



Teaching  
Regulation  
Agency

# **Mr Matthew McGuigan: Professional conduct panel meeting outcome**

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

**January 2021**

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

<b>Teacher:</b>	Mr Matthew McGuigan
<b>Teacher ref number:</b>	0639624
<b>Teacher date of birth:</b>	8 November 1983
<b>TRA reference:</b>	17347
<b>Date of determination:</b>	11 January 2021
<b>Former employer:</b>	Queensmead School, Ruislip, London

### Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 11 January 2021 by video conference to consider the case of Mr Matthew McGuigan.

The panel members were Ms Marjorie Harris (former teacher panellist – in the chair), Mr Neil Hillman (teacher panellist) and Mr Nicholas Catterall (lay panellist).

The legal adviser to the panel was Ms Josie Beal 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 McGuigan that the allegations be considered without a hearing. Mr McGuigan provided a signed statement of agreed facts and admitted a conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Ms Sherelle Appleby or Mr McGuigan.

The meeting took place in private and was recorded. The panel’s decision was also announced in private.

### Allegations

The panel considered the allegations set out in the notice of meeting dated 4 December 2020.

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

1. On or around 12 September 2019 he was convicted at Westminster Magistrates' Court of the offence of:

a. On or around 11 July 2018 possession of cocaine a controlled drug of class A contrary to section 5(1) of the Misuse of Drugs Act 1971, contrary to section 5(2) of schedule 4 of the Misuse of Drugs Act 1971.

b. On or around 11 July 2018 possession of hydroxy-n-butyric acid a controlled drug of class C contrary to section 5(1) of the Misuse of Drugs Act 1971. Contrary to section 5(2) of and Schedule 4 of the Misuse of Drugs Act 1971.

Mr McGuigan admits the facts of allegations against him and that he was convicted of 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 referral, response & notice of meeting – pages 2 to 7
- section 2: Correspondence – pages 9 to 13
- section 3: Teaching Regulation Agency documents – pages 15 to 23
- section 4: Teacher documents – pages 25 to 33

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 McGuigan on 24 August 2020.

Mr McGuigan admitted in the statement of agreed facts that he had been convicted on 12 September 2019 at Westminster Magistrates' Court for being in possession (on 11 July 2018) of cocaine, a Class A drug, and hydroxy-n-butyric acid, a Class C drug, contrary to section 5(1), section 5(2) and schedule 4 of the Misuse of Drugs Act 1971. Mr McGuigan also admitted that this amounts to a conviction, at any time, of a relevant offence.

## 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 Mr McGuigan 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.

In summary, Mr McGuigan was employed as a drama teacher at Queensmead School from 2016 until his resignation on 31 August 2018.

On or around 9 July 2018, an allegation was made to the police against Mr McGuigan [REDACTED].

On or around 11 July 2018, a warrant was granted at Westminster Magistrates' Court to allow police officers to carry out a search of Mr McGuigan's residence. During the search, the police recovered several bags containing white powder, small bottles of clear liquid, electronic devices and a bank card in another man's name. The white powder was subsequently tested as cocaine and the liquid was confirmed to be hydroxy-n-butyrac acid. Mr McGuigan was arrested on suspicion of [REDACTED] being in possession of class A drugs and theft.

[REDACTED].

On or around 12 September 2019, Mr McGuigan was convicted at Westminster Magistrates' Court for being in possession of cocaine, a Class A drug, and hydroxy-n-butyrac acid, a Class C drug, contrary to section 5(1), section 5(2) and schedule 4 of the Misuse of Drugs Act 1971.

## Findings of fact

The findings of fact are as follows:

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

- 1. On or around 12 September 2019 you were convicted at Westminster Magistrates' Court of the offence of:**
  - a) On or around 11 July 2018 possession of cocaine a controlled drug of class A contrary to section 5(1) of the Misuse of Drugs Act 1971, contrary to section 5(2) of schedule 4 of the Misuse of Drugs Act 1971.**

**b) On or around 11 July 2018 possession of hydroxy-n-butyric acid a controlled drug of class C contrary to section 5(1) of the Misuse of Drugs Act 2971. Contrary to section 5(2) of and Schedule 4 of the Misuse of Drugs Act 1971.**

In the statement of agreed facts, Mr McGuigan accepted that he was convicted for being in possession of class A and class C drugs and admitted that he indicated a plea of guilty at the hearing on 12 September 2019 in respect of the above offences. Mr McGuigan has further accepted that this amounted to a conviction, at any time, of a relevant offence as outlined in the Teacher Misconduct: The Prohibition of Teachers (“the Advice”). The panel was provided with a copy of the memorandum of conviction from the Westminster Magistrates’ Court dated 11 March 2020 confirming Mr McGuigan was convicted of these offences and issued with a fine. On examination of the documents before the panel, the panel was satisfied that the allegation was proven.

The panel also noted page 8 of the Advice, which states that where there has been a conviction, at any time, of a criminal offence, the meeting will not re-examine the facts of the case and the panel will accept the conviction as conclusive proof that establishes relevant facts.

### **Findings as to conviction of a relevant offence**

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

In considering whether Mr McGuigan’s actions were relevant to teaching, working with children and/or working in an education setting, the panel noted that there was a lack of information in the bundle as to the impact Mr McGuigan’s conduct had on his ability to teach. However, the panel [REDACTED] concluded that [REDACTED] was likely to impact upon Mr McGuigan’s ability as a teacher in addition to affecting his mental and physical wellbeing.

