



Teaching  
Regulation  
Agency

# **Mr Matthew Shillito: Professional conduct panel outcome**

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

**May 2024**

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

<b>Teacher:</b>	Mr Matthew Shillito
<b>Teacher ref number:</b>	0037245
<b>Teacher date of birth:</b>	11 July 1979
<b>TRA reference:</b>	19418
<b>Date of determination:</b>	23 May 2024
<b>Former employer:</b>	Western Primary School, Harrogate

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 23 May 2024 by way of a virtual hearing, to consider the case of Mr Matthew Shillito.

The panel members were Mr Ian McKim (lay panellist – in the chair), Mrs Anila Rai (lay panellist) and Ms Lynsey Draycott (teacher panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

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

Mr Shillito was not present and was not represented.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegation set out in the notice of proceedings dated 8 March 2024.

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

1. On or around 9 September 2022, he was convicted at North Yorkshire Magistrates for the offence of:

- a. Making indecent photograph or pseudo-photograph of children on 13/09/07 - 31/12/15 Protection of Children Act 1978 s.1(a)
- b. Making indecent photograph or pseudo-photograph of children on 04/09/07 - 31/12/15 Protection of Children Act 1978 s.1(a)

In response to the notice, Mr Shillito indicated that he did not accept the allegation against him.

## Preliminary applications

### Application to proceed in the absence of Mr Shillito

The panel considered an application from the presenting officer to proceed in the absence of Mr Shillito.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice of Proceedings ("the Notice") had been sent in accordance with paragraphs 5.23 and 5.24 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2020 ("the Procedures") and that the requirements for service had been satisfied.

Mr Shillito was clearly aware of the hearing and had responded to the Notice, confirming that he will not be attending. This has also been set out in our correspondence with the TRA in which Mr Shillito remarked:

- 28 July 2023 – *"I will not take up the opportunity to be present at a hearing. Please accept the attached statement in place of my attendance."*
- 25 April 2024 – *"I can confirm that I will not be in attendance at the hearing."*

The panel went on to consider whether to proceed in Mr Shillito's absence or to adjourn, in accordance with paragraph 5.47 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Shillito is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to him as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mr Shillito for the following reasons:

- Mr Shillito had not sought an adjournment.
- The panel was satisfied that Mr Shillito's absence was voluntary and he had waived his right to attend.
- The risk of reaching the wrong conclusion and the disadvantage to Mr Shillito in not being present were partially mitigated by the fact that he had taken the opportunity to provide a written statement setting out points he wished to raise with the panel.
- Given Mr Shillito's position on not attending the hearing, expressed on multiple occasions, there was no indication that Mr Shillito might attend at a future date such that no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.
- There is a burden on all professionals who are subject to a regulatory regime to engage with their regulator.

Having decided that it is appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mr Shillito is neither present nor represented.

## **Privacy**

Mr Shillito provided a written application for this hearing to be held entirely in private. In his application, he highlighted that he had previously been subject to a significant amount of publicity following his initial conviction, which would likely reoccur as a result of these proceedings. He further submitted such publicity would have a detrimental effect on him, his family members and his previous school.

The application was opposed by the TRA. The Presenting Officer submitted that the case solely related to criminal proceedings which had been conducted in public and that there was no evidence of what damage might occur if these proceedings were not held in private.

The panel took into account and followed the guidance of its legal adviser. It noted the important reasons why these hearings are held in public, and the high thresholds required to be reached in moving away from that starting position. The panel considered the information provided by Mr Shillito could only amount to a general concern, taken at its highest, and was insufficient to reach the high threshold to move into a private hearing.

Accordingly, the panel refused this application and continued to hear proceedings in public.

## **Disputed Documents**

The presenting officer made an application to admit evidence which was objected to by Mr Shillito. The evidence was of transcripts of the interviews with Mr Shillito which were undertaken by the police during their criminal investigation. The Presenting Officer submitted they would assist the panel in its determination of this case.

As Mr Shillito was not present at this hearing, the panel considered the underlying evidence which was subject to the application to assist it in making a determination, as guided by the authority of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin).

Mr Shillito had previously set out in communications with the TRA, that during the criminal trial, a large proportion of his interviews had been redacted and that if they were to be relied on at this hearing, they should be the full unredacted versions.

The panel noted that Mr Shillito did not oppose the transcripts being admitted, just that it should be the full versions. The panel noted that the copies it had been provided with contained minimal redactions and were therefore likely to be different copies to the versions redacted by the prosecutor during the criminal trial. The panel also noted that it only had three transcripts of the apparent five interviews that took place. The Presenting Officer confirmed that during the police disclosure process it had only received those three transcripts.

The panel considered that the account given by Mr Shillito during the police investigation would assist it in the decisions it had to make in this hearing and was therefore relevant. The panel also considered that as Mr Shillito did not oppose the introduction of this material in principle, he could have provided the full unredacted copies himself, which he presumably had access to from the disclosure process in the criminal proceedings, but had chosen not to. Therefore the panel found that no unfairness would arise from the admission of the three transcripts and granted the application.

