



Teaching
Regulation
Agency

Mr Robert Warren: Professional conduct panel outcome

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

January 2021

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Professional conduct panel decision, on behalf of the Secretary of State for Education

Teacher: Mr Robert Warren

TRA reference: 18342

Date of determination: 8 January 2021

Former employer: Truro School “the School”, south west England

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 6 January 2021 by virtual hearing to consider the case of Mr Robert Warren.

The hearing had originally been due to take place in person on 5 to 7 May 2020 further to a notice of proceedings dated 9 March 2020. However, due to the impact of the coronavirus pandemic the hearing could not take place on 5 to 7 May 2020 and was relisted for 6 to 8 January 2021.

The panel members at the hearing were Ms Shamaila Qureshi (lay panellist – in the chair), Mr John Martin (teacher panellist) and Ms Patricia Hunt (former teacher panellist).

The legal adviser to the panel was Mr Robert Kellaway of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Lucy Coulson instructed by Browne Jacobson LLP solicitors.

Mr Warren was present and was represented by Ms Lizzy Bowman of NASUWT.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 6 November 2020.

It was alleged Mr Warren was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Truro School between September 1998 and February 2019:

1. He engaged in inappropriate and/or unprofessional behaviour towards one or more pupils, including by;

a. in or around November 2018 pinning Pupil B to the wall;

b. on or around 10 December 2018 grabbing and/or tightening his grip around Pupil A's arm.

Mr Warren denied he had engaged in unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Mr Warren admitted some of the facts of the allegations but did not admit all facts.

Mr Warren admitted that in or around November 2018 he touched Pupil B with a piece of wood. However, Mr Warren did not admit he had pinned Pupil B to the wall.

Mr Warren admitted that on or around 10 December 2018 he took hold of Pupil A's arm. Mr Warren denied that he grabbed Pupil A's arm but stated he may have tightened his grip around Pupil A's arm.

Preliminary issues and applications

At the start of the hearing, the panel was informed that Pupil A would not be attending the hearing to give oral evidence and that Pupil C (who had been an alleged witness to the incident involving Pupil B) would not be attending the hearing.

The panel noted that pupils A, B and C had been named as intended witnesses for the TRA in the original notice of proceedings dated 9 March 2020 and also in the reissued notice of proceedings dated 6 November 2020. Shortly prior to the hearing the panel discovered by way of the evidence within the bundle that Pupil B, who had provided a written witness statement dated 22 March 2020, would not be attending the hearing.

The presenting officer also informed the panel that Pupil C had never replied to the request to be a witness prior to March 2020 and that the last contact with Pupil A had been in February 2020 when Pupil A had indicated he did not wish to attend the hearing as a witness. The presenting officer informed the panel that the teacher's representative

had been notified the pupils would not be attending the hearing as witnesses by email on or around 19 and 22 December 2020.

The panel considered whether it was fair and appropriate to adjourn the hearing in order to seek the attendance of pupils A, B and C.

The panel gave both the presenting officer and the teacher's representative reasonable opportunity to make representations on this matter before reaching its decision. Both the presenting officer and the teacher's representative confirmed that they considered the hearing should continue without an adjournment.

The panel considered that it would not be fair or appropriate in the circumstances for the hearing to be adjourned and considered that a fair hearing could take place without oral witness evidence of pupils A, B and C. The panel noted that interviews with pupils A, B and C had been taken during the School's investigation into the allegations in December 2018. The panel was mindful that the hearing had already been postponed from May 2020 to January 2021 and the fact insufficient attempts for the pupils to attend this hearing was not the fault of Mr Warren.

The panel then considered an application from Mr Warren for the admission of his documents to the bundle which had been submitted to the TRA less than four weeks prior to the hearing. There was no objection to the admission of the additional documents by the presenting officer or the panel.

The panel determined that the additional documents provided by Mr Warren were highly relevant documents and it would be in the interests of justice for those documents to be considered at the hearing and should therefore form part of the bundle.

The panel also considered an application made by the teacher's representative during the course of her opening statement, that the hearing should be discontinued on the basis that there was no case to answer, as pupils A, B and C would not be attending the hearing. The panel considered the presenting officer comments on this point before reaching its decision.

The panel considered that it was not appropriate or fair for the hearing to be discontinued and that it was possible for a fair hearing to take place without the attendance of pupils A, B and C.

