



Teaching
Regulation
Agency

Miss Kathryn Rebecca Barton: Professional conduct panel outcome

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

July 2018

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

Teacher:	Miss Kathryn Barton
Teacher ref number:	1280301
Teacher date of birth:	5 July 1992
TRA case reference:	16825
Date of determination:	31 July 2018
Former employer:	St James Church of England Infant School, Cumbria

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the Agency”) convened on 31 July 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Miss Barton.

The panel members were Dr Geoffrey Penzer (lay panellist – in the chair), Ms Gill Tomlinson (lay panellist) and Ms Sarah Evans (teacher panellist).

The legal adviser to the panel was Ms Surekha Gollapudi of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the Agency was Mr Luke Deal of Browne Jacobson LLP solicitors.

Miss Barton was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 4 June 2018.

It was alleged that Miss Barton was guilty of having been convicted of a relevant offence, in that:

1. She received a conviction, at any time, of a relevant criminal offence in that she was convicted on 18 August 2017 of the following offence:
 - a. committing battery on 30 July 2017, contrary to section 39 of the Criminal Justice Act 1988. She was subsequently sentenced to a Community Order in effect until 19 October 2017, a curfew requirement of 9 weeks, and an electronic tagging order in effect until 19 October 2017. She was ordered to pay costs to the sum of £85.00 and compensation to the sum of £150.00.

The teacher admitted the allegation.

C. Preliminary applications

The panel considered an application from the presenting officer to proceed in the absence of Miss Barton.

The panel was satisfied that the Agency complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel understood that its discretion to commence a hearing in the absence of the teacher must be exercised with the utmost care and caution, and that its discretion was a severely constrained one.

The panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1.

At the outset of the hearing, the presenting officer made an application to discontinue allegations 2 and 3 on the basis that no evidence would be called in support of those allegations. The panel agreed to the deletion of allegations 2 and 3.

D. Summary of evidence

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of Proceedings – pages 4 to 9

Section 3: Teaching Regulation Agency documents – pages 11 to 82

Section 4: Teacher documents – page 84

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

Witnesses

The panel did not hear oral evidence from any witnesses.

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.

Miss Barton was employed at St James Church of England Infant School as an infant class teacher from 1 September 2014 to 2 October 2017 when she resigned. Miss Barton was convicted of battery on 18 August 2017 following an incident which occurred on 30 July 2017.

Findings of fact

Our findings of fact are as follows:

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

- 1. You have received a conviction, at any time, of a relevant criminal offence in that you were convicted on 18 August 2017 of the following offence:**
 - a. committing battery on 30 July 2017, contrary to section 39 of the Criminal Justice Act 1988. You were subsequently sentenced to a Community Order in effect until 19 October 2017, a curfew requirement of 9 weeks, and an electronic tagging order in effect until**

19 October 2017. You were ordered to pay costs in the sum of £85 and compensation to the sum of £150.

The panel had regard to an email from Miss Barton to the Agency in which she confirmed “I admit to all allegations...”.

The panel also considered the memorandum of an entry entered into the register of the North West Cumbria Magistrates’ Court which confirmed the fact of the conviction and was supported by a letter from Cumbria Police confirming the details of the conviction.

The panel considered that this conviction related to an assault by beating and took place when Miss Barton was under the influence of alcohol. As such, the panel found this was a relevant offence.

The panel found this allegation proven.

Findings as to conviction of a relevant offence

The panel is satisfied that the conduct of Miss Barton in relation to the facts it has found proved, involved breaches of the Teachers’ Standards. We consider that by reference to Part Two, Miss Barton 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

The panel noted that the individual’s actions were not directly related to teaching, working with children or working in an education setting. The panel went on to note that the behaviour involved in committing the offence could have had an impact on the safety of members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that the teacher’s behaviour in committing the offence could affect 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 the teacher’s 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 although it did note that Miss Barton was subject to a curfew for a period of 9 weeks.

This is a case involving an offence involving violence which was carried out under the influence of alcohol, which the Advice states is likely to be considered a relevant offence.

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 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 the following to be of particular relevance, namely the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Miss Barton, which involved a conviction for battery, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Miss Barton were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel considered that there was a strong public interest consideration in declaring proper standards of conduct in the profession as the conduct found against Miss Barton 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 Miss Barton.

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 Miss Barton. 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;
- 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 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. The panel accepted that the teacher had a previously good history and the assault took place when Miss Barton was under the influence of alcohol, and in that sense, was not 'deliberate'. Additionally, the panel noted that this was an isolated incident.

The panel noted that the school had acknowledged Miss Barton had been "honest and co-operative throughout the [disciplinary] process" and that she had "contacted the headteacher prior to INSET to advise him of the conviction."

Although the panel had seen evidence of good character, it noted that no references had been provided from any colleagues that could formally attest to her abilities as a qualified teacher.

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 not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate as the public interest considerations outweigh the interests of Miss Barton. 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 to recommend that a review period of the order should be considered. The panel was 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. These behaviours include violence. The panel has found that Miss Barton carried out an assault by beating of a member of the public whilst under the influence of alcohol.

The panel carefully considered the insight shown by Miss Barton, who had immediately accepted the fact of the assault to the police and cooperated openly and honestly with the school disciplinary process. The panel also considered that, especially given her age, there could be an opportunity in the future for Miss Barton to make a positive contribution to the teaching profession.

The panel felt 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 provision for a review period of two years. This will enable Miss Barton to demonstrate to a panel that she has reflected on her behaviour and can consistently apply the teachers' standards across her personal and professional life in the future.

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 it amounts to a relevant offence. The panel has made a recommendation to the Secretary of State that Miss Barton should be the subject of a prohibition order, with a review period of two years.

In particular the panel has found that Miss Barton 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

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 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 Miss Barton, and the impact that will have on her, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed "the individual's actions were not directly related to teaching, working with children or working in an education setting." The panel went on to note that "the behaviour involved in committing the offence could have had an impact on the safety of members of the public."

I have also taken into account the panel's comments on Miss Barton's insight and co-operation which the panel sets out as follows, "considered the insight shown by Miss

Barton, who had immediately accepted the fact of the assault to the police and cooperated openly and honestly with the school disciplinary process.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe “the teacher’s behaviour in committing the offence could affect public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.” I am particularly mindful of the finding of battery and the role of alcohol in the case.

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 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 Miss Barton herself. The panel say “Although the panel had seen evidence of good character, it noted that no references had been provided from any colleagues that could formally attest to her abilities as a qualified teacher.”

A prohibition order would prevent Miss Barton from teaching and would 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 the behaviour shown “Miss Barton carried out an assault by beating of a member of the public whilst under the influence of alcohol.”

I have given less weight in my consideration of sanction therefore, to the contribution that Miss Barton 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.

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 “there could be an opportunity in the future for Miss Barton to make a positive contribution to the teaching profession.”

The panel has also said that a 2 year review period would “enable Miss Barton to demonstrate to a panel that she has reflected on her behaviour and can consistently apply the teachers’ standards across her personal and professional life in the future.”

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 consider that it does and is required to satisfy the maintenance of public confidence in the profession.

This means that Miss Kathryn Barton is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. She may apply for the prohibition order to be set aside, but not until 6 August 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 she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Miss Kathryn Barton remains prohibited from teaching indefinitely.

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

Miss Kathryn Barton has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date she is given notice of this order.



Decision maker: Alan Meyrick

Date: 6 August 2018

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