



Teaching
Regulation
Agency

Ms Maureen Devine: Professional conduct panel outcome

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

September 2021

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

Teacher:	Ms Maureen Devine
Teacher ref number:	0660731
Teacher date of birth:	26 April 1965
TRA reference:	19129
Date of determination:	24 September 2021
Former employer:	All Saints Bedworth C of E Primary School and Nursery, Warwickshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 23 September to 24 September 2021 by way of a virtual hearing, to consider the case of Ms Maureen Devine.

The panel members were Mr Ian Carter (former teacher panellist – in the chair), Ms Claire Bentley (lay panellist) and Mr Steve Woodhouse (teacher panellist).

The legal adviser to the panel was Mrs Rebecca Utton of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Michael O’Donohoe of Browne Jacobson LLP solicitors.

Ms Devine was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 28 June 2021.

It was alleged that Ms Devine was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at All Saints Bedworth C of E Primary School and Nursery:

1. She failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A despite being aware that;
 - a. On or around 28 January 2019, Pupil A disclosed that his foster carer had grabbed him around the throat which resulted in a red mark;
 - b. On or around 22 March 2019, Pupil A disclosed that his foster parents tell him, on frequent occasions, to 'rot in hell' or words to that effect;
2. Her failure(s) as may be proven at 1 above represented one or more missed opportunities to protect Pupil A from being exposed to further harm.

Ms Devine denied the facts of the allegations, as set out in the letter from her previous representative, The Wilkes Partnership LLP, dated 6 July 2020. Ms Devine made no admission of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to proceed in the absence of the teacher

Ms Devine was not present at the hearing nor was she represented. The presenting officer made an application to proceed in the absence of Ms Devine.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba [2016] EWCA Civ 162*).

The panel was satisfied that the notice of proceedings had been sent to Ms Devine in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession 2018 ("the Procedures").

The panel concluded that Ms Devine's absence was voluntary and that she was aware that the matter would proceed in her absence.

The panel noted that Ms Devine had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure her attendance at a hearing. There was no medical evidence before the panel that Ms Devine was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witness of any delay.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Ms Devine was neither present nor represented.

Summary of evidence

Documents

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

- Section 1: Preliminary documents – pages 2 to 12
- Section 2: Notice of proceedings and response – pages 14 to 26
- Section 3: Teaching Regulation Agency witness statements – pages 28 to 60
- Section 4: Teaching Regulation Agency documents – pages 62 to 144
- Section 5: Teacher documents – pages 146 to 149

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

Witnesses

The panel heard oral evidence from the following witnesses called by the TRA:

- Individual A [REDACTED]

No witnesses were called to give oral evidence on behalf of Ms Devine.

Decision and reasons

The panel announced its decision and reasons as follows:

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

In summary, Ms Devine was employed by All Saints Bedworth C of E Primary School and Nursery ('the School') as head of school and designated safeguarding lead ('DSL') from 15 January 2019 to 31 August 2019, when her fixed term contract expired.

After Ms Devine's employment ended at the School, a new head of school and DSL was appointed in September 2019. Following a number of disclosures made by Pupil A and concerns raised by school staff about the conduct of Pupil A's foster carers, the new head of school reported such concerns to Pupil A's social worker on 12 September 2019.

The new head of school undertook a review of Pupil A's safeguarding file and found that there had previously been a number of similar disclosures and concerns raised by staff that had been reported to Ms Devine, as the DSL.

Such disclosures and concerns had allegedly not been reported to Pupil A's social worker. Due to the serious nature of the concerns, a Position of Trust meeting was called by the Local Authority Designated Officer ('LADO'), on 25 October 2019. Subsequent meetings were held on 27 November 2019, 17 December 2019 and 14 January 2020.

Following the final meeting, on 14 January 2020, an agreement was reached that the allegations were substantiated, and a recommendation was made that the foster carers' employment was to be terminated through panel process.

The outcome of the meetings was that, if such concerns had been reported to Pupil A's social worker at the time, then it would have been likely that a Position of Trust meeting would have been called sooner. The LADO advised that is likely that Pupil A was exposed to potential significant harm over a longer period of time due to the concerns not being adequately followed up. The LADO confirmed, on 15 January 2020, that the School should refer the matter to the TRA and DBS.

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 failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A despite being aware that;**
 - a. On or around 28 January 2019, Pupil A disclosed that his foster carer had grabbed him around the throat which resulted in a red mark;**

The panel considered all the evidence before it, which included the witness statement and oral evidence provided by Individual A.

Individual A explained that at the time Ms Devine was head teacher and DSL the process the School followed, was to use 'green forms' to report any disclosures or safeguarding concerns raised. The 'green form' was completed by a staff member and handed to a DSL to review and action accordingly.

The panel was satisfied on the evidence of Individual A, and other documentation within the hearing bundle, that Ms Devine was aware of the incident on 28 January. The panel noted that the relevant 'green form' was located by Individual A with all the school's other 'green forms' and therefore concluded, on the balance of probabilities, that it was in Ms Devine's possession whilst she was head teacher and DSL and she would have had sight of it.

The panel further noted that even if Ms Devine's assertion that she had not had sight of the form was correct, they were satisfied on the evidence before them that she had at least been made verbally aware of the incident and should have acted upon this information.

The panel found allegation 1a proved.

1. You failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A despite being aware that;

b. On or around 22 March 2019, Pupil A disclosed that his foster parents tell him, on frequent occasions, to 'rot in hell' or words to that effect;

Having considered all the evidence before it the panel was satisfied that Ms Devine had failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A.