Summary of evidence

Documents

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

- section 1: Chronology and anonymised pupil list – pages 2 to 3
- section 2: Notice of proceedings and response – pages 5 to 20
- section 3: Teaching Regulation Agency witness statements – pages 22 to 57
- section 4: Teaching Regulation Agency documents – pages 59 to 98
- section 5: Teacher documents – pages 99 to 113.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing, including section 5.

Witnesses

The panel heard oral evidence from the following, called by the presenting officer:

- Witness A [REDACTED]

The panel heard oral evidence from Mr Warren.

The panel also heard oral evidence from the following character references, called by Mr Warren:

- Witness B, [REDACTED]
- Witness C, [REDACTED]

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 Warren had been employed at the School from 1 September 1998 to 1 February 2019 as a design and technology teacher.

On 10 December 2018, it was alleged that Mr Warren grabbed Pupil A's arm during a lesson at the School. Pupil A alleged he had been rubbing a pencil on a desk when Mr Warren grabbed his arm. Mr Warren alleged Pupil A had a metal file in his hand and had been digging it into the surface of the desk.

Pupil A alleged that Mr Warren had initially grabbed his arm and had then tightened his grip on Pupil A's arm. Pupil A went to the School's medical centre on 10 December 2018.

On 11 December 2018, it was alleged by Pupil B that Mr Warren had pinned Pupil B against a wall using a piece of wood during a lesson at the School, in or around November 2018.

The School conducted an investigation into both incidents. On 12 December 2018, the incidents were reported to the Local Authority Designated Officer (“LADO”) who then referred the incidents to Devon and Cornwall police. The School suspended Mr Warren from his role at the School on 19 December 2018.

The LADO held a professional allegation strategy meeting on 3 January 2019 at which the School was informed that the police would not be taking any action against Mr Warren in relation to the two incidents.

The School resumed its disciplinary investigation. On 31 January 2019, a disciplinary hearing took place and on 1 February 2019 Mr Warren was summarily dismissed for gross misconduct. An appeal hearing was held on 7 March 2019 and on 11 March 2019 the School upheld the decision to dismiss Mr Warren.

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. You engaged in inappropriate and/or unprofessional behaviour towards one or more pupils, including by:

a. in or around November 2018 pinning Pupil B to the wall

In his oral evidence at the hearing, Mr Warren admitted he had touched Pupil B with a piece of wood (which was approximately 70 millimetres (‘mm’) x 35mm x 30mm/40mm).

Mr Warren admitted in his oral evidence that he had not only touched Pupil B with the piece of wood, but he had also held the piece of wood against Pupil B. Mr Warren accepted that he could have held the wood against Pupil for a period of eight seconds.

Further, the panel noted that Mr Warren admitted some pressure had been applied when questioned at the hearing. Mr Warren also admitted that the pressure had been applied to Pupil B’s chest. The panel took into account the School’s notes of the investigation meeting of 9 January 2019 which recorded Mr Warren had stated ‘*He was messing around with, a bit [had] of rail, by blackboard, touched [Pupil B] on the chest with end [sic]’.*

The panel noted that Mr Warren did not admit he had pinned Pupil B against the wall. However, Mr Warren did admit he had may have ‘*pushed Pupil B back a bit*’.

Mr Warren stated Pupil B had been ‘close’ to the wall (specifically the blackboard that was attached to wall) and that the wall had been directly behind Pupil B. Furthermore, when questioned at the hearing, Mr Warren stated Pupil B ‘*might have been touching the wall*’ and accepted ‘*the boy may well have felt pinned to the wall*’.

Mr Warren stated to the panel that he had touched Pupil B with the piece of wood because Pupil B had been chatting and distracting other pupils. Mr Warren stated at the hearing that he had not touched Pupil B due to any health and safety concerns.

The panel noted that during the School’s investigation he had provided a written statement on or around 9 January 2020 in which he had stated, ‘*I think [Pupil B’s] account is probably fair..*’.

The panel took account of the variations in the evidence provided by Pupil B and the evidence provided by Pupil C. However, the panel considered that these variations did not lead it to a finding that, on the balance of probabilities, the allegations did not take place.

On examination of all the documents before the panel and on consideration of the oral evidence, the panel was satisfied, on the balance of probabilities that the facts of this allegation are proved.

