



Teaching  
Regulation  
Agency

# **Mr Gavin Smith: Professional conduct panel meeting outcome**

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

**October 2024**

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

**Teacher:** Mr Gavin Smith

**Teacher ref number:** 0966877

**Teacher date of birth:** 16 February 1985

**TRA reference:** 20777

**Date of determination:** 23 October 2024

**Former employer:** The Farnley Academy, Leeds

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 23 October 2024, by virtual means, to consider the case of Mr Gavin Smith.

The panel members were Mrs Shabana Robertson (lay panellist – in the chair), Mr Aidan Jenkins (teacher panellist) and Mrs Samantha Haslam (teacher panellist).

The legal adviser to the panel Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Smith that the allegations be considered without a hearing. Mr Smith 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 Louise Murphy-King of Kingsley Napley, or Mr Smith.

The meeting took place in private.

## **Allegations**

The panel considered the allegations set out in the notice of hearing dated 4 July 2024.

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

1. On 23 September 2022, he was convicted of:
  - a. abuse of position of trust as a result of sexual activity with a child;
  - b. abuse of position of trust as a result of sexual activity with a child;
  - c. abuse of position of trust by causing or inciting a child to engage in sexual activity.

Mr Smith admitted the allegations and that the convictions were for relevant offences.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology and list of key people – pages 3 to 6

Section 2: Notice of hearing and response – pages 7 to 20

Section 3: Teaching Regulation Agency documents – pages 21 to 117

Section 4: Teacher documents – pages 118 to 122

In addition, the panel agreed to accept the following:

- the notice of referral and blank response form;
- statement of agreed facts;
- presenting officer's representations
- emails between the teacher and Kingsley Napley LLP dated 18 October 2024 to 22 October 2024
- statement from the teacher returned with statement of agreed facts.

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 Smith on 21 October 2024.

## Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

This case was originally listed as a hearing. However, Mr Smith accepted an agreed statement of facts, and confirmed that he agreed for the hearing to be converted to a meeting, thereby waiving his right to notice of the meeting for this purpose. Therefore, in advance of the meeting, the TRA agreed to the request from Mr Smith for the allegations to be considered without a hearing.

The panel noted that the paragraph 1.5 of the Teacher misconduct: disciplinary procedures for the teaching profession May 2020 (“the Procedures”) state that any procedures or requirements set out in the Procedures (except for matters which are a requirement of the Regulations) may be waived or varied if there is agreement between the TRA and the teacher prior to a professional conduct panel hearing commencing. The panel was satisfied that Mr Smith had consented to the hearing being converted to a meeting, and that there was agreement that the requirement to provide a notice of meeting was waived. This was not a requirement of the Regulations.

The panel still had the ability to direct that the case be considered at a hearing, rather than a meeting 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.

On 1 September 2010, Mr Smith commenced working at the Farnley Academy (“the School”) as a history teacher and form tutor.

On [REDACTED], a former student (“Person A”) alleged that she had had a relationship with Mr Smith, which had commenced when she was a pupil at the School. On 11 November 2020, Mr Smith was suspended from his duties at the School.

On 13 November 2020, the police notified the School that Mr Smith had been arrested and the School’s investigation was suspended pending the police investigation.

On 8 March 2021, a disciplinary hearing was held and on 22 March 2021, Mr Smith submitted an appeal. On 26 April 2021, the matter was referred to the Teaching Regulation Agency.

## 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:

**On 23 September 2022, you were convicted of:**

- a. abuse of position of trust as a result of sexual activity with a child;**
- b. abuse of position of trust as a result of sexual activity with a child;**
- c. abuse of position of trust by causing or inciting a child to engage in sexual activity.**

Mr Smith admitted that he had been convicted of the above offences.

The panel has seen a certificate of conviction confirming that on 23 September 2022 Mr Smith was convicted of:

1. Adult abuse of position of trust- sexual activity with a girl 13-17 cared for in s21 premises.
2. Adult abuse of position of trust – sexual activity with a girl 13 – 17 cared for in s21 premises.
3. Adult abuse of position of trust – cause/ incite sexual activity with a girl 13 - 17 s21 premises.”

The panel therefore found the allegations proven having accepted the certificate of conviction as conclusive proof both of the convictions and the facts necessarily implied by the convictions.

The certificate of conviction recorded that Mr Smith was sentenced to 6 months’ imprisonment. It was also ordered [REDACTED]; and on the Sex Offenders’ Register for 7 years. A restraining order was also made to prohibit Mr Smith from contacting Person A and is to remain in force until further order.

Person A had been a pupil at the School [REDACTED].

The panel found the allegations proven.

## Findings as to conviction of a relevant offence

The panel was satisfied that the conduct of Mr Smith in relation to the facts it found proved, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Smith was in breach of the expectation to demonstrate consistently high standards of personal and professional conduct, and specifically he breached 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...the rule of law, individual liberty and mutual respect...
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that the individual's actions were relevant to teaching, working with children and/or working in an education setting since the offences for which Mr Smith was convicted related to sexual activity with a pupil.

The panel noted that the behaviour involved in committing the offence had an impact on the safety and/or security of Person A. [REDACTED].

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Smith's behaviour in committing the offence would be likely to affect public confidence in the teaching profession, if Mr Smith was allowed to continue teaching.

The panel noted that Mr Smith's behaviour ultimately led to a sentence of imprisonment, which was indicative of the seriousness of the offences committed, and which the Advice states is likely to be considered "a relevant offence".

This was a case concerning an offence involving sexual activity and sexual communication with a child. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

The panel took into account that the court considered Mr Smith had been remorseful and that he provided an early guilty plea. The panel also noted that Mr Smith accepted in his basis of plea responsibility for what occurred. However, it did not appear to the panel that there was any indication that Mr Smith appreciated the impact on Person A, or on the profession as a whole.