## Summary of evidence

### Documents

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

Section 1: Notice of proceedings and response – pages 4 to 16

Section 2: Teaching Regulation Agency documents – pages 17 to 64

Section 3: Teacher documents – pages 65 to 71

In addition, the panel agreed to accept the following:

41 pages of transcripts of Mr Shillito's police interviews.

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

In the consideration of this case, the panel had regard to the document Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2020, (the "Procedures").

### Witnesses

No witnesses were called by either party at this hearing.

## Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Shillito was appointed as the Headteacher at Western Primary School ("School") in 2019. On 4 January 2020, Mr Shillito was arrested by the police on suspicion of viewing indecent images of children.

During the police investigation, Red Kite Learning Trust, the multi-academy trust who ran the School, dismissed Mr Shillito from his post and made a referral to the TRA.

Following a police investigation, Mr Shillito was charged with two offences relating to indecent images of children. Mr Shillito appeared before York Magistrates' Court on 23 September 2021 and entered 'not guilty' pleas to the offences. Following a trial on 10 August 2022, Mr Shillito was convicted of those offences.

On 9 September 2022, Mr Shillito was sentenced to an 18 month Community Order. Requirements of that order included: attending 24 days of a 'rehabilitation activity requirement' and undertaking unpaid work for 200 hours.

The court also ordered that a Sexual Harm Prevention Order be imposed for a period of 5 years. The conditions of that order included a number of restrictions on his internet usage.

As a result of his sentence, Mr Shillito was liable to the notification requirements under the Sexual Offences Act 2003 (commonly referred to as being placed on the sex-offenders register) for a period of 5 years.

## Findings of fact

The findings of fact are as follows:

### 1. On or around 9 September 2022, you were convicted at North Yorkshire Magistrates for the offence of:

**a. Making indecent photograph or pseudo-photograph of children on 13/09/07 - 31/12/15 Protection of Children Act 1978 s.1(a)**

**b. Making indecent photograph or pseudo-photograph of children on 04/09/07 - 31/12/15 Protection of Children Act 1978 s.1(a)**

Before the panel was a copy of the memorandum of conviction from North Yorkshire Magistrates' Court. The register extract set out the defendant's name, date of birth and his address. It also set out the two offences (making 20 Category B and 3829 Category C indecent images of children) under the Protection of Children Act 1978 in respect of which Mr Shillito was charged and ultimately convicted.

The panel took into account the document known as *Teacher Misconduct: The Prohibition of Teachers*, which is further referred to as "the Advice" in these reasons. The Advice sets out (at paragraph 15):

*"[T]he 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."*

Before the panel was a summary of the police's evidence. It stated that on 4 January 2020, police attended the home address of Mr Shillito and arrested him under suspicion of possessing child pornography. A number of devices were seized and made subject to forensic examinations. In interview, Mr Shillito denied seeking out such material.

The forensic examinations revealed that on one of Mr Shillito's laptops there were thousands of indecent images of children.



In response to the TRA's investigation, Mr Shillito set out in a written statement:

*"...I do wish to make clear that my position remains exactly the same as it has throughout. That is that I did not search for indecent images of under 18s. The CPS were required to prove that the images existed on one of my devices and they have done so..."*

*I provided a not guilty plea to all charges. This is because I firmly believe that I am not guilty of this offence..."*

There was no dispute between the parties that Mr Shillito had been convicted of these offences and in light of the memorandum of conviction from the court, the panel was satisfied that as a starting point, this allegation was proved.

The panel noted that Mr Shillito did not appear to accept some of the facts behind the conviction. The panel's Legal Adviser confirmed that for this offence to be proved, a criminal court would need to be sure that the person had knowledge that those images were or were likely to be indecent images of children when they caused the indecent images to be 'made' (such as by downloading or automatically being created in an temporary browser cache). The panel considered this an important inference from the fact of the conviction itself when considering this case.

There was no evidence before the panel that Mr Shillito had sought to appeal his conviction nor had he placed any material before the panel which suggested the conviction was unsound or that there were other exceptional circumstances in which the panel should look behind the face of the conviction.

Accordingly, the panel was satisfied that this allegation was proved in full.

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

Having found the allegation proved, the panel went on to consider whether the facts of that proven allegation amounted to a relevant offence.

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

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

Taking into account the definition of 'statutory framework' in the Standards, which is defined as including 'all legal requirements', the panel was satisfied that breaches of the criminal law would be encompassed, particularly those that related to children.

The panel noted that the individual's actions were relevant to 'teaching', 'working with children' and 'working in an education setting' as the conviction related to his involvement with thousands of sexualised images of children.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and security of pupils and members of the public. Whilst Mr Shillito may not have been involved in the original creation of these images, his consumption of this type of material contributed to a demand in a market in which the end result involves children being subject to abhorrent sexual abuse.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Shillito's behaviour in committing the offence could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community. The panel considered that a finding that this conviction was for a relevant offence would be necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

The panel noted that Mr Shillito's behaviour did not lead to a sentence of imprisonment.