1. You engaged in inappropriate and/or unprofessional behaviour towards one or more pupils, including by;

b. on or around 10 December 2018 grabbing and/or tightening his grip around Pupil A’s arm;

Mr Warren admitted at the hearing he had taken hold of Pupil A’s arm on 10 December 2018 without a verbal warning.

The panel paid particular note to the signed statement which Mr Warren made on 10 December 2018, in which he had commented, ‘*I grabbed his arm to stop him doing it.*’ At the hearing Mr Warren initially denied he had grabbed Pupil A’s arm but later accepted when questioned that he had grabbed Pupil A’s arm.

The panel preferred Mr Warren’s evidence that Pupil A had been holding a metal file at the time of the incident rather than a pencil, as alleged by Pupil A and Pupil D. The panel noted that Pupil E who had been sat next to Pupil A had stated during the investigation that Pupil A had been fiddling with ‘*a sharp metal thing (metal bar)*’.

Whilst the panel considered that Mr Warren had grabbed Pupil A’s arm, the panel were unable to determine, on the balance of probabilities, that Mr Warren had in fact tightened his grip around Pupil A’s arm when doing so. Further, the panel was not satisfied on the

evidence that had been provided that Mr Warren had caused a red mark or bruising to occur on Pupil A's arm.

On examination of the documents before the panel and on consideration of the oral evidence, the panel was satisfied on the balance of probabilities that the facts of this allegation were proved.

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

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.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

Allegation 1. a.

The panel was satisfied that the conduct of Mr Warren, in relation to the facts found proved in terms of allegation 1.a. involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2 of the Teachers' Standards, Mr Warren 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.

The panel was satisfied that the conduct of Mr Warren amounted to misconduct of a serious nature, which fell significantly short of the standards expected of the profession.

The panel noted that there was no justification for the actions of Mr Warren and it considered that he had not been using reasonable force in the incident involving Pupil B.

Accordingly, the panel was satisfied that Mr Warren 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 panel considers the findings of misconduct in relation to allegation 1.a. 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 therefore found that the teacher's actions constituted conduct that may bring the profession into disrepute

Allegation 1.b.

The panel was not satisfied that the conduct of Mr Warren, in relation to allegation 1.b. involved breaches of the Teachers' Standards.

The panel considered section 93 of the Education and Inspections Act 2006 which addresses the power of members of staff to use force in schools. In particular:

s.93(1) A person to whom this section applies may use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing (or continuing to do) any of the following, namely:

(a) committing any offence,

(b) causing personal injury to, or damage to the property of, any person (including the pupil himself), or

(c) prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

The panel additionally considered the guidance set out in the document, Use of Reasonable Force – advice for headteachers, staff and governing bodies.

The panel was convinced by the evidence put forward by Mr Warren that he had grabbed Pupil A's arm in order to, firstly prevent damage to property (the desk) and, secondly, to avoid the metal file which Pupil A was digging into the desk from potentially shattering, thereby creating a health and safety risk. The panel was satisfied that the force Mr Warren had used in the circumstances had been reasonable and proportionate.

The panel did not, therefore, consider Mr Warren's conduct in relation to allegation 1.b. fell significantly short of the standards expected of the profession. The panel was not satisfied that Mr Warren was guilty of unacceptable professional conduct. Further, it did not consider that this conduct would be likely to have a negative impact on the individual's status as a teacher or would potentially damage the public perception.

In summary, the panel found the facts of the allegations 1.a. and b. proved. The panel further found that Mr Warren's conduct in terms of allegation 1.a. amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel did not find that allegation 1.b. amounted to unprofessional 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; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Warren in relation to allegation 1.a., there was a public interest consideration in respect of the protection of pupils. However, the panel was satisfied that Mr Warren did not pose a continuing risk to pupils. The panel considered that the incident in which he had pinned Pupil B against a wall in November 2018 had been an isolated event and completely out of character.

The panel took note that Mr Warren had had an otherwise unblemished teaching career. Witness A confirmed in her oral evidence to the panel that prior to the incident in November 2018, she and the School had had no issues with Mr Warren's conduct or his ability as a teacher and described Mr Warren's record as excellent. The panel heard Mr Warren had not been subject to any other disciplinary or misconduct allegations previously at the School.

