



Teaching
Regulation
Agency

Mr Samuel Johnston- Cree: Professional conduct panel outcome

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

November 2024

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

Teacher:	Mr Samuel Johnston-Cree
Teacher ref number:	1735433
Teacher date of birth:	16 July 1993
TRA reference:	0020816
Date of determination:	19 November 2024
Former employer:	Standish Community High School, Wigan

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 18 and 19 November 2024, to consider the case of Mr Samuel Johnston-Cree.

The panel members were Mr Alan Wells (former teacher panellist – in the chair), Mrs Christine McLintock (teacher panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Ms Lauren Slater of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Louisa Atkin of Capsticks LLP solicitors.

Mr Samuel Johnston-Cree 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 01 July 2024.

It was alleged that Mr Samuel Johnston-Cree was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. On one or more occasions on or before 7 July 2021, he:
 - a) Had been in possession of and/or viewed one or more indecent images of children on his personal device(s);
 - b) Had been in possession of and/or viewed one of more videos depicting children engaging in sexual activity on his personal device(s);
 - c) Was in possession of one of more extreme pornographic images depicting bestiality;
 - a) Carried out internet searches for one or more of the words or phrases set out in Schedule A; and
 - b) Distributed and/or shared one or more indecent images of children.
2. On one or more occasions between March 2020 and June 2021, he communicated inappropriately with Pupil A in that you Sent Pupil A emails including the words or phrases set out at Schedule B.
3. His conduct at paragraph 1 above was sexually motivated.

Schedule A

- I. Lolita collective;
- II. Labelladonna;
- III. Sistersofangels;
- IV. Forbiddenconversations;
- V. young preteen models

Schedule B

- I. 26/03/2020 'from your favourite teacher'
- II. 18/09/2020 'naughty [Pupil A]. Very naughty'
- III. 27/11/2020 'that was a very naughty tune'
- IV. 26/11/2020 'we can always arrange a little phone call if you want'
- V. 02/12/2020 'I used to get super nervous speaking to anyone but each new time you do it, it becomes a heck of a lot easier'
- VI. 31/12/2020 'I got a gaming chair so I'm having a wonderful time'

- VII. 11/01/2021 'I'm going to try and go into school one day to collect some work so you may be lucky!' 'Also, did you enjoy the song?'
- VIII. 25/01/2021 'Amazing! Also better than [A PUPIL'S] lol' 'Haha maybe I should teach the water cycle as a horrific story of a snowbaby's life? But look at you with the knowledge'
- IX. 08/02/2021 'Let's just say, you aren't the worst - that's the best compliment you shall receive! Because Mr Johnston-Cree has gone slightly mad with his isolation and needs to talk to himself to keep his sanity I'm probably going to cry and hide under the desk, reckon they will leave me alone then. Its fake chicken with Nando's lemon and herb sauce - v v naughty! TUNA!! omg gross! Don't take it personally, I just hate seafood, it smells so bad. I shall pop on over, maybe with the wrap if you're lucky!'
- X. 15/06/2021 'Hello [Pupil A] (My disputable favourite student)'
- XI. 11/06/2021 'Have you been having a nice time off? Has the boredom settled in yet?'
- XII. 29/05/2021 'Do not for one second hesitate to get In contact, you are after all, the only one who had figured out my email address I'm happy to provide any support/advice that you need'

Mr Johnston-Cree responded to the initial notice of proceedings dated 18 October 2022 admitting some of the facts. In the absence of Mr Johnston-Cree and a response to the notice of proceedings 01 July 2024 however, the panel took the allegations as not being admitted.

Preliminary applications

Proceedings in Absence

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

The panel was satisfied that the TRA 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 5.45 to 5.47 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel determined to exercise its discretion under paragraph 5.47 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took as its starting point the principle from *R v Jones* that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. The panel recognised that fairness to the teacher is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the teacher, as was outlined in *GMC v Adeogba & Visvardis*.

