



Teaching
Regulation
Agency

Mr Joseph Nicholson: Professional conduct panel meeting outcome

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

December 2024

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

Teacher:	Mr Joseph Nicholson
Teacher ref number:	1936726
Teacher date of birth:	18 February 1993
TRA reference:	22625
Date of determination:	3 December 2024
Former employer:	The Crypt School, Gloucester

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 3 December by way of a virtual meeting, to consider the case of Mr Joseph Nicholson.

The panel members were Ms Tanya Callman (lay panellist – in the chair), Dr Martin Coles (former teacher panellist) and Mrs Michelle Chappell (teacher panellist).

The legal adviser to the panel was Ms Lucy Churchill of Birketts LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Nicholson that the allegation be considered without a hearing. Mr Nicholson 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, Alexander Barnfield, Mr Nicholson, or any representative for Mr Nicholson.

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

Allegations

The panel considered the allegation set out in the notice of meeting dated 7 November 2024.

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

1. On 1 August 2023 he was convicted at Gloucestershire Magistrates' Court and on 29 August 2023 he was sentenced at Gloucester Crown Court for the offence of Engaging in Sexual Communication with a child on 17/03/22 – 31/03/22, contrary to the Sexual Offences Act 2003 s.15A(1).

Mr Nicholson admitted allegation 1 and that his behaviour amounted to the conviction of a relevant offence, as set out in the Statement of Agreed Facts signed by Mr Nicholson on 21 September 2024, and subsequently signed by the presenting officer on 1 October 2024.

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, anonymised pupil list and list of key people – pages 3 to 6
- Section 2: Notice of Proceedings and response – pages 7 to 22
- Section 3: Statement of Agreed Facts and presenting officer representations – pages 23 to 28
- Section 4: Teaching Regulation Agency documents – pages 29 to 141
- Section 5: Teacher documents – pages 142 to 169

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

Statement of Agreed Facts

The panel considered a Statement of Agreed Facts which was signed by Mr Nicholson on 21 September 2024, and subsequently signed by the presenting officer on 1 October 2024.

Decision and reasons

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

In advance of the meeting, the TRA agreed to a request from Mr Nicholson for the allegation to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest.

The panel reviewed the amendments Mr Nicholson had sought to make to the Statement of Agreed Facts. The panel considered that they did not undermine his admission or the agreed position; they merely added context to be considered by the panel. Therefore, the panel did not determine that it was necessary or appropriate to direct that the case be considered at a hearing.

On 1 September 2020, Mr Nicholson was employed as a teacher at the Crypt School ('the School').

On 20 January 2022, Mr Nicholson submitted his letter of resignation due to applying for a post in another school.

On 30 March 2022, [REDACTED] and [REDACTED] had a telephone discussion regarding an email from Pupil A's parents that raised concerns about inappropriate contact between Mr Nicholson and Pupil A.

On 31 March 2022, Mr Nicholson was suspended.

On 4 April 2022, the matter was referred to the police.

On 29 June 2023, Mr Nicholson was arrested and charged with inappropriate sexual communication with a child.

On 1 August 2023, Mr Nicholson was convicted in the Gloucestershire Magistrates Court.

On 29 August 2023, Mr Nicholson was sentenced in the Crown Court.

On 11 September 2023, the matter was referred to the TRA.

Findings of Fact

The Findings of Fact are as follows:

The panel found the following particulars of the allegation against you proved, for these reasons:

- 1. On 1 August 2023 you were convicted at Gloucestershire Magistrates' Court and on 29 August 2023 you were sentenced at Gloucester Crown Court for the offence of Engaging in Sexual Communication with a child on 17/03/22 – 31/03/22, contrary to the Sexual Offences Act 2003 s.15A(1).**

The panel considered the Statement of Agreed Facts, signed by Mr Nicholson on the 21 September 2024. In that Statement of Agreed Facts, Mr Nicholson admitted allegation 1, and further admitted that the facts of the allegation amounted to a conviction of a relevant offence. Notwithstanding this, the panel made a determination based on the facts available to it.

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

The panel had been provided with a copy of the certificate of conviction from Gloucester Crown Court, dated 10 May 2024, which detailed that Mr Nicholson had been convicted of engaging in sexual communication with a child. The panel noted that Mr Nicholson pleaded guilty to the offence.

In respect of the allegation, Mr Nicholson was sentenced to a 36 months' community order; a 40 day rehabilitation activity requirement; 200 hours unpaid work; a 30 day programme requirement; to sign the sex offender's register for 5 years; a sexual harm prevention order for 5 years; to pay £425.00 in prosecution costs and to pay a victim surcharge of £95.

On examination of the documents before the panel and the admissions in the signed Statement of Agreed Facts, the panel was satisfied that the facts of allegation 1 were proven.

Findings as to conviction of a relevant offence

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

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - Treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others;
 - ensuring that personal beliefs are not expressed in ways which exploit pupils’ vulnerability or might lead them to break the law.
- Teachers must have proper and professional regard for the ethos, policies, and practices of the school in which they teach ...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Nicholson fell significantly short of the standards expected of the profession.

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

The panel noted that the offence involved sexual communication with a child, Pupil A, who was a pupil at the School. The panel therefore considered that Mr Nicholson’s convictions were relevant to teaching and working with children and working in an education setting.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Nicholson’s behaviour in committing the offence could undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community. His conduct ran counter to what should have been at the very core of his practice as a teacher with a duty of care towards children. By virtue of his position, Mr Nicholson was in a position of trust and responsibility in relation to the pupil. He abused that position.

