



Teaching
Regulation
Agency

Mr Luke Berry: Professional conduct panel meeting outcome

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

March 2025

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

Teacher: Mr Luke Berry

Teacher ref number: 1081766

Teacher date of birth: 7 May 1988

TRA reference: 20485

Date of determination: 27 March 2025

Former employer: Joyce Frankland Academy, Essex

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 27 March 2025 by way of a virtual meeting, to consider the case of Mr Luke Berry.

The panel members were Mr Terry Hyde (former teacher panellist – in the chair), Mrs Bernie Whittle (teacher panellist) and Ms Janette McCormick (lay panellist).

The legal adviser to the panel was Mr Jonathan White of Blake Morgan 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 Berry that the allegations be considered without a hearing. Mr Berry 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, Mr Berry or any representative appointed on his behalf.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 21 March 2025.

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

1. On 1 February 2024, he was convicted at Colchester Magistrates' Court of the following offences:
 - a. engaging in sexual communication with a child between 1 June 2021 and 4 October 2021;
 - b. sexual activity with a girl 13 to 17 between 1 September 2020 and 31 October 2020.

Mr Berry admitted the facts of the allegations and that the offences amounted to a conviction for a relevant offence.

Preliminary applications

There were no preliminary applications

Summary of evidence

Documents

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

Section 1: Chronology and list of key people – pages 3 to 4

Section 2: Notice of meeting and response – pages 5 to 18

Section 3: Statement of agreed facts – pages 19 to 22

Section 4: Teaching Regulation Agency documents – pages 23 to 264

Section 5: Teacher documents – pages 265 to 267

Section 6: Notice of meeting – pages 268-269

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

In the consideration of this case, the panel had regard to the document Teacher misconduct: Disciplinary procedures for the teaching profession 2020, (the “Procedures”).

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Berry on 6 March 2025.

Decision and reasons

The panel announced its decision and reasons as follows:

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

In advance of the meeting the TRA agreed to a request from Mr Berry for the allegations 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 did not determine that such a direction was necessary or appropriate in this case.

Mr Berry was employed as a physics teacher at Joyce Frankland Academy (“the Academy”) from 1 September 2017 until on or around 25 May 2022, when he resigned.

On 4 October 2021 Mr Berry was arrested for engaging in sexual communications with a child under 16 and was interviewed under caution. This child was a pupil at the [REDACTED].

On 2 January 2022 Mr Berry was arrested for engaging in sexual activity with a girl aged 13-17. This child was also a pupil [REDACTED] and was a different pupil to that referred to above.

On 7 January 2022 the Police referred the matter to the TRA.

On 1 February 2024 Mr Berry was convicted of engaging in sexual communication with a child between 1 June 2021 and 4 October 2021 and of sexual activity with a girl 13 to 17 between 1 September 2020 and 31 October 2020. The second offence related to five instances of touching.

On 29 February 2024 Mr Berry was sentenced to eight months imprisonment in respect of the first offence and to nine months imprisonment in respect of the second offence. The sentences were consecutive, resulting in a total sentence of 17 months imprisonment.

Findings of fact

The findings of fact are as follows:

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

1. **On 1 February 2024, you were convicted at Colchester Magistrates' Court of the following offences:**
 - a. **engaging in sexual communication with a child between 1 June 2021 and 4 October 2021;**
 - b. **sexual activity with a girl 13 to 17 between 1 September 2020 and 31 October 2020.**

The panel was presented with a statement of agreed facts, signed by Mr Berry, in which the allegations were admitted.

The panel was also presented with a Certificate of Conviction from Chelmsford Crown Court confirming that Mr Berry was convicted of the offences particularised in the allegations. He was sentenced to:

- a. a term of imprisonment for 17 months.
- b. a sexual harm prevention order for 10 years.
- c. a requirement to register with the Police for a period of 10 years.

The panel was presented with the sentencing remarks of the presiding judge sitting at Court on 29 February 2024, summarising the offences and the reasons for the sentence imposed.

The panel accepted the Certificate of Conviction as conclusive proof of the commission of these offences by Mr Berry.

In light of this and Mr Berry's admissions, the panel found the allegations proved.

Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether the facts amounted to a conviction of a relevant offence, which Mr Berry admitted. 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 first considered whether the conduct of Mr Berry, in relation to the facts found proved, involved breaches of the Teachers' Standards.

The panel considered that, by reference to Part 2, Mr Berry 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
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs. The panel considered that the rule of law and mutual respect to be the particular values breached under this section.
- 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 Berry's actions were highly relevant to teaching, working with children and working in an education setting. The offences were committed against two pupils [REDACTED].

The panel noted that the behaviour involved in the commission of the offences had an impact on the safety and security of pupils.

The panel noted that Mr Berry's behaviour led to a sentence of immediate imprisonment, which was indicative of the seriousness of the offences. The panel noted that, pursuant to the Advice, it is likely that:

- A conviction for any offence that led to a term of imprisonment will be considered a relevant offence.
- A conviction for any offence that relates to sexual activity will be considered a relevant offence.

The panel also considered the offences listed on pages 12 and 13 of the Advice.

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

The panel considered Mr Berry's behaviour represented a significant abuse of trust and that the seriousness of the offending behaviour that led to the conviction was directly relevant to Mr Berry's ongoing suitability to teach. The panel considered that a finding that these convictions were for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of 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 other members of the public
- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Berry, and the nature of the offences for which he was convicted, with particular reference to the judge's sentencing remarks, there was a strong public interest consideration in respect of the safeguarding, protection and wellbeing of pupils and other members of the public. Mr Berry's actions raised obvious public and child protection concerns.

