



Teaching
Regulation
Agency

Mr Andrew Ian Tonner: 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

Teacher:	Mr Andrew Ian Tonner
Teacher ref number:	9745410
Teacher date of birth:	25 March 1976
TRA reference:	21194
Date of determination:	13 December 2024
Former employer:	The Meadows School, Spennymoor, County Durham (the "School")

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened virtually on 13 December 2024 to consider the case of Mr Tonner.

The panel members were Mrs Christine McLintock (teacher panellist - Chair), Mrs Jane Brothwood (lay panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Ms Alice Williams 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 Tonner that the allegation be considered without a hearing. Mr Tonner 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 or Mr Tonner.

The meeting took place in private and virtually.

Allegations

The panel considered the allegation set out in the notice of meeting dated 27 September 2024.

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

1. On 21 September 2022, he was convicted at Newcastle Magistrates Court of three counts of making indecent photograph or pseudo-photograph of children on 11/11/21-14/11/21 contrary to section 1(a) Protection of Children Act 1978.

Mr Tonner had previously acknowledged in correspondence addressed to the panel that he was guilty of the above offence within the Notice of Referral Form dated 3 July 2024. He also admitted the allegation within the Statement of Agreed Facts signed by him on 14 August 2024 and that this amounted to a relevant offence.

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: Notice of Proceedings and Response – pages 3 to 14

Section 2: Statement of Agreed Facts and Presenting Officer Representations – pages 16 to 20

Section 3: TRA Documents – pages 22 to 107

Section 4: Teacher Documents – pages 109 to 112

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Tonner on 14 August 2024.

Decision and reasons

The panel considered at the outset whether the allegation should be considered at a public hearing which the parties would be entitled to attend, or a private meeting without

the parties present. The panel considered the interests of justice and given that the facts of the allegation have been admitted that Mr Tonner had requested a meeting and the panel had the benefit of Mr Tonner's representations, the panel was of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would not be a public reading out of the panel's decision. The panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

The panel's decision and reasons are as follows:

The panel carefully considered the case and reached a decision.

Mr Andrew Ian Tonner was employed by the School from 1 September 2012. At the time of his dismissal on 18 October 2022, he was deputy headteacher but had been employed in various posts prior to this.

Mr Tonner was arrested on 16 November 2021 in relation to reports of indecent images.

On 21 September 2022, Mr Tonner was convicted at Newcastle Magistrates Court of three counts of making indecent photograph or pseudo-photograph of children on 11/11/21-14/11/21 contrary to section 1(a) Protection of Children Act 1978.

Findings of fact

The findings of fact are as follows:

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

- 1. On 21 September 2022 you were convicted at Newcastle Magistrates Court of three counts of making indecent photograph or pseudo-photograph of children on 11/11/21-14/11/21 contrary to section 1(a) Protection of Children Act 1978**

The panel was provided with a copy of the Police National Computer (PNC) record which confirms Mr Tonner's conviction on 21 September 2022 at Newcastle Magistrates Court of three counts of making indecent photograph or pseudo-photograph of children on 11/11/21-14/11/21 (Protection of Children Act 1978 s.1(a)).

The panel was also provided with the Certificate of Conviction confirming Mr Tonner's conviction for making indecent photograph/pseudo-photograph of a child.

The panel accepted the Certificate of Conviction as conclusive proof of the conviction and the facts necessarily implied by the conviction.

Mr Tonner admitted within the Statement of Agreed Facts signed by him on 14 August 2024 that he was convicted of three counts of making indecent photograph or pseudo-photograph of children on 11/11/21-14/11/21 contrary to section 1(a) Protection of Children Act 1978. Mr Tonner further admitted that there were 10 category A images and 18 category A videos, 4 category B images, 1 category B video, and 1 category C image on his personal device.

The panel therefore found this allegation proved.

Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether the facts of that proved allegation 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 Tonner in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Tonner 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
 - ... 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 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 Mr Tonner’s actions were relevant to teaching, working with children and working in an education setting because Mr Tonner’s conviction related to making indecent photographs or pseudo-photographs of children with the age of the children being between 2 and 14 years old, as set out in the sentencing remarks.

