



Teaching
Regulation
Agency

Mr Harvey McGough: Professional conduct panel meeting outcome

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

December 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	4
Documents	4
Statement of agreed facts	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	8
Decision and reasons on behalf of the Secretary of State	11

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

Teacher:	Mr Harvey McGough
Teacher ref number:	1729537
Teacher date of birth:	13 March 1968
TRA reference:	19754
Date of determination:	1 December 2023
Former employer:	Reading Blue Coat School, Reading

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 1 December 2023 by way of a virtual meeting, to consider the case of Mr Harvey McGough.

The panel members were Mr Aidan Jenkins (teacher panellist – in the chair), Ms Helen Knee (lay panellist) and Mr Philip Thompson (teacher panellist).

The legal adviser to the panel was Mrs Samantha Cass of Birketts 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 McGough that the allegations be considered without a hearing. Mr McGough 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 the presenting officer, Ms Kiera Riddy of Browne Jacobson LLP, Mr McGough or any representative for Mr McGough.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegations set out in the notice of meeting dated 21 September 2023.

It was alleged that Mr McGough was guilty of having been convicted, at any time of a relevant offence, in that:

1. On or around 2 November 2021 at Reading Crown Court, he was sentenced for 3 convicted offences of making indecent photographs or pseudo-photographs of children on 19 January contrary to Protection of Children act 1978 s.1; and
2. On or around 3 November 2021 at Reading Crown Court he was sentenced for a convicted offence of possession of prohibited images of children on 19 January 2021 contrary to Coroners of Justice Act 2009 s.62(1).

Mr McGough admitted the particulars of allegations 1 and 2, as set out in the statement of agreed facts, signed by Mr McGough on 20 May 2023 and again by way of an amended version on 28 November 2023. Mr McGough further admitted that his behaviour amounted to the conviction of 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: Notice of referral and response – pages 3 to 13
- Section 2: Statement of agreed facts and presenting officer representations – pages 14 to 21
- Section 3: TRA Documents – pages 22 to 77

In addition, the panel agreed to accept the following:

- Statement of Agreed Facts signed on 28 November 2023
- Presenting Officer Representations dated 28 November 2023

- Email chain between Mr McGough and the TRA relating to the amended allegations dated 28 November 2023.

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr McGough and the presenting officer on 20 May 2023 and an amended statement of agreed facts signed on 28 November 2023.

Decision and reasons

The panel carefully considered the case and reached the following decision and reasons:

In advance of the meeting, the TRA agreed to a request from Mr McGough 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 McGough was employed as the head of design and technology at Reading Blue Coat School ('the School') from 1 January 2008, until his resignation on 16 March 2021.

On 4 January 2021, Thames Valley police contacted [REDACTED] requesting information about an email address, now known to be Mr McGough's.

On 19 January 2021, Wokingham LADO contacted [REDACTED] and [REDACTED] of the School regarding safeguarding concerns relating to Mr McGough. On the same day, Mr McGough was suspended from the School whilst the police investigation continued.

On 20 January 2021, the School received a letter from Thames Valley police confirming that Mr McGough had been arrested the previous day, for possessing an indecent photograph or pseudo photograph of a child.

On 16 March 2021, Mr McGough resigned from the School with immediate effect.

On 2 November 2021 Mr McGough was convicted at Reading Magistrates Court for 3 counts of making indecent photograph or pseudo-photograph of children on 19 January 2021 contrary to section 1(a) of the Protection of Children Act 1978, and 1 count of possessing prohibited images of children on 19 January 2021 contrary to section 62(1) of the Coroners and Justice Act 2009.

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 2 November 2021 at Reading Crown Court you were sentenced for 3 convicted offences of making indecent photographs or pseudo-photographs of children on 19 January contrary to Protection of Children act 1978 s.1.**
- 2. On or around 2 November 201 at Reading Crown Court you were sentenced for a convicted offence of possession of prohibited images of children on 19 January 2021 contrary to Coroners of Justice Act 2009 s.62(1).**

The panel considered the statement of agreed facts, signed by Mr McGough on 20 May 2023 and the amended statement of facts dated 28 November 2023. In those statements of agreed facts, Mr McGough admitted the particulars of allegations 1 and 2. Further, it was admitted the facts of the allegations amounted to a conviction of a relevant offence. Notwithstanding this, the panel made a determination based on the facts available to it.

The panel noted page 8 of the Teacher misconduct: the prohibition of teachers ('the Advice') which states that where there has been a conviction at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel had been provided with a copy of the certificate of conviction from Reading Magistrates Court, which detailed that Mr McGough had been convicted of 3 counts of making indecent photograph or pseudo-photograph of children contrary to sections 1(1)(a) and 6 of The Protection of Children Act 1978; and one count of possession of prohibited images of children. The panel noted that Mr McGough pleaded guilty to all offences.