The panel regarded that these were serious offences, particularly since they involved a breach of trust against a pupil [REDACTED].

Whilst Mr Smith had abilities as a teacher, the seriousness of the offending behaviour that led to the conviction, in this case, was relevant to Mr Smith's fitness to be a teacher. The panel considered that a finding that 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 conviction of relevant offences, 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 Smith 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 maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of sexual activity with a pupil.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Smith 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 Smith was outside that which could reasonably be tolerated.

Whilst there is evidence that Mr Smith had abilities as an educator, the panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Smith in the profession, since his behaviour fundamentally breached the standards of conduct expected of a teacher, and he exploited his position of trust.

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 noted that a teacher's behaviour that seeks to exploit their position of trust should



be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

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;
- 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 disclosure;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils);
- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- 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;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- violation of the rights of pupils;
- actions or behaviours that ... undermine ... the rule of law, individual liberty, and mutual respect...;
- ... lack of integrity, including the deliberate concealment of their actions..., 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; and
- collusion or concealment including: any activity including... concealing inappropriate actions....

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to

continue to teach, the panel went on to consider the mitigation offered by the teacher and whether there were mitigating circumstances.

There was evidence that Mr Smith's actions were deliberate. [REDACTED].

There was no evidence to suggest that Mr Smith was acting under extreme duress, e.g. a physical threat or significant intimidation.

Mr Smith did have a previously good history, although there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or of having contributed significantly to the education sector.

There was no evidence that showed Mr Smith was previously subject to disciplinary proceedings or warnings.

A note of an interview with the [REDACTED] during the School's disciplinary process stated that there had been no previous cause for concern. It was explained that Mr Smith had chosen to step down from being a head of year. He was described as a quiet and good history teacher, who would always do well in lesson observations, so there wasn't any need for lots of intensive support around him. It was stated that his outcomes at GCSE were always good and children seemed to like him.

The Judge accepted on sentencing Mr Smith that he was remorseful and had expressed that remorse by an early guilty plea. The Judge referred to the pre-sentence report and commented that there was no element of shifting blame, and Mr Smith had accepted that the responsibility for what had occurred was his, and his alone.

In representations for this misconduct hearing, Mr Smith stated that he was deeply ashamed of his actions. He stated that he had admitted his guilt at the earliest opportunity in court. In his basis of plea, he had admitted to all of his mistakes, and his admissions had gone further than the accusations against him. He also stated that he knew "the outcome of any hearing would be a lifetime ban, and [he] would never contest this." He stated that since leaving prison, he had successfully completed his one year probation and had completed a number of sessions which had helped him reflect on why he had acted as he had. [REDACTED].

However, the panel noted that there was no reference to Mr Smith having appreciated the impact on Person A or the impact of his actions on the profession as a whole.

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 Smith 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 Smith. The significant breach of his position of trust was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons; and any sexual misconduct involving a child. The offences convicted by Mr Smith involve abuse of position of trust to engage in sexual activity with a pupil.

Although Mr Smith has expressed remorse and accepted responsibility for his actions the panel remained concerned that he had not demonstrated insight as to the effect of his behaviour on Person A, nor the teaching profession. The offences in this case were so serious that they 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 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 Gavin Smith should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Smith 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...the rule of law, individual liberty and mutual respect...
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

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

The findings of misconduct are particularly serious as they include a conviction for the relevant offence of abuse of a position of trust as a result of sexual activity with a child.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of 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 Smith, 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 that "the individual's actions were relevant to teaching, working with children and/or working in an education setting since

the offences for which Mr Smith was convicted related to sexual activity with a pupil.” 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. The panel has noted, “In representations for this misconduct hearing, Mr Smith stated that he was deeply ashamed of his actions. He stated that he had admitted his guilt at the earliest opportunity in court. In his basis of plea, he had admitted to all of his mistakes, and his admissions had gone further than the accusations against him. He also stated that he knew “the outcome of any hearing would be a lifetime ban, and [he] would never contest this.” He stated that since leaving prison, he had successfully completed his one year probation and had completed a number of sessions which had helped him reflect on why he had acted as he had.” However, the panel has also noted that “there was no reference to Mr Smith having appreciated the impact on Person A or the impact of his actions on the profession as a whole.” 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 has observed that “Mr Smith’s behaviour in committing the offence would be likely to affect public confidence in the teaching profession, if Mr Smith was allowed to continue teaching.” I am particularly mindful of the finding of a conviction for sexual activity with a pupil 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 Smith himself. The panel has commented that “Mr Smith did have a previously good history, although there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or of having contributed significantly to the education sector.”

A prohibition order would prevent Mr Smith 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 on the serious nature of the conduct for which Mr Smith was convicted and received a sentence of 6

months' imprisonment. The panel has said, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of sexual activity with a pupil."

I have also placed considerable weight on the panel's comments concerning the lack of full insight. The panel has said, "Although Mr Smith has expressed remorse and accepted responsibility for his actions the panel remained concerned that he had not demonstrated insight as to the effect of his behaviour on Person A, nor the teaching profession."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Smith 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, 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 serious sexual misconduct, e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons; and any sexual misconduct involving a child. The offences convicted by Mr Smith involve abuse of position of trust to engage in sexual activity with a pupil."

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 Smith was convicted and the lack of full insight.

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 Gavin Smith 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 Smith 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 Gavin Smith has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'D Oatley', with a large, sweeping loop at the end.

**Decision maker: David Oatley**

**Date: 24 October 2024**

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