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 was satisfied from the evidence presented to it, including emails with Mr Johnston-Cree that he had been made aware of the proceedings. The panel considered that Mr Johnston-Cree had waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The panel did not consider that an adjournment would result in the teacher attending at a later date.

The panel was also provided with a bundle of documents with several interviews with the teacher setting out his account, including in a police interview under caution. The panel was therefore able to ascertain any lines of defence. The panel noted that two witnesses were to be called to give evidence, and the panel can test that evidence in questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account in person.

The panel recognised that the allegations against the teacher are serious and that there was a real risk that if proven, the panel will be required to consider whether to recommend that the teacher 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 the teacher was employed at Standish Community High School ("the School"). The School will have an interest in this hearing taken place in order to move forwards.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that in light of the teacher's waiver of his right to attend; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time was in favour of this hearing continuing as listed.

Amendment of Allegations

An application was made by the presenting officer to amend the Notice of Proceedings by amending allegation 1D to read “*carried out internet searches for one or more of the words or phrases set out in Schedule A and/or visited one or more webpages with the words or phrases set out in Schedule A*”. The panel has the power to, in the interests of justice, to amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

The panel were concerned that the amendment proposed was unclear and fundamentally altered the nature and scope of the allegation. The panel was also concerned that the amendment would change the factual basis of the allegation and that the letter with notice of the amendment was only sent to the teacher on 28 October 2024, some three weeks prior to the hearing. The panel did not consider that it would be in the interests of justice to amend the allegation. The presenting officer had ample opportunity to formulate the allegations in advance of the hearing and to amend the allegations at this stage would cause unfairness to the teacher.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list and list of key people - pages 3 to 5

Section 2: Notice of proceedings and response – pages 6 to 44

Section 3: Teaching Regulation Agency witness statements – pages 45 to 82

Section 4: Teaching Regulation Agency documents – pages 83 to 347

Service bundle – pages 1 to 51

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing.

Witnesses

The panel heard oral evidence from:

- Witness A, [REDACTED]
- Witness B, [REDACTED]

Both Witness A and Witness B were called by the presenting officer.

The panel did not hear evidence from Mr Johnston-Cree.

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 Johnston-Cree was employed as a Geography Teacher and the Duke of Edinburgh Co-ordinator at the School from 01 September 2017. On 7 July 2021 Mr Johnston-Cree was arrested by Greater Manchester Police at his home address for alleged possession of indecent images of children. On 02 March 2022 and 24 March 2022, investigation meetings were held by the School in relation to allegations of Mr Johnston-Cree's conduct. Mr Johnston-Cree was dismissed with immediate effect on 24 March 2022.

Findings of fact

The findings of fact are as follows:

Whilst employed as a Geography Teacher and Duke of Edinburgh Co-Ordinator at Standish Community High School:

1. On one or more occasions on or before 7 July 2021, you:

- a. Had been in possession of and/or viewed one or more indecent images of children on your personal device(s);**

Mr Johnston-Cree accepted in his response dated 19 October 2022 to the notice of proceedings dated 18 October 2022 that he was in possession of one or more indecent images of children. Mr Johnston-Cree also admitted to being in possession of, and viewing, one or more indecent images of children on his personal devices via the KIK messaging app in his police interview under caution on 7 July 2021.

In corroboration of this, the panel heard evidence from Witness A and Witness B. Witness B gave evidence that Mr Johnston-Cree admitted to receiving indecent images of children on less than ten occasions.

The allegation was found proved.

- b. Had been in possession of and/or viewed one or more videos depicting children engaging in sexual activity on your personal device(s);**

Mr Johnston-Cree accepted in his police interview under caution on 7 July 2022 to having viewed videos sent to him on his personal devices via the KIK messaging app depicting children engaging in sexual activity. Mr Johnston-Cree however denied forwarding any

such videos. Mr Johnston-Cree admitted in the police interview that he did not report the videos to anyone after he received and viewed them.