The panel therefore noted that the behaviour involved in committing the offence would have been likely to have had an impact on the safety and/or security of pupils.

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

The panel noted that Mr Tonner's behaviour led to a suspended prison sentence, the Judge said in his sentencing remarks that Mr Tonner would have been sent to prison due to the severity of his offence but by virtue of his guilty plea this was reduced to a suspended sentence with sexual notification and rehabilitation activity requirements. Mr Tonner was also subject to a sexual harm prevention order and ordered to do 150 hours unpaid work.

This was a case concerning an offence involving making indecent photographs or pseudo-photographs of children. The Advice indicates that a conviction for any offence that relates to 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 is likely to be considered "a relevant offence".

The panel took into account Mr Tonner's admission and acknowledgement of the seriousness of the allegation against him. The panel also noted that in the sentencing remarks, the Judge referred to Mr Tonner's previous good record as a teacher, the references from various former colleagues who spoke very highly of him, including a former partner who referred to his [REDACTED]. The sentencing remarks also contained details about steps taken by Mr Tonner to address his offending including documents from Safer Lives, the Richmond Fellowship and his counsellor. However, the panel did not have an opportunity to consider or question the references or documents referred to as these were not put before them.

The panel did not consider that the circumstances Mr Tonner was in at the time excused his conduct. Although the panel found that he had taken some rehabilitative steps, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Tonner's fitness to be a teacher. Whilst the panel noted in the sentencing remarks that Mr Tonner had been assessed as being at a low risk of re-offending, he was also judged to be a medium risk of harm to children. The panel also considered the comments around the age and vulnerability of the children in the images, the fact that there were moving images in addition to still images with one of the images showing the victim in pain and distress, and that Mr Tonner had actively sought this material out over a number of days. In addition, Mr Tonner was a senior leader who the police noted was also safeguarding lead for the School at the time of the offence.

For these reasons, 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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Tonner 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, declaring and upholding proper standards of conduct, and striking the balance with the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Tonner the panel found:

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of making indecent photographs or pseudo-photographs of children.

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

Whilst there was evidence presented within the Judge's sentencing remarks that Mr Tonner had a good record as a teacher, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Tonner in the profession, since his behaviour fundamentally breached the standards 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 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;
- 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;
- 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 e.g. 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.

The panel considered that these were relevant as Mr Tonner had actively sought out these indecent photographs/pseudo photographs of children over a number of days and failed to report their abusive nature.

In addition, the panel took account of the online nature of the behaviour in that it included accessing and facilitating abusive material of children online.

Even though 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.

The sentencing remarks noted that Mr Tonner did have a previously good record having risen to the position of deputy head with evidence that former colleagues thought highly of him. However, none of the evidence from his former colleagues was provided to the panel.

There was no evidence that Mr Tonner's actions were not deliberate or that he was acting under extreme duress, e.g. physical threat or significant intimidation. However, the sentencing remarks referred to Mr Tonner's former partner's letter which noted that Mr Tonner was [REDACTED] at the time of the relevant offence. Other factors within the letter included being [REDACTED]. The Judge referred to the pre-sentencing report which stated that [REDACTED].

Whilst it was noted by the Judge that the pre-sentencing report had assessed Mr Tonner as being at low risk of re-offending, the panel considered the sentencing remarks that any further [REDACTED] could lead to Mr Tonner offending again. He was also noted in the sentencing remarks as having been assessed as a medium risk to children.

Finally, Mr Tonner has fully admitted to the offences and shown remorse for his actions, having engaged with a number of rehabilitative steps as set out in the sentencing remarks and within his representations to the panel, albeit the panel noted that it was not provided with any current evidence that the rehabilitative steps were continuing, or the details of the rehabilitative steps.

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 Tonner 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 Tonner. The seriousness of the offences was a significant factor in forming that opinion, alongside the risk to children and potential risk of repetition. 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. any sexual misconduct involving a child, and/or 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 Tonner was responsible for making indecent photographs or pseudo-photographs of children on 11/11/21-14/11/21 contrary to section 1(a) Protection of Children Act 1978.

