



Teaching
Regulation
Agency

Mr Nathaneal Poultorak: Professional conduct panel outcome

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

February 2021

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

Teacher:	Mr Nathaneal Poultorak
Teacher ref number:	2071164
Teacher date of birth:	28 April 1988
TRA reference:	18611
Date of determination:	15 February 2021
Former employer:	Manchester Jewish School for Special Education, Manchester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by video conference on 15 February 2021 to consider the case of Mr Nathaneal Poultorak.

The panel members were Dr Steven Berryman (teacher panellist), Mr Maurice McBride (lay panellist – in the chair) and Mrs Kulvinder Sandal (teacher panellist).

The legal adviser to the panel was Mrs Anna Marjoram of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Sherelle Appleby of Browne Jacobson solicitors.

Mr Poultorak was present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 1 December 2020.

It was alleged that Mr Nathaneal Poultorak was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that he:

1. engaged in inappropriate physical contact with Child A in that he hit her causing significant bruising and damage to her ear on or around 4 March 2019;
2. engaged in inappropriate physical contact with Child B in that he hit her on one or more occasions; and
3. was cautioned for assaulting Child A and Child B on or around 29 April 2019.

Preliminary applications

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.

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: Notice of proceedings – pages 2 to 4

Section 2: Statement of agreed facts – pages 6 to 8

Section 3: Teaching Regulation Agency documents – pages 10 to 31.

In addition, the panel agreed to accept the following:

- an email from the presenting officer to Mr Poultorak dated 13 January 2021;

- a letter from Browne Jacobson to Mr Poultorak dated 20 January 2021;
- an email from the presenting officer to Mr Poultorak dated 12 February 2021;
- an amended statement of agreed and disputed facts, signed by both parties on 14 February 2021; and
- a letter from the headteacher of [Redacted] Manchester, dated 15 February 2021.

The presenting officer applied to admit the first four documents in the above list and the teacher applied to admit the fifth. Those documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel is required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel took into account the representations from both parties and specifically that there were no objections to the inclusion of these documents from either party.

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel was satisfied that the documents may be reasonably relevant to the case. Neither party objected to the inclusion of these documents and both parties had had opportunity to see these documents.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

Witnesses

The panel heard oral evidence from Mr Poultorak.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Poultorak was employed as a special educational needs' teacher at Manchester Jewish School for Special Education (also referred to as T'mimei Lev) (the "School") from 3 January 2019.

On 4 March 2019, Child A was admitted to hospital having suffered an injury. As a result of this, Mr Poultorak made admissions at the hospital in respect of Child A and Child B. The hospital then referred this incident to social services and the LADO.

On 7 March 2019, Mr Poultorak was suspended from the School pending investigation by the police, social services, and the School. On 29 April 2019, Mr Poultorak was cautioned

by the police; and on 17 June 2019, Mr Poultorak was dismissed from his employment at the School following a disciplinary hearing.

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:

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that you:

- 1. engaged in inappropriate physical contact with Child A in that you hit her causing significant bruising and damage to her ear on or around 4 March 2019;**

The allegation was admitted in the statement of agreed and disputed facts signed by Mr Poultorak on 14 February 2021 and in Mr Poultorak's oral evidence. It was supported by evidence presented to the panel including Mr Poultorak's admission at the time of the hospital visit. The allegation was therefore found proved.

- 2. engaged in inappropriate physical contact with Child B in that you hit her on one or more occasions;**

The allegation was admitted in the statement of agreed and disputed facts signed by Mr Poultorak on 14 February 2021 and in Mr Poultorak's oral evidence. It was supported by evidence presented to the panel in which Mr Poultorak admitted the incident to the police resulting in a caution, at the School disciplinary meeting and as reported at the LADO meeting. The allegation was therefore found proved.

- 3. were cautioned for assaulting Child A and Child B on or around 29 April 2019.**

The allegation was admitted in the statement of agreed and disputed facts signed by Mr Poultorak on 14 February 2021 and in Mr Poultorak's oral evidence. It was supported by evidence presented to the panel, specifically a letter from the police confirming the cautions. The allegation was therefore found proved.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found all of the allegations proved, the panel went on to consider whether the facts of the allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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 Poultorak in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Poultorak 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; and

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 Poultorak amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Poultorak's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that the offence of violence was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that the allegations took place outside the education setting. However, the severity of the injuries sustained by Child A and, Mr Poultorak's admission at hospital to hitting both Child A and Child B went beyond what might be described as "reasonable chastisement", were significant enough for the panel to consider that this behaviour could affect his teaching role. The panel agreed that this behaviour could lead to pupils being exposed to harm, particularly in the context of safeguarding children in a school setting.

Accordingly, the panel was satisfied that Mr Poultorak was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents, and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception. The panel had particular regard to the severity of the injury sustained by Child A and the concern which was shown by the hospital and social services.