The allegation was found proved.

c. Were in possession of one of more extreme pornographic images depicting bestiality;

The panel heard evidence from Witness B. The panel were also provided with a witness statement from Witness B which confirmed that Mr Johnston-Cree was in possession of some extreme pornography depicting bestiality which was found on one of his personal devices when it was forensically examined. This was one video which had been shared with Mr Johnston-Cree. The video was cached by Mr Johnston-Cree's device and appeared as four images and one video. Witness B's evidence is that this would have been done automatically by the device.

The allegation was found proved.

d. Carried out internet searches for one or more of the words or phrases set out in Schedule A;

Mr Johnston-Cree accepted in his response to the notice of proceedings dated 18 October 2022 that he had carried out internet searches for one or more of the words or phrases set out in Schedule A (although at such a point "young pre-teen models" was not included in Schedule A and therefore was not admitted by Mr Johnston-Cree). His response was dated 19 October 2022.

The panel heard evidence from Witness B. The panel were also provided with a witness statement from Witness B. Witness B's evidence was that whilst the partial URL's including the words set out in Schedule A had been found to have appeared on Mr Johnston-Cree's device screen at some point to have been captured by the forensic search, there was no way of knowing from the forensic examination if Mr Johnston-Cree had searched those words or viewed the content.

The allegation was found not proved.

e. Distributed and/or shared one or more indecent images of children;

The panel heard evidence from Witness B. The panel was also provided with a witness statement from Witness B. Witness B's evidence was that there was no evidence from the forensic examination of Mr Johnston-Cree's devices that he had distributed or shared any indecent images of children. Mr Johnston-Cree admitting to viewing indecent images

of children in his police interview under caution on 7 July 2021 but denied ever sharing those images with another person.

The allegation was found not proved.

2. On one or more occasions between March 2020 and June 2021, you communicated inappropriately with Pupil A in that you Sent Pupil A emails including the words or phrases set out at Schedule B.

The panel considered all of the email chains including the words and phrases set out in Schedule B in detail and found the emails relating to allegations 2(iii), (vi), (viii), (ix), (x), (xi) and (xii) were inappropriate communications between Mr Johnston-Cree and Pupil A. The panel considered these email exchanges between Mr Johnston-Cree and Pupil A using their School email addresses, to be inappropriate due to their overall overfamiliar tone and because, based upon the evidence of Witness A, the School policy was that email correspondence with students throughout the COVID-19 lockdowns and isolation periods should have been limited to setting work and providing feedback on work. The panel acknowledged that Mr Johnston-Cree appears to have been trying to help Pupil A and to be supportive, but the panel consider that the email exchanges were contrary to School policy, were misguided and should have been limited to work and providing feedback.

The panel heard evidence from Witness A that Mr Johnston-Cree was also Pupil A's form tutor and that any wellbeing discussions should have taken place over the telephone, via contact with Pupil A's parents. Any such emails addressing wellbeing, whilst seemingly being well-intended, were therefore considered by the panel to be inappropriate.

The allegation was found proved in respect of to allegations 2(iii), (vi) (viii), (ix), (x), (xi) and (xii) and not proved in respect of to allegations 2(i) and (v), (vii).

3. Your conduct at paragraph 1 above was sexually motivated.

The panel considered the case of GMC v Haris [2020] EWHC 2518 which referred to the definition of sexual in section 78(1)(b) of the Sexual Offences Act 2003. This states that *"...touching or any other activity is sexual if a reasonable person would consider that- a) whatever its circumstances of any person's purpose in relation to it, it is because of its nature sexual, or b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual."* The panel considered that the second limb applied in this case.

The panel therefore went onto consider whether, in all the circumstances of the conduct in the case, it was more likely than not that the teacher's purpose of such actions was sexual.

The panel considered that there was no other reasonable rational explanation for a teacher, such as Mr Johnston-Cree, to be in possession of, and the viewing of, indecent

images of children and other extreme pornography, other than for sexual gratification. Mr Johnston-Cree admitted in his police interview under caution on 7 July 2021 to accessing a messaging app to share pornography and receive pornography. He admitted to receiving indecent images and videos and that he took no action to report (as required by his safeguarding responsibilities) the content and in fact he continued to use the application. The panel therefore considered that there was no other reasonable explanation and noted Mr Johnston-Cree's admission to making searches for "jailbait". Mr Johnston-Cree denied this allegation in his response to the notice of proceedings on 19 October 2024. [REDACTED]

The allegation was found proved.

