



Teaching
Regulation
Agency

Mr Thomas Nixey: Professional conduct panel outcome

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

February 2024

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

Teacher: Mr Thomas Nixey

Teacher ref number: 1147506

Teacher date of birth: 04/12/1989

TRA reference: 19772

Date of determination: 20 February 2024

Former employer: Nottingham High School, Nottingham (“the School”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened via virtual means, to consider the case of Mr Nixey.

The panel members were Ms Juliet Berry (lay panellist – in the chair), Ms Katie Dent (lay panellist) and Mr Paul Anderson (teacher panellist).

The legal adviser to the panel was Mr John Griffiths of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Mr Tom Philips of QEB Hollis Whiteman Chambers.

Mr Nixey was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 4 December 2023.

It was alleged that Mr Nixey was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a Teacher at Nottingham High School:

1. On or around 18 December 2016, he engaged in inappropriate online communication with an unknown child under the age of 16, in that he discussed masturbation and/or sexual intercourse;
2. A computer generated video which was of a sexually explicit nature involving two females who appeared to be under the age of 16 was found on his laptop in his Google Chrome Cache on or around 11 May 2018.
3. Between or around 19 July 2020 to 27 July 2020, he engaged in inappropriate online communication with Child A, who indicated they were 16 years old, in that he:
 - a. Sent messages of a sexual nature; and/or
 - b. Received one or more sexually explicit images and/or videos from Child A;
4. In or around July 2020, he did not report to the School and/or Police that he had received one or more sexually explicit images and/or videos from Child A;
5. His conduct as set out in allegation 1 and/or 2 and/or 3 was:
 - a. sexual in nature; and/or
 - b. sexually motivated.
6. By his conduct as set out in allegations 1 and/or 2 and/or 3 and/or 4 he breached the School's Safeguarding and/or Child Protection policy.

Mr Nixey completed a Notice of Proceedings form which he indicated that he: admitted to the allegations as set out in the Notice of Proceedings; and admitted that those facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

The panel considered the preliminary applications from the presenting officer set out below.

Decision on Excluding the Public

The panel has considered whether to exercise its discretion under paragraph 11 of the Regulations and paragraph 5.85 of the Procedures to exclude the public from all or part of the hearing. This follows a request by Mr Nixey that the hearing should be in private.

The panel has determined not to exercise its discretion under paragraph 11(3)(b) of the Regulations and the second bullet point of paragraph 5.85 of the Procedures that the public should be excluded from the hearing.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. The panel has taken account of the written statement received from Mr Nixey which gave reasons as to why he considered the public should be excluded from the hearing. The panel has balanced the reasons why the teacher has requested that the public be excluded against the competing reasons for which a public hearing is required.

The panel notes that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing is preferable to a permanent exclusion of the public. The panel has therefore, considered whether there are any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to the teacher's health, and considers that to the extent it becomes necessary during the course of the hearing to discuss such matters, the panel can consider at that stage whether to exclude the public from that portion of the hearing only.

Proceeding in Absence

The panel considered whether this hearing should continue in the absence of the teacher.

The panel was satisfied that TRA had complied with the service requirements of paragraph 19 (a) to (c) of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 5.23 and 5.24 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the "Procedures").

The panel took as its starting point the principle from *R v Jones* [2003] 1 AC 1 that its discretion to commence a hearing in the absence of the teacher had to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel firstly took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1.

