



Teaching
Regulation
Agency

Mr Paul Maloney: Professional conduct panel meeting outcome

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

October 2021

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

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| Teacher: | Mr Paul Maloney |
| Teacher ref number: | 0009183 |
| Teacher date of birth: | 12 April 1975 |
| TRA reference: | 19509 |
| Date of determination: | 18 October 2021 |
| Former employer: | Fortismere School, Muswell Hill |

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 18 October 2021 by way of a virtual meeting, to consider the case of Mr Paul Maloney.

The panel members were Mr David Raff (lay panellist – in the chair), Ms Asma Majid (lay panellist) and Ms Susanne Staab (teacher panellist).

The legal adviser to the panel was Mrs Rebecca Utton 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 Maloney that the allegation be considered without a hearing. Mr Maloney provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer Ms Chantelle Browne of Fieldfisher LLP solicitors, Mr Maloney; or his representative Mr Aiden Carr of Burton Copeland LLP.

The meeting took place in private by way of a virtual meeting, save for the opening and the announcement of the panel’s decision, which were announced in public and recorded.

Allegations

The panel considered the allegation set out in the notice of meeting dated 28 September 2021.

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

1. On 29 June 2020 he was convicted of assault occasioning actual bodily harm on 7 December 2019, contrary to the Offences against the Person Act 1861 Section 47

Mr Maloney admitted the facts of the allegation and that his behaviour amounted to a conviction of a relevant offence, as set out in the response to the notice of referral dated 8 March 2021 and the statement of agreed facts signed by Mr Maloney on 19 September 2021.

Preliminary applications

Whilst there were no preliminary applications, during the meeting, the panel was asked to consider a late application from Mr Maloney's legal representatives for the admission of further mitigation documents to the bundle. There was no objection to the admission of the additional documents by the presenting officer or the TRA.

The panel determined that it would be in the interests of justice for those documents to be considered and therefore admitted them as part of the bundle. The panel further noted that the additional material referred to an employer's reference however this had not been provided.

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the "May 2020 Procedures"). The panel understands that the earlier provisions contained within the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 (the "April 2018 Procedures") apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Chronology – page 1
- Section 2: Notice of referral, response and notice of meeting – pages 2 to 13
- Section 3: Statement of agreed facts and presenting officer representations – pages 14 to 24
- Section 4: Teaching Regulation Agency documents – pages 25 to 76
- Section 5: Teacher documents – pages 77 to 100

In addition, the panel agreed to accept the following:

- Email from legal representative enclosing mitigation statement – page 101
- Mr Maloney's Mitigation Statement – pages 102 to 110
- Email communications between legal representative and presenting officer- page 111
- Mr Maloney's further character references – pages 112 to 115

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

Statement of agreed facts

The panel considered a statement of agreed facts, which was signed by Mr Maloney on 19 September 2021.

Mr Maloney admitted in the statement of agreed facts that, on 29 June 2020, he was convicted of assault occasioning actual bodily harm (which took place on 7 December 2019) contrary to section 47 of the Offences Against the Person Act 1861.

Along with his admission to the allegation, the panel also noted that Mr Maloney agreed that, at the time of the offence, he was employed or engaged to carry out teaching work.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from the teacher dated 8 March 2021 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 did not determine that such a direction was necessary or appropriate in this case.

Mr Maloney was employed as an assistant head at Fortismere School ('the School') from 1 September 2019.

- On 6 December 2019, a senior leadership team social event was held, which Mr Maloney attended. Mr Maloney's [REDACTED] also attended during the latter part of the evening.

In the early hours of the 7 December 2019, Mr Maloney assaulted his [REDACTED], occasioning actual bodily harm.

The Local Authority Designated Officer ('LADO') received a referral from the London Borough of Barnet MASH on 16 December 2019 with information that a teacher who worked in Haringey had been arrested. The police investigating officer was contacted by the School, on 30 December 2019, but did not provide any information regarding the investigation as they were still seeking to arrest Mr Maloney.

On 8 January 2020, police arrived at the School and arrested Mr Maloney. A suspension from the School had not yet been formalised. Mr Maloney was interviewed by police on this date and denied assaulting his [REDACTED].