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

Having found a number of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Johnston-Cree, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Johnston-Cree 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.
- 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 Johnston-Cree was of a serious nature and fell significantly short of the standard of behaviour expected of a teacher. The panel also considered whether Mr Johnston-Cree's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to

conclude that an individual's conduct would amount to unacceptable professional conduct. The panel found that the following offence was relevant:

- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one off incidents.

The panel noted that the allegations took place outside the education setting. The panel however noted that Mr Johnston-Cree's actions may lead to pupils being exposed to, or influenced by, the behaviour in a harmful way.

Accordingly, the panel was satisfied that Mr Johnston-Cree 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.

In considering the issue of disrepute, the panel considered whether Mr Johnston-Cree's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute. The panel found that the following offence was relevant:

- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting any such activity, including one off incidents

The panel noted that the advice is not intended to be exhaustive and there may be other behaviours that panels consider to be "conduct that may bring the profession into disrepute". The panel considered that the standards of the profession meant members of the public would expect teacher's not to possess or view indecent images or videos of children and if they did come across such material in the course of legal viewing of pornography, that they would report this content. The panel considered that Mr Johnston-Cree's conduct could potentially damage the public's perception of a teacher. The panel therefore found that Mr Johnston-Cree's actions constituted conduct that may bring the profession into disrepute.

The panel noted that the allegations took place outside the education setting. The panel however noted that Mr Johnston-Cree's actions were relevant to teaching, working with children and working in an education setting. The actions were of a serious nature and

would likely have a negative impact on the public's perception of the individual as a teacher, therefore bringing the teaching 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 Johnston-Cree 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 a 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 Johnston-Cree, which involved the sexually motivated possession and viewing of indecent images and videos of children and inappropriate email correspondence with Pupil A, 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 Johnston-Cree was 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 Johnston-Cree was outside that which could reasonably be tolerated.

Whilst there is evidence that Mr Johnston-Cree had ability as an educator and that he was a good and ambitious teacher, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Johnston-Cree in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, or permitting such activity, including one-off incidents;
- failure to act on evidence that indicated a child's welfare may have been at risk, eg, failed to notify the designated safeguarding lead and/or make a referral to children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;
- 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); and
- a deep-seated attitude that leads to harmful behaviour.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate. Taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher in his police interview under caution and during the School's disciplinary investigation and whether there were any other mitigating circumstances.

In the light of the panel's findings, there was no evidence that Mr Johnston-Cree's actions were not deliberate and in fact the panel had evidence in the bundle (from Mr Johnston-Cree police interview) of Mr Johnston-Cree's admission that he had carried out deliberate searches for "jailbait". The panel had found Mr Johnston-Cree to have acted in a sexually motivated way in possessing and viewing indecent images of children and other extreme pornography. The panel acknowledged that Mr Johnston-Cree said that he had an addiction to pornography and that he was seeking help for this addiction. There was no evidence in mitigation in respect of any treatment sought or the impact this may have had on Mr Johnston-Cree.

There was also no evidence to suggest that Mr Johnston-Cree was acting under extreme duress, for example, a physical threat or significant intimidation and, in fact, the panel found Mr Johnston-Cree's actions to be calculated and motivated as he admitted having accessed the messaging app multiple times, even after having been exposed to indecent images and videos involving children.

The panel did not have sight of any character references in the bundle but noted that the evidence of Witness A was that Mr Johnston-Cree was a very ambitious, enthusiastic and good teacher who also led the Duke of Edinburgh project. Witness A further described how Mr Johnston-Cree got involved with different charity events at the School.