The panel took into account the issue of mitigation however, the seriousness of the offence and public interest outweighed that mitigation. Whilst Mr Tonner had shown

remorse in his evidence to the panel and taken rehabilitative steps which were also referred to by the Judge in the sentencing remarks, the panel was not satisfied from the evidence that there would be no risk of repetition and that he was not a risk to children. This was of a particular concern given the number of images along with the Judge's description of the serious nature of the offences with aggravating factors being the age and vulnerability of the children involved and a moving image showing a child in pain and distress. The panel was also mindful of the sexual harm prevention order which had been put in place for a period of 10 years.

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 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 Andrew Ian Tonner should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Tonner 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
 - ... 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 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 Tonner, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

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

The findings of misconduct are particularly serious as they include a conviction for making indecent photographs/pseudo images of children

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of 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 Tonner, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel has observed, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of making indecent photographs or pseudo-photographs of children." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Tonner has fully admitted to the offences and shown remorse for his actions, having engaged with a number of rehabilitative steps as set out in the sentencing remarks and within his representations to the panel, albeit the panel noted that it was not provided with any current evidence that the rehabilitative steps were continuing, or the details of the rehabilitative steps." I have therefore given this element some weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel also took account of the way the teaching profession is viewed by others. The panel considered Mr Tonner's behaviour in committing the offences would be likely to affect public confidence in the teaching profession, if Mr Tonner was allowed to continue teaching." I am particularly mindful of the finding of a conviction for making indecent photographs/pseudo images of children in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of a relevant conviction, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Tonner himself and the panel comment “The sentencing remarks noted that Mr Tonner did have a previously good record having risen to the position of deputy head with evidence that former colleagues thought highly of him. However, none of the evidence from his former colleagues was provided to the panel.”

A prohibition order would prevent Mr Tonner from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the mitigating circumstances in this case. The panel has said, “The panel did not consider that the circumstances Mr Tonner was in at the time excused his conduct. Although the panel found that he had taken some rehabilitative steps, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Tonner’s fitness to be a teacher. Whilst the panel noted in the sentencing remarks that Mr Tonner had been assessed as being at a low risk of re-offending, he was also judged to be a medium risk of harm to children. The panel also considered the comments around the age and vulnerability of the children in the images, the fact that there were moving images in addition to still images with one of the images showing the victim in pain and distress, and that Mr Tonner had actively sought this material out over a number of days. In addition, Mr Tonner was a senior leader who the police noted was also safeguarding lead for the School at the time of the offence.”

I have also placed considerable weight on the finding of the panel that “Whilst it was noted by the Judge that the pre-sentencing report had assessed Mr Tonner as being at low risk of re-offending, the panel considered the sentencing remarks that any further [REDACTED] could lead to Mr Tonner offending again. He was also noted in the sentencing remarks as having been assessed as a medium risk to children.”

I have given considerable weight to the following “Whilst there was evidence presented within the Judge’s sentencing remarks that Mr Tonner had a good record as a teacher, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Tonner in the profession, since his behaviour fundamentally breached the standards of conduct expected of a teacher.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Tonner 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 serious 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.

I have considered the panel's comments "The panel took into account the issue of mitigation however, the seriousness of the offence and public interest outweighed that mitigation. Whilst Mr Tonner had shown remorse in his evidence to the panel and taken rehabilitative steps which were also referred to by the Judge in the sentencing remarks, the panel was not satisfied from the evidence that there would be no risk of repetition and that he was not a risk to children. This was of a particular concern given the number of images along with the Judge's description of the serious nature of the offences with aggravating factors being the age and vulnerability of the children involved and a moving image showing a child in pain and distress. The panel was also mindful of the sexual harm prevention order which had been put in place for a period of 10 years."

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, including the age and vulnerability of the children and the risk of repetition.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Andrew Ian Tonner 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 Tonner 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 Tonner has a right of appeal to the High Court within 28 days from the date he is given notice of this order.



Decision maker: Sarah Buxcey

Date: 16 December 2024

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