In respect of the allegations, Mr McGough was sentenced to 6 months imprisonment, suspended for 24 months. In addition, he was subject to a Sex Offenders Notice for 10 years; a sexual harm prevention order for a period of 10 years; a requirement to register with the police for a period of 10 years; ordered to pay costs to the Crown Prosecution Service of £425 and to pay a victim surcharge of £128. Mr McGough was also subject to an order for forfeiture and destruction of a Samsung mobile containing images seized under section 1(2) of the Prevention of Crime Act 1953, and [REDACTED].

On examination of the documents before the panel and the admissions in the signed statement of facts, the panel was satisfied that the facts of allegations 1 and 2 were proven.

Findings as to conviction of a relevant offence

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

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 McGough in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr McGough 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.
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that although Mr McGough's actions did not appear to involve a pupil or a colleague at the School, his actions were relevant to teaching, working with children and/or working in an education setting, in particular because he had made indecent photographs or pseudo-photographs of children and possessed prohibited images of children and utilised his work email address for said purposes.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr McGough's behaviour in committing these offences could 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 have been at the very core of his practice as a teacher with a duty of care towards children.

The panel noted that Mr McGough's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed. The child protection and public protection issues engaged by Mr McGough's actions were demonstrated by the Court's sentence.

This was a case concerning an 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, which the Advice states is more likely to be considered a relevant offence.

[REDACTED].

The panel found that the seriousness of the offending behaviour leading to the conviction was relevant to Mr McGough's ongoing suitability to teach. The panel considered whether a finding that this conviction was for a relevant offence/ these convictions were 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 a relevant offence, 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 the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In light of the nature of the offences for which Mr McGough was convicted, there was an extremely strong public interest consideration in respect of the protection of pupils and other members of the public. His actions raised obvious concerns and significant public and child protection concerns.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr McGough was not treated with the utmost seriousness when regulating the conduct of the profession.

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

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 McGough. 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 McGough. 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:

- 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;
- abuse of position or trust (particularly involving pupils);
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;

- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- 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);
- violating of the rights of pupils;
- a deep-seated attitude that leads to harmful behaviour;
- 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, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Mr McGough's actions were not deliberate.

There was no evidence to suggest that Mr McGough was acting under extreme duress, and, in fact, the panel found Mr McGough's actions to be calculated and motivated.

The panel noted that there was some evidence which demonstrated high standards in both personal and professional conduct.

Mr McGough did not provide any mitigation evidence. Mitigation was referred to briefly in the sentencing remarks. There was limited evidence of regret, remorse or insight on the part of Mr McGough.

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 McGough 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 McGough. The seriousness of the offences was a significant factor in forming that

opinion. The panel also noted that Mr McGough had accepted that his behaviour was incompatible with the teaching profession. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate 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 panel considered Mr McGough's admissions to the allegations, the volume of images that had been recovered despite Mr McGough's attempts to delete his browsing history. The panel considered that there were positive statements about Mr McGough's teaching history and ability in the bundle, however, the panel did not consider that this outweighed the seriousness of the allegations.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photographs or image or indecent pseudo photographs or image of a child. The panel found that Mr McGough had been convicted for 3 counts of making indecent photograph or pseudo-photograph of children contrary to section 1(a) of the Protection of Children Act 1978, and 1 count of possessing prohibited images of children contrary to section 62(1) of the Coroners and Justice Act 2009.

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 any of these behaviours relevant.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without 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 a relevant conviction.

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

In particular, the panel has found that Mr McGough 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.
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- 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 McGough fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of relevant convictions for making indecent photographs or pseudo-photographs of children and possession of prohibited images of children which resulted in a sentence of imprisonment (suspended).

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 McGough, 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 panel noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public." 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 it set out as follows, "Mr McGough did not provide any mitigation evidence. Mitigation was referred to briefly in the sentencing remarks. There was limited evidence of regret, remorse or insight on the part of Mr McGough." In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr McGough's behaviour in committing these offences could 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 have been at the very core of his practice as a teacher with a duty of care towards children." I am particularly mindful of the nature of Mr McGough's offences, which involved making and possessing indecent images of children, and the very negative impact that this could have on the standing 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 assess 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 McGough himself. The panel comment that it "...noted that there was some evidence which demonstrated high standards in both personal and professional conduct."

A prohibition order would prevent Mr McGough 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 serious nature of the panel's findings, as well as the lack of evidence of full insight and remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McGough 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 that no provision should be made for a review period.

In doing so, the panel has made reference to the Advice which indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photographs or image or indecent pseudo photographs or image of a child. The panel found that Mr McGough had been convicted for 3 counts of making indecent photograph or pseudo-photograph of children contrary to section 1(a) of the Protection of Children Act 1978, and 1 count of possessing prohibited images of children contrary to section 62(1) of the Coroners and Justice Act 2009.

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 panel's findings, involving making and possessing indecent images of children.

I agree with the panel 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 Harvey McGough 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 McGough 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 McGough 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 'M. Cavey', enclosed within a thin black rectangular border.

Decision maker: Marc Cavey

Date: 4 December 2023

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