



Teaching
Regulation
Agency

Mr Kenneth Maidens: Professional conduct panel outcome

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

April 2018

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

Teacher:	Mr Kenneth Maidens
Teacher ref number:	0338325
Teacher date of birth:	17 October 1975
TRA case reference:	16077
Date of determination:	13 April 2018
Former employer:	Spalding Monkshouse Primary School, Spalding

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the Agency”) convened on 13 April 2018 at 53 – 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Kenneth Maidens.

The panel members were Mr Geoffrey Penzer (lay panellist – in the chair), Ms Sarah Evans (teacher panellist) and Mr Michael Lewis (former teacher panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the Agency was Ms Naomh Gibson of Browne Jacobson LLP

Mr Maidens was present and was represented by Mr Ed Brown of NASUWT.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegation set out in the Notice of Proceedings dated 5 October 2017 (as amended at the hearing).

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

1. At Boston Magistrates Court on 3rd March 2017, he was convicted of assault by beating, an offence which occurred on 27th June 2016, contrary to the Criminal Justice Act 1988, s39. He was given an unpaid work requirement and ordered to pay a Victim Surcharge of £85 and costs of £620.

Mr Maidens accepted that he was convicted for the above offence. He therefore admitted allegation 1 as well as it being a relevant offence. There was however no Statement of Agreed Facts.

C. Preliminary applications

The panel considered an application from Ms Gibson to amend the allegation to more accurately reflect the wording of the offence within the Memorandum of Conviction. Mr Brown did not object and indeed stated he would have been making the same application were the Agency not to.

In light of the amendment more appropriately reflecting the evidence and there being no objection to the application, it was clearly in the interests of justice for the application to be allowed.

D. Summary of evidence

Documents

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

Section 1: Notice of Proceedings and Response – pages 1 to 10

Section 2: Teaching Regulation Agency documents – pages 11 to 46

Section 3: Teacher documents – pages 47 to 67

In addition, the panel agreed to accept the following document from Mr Maidens:

- A parents' questionnaire from March 2016 as pages 68 to 70.

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

Witnesses

The panel did not hear any oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Mr Maidens had been employed at Spalding Monkshouse Primary School since January 2016 as a teacher. On 27 June 2016, an incident involving physical force by Mr Maidens on Pupil A was witnessed by a student, which led to a concern being raised and Mr Maidens' suspension from Spalding Monkshouse Primary School.

This incident led to Mr Maidens being criminally convicted in March 2017 of assault by beating.

Findings of fact

Our findings of fact are as follows:

We have found the following particular of the allegation against you proven, for these reasons:

1. At Boston Magistrates Court on 3rd March 2017, you were convicted of assault by beating, an offence which occurred on 27th June 2016, contrary to the Criminal Justice Act 1988, s39. You were given an unpaid work requirement and ordered to pay a Victim Surcharge of £85 and costs of £620.

The panel considered the Memorandum of Conviction at page 46 of the bundle, which provides unequivocal evidence that Mr Maidens was convicted of the offence as set out in the charge. The panel also note Mr Maidens' admission to this conviction and finds this allegation proved.

Findings as to conviction of a relevant offence

The panel is satisfied that the conduct of Mr Maidens in relation to the facts it has found proved, involved breaches of the Teachers' Standards. The panel consider that by reference to Part Two, Mr Maidens 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that the Mr Maidens' actions were relevant to teaching, working with children and working in an education setting. The incident leading to the conviction involved physical force on a pupil in a school setting and the panel noted that the behaviour involved in committing the offence could have had an impact on the safety of pupils.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Maidens' 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.

The panel noted that Mr Maidens' behaviour did not lead to a sentence of imprisonment which is indicative that the offence was at the less serious end of the possible spectrum.

The panel are in no doubt that the conviction involved an element of violence. Whilst the degree of violence may be disputed, it is clear that any violence by a teacher against a pupil is completely unacceptable and contrary to the necessary standards. It would be perverse for such a conviction of a teacher not to be considered relevant.

The panel has also read Mr Maidens' evidence that the incident took place when he was trying to assist Pupil A. However, the panel considers that a finding that this conviction is a relevant offence 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 Mr Maidens' 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 a 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 protection of pupils;
- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

In light of the panel's findings that Mr Maidens' conviction involved a degree of violence against a pupil, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Maidens was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Maidens 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 Maidens.

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 Mr Maidens. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust involving a vulnerable pupil.