The panel therefore found that Mr Poultorak's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2 and 3 proved, the panel further found that Mr Poultorak's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 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 Poultorak which involved violence against Child A and Child B resulting in two police cautions, there was a strong public interest consideration in 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 Poultorak 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 Poultorak was outside that which could reasonably be tolerated.

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 Poultorak.

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 Poultorak. 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;

- abuse of position or trust...; and
- the commission of a serious criminal offence, including those that resulted in a conviction or caution...

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 Poultorak's actions were deliberate, and there was no evidence that Mr Poultorak was acting under duress. The panel did receive a character reference from a school in which he had taught indicating he had a good history. However, the panel did not consider that sufficient evidence was presented to demonstrate that the incidents which were the subject of the allegations were out of character.

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 prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Poultorak. The severity of harm caused to Child A and the involvement of the police, social services and the LADO 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 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 behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes violence. The panel found that Mr Poultorak was responsible for actual bodily harm against Child A and for inappropriate physical contact "beyond reasonable chastisement" against Child B, for which he received two police cautions.

The panel found that Mr Poultorak demonstrated a lack of insight into the severity of harm caused to Child A and the impact of his actions on the School and the profession more generally. The panel did not consider that Mr Poultorak showed any remorse during the hearing for his actions, however it was reported in the LADO's report that he had apologised to Child A for his actions. The panel also had concern that Mr Poultorak did not fully understand the extent of his professional obligations as an unqualified teacher.

However, the panel did acknowledge that the information provided by professional services which formed part of the LADO report indicated that he had cooperated with investigations at the time of the incidents and that he proactively engaged with support services. No documentary evidence was presented to the panel giving details of the steps Mr Poultorak had taken since to address any issues and prevent such incidents from happening in future. As such, the panel did not consider there was sufficient evidence to demonstrate reflection.

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 provisions for a review period of five years.

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 unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Poultorak 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; and
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include a finding of inappropriate physical contact; hitting Child A which caused significant bruising and damage to her ear, hitting Child B on one of more occasion, resulting in a police caution.

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 Poultorak, 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. Although the allegations took place outside the education setting, the panel has observed, “the severity of the injuries sustained by Child A and, Mr Poultorak’s admission at hospital to hitting both Child A and Child B went beyond what might be described as “reasonable chastisement”, were significant enough for the panel to consider that this behaviour could affect his teaching role. The panel agreed that this behaviour could lead to pupils being exposed to harm, particularly in the context of safeguarding children in a school setting”. 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 Poultorak demonstrated a lack of insight into the severity of harm caused to Child A and the impact of his actions on the School and the profession more generally. The panel did not consider that Mr Poultorak showed any remorse during the hearing for his actions, however it was reported in the LADO’s report that he had apologised to Child A for his actions”. In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this could put pupils at risk. 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 the light of the panel’s findings against Mr Poultorak which involved violence against Child A and Child B resulting in two police cautions, there was a strong public interest consideration in 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 Poultorak was not treated with the utmost seriousness when regulating the conduct of the profession”. I am particularly mindful of the finding of physical violence against 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 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 Poultorak himself. Although following his dismissal is no longer working at the school, I have observed the following “The panel did receive a character reference from a school in which he had taught indicating he had a good history. However, the panel did not consider that sufficient evidence was presented to demonstrate that the incidents which were the subject of the allegations were out of character”.

A prohibition order would prevent Mr Poultorak 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 severity of harm caused, which involved injury and hospital treatment to Child A, the involvement of the police, social services, and the LADO, along with the lack of insight and remorse shown by Mr Poultorak.

I have also placed considerable weight on the finding of the panel that “there was evidence that Mr Poultorak’s actions were deliberate, and there was no evidence that Mr Poultorak was acting under duress”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Poultorak 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 remorse or 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 five year review period.

I have considered the panel’s comments “the information provided by professional services which formed part of the LADO report indicated that he had cooperated with investigations at the time of the incidents and that he proactively engaged with support services. No documentary evidence was presented to the panel giving details of the steps Mr Poultorak had taken since to address any issues and prevent such incidents

from happening in future. As such, the panel did not consider there was sufficient evidence to demonstrate reflection. The panel has also said “that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period of five years”.

I have considered whether a five 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, a number of factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. Including the actual bodily harm and inappropriate physical contact with children, a police caution, lack of both insight and remorse and evidence his actions were deliberate.

Due to these significant factors, I do not agree with the panels recommended review period and I consider therefore that a ten year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Nathaneal Poultorak 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 20 February 2031, ten 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 Poultorak remains prohibited from teaching indefinitely.

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

Mr Poultorak 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 black ink, appearing to read 'S Buxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 17 February 2021

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