On the evidence presented it appeared that Ms Devine had used the School's messaging system ClassDojo, a school communication platform for teachers, students and families, to contact Pupil A's carers regarding Pupil A's disclosure on 22 March 2019. The panel did not consider ClassDojo an appropriate means of communication for safeguarding issues. More significantly the panel deemed the direct contact with Pupil A's carers, irrespective of communication method, wholly inappropriate given the nature of the concern. The panel noted that by directly contacting the carers the risk to Pupil A could have been increased, particularly when Pupil A was a looked after child ('LAC').

The panel found allegation 1b proved.

2. Your failure(s) as may be proven at 1 above represented one or more missed opportunities to protect Pupil A from being exposed to further harm.

Having considered all the evidence before it the panel was satisfied that Ms Devine's actions did represent one or more missed opportunities to protect Pupil A from being exposed to further harm.

The panel considered the evidence before them to be clear that if Ms Devine had followed appropriate school safeguarding procedures, particularly regarding LACs, there would have been the opportunity for earlier intervention. The panel paid particular attention to the evidence of Individual A's review of Pupil A's safeguarding file and the subsequent Position of Trust meetings and decision that followed. The panel concluded that if Ms Devine had followed the appropriate procedures there would have been an opportunity for this intervention to have occurred at an earlier date and action taken. The lack of information provided to the social worker prohibited the chance of earlier investigation, therefore risking Pupil A being exposed to further harm.

The panel found allegation 2 proved.

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

Having found a number of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

The panel was satisfied that the conduct of Ms Devine, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Ms Devine 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The panel also considered whether Ms Devine's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences was relevant.

The panel considered that as the head teacher and a DSL, Ms Devine would be additionally trained and more aware of the increased importance of following procedures relating to safeguarding and LACs. The panel noted that in her position Ms Devine should have a heightened awareness of her duties and standards. In addition as the head teacher and lead professional in the school she should have been a good role model to colleagues. One further aspect the panel took particular account of was the apparent inconsistencies and gaps in the paperwork and procedures in place both within the school and in contacting external agencies.

Accordingly, the panel was satisfied that Ms Devine 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 findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on Ms Devine's status as a teacher, potentially damaging the public perception of the teaching profession. In particular the panel considered that the public would be highly concerned if they became aware that a disclosure by a child, relating to potential harm, may not be taken seriously and acted upon appropriately.

The panel therefore found that Ms Devine's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 and 2 proved, the panel further found that Ms Devine's conduct amounted to both unacceptable professional 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.

The panel were aware that 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 and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Ms Devine which involved a failure to take appropriate action to safeguard Pupil A, there was a strong public interest consideration in respect of the protection of pupils.

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

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Ms Devine 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 Ms Devine.

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 Ms Devine. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- 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;

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 were not presented with any evidence to suggest that Ms Devine was acting under duress.

The panel did not see any evidence which showed Ms Devine was previously subject to disciplinary proceedings/warnings.

The panel noted that no mitigation had been submitted by Ms Devine or any evidence to attest to her previous ability as a teacher.

The panel further noted that the letter of 6 July 2020, from Ms Devine's former legal representative, alluded to Ms Devine experiencing some [REDACTED] however no evidence was provided in support for the panel to consider.

The panel concluded that whilst in a position of trust and authority Ms Devine left Pupil A in a situation where Pupil A was at risk of potential harm. She had the opportunity, on at least two occasions, to act to protect Pupil A but failed to do so thereby placing Pupil A in danger of further potential harm.

The panel considered that Ms Devine had failed to provide any evidence to demonstrate insight or reflection on her actions or the actual / potential harm that could have been caused to Pupil A.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Ms Devine of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Ms Devine. Ms Devine's failure to protect Pupil A from being exposed to potential harm when safeguarding concerns were raised was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel found that Ms Devine did not demonstrate any such behaviours.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provision for a 3 year review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Ms Maureen Devine should be the subject of a prohibition order, with a review period of 3 years.

In particular, the panel has found that Ms Devine 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Ms Devine fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of a failure to take appropriate action to safeguard a Pupil.

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 Ms Devine, 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, "Having considered all the evidence before it the panel was satisfied that Ms Devine's actions did represent one or more missed opportunities to protect Pupil A from being exposed to further harm." 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 considered that Ms Devine had failed to provide any evidence to demonstrate insight or reflection on her actions or the actual / potential harm that could have been caused to Pupil A." In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour, and this puts at risk future pupils' wellbeing. 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, "In the light of the panel's findings against Ms Devine which involved a failure to take appropriate action to safeguard Pupil A, there was a strong public interest consideration in respect of the protection of pupils." I am particularly mindful of the finding of a failure to take appropriate action to safeguard a looked after pupil in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Ms Devine herself and the panel comment “The panel did not see any evidence which showed Ms Devine was previously subject to disciplinary proceedings/warnings”.

The panel noted that no mitigation had been submitted by Ms Devine or any evidence to attest to her previous ability as a teacher.

Despite the lack of evidence, a prohibition order would prevent Ms Devine 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 the failure to take action to safeguard a pupil and “The panel concluded that whilst in a position of trust and authority Ms Devine left Pupil A in a situation where Pupil A was at risk of potential harm. She had the opportunity, on at least two occasions, to act to protect Pupil A but failed to do so thereby placing Pupil A in danger of further potential harm.”

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Devine has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 3 year review period.

I have considered the panel’s comments, “The panel decided that the public interest considerations outweighed the interests of Ms Devine. Ms Devine’s failure to protect Pupil A from being exposed to potential harm when safeguarding concerns were raised was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.”

I have considered whether a 3 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. In this case, a 2 year review period is not sufficient to achieve the aim of maintaining public confidence in the profession as there was no evidence of insight or remorse.

I consider therefore that a 3 year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Ms Maureen Devine 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 5 October 2024, 3 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, Ms Devine remains prohibited from teaching indefinitely.

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

Ms Maureen Devine 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.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 29 September 2021

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