



Teaching
Regulation
Agency

Mr Stephen McCulley: Professional conduct panel meeting outcome

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

December 2022

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

Teacher:	Mr Stephen McCulley
Teacher ref number:	9836944
Teacher date of birth:	19 April 1964
TRA reference:	18582
Date of determination:	9 December 2022
Former employer:	St William's Primary School, Norfolk

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 December 2022 remotely via Microsoft Teams to consider the case of Mr McCulley.

The panel members were Mr Aidan Jenkins (teacher panellist – in the chair), Ms Susan Humble (lay panellist) and Ms Sue Davies (lay panellist).

The legal adviser to the panel was Miss Sarah Price of Blake Morgan 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 McCulley that the allegations be considered without a hearing. Mr McCulley provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr McCulley or any representative.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 30 November 2022.

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

1. On or around 20 March 2019 whilst working as a teacher at St William's Primary School ('the School') he:

- a. called Pupil A a "scumbag" or words to that effect;
- b. put his hand or hands on or around the throat of Pupil A;
- c. made comments to Pupil B about "sticking him to the wall" or words to that effect;
- d. put his hand or hands on or around the throat of Pupil B.

2. On 19 September 2019, he accepted a police caution for his conduct at 1(a) and/or 1(b) above.

Mr McCulley admitted the facts and that his conduct amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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: Chronology, Anonymised pupil list and List of Key People – pages 3 to 7

Section 2: Notice of Referral, response and Notice of Meeting – pages 8 to 22

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 23 to 27

Section 4: Teaching Regulation Agency documents – pages 28 to 101

Section 5: Teacher documents – pages 102 to 105

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 McCulley on 18 March 2022.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision. The panel heard and accepted the legal advice.

In advance of the meeting, the TRA agreed to a request from Mr McCulley 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 McCulley was registered with Step Teachers ("the Agency") as a supply teacher. On 14 March 2019, he commenced a long-term position at St William's Primary School ("the School") until mid-May 2019, having previously worked there on a daily supply basis from 25 February 2019. Mr McCulley was employed in a teaching role at the School at the time of the alleged conduct. On 20 March 2019, it is alleged that Mr McCulley, on two separate occasions on that day, put his hands on the throats of two different pupils. It is also alleged that he called Pupil A a "*scumbag*" and made comments to Pupil B about "*sticking him to the wall*".

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 or around 20 March 2019 whilst working as a teacher at St William's Primary School ('the School') you:

- a. called Pupil A a "scumbag" or words to that effect;**
- b. put your hand or hands on or around the throat of Pupil A;**

c. made comments to Pupil B about "sticking him to the wall" or words to that effect;

d. put your hand or hands on or around the throat of Pupil B.

The allegations were admitted and were supported by evidence presented to the panel within the bundle. In particular, the panel accepted the accounts of Pupil A, Pupil B and Mr McCulley's own written statements. Allegation 1(a) to (d) was therefore, found proved.

2. On 19 September 2019, you accepted a police caution for your conduct at 1(a) and/or 1(b) above.

The allegation was admitted and was supported by evidence presented to the panel within the bundle. In particular, the panel was provided with a copy of the police caution dated 19 September 2019. Allegation 2 was therefore, found proved in relation to the conduct proved at 1(b).

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 those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel noted that Mr McCulley had admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

- 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 McCulley fell significantly short of the standards expected of the profession.

The panel also considered whether Mr McCulley's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 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.

Accordingly, the panel was satisfied that Mr McCulley 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 they behave. The panel were particularly concerned that the conduct involved both the use of bad language and physically putting hands around two pupils' throats.

The findings of misconduct were 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 therefore found that Mr McCulley's actions constituted 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 all of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct and that prohibition strikes the right balance between the rights of the teacher and the public interest if they are in conflict.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils given the serious findings that Mr McCulley placed his hands on two different pupil's throats and called a pupil a "*scumbag*".

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

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 McCulley. 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);

- 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).

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 McCulley's actions were deliberate. There was no evidence to suggest that Mr McCulley was acting under duress.

The panel noted that Mr McCulley had worked as a teacher and a social worker for 34 years. There was no evidence that Mr McCulley had anything other than a previous good history. However, the panel was not provided with any character testimonials to attest to his character or his teaching abilities.