The LADO advised the School to suspend Mr Maloney from work, pending an investigation. However, Mr Maloney was charged with assault occasioning actual bodily harm during the time in which the School were compiling documentation. On 14 January 2020, the decision was made to dismiss Mr Maloney as a result of the criminal action.

On 29 June 2020, Mr Maloney was convicted of assault occasioning actual bodily harm contrary to the Offences Against the Person Act 1861 section 47 and was later sentenced on 21 September 2020 to 15 months' imprisonment suspended for two years; up to 25 days rehabilitation activity requirement; to attend an accredited programme, namely 40 days of building better relationships; and to perform 200 hours of unpaid work.

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 29 June 2020 you were convicted of assault occasioning actual bodily harm on 7 December 2019, contrary to the Offences against the Person Act 1861 Section 47

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 hearing will not re-examine the facts of the case and the panel will accept the conviction as conclusive proof that establishes the relevant fact.

The panel had been provided with a copy of the certificate of conviction from the Crown Court at Harrow which detailed that on 29 June 2020 in the North West London Magistrates’ Court, Mr Maloney had been convicted of assault occasioning actual bodily harm, in respect of his actions on 7 December 2019.

In addition, the panel noted that in the response to the notice of referral dated 8 March 2021 and in the statement of agreed facts, which Mr Maloney signed on 19 September 2021, Mr Maloney admitted the facts of the allegation.

On examination of the documents before the panel, the panel was satisfied that the allegation was found 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 Maloney in relation to the facts it found proved involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Maloney 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
 - 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 recognised that the offence had taken place outside of the school setting and school hours and had not involved pupils or other members of the School’s staff. Nevertheless, for the reasons set out below, having considered all the facts of the case,

the panel considered that the conviction of assault occasioning actual bodily harm of which Mr Maloney had been convicted was relevant to his fitness to be a teacher.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the public. Whilst the panel acknowledged that the offence took place within Mr Maloney's home, they considered the degree of violence used by him to be high; grabbing the victim by their hair and round the throat; banging the victim's head onto the stairs; being continually verbally abusive and making threats to the victim during the assault. The panel also noted that it was a sustained incident. The panel considered that Mr Maloney had a duty to act as a role model. In that regard, the panel were of the opinion that his actions fell short of the standard of behaviour expected of a teacher.

The panel considered that as a Designated Safeguarding Lead Mr Maloney would likely encounter vulnerable pupils, which could include pupils with significant mental health issues. The nature of the offence involved complete loss of control resulting in serious violence and significant physical and mental harm, which is clearly relevant to the context of his work within the School.

The panel identified that the offence of assault occasioning actual bodily harm had involved the use of violence, and noted the Advice states an offence involving violence is likely to be considered a relevant offence. The panel noted that Mr Maloney's behaviour ultimately led to a sentence of imprisonment, albeit it was suspended, which was indicative that the offence was at the more serious end of the spectrum.

The panel further noted that in the statement of agreed facts, signed by Mr Maloney on 19 September 2021, he admitted that the facts amounted to a conviction of a relevant offence.

The panel also took account of the way the teaching profession is viewed by others and, in particular, noted the influence that teachers may have on pupils, parents and others in the community. The panel considered that Mr Maloney's behaviour in committing the offence could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Maloney's ongoing suitability to teach. The panel considered that finding the conviction a relevant offence reaffirmed clear standards of conduct and would therefore 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 protection 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 light of the panel's findings against Mr Maloney which involved a conviction of a relevant offence, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Maloney were 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 Maloney 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 Maloney.

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 the teacher. 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;
- actions or behaviours that undermine fundamental British values of democracy, the rule of law, individual liberty;

- 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.

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.

The panel considered that Mr Maloney's actions on 7 December 2019 had been deliberate. The panel noted from the documentary evidence provided by Mr Maloney that he had been both intoxicated and [REDACTED] at the time the offence was committed. The panel did not however consider this to mean that his actions had not been deliberate. The panel noted that Mr Maloney admitted his guilt. There was no evidence presented to suggest that Mr Maloney was acting under duress.

The panel took into account the observations and submissions provided to the TRA by Mr Maloney's legal representative, Mr Aidan Carr of Burton Copeland LLP.