This was a case concerning an offence involving '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 any such activity, including one-off incidents' which the Advice states is likely to be considered a relevant offence.

In balancing these various factors, the panel was satisfied that Mr Shillito's conviction touched on his fitness as a teacher. Accordingly, the panel found this to be a 'relevant' conviction.

## **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.

In the light of the panel's findings against Mr Shillito, which involved him making copies of thousands of indecent images of children, there was a strong public interest consideration in 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 Shillito 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 Shillito was outside that which could reasonably be tolerated.

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

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 Shillito. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of the Police Act 1997 and criminal record disclosures;
- 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;

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.

Taking account of the Advice, the panel considered that Mr Shillito's actions were deliberate, taking into account the required 'knowledge' of a defendant in order to secure a conviction of this type. There was no evidence to suggest that Mr Shillito was acting under duress.

The panel took into account that Mr Shillito had no previous regulatory findings against him and that being that he had climbed the ranks to becoming a headteacher, he was otherwise a presumably competent and contributing member of the teaching profession.

Whilst Mr Shillito decided not to attend this hearing, the panel noted he had engaged, to some degree, with the regulatory process by his communications with TRA and his written representations for this panel to consider.

The panel has taken into account Mr Shillito's remarks in his statement which on face value appear to show some remorse and insight, such as recognising the impact of his actions on other people. However, these words needed to be considered in the context of his actions. Mr Shillito denied committing the offences in his police interview, he pleaded not guilty in court, he maintained that position throughout those proceedings and continues to assert that position today, despite being convicted of those offences. The panel therefore concluded that Mr Shillito's apparent remorse was very limited. He had demonstrably failed to engage with his own behaviour which resulted in his conviction. There was no evidence before the panel that Mr Shillito has gained any meaningful insight into his actions. The panel therefore considered that a material risk of the possible repetition of such behaviour in the future remained.

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 Shillito 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 Shillito. Significant factors in forming that opinion included that the panel considered the significant impact on the reputation of the profession if restrictive regulatory action was not taken along with the risk of repetition as being too high. 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 certain types of case where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period. One of these 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'.

The panel saw no reason to depart from the Advice in these circumstances, particularly in light of the limited engagement of Mr Shillito, the limited evidence of remorse and insight and its assessment of the potential damage to the public interest factors present.

The panel therefore 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 provision 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 the allegation 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 Matthew Shillito should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Shillito is in breach of the following standard:

- 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 Shillito fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of a conviction for the offence of making indecent photographs or pseudo-photographs of children.

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 Shillito, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Shillito, which involved him making copies of thousands of indecent images of children, there was a strong public interest consideration in 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 has set out as follows:

"The panel has taken into account Mr Shillito's remarks in his statement which on face value appear to show some remorse and insight, such as recognising the impact of his actions on other people. However, these words needed to be considered in the context of his actions. Mr Shillito denied committing the offences in his police interview, he pleaded not guilty in court, he maintained that position throughout those proceedings and continues to assert that position today, despite being convicted of those offences. The panel therefore concluded that Mr Shillito's apparent remorse was very limited. He had demonstrably failed to engage with his own behaviour which resulted in his conviction. There was no evidence before the panel that Mr Shillito has gained any meaningful insight into his actions. The panel therefore considered that a material risk of the possible repetition of such behaviour in the future remained."

In my judgement, the limited evidence of insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed that "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Shillito were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of a conviction for making indecent photographs or pseudo-photographs of children 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 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 Shillito himself. The panel has commented that “Mr Shillito had no previous regulatory findings against him and that being that he had climbed the ranks to becoming a headteacher, he was otherwise a presumably competent and contributing member of the teaching profession.”

A prohibition order would prevent Mr Shillito 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 finding that the public interest considerations outweighed the interests of Mr Shillito. The panel has said “Significant factors in forming that opinion included that the panel considered the significant impact on the reputation of the profession if restrictive regulatory action was not taken along with the risk of repetition as being too high.”

I have also placed considerable weight on the panel’s comments concerning the limited evidence of insight and remorse.

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

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

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

“The Advice indicates that there are certain types of case where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period. One of these 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’.”

“The panel saw no reason to depart from the Advice in these circumstances, particularly in light of the limited engagement of Mr Shillito, the limited evidence of remorse and insight and its assessment of the potential damage to the public interest factors present.”

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 serious nature of the offences of which Mr Shillito was convicted, the limited evidence of insight and remorse, and the risk of repetition.

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 Matthew Shillito 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 allegation found proved against him, I have decided that Mr Shillito 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 Shillito has a right of appeal to the High Court within 28 days from the date he is given notice of this order.

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

**Decision maker: David Oatley**

**Date: 28 May 2024**

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