- The panel determined that it was plain from the documents available to the panel that the notice of proceedings had been delivered to Mr Nixey on 4 December 2023.
- Mr Nixey confirmed that he did not wish to attend the hearing in his Notice of Proceedings form which he completed on 21 December 2023. The panel therefore considered that Mr Nixey had waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.
- There was no evidence to suggest that an adjournment might result in Mr Nixey attending voluntarily. Mr Nixey expressed no wish to adjourn to obtain legal representation or otherwise.
- Mr Nixey would not be placed at a disadvantage in not being able to give his account of events as he has admitted to the allegations as set out in the Notice of Proceedings and admitted that those facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.
- The panel considered that there was minimal risk of reaching an improper conclusion about the absence of Mr Nixey. As referred to above, Mr Nixey had communicated the reason for his non-attendance.
- The panel recognised that the allegations against Mr Nixey are serious and that there is a real risk that if proven, the panel will be required to consider whether to recommend that Mr Nixey ought to be prohibited from teaching.
- The panel recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession. The conduct alleged is said to have taken place whilst Mr Nixey was employed at the School. The School would likely have an interest in this hearing taking place in order to move forwards.
- The panel also noted that there is a witness present at the hearing, who is prepared to give evidence, and that it would be inconvenient and distressing for them to return again. Delaying the case until whenever it is expected the case might be reconvened may impact upon the memories of the witness.

The panel decided to proceed with the hearing in the absence of Mr Nixey. The panel considered that in light of:

- Mr Nixey's voluntary waiver of his right to appear;
- the lack of indication Mr Nixey would attend any subsequent proceedings;

- the seriousness of the allegations; and
- taking account of the inconvenience an adjournment would cause to the witness, that by taking such measures referred to above to address any unfairness insofar as possible, the balance was in favour of this hearing continuing today.

Admissibility of Late Documents

The presenting officer applied to admit the witness statement of Witness B. This document was not served in accordance with the requirements of paragraph 5.35 of the Procedures, and as such the panel was required to decide whether those documents should be admitted at the discretion of the panel. The panel took into account the representations from the presenting officer. The panel exercised caution in exercising this discretion given that it determined to proceed with this hearing in the absence of the teacher.

Under paragraph 5.33 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel was satisfied that the document may reasonably be considered to be relevant to the case as it sets out the reason for an evidential gap in the bundle.

The central question for the panel was whether it was fair in the circumstances to allow evidence to be put forward by the Presenting Officer without the opportunity for the witness to be cross-examined by the teacher. The teacher voluntarily chose not to attend the hearing and the witness statement of Witness B does not add additional evidence into the bundle, rather it provides commentary on the steps taken to try and obtain documents which are not in the bundle. Consequently admission of the statement would not prejudice Mr Nixey's defence notwithstanding the fact that it was served late; he has received the bundle and has admitted to the allegations in their entirety.

In the circumstances, the panel decided that there are sufficient safeguards to protect Mr Nixey against any unfairness caused by being unable to cross-examine this witness. The panel will be provided with a hearsay warning in due course, and the panel will determine what weight, if any it should attach to the evidence.

By reason of the above, the panel decided to admit the additional witness statement.

Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 7

Section 2: Notice of Proceedings and response – pages 8 to 15

Section 3: Teaching Regulation Agency witness statement – pages 16 to 25

Section 4: Teaching Regulation Agency documents – pages 26 to 589

Section 5: Teacher documents – page 590

In addition, the panel agreed to accept the witness statement of Witness B.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional document that the panel decided to admit.

Witnesses

The panel heard oral evidence from Witness A: [REDACTED] - TRA witness.

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 Nixey was employed by the School from 1 September 2016 to January 2021. He was promoted to Head of Religious Studies on 1 September 2019. Within this role, he was responsible for the quality of education within the Religious Studies department, line managing Religious Studies teachers, organising the academic curriculum and monitoring the department's performance in line with school-based targets.

On 16 October 2020 Mr Nixey was arrested at School in relation to possessing an indecent image and a sexual video of someone under 18 years old (specifically, allegation 3 set out above). Mr Nixey was subsequently suspended from the School with immediate effect.

On 13 November 2020 Witness A was appointed as Investigating Officer. Disciplinary meetings took place with Mr Nixey on 26 November and 9 December 2020 and an investigation report was submitted to [REDACTED] on 10 December 2020. A Disciplinary Hearing was scheduled for 16 December 2020 however Mr Nixey was called to the police station this day for further questioning [REDACTED] so the Disciplinary Hearing was postponed.

[REDACTED] on 11 January 2021 the Police informed the School that they had brought him to question him over areas of concern relating to his laptop which had been seized. These concerns related to allegations 1 and 2 set out above. The Police also confirmed that they would not be progressing their investigation any further.