The child protection and public protection issues engaged by Mr Nicholson's actions were demonstrated by the Court's sentence.

This was a case involving an offence of sexual communication with a child, which the Advice states is more likely to be considered a relevant offence.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Nicholson's ongoing suitability to teach. The panel considered that a finding that this conviction was for a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of a conviction of a relevant offence, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

- the safeguarding and wellbeing of pupils and the protection of other members of the public;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct within the teaching profession; and
- that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Nicholson, which involved him engaging in sexual communication with Pupil A, there was a strong public interest consideration in the safeguarding and wellbeing of pupils. His actions raised obvious and significant public interest and child protection concerns, as was clearly recognised by the Court when imposing sentence.

There was a strong public interest consideration in respect of the protection of pupils given the findings of an inappropriate relationship with a child.

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

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

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Nicholson. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Nicholson. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- any 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);
- collusion or concealment including concealing inappropriate action.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

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

There was no evidence that Mr Nicholson was acting under extreme duress, and, in fact, the panel found Mr Nicholson's actions to be calculated and motivated. He deliberately cultivated a relationship with Pupil A, sharing his personal mobile telephone number with Pupil A.

The panel reviewed the personal references contained in the documents, including those submitted by Mr Nicholson. The panel considered there was no evidence to suggest that Mr Nicholson demonstrated exceptionally high standards in both personal and professional conduct or had contributed significantly to the education sector.

The panel considered the written representations of Mr Nicholson when considering mitigating factors, including insight and remorse. [REDACTED]

The panel considered Mr Nicholson's mitigating factors; however, the panel was of the view that they did not justify or excuse his actions.

The panel further noted Mr Nicholson's expressions of remorse and that he had expressed "*sorrow and shame*" for his behaviour. The panel reflected on Mr Nicholson's explanation in his written representations for his conduct and considered that his attempts to justify his conduct demonstrated a lack of real insight or genuine remorse. The panel considered that Mr Nicholson did not have a true appreciation of the harm his actions had caused Pupil A.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Nicholson 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 Nicholson. The serious nature of the behaviour, engaging in inappropriate sexual communication with the pupil, 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 to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, which 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 behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes any sexual misconduct involving a child, or serious sexual misconduct, such as 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 their professional position to influence or exploit a person or persons. The panel found that Mr Nicholson was responsible for initiating an inappropriate relationship with Pupil A, abusing his position as a teacher, in order to send Pupil A sexual communications.

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

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found 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 Joseph Nicholson should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Nicholson 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;
 - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law.
- Teachers must have proper and professional regard for the ethos, policies, and practices of the school in which they teach ...
 - Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Nicholson 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 Nicholson fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a teacher receiving a relevant conviction for engaging in sexual communications with a child.

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 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 Nicholson, 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 observes that: "There was a strong public interest consideration in respect of the protection of pupils given the findings of an inappropriate relationship with a child." 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 records as follows:

"The panel further noted Mr Nicholson's expressions of remorse and that he had expressed "*sorrow and shame*" for his behaviour. The panel reflected on Mr Nicholson's explanation in his written representations for his conduct and considered that his attempts to justify his conduct demonstrated a lack of real insight or genuine remorse. The panel considered that Mr Nicholson did not have a true appreciation of the harm his actions had caused Pupil A."

In my judgement, the lack of evidence of full insight on Mr Nicholson's part means that there is some risk of the repetition of his 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 also took account of the way the teaching profession is viewed by others. The panel considered that Mr Nicholson's behaviour in committing the offence could undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community. His conduct ran counter to what should have been at the very core of his practice as a teacher with a duty of care towards children. By virtue of his position, Mr Nicholson was in a position of trust and responsibility in relation to the pupil. He abused that position."

I am particularly mindful of the finding of a teacher being convicted of engaging in sexual communications with a child in this case 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 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 Nicholson himself. The panel records that:

“The panel reviewed the personal references contained in the documents, including those submitted by Mr Nicholson. The panel considered there was no evidence to suggest that Mr Nicholson demonstrated exceptionally high standards in both personal and professional conduct or had contributed significantly to the education sector.”

A prohibition order would prevent Mr Nicholson 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 very serious and unacceptable nature of the misconduct found by the panel. I have also placed weight on the lack of evidence that Mr Nicholson has attained full insight into his behaviour and its impact.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Nicholson 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, it has made the following reference to the Advice:

“The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes any sexual misconduct involving a child, or serious sexual misconduct, such as 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 their professional position to influence or exploit a person or persons. The panel found that Mr Nicholson was responsible for initiating an inappropriate relationship with Pupil A, abusing his position as a teacher, in order to send Pupil A sexual communications.”

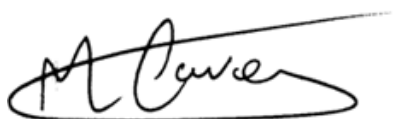
I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the misconduct found, which in my judgment constitutes behaviour fundamentally incompatible with working as a teacher, as well as the lack of evidence of full insight and the risk this presents 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 Joseph Nicholson 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 Nicholson 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 Nicholson has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'M Cavey', enclosed within a large, loopy oval shape.

Decision maker: Marc Cavey

Date: 5 December 2024

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