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.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr McGuigan’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 noted that Mr McGuigan's behaviour did not lead to a sentence of imprisonment, which was indicative that the offence was at the less serious end of the possible spectrum.

This was a case involving an offence of possession of class A drugs, which the Advice states is likely to be considered a relevant offence. However, the panel recognised that the case also involved the minor offence of possession of class C drugs away from children and education contexts, which the Advice states is less likely to be considered a relevant offence.

The panel took into consideration Mr McGuigan's account of the emotional difficulties he described that he was suffering at the relevant time. [REDACTED].

Mr McGuigan described in his statement the counselling he was undertaking to develop strategies to help him cope with challenges in his personal life and the personal improvements he has made during the past two years.

Although the panel found that the evidence of Mr McGuigan's mitigation to be of note, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr McGuigan'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 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 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 the light of the panel's findings against Mr McGuigan, which involved conviction of a relevant offence, there was a strong public interest consideration in respect of the protection of public confidence in the profession given the serious findings of possession of a class A drug.

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

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 McGuigan. 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.

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 evidence that Mr McGuigan’s actions were deliberate and there was no evidence to suggest that he was acting under duress.

The panel was not presented with evidence regarding Mr McGuigan’s history as a teacher or his contribution to the teaching profession, save for some limited remarks in a statement from Mr McGuigan. Accordingly, the panel was not able to assess Mr McGuigan’s previous history and/or ability as a teacher.

The panel considered a statement provided by Mr McGuigan which described his mitigating circumstances, namely some difficult personal issues he was dealing with. However, the panel considered that Mr McGuigan’s statement did not show sufficient insight into the impact his actions and conviction had and/or may have had on the school, the pupils and the public.

The panel was not provided with any statements from Mr McGuigan’s former employer or from any colleagues or parents that could attest to his history and/or abilities as a teacher. Additionally, the panel was not presented with any information pertaining to Mr McGuigan’s current employment circumstances or the steps he has taken in this regard since resigning from the school. However, it was provided with character statements from Mr McGuigan’s two friends and [REDACTED], which it considered. These statements confirmed that Mr McGuigan had made positive changes to his life over the past two years and provided support to Mr McGuigan. [REDACTED]

[REDACTED]

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes class A drug abuse. The panel found that Mr McGuigan was convicted for being in possession of a class A drug and acknowledged that this constitutes conduct which may merit a prohibition order with no review period.

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 McGuigan 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 McGuigan. The lack of information in the bundle made it difficult for the panel to assess all of the mitigating circumstances present in this case, specifically in respect of his professional competencies. In the absence of such information, the seriousness of the offence committed, and the guidance set out in the Advice regarding class A drugs was a significant factor in forming this 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 two years.

The panel decided that the findings indicated a situation in which a review period would be appropriate. The panel acknowledged the personal progress Mr McGuigan had made during the past two years and considered that Mr McGuigan would be able to make further progress during a review period. As such, the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a 4 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 both of the allegations proven and found that those proven facts amount to relevant convictions.

The panel has made a recommendation to the Secretary of State that Mr Matthew McGuigan should be the subject of a prohibition order, with a review period of 4 years.

In particular, the panel has found that Mr McGuigan 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.
- 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.

The findings of a relevant conviction are particularly serious as they include a finding of possession of a Class A Drug.

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 McGuigan, 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 has observed, "The panel noted that the behaviour involved in committing the offence could have had an impact on the safety or security of pupils." A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "the panel considered that Mr McGuigan's statement did not show sufficient insight into the impact his actions and conviction had and/or may have had on the school, the pupils and the public."

In my judgement, the lack of full insight means that there is some risk of the 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, "The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr McGuigan'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."

I am particularly mindful of the finding of possession of a Class A Drug 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 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 McGuigan himself. The panel comment, “The lack of information in the bundle made it difficult for the panel to assess all of the mitigating circumstances present in this case, specifically in respect of his professional competencies.” Nonetheless the panel also note some positive references concerning Mr McGuigan.

A prohibition order would prevent Mr McGuigan from teaching and 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, “the seriousness of the offence committed, and the guidance set out in the Advice regarding Class A drugs was a significant factor in forming this opinion.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McGuigan 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, 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 a 4 year review period.

I have considered the panel’s comments “The panel acknowledged the personal progress Mr McGuigan had made during the past two years and considered that Mr McGuigan would be able to make further progress during a review period. As such, the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a 4 year review period.”

I have also considered that the advice indicates that cases involving Class A drug possession might call for a no review period.

I have considered whether a 4 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, there are factors which 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 involvement of Class A Drugs and the lack of full insight.

I consider therefore that a 4 year review period is required to satisfy the maintenance of public confidence in the profession.

**This means that Mr Matthew McGuigan 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 17 January 2025, 4 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 Matthew McGuigan remains prohibited from teaching indefinitely.

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

Mr Matthew McGuigan 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.

A handwritten signature in blue ink, appearing to read 'Alan Meyrick', followed by a vertical line.

**Decision maker: Alan Meyrick**

**Date: 13 January 2021**

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