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

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 Berry was outside that which could reasonably be tolerated.

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mr Berry in the profession.

Whilst there was evidence from the character references referred to by the judge at the sentencing hearing that Mr Berry had ability as an educator, the panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Berry in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

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

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of the Police Act 1997 and criminal record disclosures;
- misconduct seriously affecting the education, safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);

- violation of the rights of pupils;
- a deep-seated attitude that leads to harmful behaviour;

The panel also noted that Mr Berry had sent an inappropriate photograph of himself to one of the pupils in the context of the offence of sexual communication with a child.

The panel had particular regard to the following remarks of the judge when passing sentence:

“The attempts to normalise your behaviour or conversations towards [Person B2] show that this was calculating, it was grooming behaviour.”

“There is a pre-sentence report and again there are positive aspects to that but there are some worrying matters contained. You are not able to recognise that you are sexually attracted to children.”

“It [the pre-sentence report] assesses you as being a high risk of harm to children and reluctantly I am driven to the conclusion that that is so. The effect of your offending on each of these young ladies was very significant indeed. To have somebody whom they are supposed to be able to trust and whom they are told is somebody they can trust is enormous. I do not intend to regurgitate what they said in their victim personal statements. You have heard them; you will appreciate the affect that your offending – because that is what is [sic] is – had upon them. I am concerned that you are manipulative and sexually predatory. Those are not my words but the words of the author or the presentence report and I am extremely concerned that you do not yet appreciate the substantial serious effects which your behaviour had upon these young women.”

“It [an immediate custodial sentence] is the only sentence which meets the justice in this case and additionally, I take the view that you require such a punishment in order for you to face up to the reality of what you have done.”

Even though 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 clear evidence that Mr Berry’s actions were deliberate.
- There was no evidence to suggest that Mr Berry was acting under extreme duress.
- Mr Berry did have a previously good history, this did not, however, demonstrate exceptionally high standards in his personal and professional conduct or having contributed significantly to the education sector.
- Mr Berry pleaded guilty in the criminal proceedings.

- Mr Berry had fully engaged with the TRA and made full admissions.

The panel considered the extent of Mr Berry's insight and remorse and was concerned that Mr Berry appeared to lack insight, as described by the judge based on the contents of the pre-sentence report. The panel was seriously concerned by the fact that Mr Berry was unable to recognise that he was sexually attracted to children and that he therefore posed an ongoing risk to children.

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 Berry 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 Berry. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order be made.

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

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

These behaviours include:

- serious sexual misconduct; and
- any sexual misconduct involving a child;

These were directly applicable in this case, in circumstances where this was sustained behaviour over a prolonged period and critical aspects of Mr Berry's actions took place in a school setting.

In light of this and the panel's comments, above, regarding the seriousness of these offences and the lack of insight shown by Mr Berry, 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. The public interest considerations engaged by Mr Berry's offences were such that this was necessary, appropriate and proportionate.

Mr Berry's actions were fundamentally incompatible with his being a teacher.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mr Berry is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs. The panel considered that the rule of law and mutual respect to be the particular values breached under this section.
- 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 Berry, 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 Berry fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include an offence involving sexual activity with a child and an offence involving sexual communication with a child.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of a relevant conviction, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Berry, 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, "In the light of the panel's findings against Mr Berry, and the nature of the offences for which he was convicted, with particular reference to the judge's sentencing remarks, there was a strong public interest consideration in respect of the safeguarding, protection and wellbeing of pupils and other members of the public. Mr Berry's actions raised obvious public and child protection concerns." 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, "The panel considered the extent of Mr Berry's insight and remorse and was concerned that Mr Berry appeared to lack insight, as described by the judge based on the contents of the pre-sentence report. The panel was seriously concerned by the fact that Mr Berry was unable to recognise that he was sexually attracted to children and that he therefore posed an ongoing risk to children." In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel considered Mr Berry's behaviour represented a significant abuse of trust and that the seriousness of the offending behaviour that led to the conviction was directly relevant to Mr Berry's ongoing

suitability to teach. The panel considered that a finding that these convictions were for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.” I am particularly mindful of the finding of sexual offences involving 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 Berry himself and the panel comment “Whilst there was evidence from the character references referred to by the judge at the sentencing hearing that Mr Berry had ability as an educator, the panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Berry in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.”

A prohibition order would prevent Mr Berry 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 that the panel had particular regard to the following remarks of the judge when passing sentence:

“The attempts to normalise your behaviour or conversations towards [Person B2] show that this was calculating, it was grooming behaviour.”

“There is a pre-sentence report and again there are positive aspects to that but there are some worrying matters contained. You are not able to recognise that you are sexually attracted to children.”

I have also placed considerable weight on the finding that “The panel noted that Mr Berry’s actions were highly relevant to teaching, working with children and working in an education setting.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Berry has made to the profession. In my view, it is necessary to impose a prohibition

order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full insight or remorse, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

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

I have considered the panel's comments "In light of this and the panel's comments, above, regarding the seriousness of these offences and the lack of insight shown by Mr Berry, 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. The public interest considerations engaged by Mr Berry's offences were such that this was necessary, appropriate and proportionate." And the panel went on to say "Mr Berry's actions were fundamentally incompatible with his being a teacher."

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 seriousness of the findings, the lack of either insight or remorse, and the risk of repetition.

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

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

A handwritten signature in black ink, appearing to read 'SABuxcey', with a stylized, cursive script.

Decision maker: Sarah Buxcey

Date: 28 March 2025

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