The Disciplinary Hearing went ahead on 14 January 2021 and My Nixey's employment at the School ended on 20 January 2021. The School made a referral to the TRA on 1 February 2021.

Findings of fact

It is noted that Mr Nixey completed a Notice of Proceedings form in which he indicated that he admitted to all of the allegations as set out in the Notice of Proceedings.

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 18 December 2016, he engaged in inappropriate online communication with an unknown child under the age of 16, in that he discussed masturbation and/or sexual intercourse;

The panel have seen the Police Occurrence Report which is contained in the final hearing bundle. This document provides an account of the police process involving Mr Nixey and confirms that following seizure and inspection of Mr Nixey's laptop, the police located a chat from a Skype account used by Mr Nixey. The chat was dated 18 December 2016 starting in the morning at 09:33 hours to a boy aged 15 years old from the Philippines.

The chat log itself was not located for the purposes of this hearing despite efforts made by the TRA. The contemporaneous report produced by the police described the chat to include highly sexual language used relating to masturbation and sexual intercourse. During police interview Mr Nixey admitted it was his Skype account but could not remember any of the chat.

Therefore, taking into account the evidence outlined above and Mr Nixey's own admission of this allegation, the panel concluded that on the balance of probabilities this allegation was proven.

2. A computer generated video which was of a sexually explicit nature involving two females who appeared to be under the age of 16 was found on his laptop in his Google Chrome Cache on or around 11 May 2018

The panel have seen the Police Occurrence Report which is contained in the final hearing bundle. This document confirms that following seizure and inspection of Mr Nixey's laptop, the police located a 4 second computer generated video that self-repeats on a loop in the Google Chrome Cache (history) of Mr Nixey's account on the 11 May 2018 at 19:53 hours. The video showed sexually explicit footage of two girls aged approximately 12 to 14 years old in a classroom with an adult male. Mr Nixey denies having ever seen such a video and has never searched for such material. Mr Nixey however cannot explain how such a video got onto his laptop.

Therefore, taking into account the evidence outlined above and Mr Nixey's own admission of this allegation, the panel concluded that on the balance of probabilities this allegation was proven.

3. Between or around 19 July 2020 to 27 July 2020, he engaged in inappropriate online communication with Child A, who indicated they were 16 years old, in that he:

a. Sent messages of a sexual nature; and/or

b. Received one or more sexually explicit images and/or videos from Child A;

The panel have seen the Police Occurrence Report which is contained in the final hearing bundle. This document confirms that under police interview Mr Nixey admitted to being the user of the Twitter account in question. This account engaged in sexual communication with another user who purported to be 16 years old. The child indicated they were 16 in their bio and in the chat. The chat log has been contained in the bundle and within the chat the 16 year old sent an image of his penis. This was offered by the 16 year old and not requested by the Mr Nixey. The image and/or video sent gave the police reasonable suspicion that Mr Nixey was in possession of an indecent image and/or video of a child. Mr Nixey was arrested, interviewed and media devices seized and forensically downloaded. Mr Nixey did not recall receiving the image and/or video and stated the account had since been deleted. A review of Mr Nixey's devices did not yield the recovery of the messages or images and as such he was not charged due to evidential difficulties.

During police interview, Mr Nixey admitted that it was his Twitter account, the name of the account [REDACTED] and he used his account as a form of escapism. The police confirmed that when they visited Child A, he was indeed a 16 year old boy.

Therefore, taking into account the evidence outlined above and Mr Nixey's own admission of this allegation, the panel concluded that on the balance of probabilities this allegation was proven.

4. In or around July 2020, he did not report to the School and/or Police that he had received one or more sexually explicit images and/or videos from Child A;

The panel have seen the witness statement of Witness A which is contained in the final hearing bundle. This statement confirms that the School was unaware of the incidents relating to allegation 3 until they were notified of them by the police. Witness A confirmed this position in oral evidence at the hearing.