The panel concluded that there was a strong public interest consideration in retaining Mr Warren in the profession. There was evidence presented to the panel regarding Mr Warren's abilities as an educator. The panel felt that Mr Warren had made, and could continue to make, a valuable contribution to the profession.

The panel concluded that Mr Warren's behaviour, in committing the misconduct whilst holding a position of authority as a teacher, could affect public confidence in the teaching profession.

In view of the 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 Warren.

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 Warren. The panel took further account of the Advice, which suggests 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

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.

The panel heard substantial mitigation on behalf of Mr Warren and saw evidence in the bundle of Mr Warren's mitigating circumstances.

This included information pertaining to Mr Warren's personal circumstances at the time of and leading up to the incidents that took place. The panel noted the evidence that Mr Warren had been [REDACTED] in his personal life immediately prior to the incident that had taken place with Pupil B.

The panel took into account Mr Warren's previous good history and the panel accepted that the incident was out of character. This included information pertaining to his previous good record and the incident in relation to Pupil B had been completely out of character.

The panel noted the comments of Mr Warren's good character within the seven character testimonials within the bundle, two of which – Witness B and Witness C - also gave oral testimony before the panel. In particular, the panel noted the following comments of Mr Warren's good character and his ability as a teacher:

Witness B [REDACTED]

'As headteacher, experiencing Bob's [Mr Warren's] manner, discipline and relationship with all the pupils on and around water, I have every faith that these pupils receive safe and informed instruction. Behavioural expectations have always been clear, but instilled in a very calm and non-threatening way.'

'As an instructor on the water, and teacher Bob is one of the calmest and gentlest individuals I have met.'

[REDACTED]

'Bob and I worked together for sixteen years, and in all that time I cannot remember ever even getting close to having "a heated exchange of words" about anything with him. He was very reliable, loyal and professional in all he did, with the pupils and with his colleagues.'

'In all that time, he always came across as a very calm, almost "laid back", caring and competent DT teacher, and even when faced with having to deal with some "challenging pupils (by Truro School standards)", I cannot remember him ever really raising his voice. As such he was respected and liked by the vast majority of the pupils that he taught, my own son and daughter included. I would even go so far to say he was "loved and adored" by many.'

'I am of the opinion that Bob is one of the finest colleagues that I had the privilege to work alongside in my 38 years as a full time teacher and Head of Department.'

Witness C, [REDACTED]

'Our school are proud to have been taught sailing, kayaking and windsurfing by Bob Warren for at least 12 years.'

'He is able to encourage all children to achieve their best and makes allowances for children who may have challenging behaviour and attitudes. He has a gentle approach and a teaching style which empowers children.'

Although, the panel considered Mr Warren's actions had been deliberate and considered there was no evidence that Mr Warren was acting under duress, the panel considered that his actions were completely out of character and the panel was satisfied that the risk of repetition was extremely low.

Mr Warren did show remorse for his actions both at the time of the incident and at the hearing. The panel was satisfied that Mr Warren had shown insight into his misconduct.

The panel found Mr Warren to be have been open and honest from the outset of the matter.

Recommendation

In light of the panel's findings:

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, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviours displayed were at the less serious end of the possible spectrum and, having weighed up the mitigating factors, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

The panel made recommendation to the Secretary of State was that a prohibition order should be not be imposed.

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 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 all of the allegations proven and found that in respect of allegation a) only that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In respect of allegation b) the panel did not find unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that in respect of allegation a) only, Mr Warren 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.

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 Warren, 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 there was no justification for the actions of Mr Warren and it considered that he had not been using reasonable force in the incident involving Pupil B."

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 Warren did show remorse for his actions both at the time of the incident and at the hearing. The panel was satisfied that Mr Warren had shown insight into his misconduct."

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception."

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 Warren himself. The panel comment “The panel took into account Mr Warren’s previous good history and the panel accepted that the incident was out of character. This included information pertaining to his previous good record and the incident in relation to Pupil B had been completely out of character.”

A prohibition order would prevent Mr Warren 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 concerning both insight or remorse.

I have also placed considerable weight on the finding of the panel that Mr Warren does not represent an ongoing risk.

For these reasons, I have concluded that a prohibition order is not proportionate and that the publication of the findings of unacceptable professional conduct are sufficient to mark the findings in this case and to meet the public interest.

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

Decision maker: Alan Meyrick

Date: 11 January 2021

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