

The panel therefore found this allegation proved.

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 Gray in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Gray 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;
- o 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, and maintain high standards in their own attendance and punctuality.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Gray, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education ("KCSIE"). The panel considered that Mr Gray was in breach of the safeguarding provisions in part 1.

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

The panel also considered whether Mr Gray'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 none of these offences were relevant.

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

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.

As above, the panel also considered whether Mr Gray's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice but found that none of these offences were relevant.

The panel considered that Mr Gray's conduct could potentially damage the public's perception of a teacher. The panel therefore found that Mr Gray's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1 to 9 proved, the panel further found that Mr Gray's 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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Gray 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 protection of 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 panel's findings against Mr Gray which involved repeated breaches of professional boundaries with students over a sustained period, and in particular requests by Mr Gray for pupils to deal with communications in secrecy, there was a strong public interest consideration respect of the safeguarding and wellbeing of pupils. Similarly, the panel considered that public confidence in the profession could be seriously weakened if

conduct such as that found against Mr Gray 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 Gray was outside that which could reasonably be tolerated, particularly noting that Mr Gray had been reminded of his professional obligations regarding communications with students previously, yet his conduct continued.

Whilst there is evidence that Mr Gray was an exemplary member of the Scouting movement, there was little evidence for the panel to consider Mr Gray's teaching record. As such, the panel was not able to conclude that there were strong public interest considerations in retaining Mr Gray in the profession.

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;

abuse of position or trust (particularly involving vulnerable pupils);

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; and

dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests.

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 the mitigation offered by the teacher.

In light of the panel's findings, the panel considered if there were any mitigating circumstances. The panel considered that Mr Gray's attempts to conceal interactions with

the pupils by asking for secrecy demonstrated that he was acting deliberately and with awareness of his safeguarding responsibilities. There was no evidence to suggest that Mr Gray was acting under extreme duress, [REDACTED].

The panel was unable to determine Mr Gray's record as a teacher on the evidence which had been presented. However, the panel saw evidence that showed Mr Gray had received a reminder regarding maintaining professional boundaries in communications with students. Despite this, Mr Gray continued his behaviour.

The panel was provided with eleven character statements on behalf of Mr Gray, most connecting to his involvement with his Scout group. Whilst the panel saw evidence of Mr Gray's good character, no references were provided from any colleagues that could attest to Mr Gray's abilities as a teacher.

The panel did accept that Mr Gray had a level of insight into his actions, having reflected on the impact on the pupils involved, and he demonstrated some remorse.

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 Gray 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 Gray was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are 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, and similarly that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. The panel did not consider any of these examples to be relevant, whilst acknowledging this list was not exhaustive.

The panel felt that Mr Gray demonstrated some insight into his actions. The panel also felt that Mr Gray did exhibit some remorse. The panel gave consideration to Mr Gray's submissions regarding [REDACTED]. However, whilst the panel acknowledged that Mr Gray [REDACTED], it was not clear from the evidence provided the extent that Mr Gray's actions were impacted by [REDACTED] at the time of the incidents. Accordingly, the panel could not be satisfied that there was no risk of repetition.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period of 2 years.

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 Simon Gray should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Gray 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 and maintain high standards in their own attendance and punctuality.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Gray, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

The findings of misconduct are serious as they involved repeated breaches of professional boundaries with students over a sustained period.

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 Gray, 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, "In the light of the panel's findings against Mr Gray which involved repeated breaches of professional boundaries with students over a sustained period, and in particular requests by Mr Gray for pupils to deal with communications in secrecy, there was a strong public interest consideration respect of the safeguarding and wellbeing of pupils." 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, "The panel did accept that Mr Gray had a level of insight into his actions, having reflected on the impact on the pupils involved, and he demonstrated some remorse." I have therefore given this element some 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 Gray were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of inappropriate behaviour with pupils over a sustained period 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 this case, 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 Gray himself and the panel comment "The panel was provided with eleven character statements on behalf of Mr Gray, most connecting to his involvement with his Scout group. Whilst the panel saw evidence of Mr Gray's good character, no references were provided from any colleagues that could attest to Mr Gray's abilities as a teacher."

A prohibition order would prevent Mr Gray 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 comment "The panel considered that Mr Gray's attempts to conceal interactions with the pupils by asking for secrecy demonstrated that he was acting deliberately and with awareness of his safeguarding responsibilities. There was no evidence to suggest that Mr Gray was acting under extreme duress."

I have also placed considerable weight on the finding that "The panel was unable to determine Mr Gray's record as a teacher on the evidence which had been presented. However, the panel saw evidence that showed Mr Gray had received a reminder regarding maintaining professional boundaries in communications with students. Despite this, Mr Gray continued his behaviour."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Gray 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 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 a 2 year review period.

I have considered the panel's comments "The panel felt that Mr Gray demonstrated some insight into his actions. The panel also felt that Mr Gray did exhibit some remorse. The panel gave consideration to Mr Gray's submissions regarding [REDACTED].

However, whilst the panel acknowledged that Mr Gray [REDACTED], it was not clear from the evidence provided the extent that Mr Gray's actions were impacted by [REDACTED] at the time of the incidents. Accordingly, the panel could not be satisfied that there was no risk of repetition."

I agree with the panel and have decided that a 2 year review period is a proportionate period to maintain public confidence and is in the public interest.

This means that Mr Simon Gray is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 2025, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Gray remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr 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.

Decision maker: Sarah Buxcey

Date: 27 November 2023

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