The panel have seen the Police Occurrence Report which is contained in the final hearing bundle. This document confirms that the police concerns with Mr Nixey had arose because American law enforcement had contacted them regarding indecent images of a child that were uploaded to a Twitter account traced within the UK. Mr Nixey did not notify the police that he had received the images and he was located as the police had traced the mobile number connected with the Twitter account and log in location which directed them to Mr Nixey's home address.

Therefore, taking into account the evidence outlined above and Mr Nixey's own admission of this allegation, the panel concluded that on the balance of probabilities this allegation was proven.

5. His conduct as set out in allegation 1 and/or 2 and/or 3 was:

a. sexual in nature; and/or

b. sexually motivated.

The panel have seen the Police Occurrence Report which is contained in the final hearing bundle. This document provides: (1) a description of the chat referred to in allegation 1; (2) a description of the video referred to in allegation 2; and (3) a transcript of the chat referred to in allegation 3.

The panel considered whether on the balance of probabilities, reasonable persons would think the words / conduct found proven could be sexual. The panel then considered whether, in all the circumstances of the conduct in the case, it is more likely than not that Mr Nixey's purpose of such words / conduct was sexual.

Taking into account the evidence outlined above and Mr Nixey's own admission of this allegation, the panel concluded that on the balance of probabilities this allegation was proven.

6. By your conduct as set out in allegations 1 and/or 2 and/or 3 and/or 4 you breached the School's Safeguarding and/or Child Protection policy;

The panel have seen the School's Safeguarding and/or Child Protection policy which is contained in the final hearing bundle and the dates of the training sessions related to safeguarding. The panel have also seen the witness statement of Witness A which describes the application of this policy. Reading both in conjunction, it is clear the policy covers a variety of different types of issues, including child sexual exploitation and the procedure to be taken in regards to reporting concerns. The policy refers to 'children' in general and this is therefore not limited to children who are students of the School. The policy states "Safeguarding incidents and/or behaviours can be associated with factors outside of the school and/or occur between children outside of the school" therefore Mr Nixey would have had an obligation to make a disclosure to the School.

In the witness evidence of Witness A, [REDACTED] confirmed that throughout the training sessions, it was made clear that the Policy was applicable to all children. The surrounding training also confirmed that the Policy relates to children more broadly, for example it refers to Female Genital Mutilation which was a reportable occurrence which would not relate to incidents within the School.

A further consideration given by the panel was to the contents of the policy being referred to. The witness evidence provided by Witness A suggested the version of the Policy contained in the bundle was updated in November 2020. [REDACTED] also confirmed that the policy was subject to review and was amended from time to time. Based on this fact pattern, it is inconclusive whether or not the exact terms of the

policy in the bundle would place the same restrictions on Mr Nixey in December 2016, May 2018 and July 2020 as reflected in the November 2020 version in the bundle.

Whilst it is presumed that his actions would breach safeguarding standards in general, due to the wording of the allegation, the panel is unable to categorically confirm whether the conduct set out allegations 1, 2 and 3 breached the School's Safeguarding and/or Child Protection policies that were in place at the relevant time.

However, taking into account the evidence outlined above, it is clear Mr Nixey would be in breach of the November 2020 Safeguarding and/or Child Protection policy. The panel considered this and taking into account Mr Nixey's own admission of this allegation and Witness A's overview of what the training sessions entailed (which dated back to September 2016), the panel concluded that on the balance of probabilities this allegation was proven.

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

It is noted that Mr Nixey completed a Notice of Proceedings form in which he indicated that he admitted to all of the allegations as set out in the Notice of Proceedings and admitted that those facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Having found all 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 Nixey in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Nixey 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
- ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law

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 Nixey fell significantly short of the standard of behaviour expected of a teacher. Accordingly, the panel was satisfied that Mr Nixey 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.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher. The panel considered that Mr Nixey's conduct could potentially damage the public's perception of a teacher.

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

Having found the facts proved, the panel further found that Mr Nixey'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 Nixey 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 Nixey, which involved communications of a sexual nature with individuals who were 16 years old and younger, and receiving sexually explicit images and/or videos, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of inappropriate communications with children. The panel was also 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 Nixey was outside that which could reasonably be tolerated.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nixey were not treated with the utmost seriousness when regulating the conduct of 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;
- 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;
- 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 such activity, including one-off incidents; and
- 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);

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 Mr Nixey/ whether there were mitigating circumstances.

