



Teaching  
Regulation  
Agency

# **Mrs Gemma Carrington: Professional conduct panel outcome**

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

**January 2019**

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

**Teacher:** Mrs Gemma Carrington

**TRA reference:** 16010

**Date of determination:** 16 January 2019

**Former employer:** Nansen Primary School, Birmingham (the "School").

### **A. Introduction**

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 16 January 2019 at the Study Inn Conference Centre, 175 Corporation Street, Coventry CV1 1GU to consider the case of Mrs Gemma Carrington.

The panel members were Mr Martin Pilkington (lay panellist- in the Chair), Ms Julia Bell (teacher panellist) and Ms Surinder Dhillon (lay panellist).

The legal adviser to the panel was Mrs Rachael Tattersall of Eversheds Sutherland (International) LLP.

The presenting officer for the TRA was Mr Andrew Cullen of Browne Jacobson LLP.

Mrs Carrington was present and was not represented.

The hearing took place in public, save for discussion of medical evidence which was heard in private.

## **B. Allegations**

The panel considered the allegation set out in the Notice of Proceedings dated 19 September 2019.

It was alleged that Mrs Carrington was guilty of having been convicted of a relevant offence, in that in or around 2016 she was convicted at the Crown Court at Birmingham of one or more offences contrary to section 1 of the Children and Young Persons Act 1933, concerning Cruelty to persons under sixteen.

Mrs Carrington did not admit the allegation despite admitting to the conviction on the basis that the drafting of the offences on the Certificate of Conviction was different to that of the allegation on the Notice of Proceedings. It was explained to the panel and Mrs Carrington that the offences for which Mrs Carrington was convicted and received the Certificate of Conviction are offences under Section 1 of the Children and Young Persons Act 1933, concerning Cruelty to persons under sixteen (as drafted on the Notice of Proceedings).

## **C. Preliminary applications**

There were no preliminary applications.

## **D. Summary of evidence**

### **Documents**

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

Section 1: Chronology and anonymised child list – pages 1 to 2

Section 2: Notice of Proceedings and Response – pages 5 to 11

Section 3: Teaching Regulation Agency Documents – pages 12 to 74q

Section 4: Teaching Documents – pages 76 to 128

The panel members confirmed that they had read all of the documents in advance of the hearing.

### **Witnesses**

There were no witnesses.

The panel heard live evidence from Mrs Carrington.

## E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Mrs Carrington was employed at the School as a teacher from September 2013 until May 2016.

In November 2015, the School was contacted by Children's Social Care (Birmingham Local Authority) to inform it that they were investigating allegations of assault against Mrs Carrington's ex-partner in relation to Child A and Child B outside of the school environment and Mrs Carrington was placed on compassionate leave in November 2015. Child B had suffered a fractured elbow which the police believed was caused by Mrs Carrington's former partner. Child A and Child B were not pupils at the School. During the course of the investigations, Mrs Carrington confirmed that Child A and Child B had disclosed to her on three occasions that her former partner had hurt them and that she failed to act on their disclosures. Mrs Carrington also admitted that she had lied to hospital staff about how Child B had received the injury. In March 2016, the School was informed by Children's Social Care that Mrs Carrington was to be charged with wilful neglect. Mrs Carrington was suspended from the School in April 2016. Mrs Carrington's employment was terminated on 31 May 2016 via a settlement agreement with no monetary value and an agreed reference which only confirmed Mrs Carrington's role and employment dates.

On 11 November 2016, Mrs Carrington was convicted of an offence under the Children and Young Persons Act 1933, namely assault/ ill treat/ neglect/ abandon a child/ young person likely to cause unnecessary suffering/injury.

### Findings of fact

Our findings of fact are as follows:

The panel has found the following allegation against you proven, for these reasons:

You have been convicted, at any time, of the following relevant offences:

- 1. In or around 2016 you were convicted at the Crown Court at Birmingham of one or more offences contrary to section 1 of the Children and Young Persons Act 1933 concerning cruelty to persons under sixteen.**

The panel accepted the conviction as having proved the facts of the case that relate to the conviction. The panel also had the benefit of the Certificate of Conviction contained in

the bundle. The panel also heard evidence from Mrs Carrington who admitted the conviction.

## **Findings as to a conviction, at any time, of a relevant offence**

Having found the allegation to have been proven, the panel has gone on to consider whether the facts of the proven allegation amount to a conviction, at any time, of a relevant offence.

The panel is satisfied that the conduct of Mrs Carrington in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mrs Carrington 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
  - not undermining fundamental British values, including the rule of law.

The circumstances that led to her conviction raised safeguarding issues concerning Child A and Child B directly relevant to her work as a teacher. The panel did note, however, that Mrs Carrington's actions did not have an impact on the safety or security of pupils or members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mrs Carrington's behaviour in committing the offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community and the obligations on teachers with regard to the safeguarding of pupils.

The panel also noted that Mrs Carrington's behaviour has led to her receiving a sentence of imprisonment, albeit that it was suspended, which is indicative of the seriousness of the offences committed. The panel was mindful of the Advice that states it is likely that all offences that lead to a term of imprisonment will be considered a relevant offence.

The panel did however also take into account evidence provided as to the mitigating circumstances surrounding the offences that led to the conviction. The panel heard evidence from Mrs Carrington who stated that, at the time the offences were committed, she was being [Redacted]. She explained that this [Redacted] affected her ability to make decisions outside of the school environment due to the emotional strain and stress this placed on her. Mrs Carrington also explained that she was on medication [Redacted] at the time of the offences.