The panel considered Mr McCulley was an experienced teacher and it was concerned that he had not provided an explanation as to why he behaved as he did, other than to say he was joking. The panel did not feel Mr McCulley's behaviour was consistent with a joke given the context in which it occurred.

Whilst the [REDACTED] had reported that neither child had any marks on their throats the following day, the panel was mindful that the children involved were aged 8 or 9 years old and Mr McCulley's conduct may have had a negative impact on them. The panel noted that Pupil A had stated during a conversation with the School's [REDACTED], that they were keen to get to class but did not want to be left alone with Mr McCulley. Pupil B had also described in the police interview how he thought Pupil C (who had witnessed the incident) had saved his life when they told Mr McCulley to stop when he had his hands around Pupil B's throat.

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 McCulley 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 McCulley. The panel's findings that Mr McCulley's conduct impacted the safeguarding and wellbeing of pupils was a significant factor 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 be in favour of a longer review period. One of these behaviours includes violence. The panel found that Mr McCulley was responsible for placing his hands around two pupils' throats.

The panel noted that Mr McCulley had engaged in the process and made full admissions. The panel also acknowledged that Mr McCulley apologised for his conduct. In his statement dated 11 March 2022, he stated "*I am deeply sorry and remorseful for my behaviour*". Despite this, the panel did not consider that Mr McCulley had apologised to the School or the profession as a whole. The panel also felt that Mr McCulley's insight was limited as he maintained that his actions were a joke.

Mr McCulley said in his statement of 11 March 2022 that "*I would not place myself on a vulnerable position again*". Although, the panel noted his conduct occurred on one day over a long career, it felt that Mr McCulley had not provided this panel with detailed information about how he would remedy his conduct. Therefore, the panel did have concerns that the behaviour could be repeated.

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, after 3 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 conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr McCulley 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
- 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 McCulley, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

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 McCulley, 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 safeguard pupils. The panel has observed, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils given the serious findings that Mr McCulley placed his hands on two different pupil's throats and called a pupil a

"scumbag". 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 McCulley had engaged in the process and made full admissions. The panel also acknowledged that Mr McCulley apologised for his conduct. In his statement dated 11 March 2022, he stated *"I am deeply sorry and remorseful for my behaviour"*. Despite this, the panel did not consider that Mr McCulley had apologised to the School or the profession as a whole. The panel also felt that Mr McCulley's insight was limited as he maintained that his actions were a joke." In my judgement, the lack of full remorse or 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, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr McCulley were not treated with the utmost seriousness when regulating the conduct 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 McCulley himself and the panel comment "The panel noted that Mr McCulley had worked as a teacher and a social worker for 34 years. There was no evidence that Mr McCulley had anything other than a previous good history. However, the panel was not provided with any character testimonials to attest to his character or his teaching abilities."

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight. The panel has said, "The panel considered Mr McCulley was an experienced teacher and it was concerned that he had not provided an explanation as to

why he behaved as he did, other than to say he was joking. The panel did not feel Mr McCulley's behaviour was consistent with a joke given the context in which it occurred.”

I have also placed considerable weight on the finding of the panel related to the impact on pupils, “Whilst the [REDACTED] had reported that neither child had any marks on their throats the following day, the panel was mindful that the children involved were aged 8 or 9 years old and Mr McCulley's conduct may have had a negative impact on them. The panel noted that Pupil A had stated during a conversation with the School's [REDACTED], that they were keen to get to class but did not want to be left alone with Mr McCulley. Pupil B had also described in the police interview how he thought Pupil C (who had witnessed the incident) had saved his life when they told Mr McCulley to stop when he had his hands around Pupil B's throat.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McCulley 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 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 3 year review period.

I have considered the panel's comments “Mr McCulley said in his statement of 11 March 2022 that *“I would not place myself on a vulnerable position again”*. Although, the panel noted his conduct occurred on one day over a long career, it felt that Mr McCulley had not provided this panel with detailed information about how he would remedy his conduct. Therefore, the panel did have concerns that the behaviour could be repeated.”

In this case, factors mean that allowing a lesser review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the lack of full insight and full remorse.

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 Stephen McCulley 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 21 December 2025, 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 McCulley remains prohibited from teaching indefinitely.

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

Mr Stephen McCulley has a right of appeal to the King'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 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 14 December 2022

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