The panel considered that the following mitigating factors were present in the case:

- The panel noted that Mr Maloney did not attempt to blame the victim, expressed remorse for, and had insight into the effect of his actions.
- Mr Maloney has begun to undertake rehabilitation steps, referred to in the references from Individual A [REDACTED] and Individual B [REDACTED], which has included attending [REDACTED], [REDACTED], [REDACTED]. The panel further noted Mr Maloney stated in his letter to the TRA dated 4 November 2020 that he [REDACTED].
- Mr Maloney had experienced a number of personal issues that had affected his mental health. The panel in particular took account of the psychological assessment report, dated 18 September 2019, which made reference to the fact that [REDACTED], [REDACTED] and [REDACTED]. The panel noted the psychologist's comment in relation to the offence [REDACTED].
- The panel was referred to several positive references within the bundle which attested to Mr Maloney's ability as a teacher, including from former colleagues Individual C and Individual D.
- The panel noted the contents of the letter from the HM Prison & Probation Service which stated that Mr Maloney had successfully completed the supervision element of his Court Order without incidence. It described how Mr Maloney had made great progress to address some of his criminogenic needs through his Rehabilitation Activity Requirement

days and had also complied with his non statutory appointments. The Probation Officer commended Mr Maloney on “his great progress and engagement”.

Although Mr Maloney admits the allegation and there are significant mitigating factors, the panel noted that he is still subject to the suspended sentence order. The panel considered that whilst Mr Maloney was undertaking appropriate rehabilitation steps a number of the personal factors that led to him using alcohol and experiencing mental health issues could still be present and/ or reoccur namely, [REDACTED]

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 Maloney 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 Maloney. The seriousness of the conviction and level of violence were significant factors 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, 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 behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours include violence. The panel found that Mr Maloney was responsible for committing a violent act.

The panel considered that whilst the offence of violence was serious and had a lasting effect upon the victim there had not been any misconduct in school or towards pupils. Mr Maloney had an unblemished teaching career and had acted substantially out of character. The panel considered that if Mr Maloney continued to acknowledge his mistakes and undertake rehabilitation to apply suitable coping mechanisms to prevent them reoccurring in future, then there may be a time when he would be able to positively contribute again to the teaching profession.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a three year 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 Maloney should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Mr Maloney 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
 - 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 finding of misconduct is particularly serious as it relates to a conviction of assault occasioning actual bodily harm.

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 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 Maloney, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel observed, “that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils and/or members of the

public.” 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 noted that Mr Maloney did not attempt to blame the victim, expressed remorse for, and had insight into the effect of his actions.” The panel also noted “Mr Maloney has begun to undertake rehabilitation steps.”

The panel also “considered that whilst Mr Maloney was undertaking appropriate rehabilitation steps a number of the personal factors that led to him using alcohol and experiencing mental health issues could still be present and/ or reoccur”. In my judgement, this indicates that there is some risk of repetition of this behaviour, and this puts at risk the future well being 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, “In light of the panel’s findings against Mr Maloney which involved a conviction of a relevant offence, there was a strong public interest consideration in respect of the protection of pupils. 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 Maloney was outside that which could reasonably be tolerated.” 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, 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 Maloney himself. The panel observe “that the public interest considerations outweighed the interests of Mr Maloney. The seriousness of the conviction and level of violence were significant factors in forming that opinion”

A prohibition order would prevent Mr Maloney from teaching and 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 nature of the conviction. The panel has said, “they considered the degree of violence used by him to be high; grabbing the victim by their hair and round the throat; banging

the victim's head onto the stairs; being continually verbally abusive and making threats to the victim during the assault." The panel also noted that it was a sustained incident.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Maloney has made to the profession. In my view, it is necessary to impose a prohibition order to maintain 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 a three year review period.

I have considered the panel's comments "The panel considered that whilst the offence of violence was serious and had a lasting effect upon the victim there had not been any misconduct in school or towards pupils. Mr Maloney had an unblemished teaching career and had acted substantially out of character. The panel considered that if Mr Maloney continued to acknowledge his mistakes and undertake rehabilitation to apply suitable coping mechanisms to prevent them reoccurring in future, then there may be a time when he would be able to positively contribute again to the teaching profession."

I have considered whether a three year 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, two factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the high degree of violence and the sustained nature of the incident.

I consider therefore that a three year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Paul Maloney is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 4 November 2024, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Maloney remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

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



Decision maker: John Knowles

Date: 22 October 2021

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