In her evidence, Mrs Carrington was keen to draw a distinction between her ability to respond and act upon safeguarding issues outside of the school environment and safeguarding issues in the school environment. Mrs Carrington explained that her ability to uphold safeguarding procedures in her capacity as a teacher at the School has never

been an issue because in the school environment, she did not have the emotional stress [Redacted] affecting her decisions.

The panel also took into account the fact that in her evidence, Mrs Carrington showed some insight into her behaviour and that she accepted the conviction. She explained that it was a mistake and that she has learnt from this. Mrs Carrington also explained to the panel that there has been no previous issues with her teaching or otherwise with safeguarding issues. However, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to her ongoing suitability to teach.

The panel considers that a finding, that these convictions are relevant offences, is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of a conviction of a relevant offence, it is 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 has to consider whether it is an appropriate and proportionate measure, and whether it is 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 has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel has also considered the public interest in retaining a teacher in the profession. The panel had regard to the evidence of Mrs Carrington's previous good character outlined in the sentencing remarks of the trial judge contained in the bundle. The panel also heard oral evidence from Mrs Carrington that she presents no danger to pupils and that in the 12 years she had been teaching no issues have been raised concerning her suitability. Mrs Carrington explained that she fully accepts what has happened to her and the consequences of her actions. The panel found Mrs Carrington to be remorseful and that she had reflected at length on the behaviour that led to her conviction. The panel heard evidence that Mrs Carrington has attended courses that had allowed her to gain insight into her conduct and equipped her to act differently and appropriately in the future.

The panel attached significant weight to Mrs Carrington's evidence that personal pressures had impacted on her decision making, actions and thought processes.

The panel acknowledged that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Carrington relating to issues of safeguarding was not treated with the utmost seriousness when regulating the conduct of the profession. The panel considered, however, that there was also a strong public interest consideration in retaining Mrs Carrington in teaching. No doubt has been cast upon her abilities as an educator.

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 Mrs Carrington.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mrs Carrington. 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 proven. 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 including the rule of law; and
- 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 there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to mitigate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel considered the mitigation evidence provided by Mrs Carrington with the utmost care in light of the public interest factors. The panel considered that the documentary evidence showed that Mrs Carrington had been suffering from [Redacted]. This combined with personal circumstances at the time of the relevant offence meant that Mrs Carrington was under significant pressure outside of the school environment such that her decision making processes were impaired. Whilst the panel did accept that Mrs Carrington's actions in committing the relevant offence were deliberate, the panel accepted Mrs Carrington's evidence that this was, to some extent, due to and explained by her mental state and the circumstances surrounding her relationship. The panel found that Mrs Carrington was acting under duress.

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 is sufficient.



The panel is of the view that applying the standard of the ordinary intelligent citizen, recommending no prohibition order is a proportionate and appropriate response. Whilst the panel did acknowledge the seriousness of the relevant offence, in light of the persuasive mitigating factors that were present in this case the panel has determined that a recommendation for a prohibition order will not be appropriate. The panel considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to Mrs Carrington as to the standards of behaviour that are not acceptable and meets the public interest requirement of declaring proper standards of the profession.

The panel is not of the view that prohibition is a proportionate and appropriate response.

## **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 no sanction.

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 the proven facts amount to a relevant conviction.

The panel has recommended that the findings of a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mrs Carrington 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
  - not undermining fundamental British values, including the rule of law.

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 Mrs Carrington, and the impact that will have on her, 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 circumstances that led to her conviction raised safeguarding issues concerning Child A and Child B directly relevant to her work as a teacher.” The panel did note, however, that Mrs Carrington’s actions, “did not have an impact on the safety or security of pupils 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 found Mrs Carrington to be remorseful and that she had reflected at length on the behaviour that led to her conviction. The panel heard evidence that Mrs Carrington has attended courses that had allowed her to gain insight into her conduct and equipped her to act differently and appropriately in the future.”

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 acknowledged that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Carrington relating to issues of safeguarding was not treated with the utmost seriousness when regulating the conduct of the profession.”. The panel also considered, “however, that there was also a strong public interest consideration in retaining Mrs Carrington in teaching. No doubt has been cast upon her abilities as an educator.”

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 Mrs Carrington herself. The panel comment that it, “had regard to the evidence of Mrs Carrington’s previous good character outlined in the sentencing remarks of the trial judge contained in the bundle.” The panel also heard, “oral evidence from Mrs Carrington that she presents no danger to pupils and that in the 12 years she had been teaching no issues have been raised concerning her suitability.”

I have considered that the panel found Mrs Carrington, “was acting under duress.” The panel observed, “that Mrs Carrington was under significant pressure in her home environment such that her decision making processes were impaired.”

A prohibition order would prevent Mrs Carrington from teaching. A prohibition order would also clearly deprive the public of her 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 mitigation. The panel has said whilst it, "did acknowledge the seriousness of the relevant offence, in light of the persuasive mitigating factors that were present in this case the panel has determined that a recommendation for a prohibition order will not be appropriate."

I have given weight in my consideration of sanction therefore, to the contribution that Mrs Carrington has made to the profession. In my view, in light of the circumstances in this case it is not necessary to impose a prohibition order in order to maintain public confidence in the profession.

A handwritten signature in black ink, appearing to read 'Dawn Dandy', written in a cursive style.

**Decision maker: Dawn Dandy**

**Date: 18 January 2019**

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