In the light of the panel's findings, there was no evidence that Mr Nixey's actions were not deliberate. He has admitted to the allegations in the completed Notice of Proceedings form and during his police interviews he relied wholly on the argument that he did not recall the conversations.

There is no evidence of any previous disciplinary findings against Mr Nixey. Whilst Mr Nixey had been the Head of Religious Studies, there was no evidence that he demonstrated exceptionally high standards in both his personal and professional conduct and that he contributed significantly to the education sector. Mr Nixey has failed to provide any character references in this regard.

During police interview, Mr Nixey also referred to the difficulties that the Covid pandemic and lockdown caused him which contributed towards uncharacteristic behaviours or decision making. The panel considered this mitigation inadequate as the conduct set out under allegations 1 and 2 pre-date the Covid pandemic and are of a similar nature to allegation 3.

Mr Nixey has submitted a written statement which expressed his regret and shame about the circumstances around the allegations and confirmed that he is seeking to rebuild himself. That being said, Mr Nixey has failed to acknowledge or address the way in which his conduct has impacted others, in particular Child A and the child from the Philippines. The panel felt this showed a lack of insight and remorse for his actions.

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 Nixey 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 Nixey. 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. These cases 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, including one off incidents. Based on the findings of fact, the panel was satisfied that Mr Nixey was responsible for viewing/possessing indecent photograph(s)/image(s) and/or indecent pseudo photograph(s)/image(s) of a child.

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 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 Thomas Nixey should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Nixey 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
- ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law

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 finds that the conduct of Mr Nixey fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious involving communications of a sexual nature with children, and receiving sexually explicit images and/or videos.

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 or 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 Nixey, 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/safeguard pupils. The panel has observed "In the light of the panel's findings against Mr Nixey, which involved communications of a sexual nature with individuals who were 16 years old and younger, and receiving sexually explicit images and/or videos, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of inappropriate communications with children." 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, "Mr Nixey has submitted a written statement which expressed his regret and shame about the circumstances around the allegations and confirmed that he is seeking to rebuild himself. That being said, Mr Nixey has failed to acknowledge or address the way in which his conduct has impacted others, in particular Child A and the child from the Philippines. The panel felt this showed a lack of insight and remorse for his

actions.” In my judgement, the lack of full insight or 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 observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nixey were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of conduct that was sexual in nature and/or sexually motivated 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 or 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 Nixey himself and the panel comment “There is no evidence of any previous disciplinary findings against Mr Nixey. Whilst Mr Nixey had been the Head of Religious Studies, there was no evidence that he demonstrated exceptionally high standards in both his personal and professional conduct and that he contributed significantly to the education sector. Mr Nixey has failed to provide any character references in this regard.”

A prohibition order would prevent Mr Nixey 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 lack of insight or remorse. The panel has said, “In the light of the panel’s findings, there was no evidence that Mr Nixey’s actions were not deliberate. He has admitted to the allegations in the completed Notice of Proceedings form and during his police interviews he relied wholly on the argument that he did not recall the conversations.”

I have also placed considerable weight on the finding of the panel that “During police interview, Mr Nixey also referred to the difficulties that the Covid pandemic and lockdown caused him which contributed towards uncharacteristic behaviours or decision making. The panel considered this mitigation inadequate as the conduct set out under allegations 1 and 2 pre-date the Covid pandemic and are of a similar nature to allegation 3.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Nixey 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 remorse or insight, 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 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. These cases 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, including one off incidents. Based on the findings of fact, the panel was satisfied that Mr Nixey was responsible for viewing/possessing indecent photograph(s)/image(s) and/or indecent pseudo photograph(s)/image(s) of a child."

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 seriousness of the findings involving children and the lack of full insight 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 Thomas Nixey 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 Nixey 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 Thomas Nixey 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 'S Buxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 22 February 2024

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