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 militate 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. In light of the panel's findings, it could only conclude that Mr Maidens' actions on 27 June 2016 were deliberate and there was no evidence he was acting under duress although the panel did note that the situation at the School described by Mr Maidens may have been stressful. The panel also noted that Mr Maidens has previously had a good record.

The panel has considered the three statements from Mr Maidens contained within the bundle. The first two statements are of some length and detail and in the panel's view offered explanations as to why Mr Maidens should not have been convicted rather than providing evidence of the insight he had gained into his actions and remediation undertaken. The panel also noted that there was no indication of any remorse regarding Pupil A or Mr Maidens' actions in June 2016.

Mr Maidens chose not to give oral evidence. The panel was therefore unable to explore with him whether he had actually developed any insight into his actions or an understanding as to how he would behave differently in similar circumstances in the future. As such, the panel could not be confident that a risk did not remain.

The panel is of the view that prohibition is both proportionate and appropriate. The public interest considerations outweigh the interests of Mr Maidens. The conviction of a relevant offence of violence is the significant factor in forming that opinion and the panel felt that there was insufficient mitigation contained within the papers to lead the panel to any other conclusion.

Accordingly, the panel makes 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 recommend that a review period of the order should be considered. The panel is mindful that the Advice advises 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 proven, would militate against a review period being recommended. One of these behaviours is that of violence and the panel has found that Mr Maidens has been responsible for an act of assault on a young pupil.

However, the panel also considered that the sentence imposed on Mr Maidens suggested that whilst the act involved violence, it was towards the lower end of the spectrum and there was no evidence of this being anything more than a single incident. The panel did not consider this incident to be of such seriousness that Mr Maidens' behaviour could not be remediated in time.

Whilst they are not character references, the panel noted the professional references relating to Mr Maidens' qualities as a teacher. He was often deemed to be 'outstanding' or 'good' by his superiors.

The panel felt 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 2 years, which the panel felt was sufficient time for Mr Maidens to develop insight into his actions

and be able to provide examples to any future panel as to why similar behaviour would not recur in similar circumstances.

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 and review period.

In considering this case, I have also given very careful attention to the Advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case, the panel has found the allegation proven and found that the proven facts amount to conviction of a relevant offence. The panel has made a recommendation to the Secretary of State that Mr Maidens should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Maidens 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that the Mr Maidens' actions were relevant to teaching, working with children and working in an education setting.

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 or not a less intrusive measure, such as the published finding of a conviction of a relevant offence, 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 Maidens, and the impact that will have on him, is proportionate.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, "In light of the panel's findings that Mr Maidens'

conviction involved a degree of violence against a pupil, there is a strong public interest consideration in respect of the protection of pupils.” A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “The first two statements are of some length and detail and in the panel’s view offered explanations as to why Mr Maidens should not have been convicted rather than providing evidence of the insight he had gained into his actions and remediation undertaken. The panel also noted that there was no indication of any remorse regarding Pupil A or Mr Maidens’ actions in June 2016.” The panel also said, “Mr Maidens chose not to give oral evidence. The panel was therefore unable to explore with him whether he had actually developed any insight into his actions or an understanding as to how he would behave differently in similar circumstances in the future. As such, the panel could not be confident that a risk did not remain.” In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this risks the protection of pupils 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, “that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Maidens was 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 failure to impose a prohibition order might be regarded by the public 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 conviction of a relevant offence, 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 Maidens himself. The panel noted “the professional references relating to Mr Maidens’ qualities as a teacher. He was often deemed to be ‘outstanding’ or ‘good’ by his superiors.”

A prohibition order would prevent Mr Maidens from continuing in the teaching profession. 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 or remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Maidens 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 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 aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2-year review period.

I have considered the panel's comments, "that the sentence imposed on Mr Maidens suggested that whilst the act involved violence, it was towards the lower end of the spectrum and there was no evidence of this being anything more than a single incident. The panel did not consider this incident to be of such seriousness that Mr Maidens' behaviour could not be remediated in time."

The panel has also said that a 2-year review period would allow, "sufficient time for Mr Maidens to develop insight into his actions and be able to provide examples to any future panel as to why similar behaviour would not recur in similar circumstances."

I have considered whether a 2-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. I agree that a 2-year review period is appropriate for the reasons set out by the panel.

I consider therefore that a 2-year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Kenneth Maidens 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 1 May 2020, 2 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 Maidens remains prohibited from teaching indefinitely.

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

Mr Maidens 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 'Dawn Dandy', with a stylized, sweeping flourish at the end.

Decision maker: Dawn Dandy

Date: 24 April 2018

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