The panel noted that Mr Johnston-Cree was of previous good character and had not been previously subject to any disciplinary proceedings or warnings. Mr Johnston-Cree had been teaching at the School for nearly four years by 7 July 2021. Mr Johnston-Cree had co-operated with the police investigation and told the School as part of the disciplinary investigation that he [REDACTED]. However, the panel was not provided with evidence as to Mr Johnston-Cree's level of insight or remorse, nor of the efficacy of any treatment sought and considered therefore that there could be a risk of repetition of his behaviour.

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 Johnston-Cree 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 Johnston-Cree. Mr Johnston-Cree's possession and viewing indecent images and videos involving children was a significant factor in forming that opinion. The inappropriate email correspondence with Pupil A was considered to be misguided but were not 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. One of these cases includes 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 found that Mr Johnston-Cree was responsible for viewing and possessing indecent images and videos involving 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 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 some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In this case, the panel has also found some of the allegations not proven. I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Mr Johnston-Cree 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.

- 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 Johnston-Cree involved breaches of the responsibilities and duties set out in statutory guidance 'Keeping children safe in education'.

The panel finds that the conduct of Mr Johnston-Cree fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a teacher being in possession of pornographic images in involving both children engaging in sexual activity and bestiality.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In assessing that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Johnston-Cree, 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:

“In the light of the panel’s findings against Mr Johnston-Cree, which involved the sexually motivated possession and viewing of indecent images and videos of children and inappropriate email correspondence with Pupil A, 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 it sets out as follows:

“Mr Johnston-Cree had co-operated with the police investigation and told the School as part of the disciplinary investigation that he was seeking treatment for his pornography addiction. However, the panel was not provided with evidence as to Mr

Johnston-Cree's level of insight or remorse, nor of the efficacy of any treatment sought and considered therefore that there could be a risk of repetition of his behaviour."

In my judgement, the lack of evidence that Mr Johnston-Cree has attained full insight into and remorse for his behaviour 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 records that:

"The panel considered that the standards of the profession meant members of the public would expect teacher's not to possess or view indecent images or videos of children and if they did come across such material in the course of legal viewing of pornography, that they would report this content. The panel considered that Mr Johnston-Cree's conduct could potentially damage the public's perception of a teacher. The panel therefore found that Mr Johnston-Cree's actions constituted conduct that may bring the profession into disrepute."

I am particularly mindful of the finding in this case of a teacher possessing images of children engaging in sexual activity, as well as other extreme images, and the very negative impact that such a finding is likely to have on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, in 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 Johnston-Cree himself. The panel records that:

"The panel did not have sight of any character references in the bundle but noted that the evidence of Witness A was that Mr Johnston-Cree was a very ambitious, enthusiastic and good teacher who also led the Duke of Edinburgh project. Witness A further described how Mr Johnston-Cree got involved with different charity events at the School.

The panel noted that Mr Johnston-Cree was of previous good character and had not been previously subject to any disciplinary proceedings or warnings."

A prohibition order would prevent Mr Johnston-Cree 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 very considerable weight on the extremely serious nature of the misconduct found by the panel, which involved a teacher viewing sexual material involving children. I have also noted the panel's comments concerning the lack of evidence of full insight or remorse.

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

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

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

In doing so, the panel has made reference to the Advice which indicates that there are 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. One of these cases includes 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.

I have considered the panel's concluding remarks:

"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 provision for a review period."

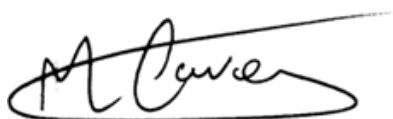
I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the very serious misconduct found which, in my judgment, constitutes behaviour fundamentally incompatible with working as a teacher, as well as the lack of evidence of either full insight or remorse and the risk this raises of a repetition. I have also taken into account the extremely negative impact that such behaviour may have on the reputation of the profession.

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

A handwritten signature in black ink, appearing to read 'M Cavey', written in a cursive style with a long horizontal stroke extending to the right.

Decision maker: Marc Cavey

Date: 22 November 2024

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