



Teaching  
Regulation  
Agency

# **Mr David Hewitt: Professional conduct panel meeting outcome**

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

**September 2020**

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

|                               |                                           |
|-------------------------------|-------------------------------------------|
| <b>Teacher:</b>               | Mr David Hewitt                           |
| <b>Teacher ref number:</b>    | 3367214                                   |
| <b>Teacher date of birth:</b> | 21 March 1985                             |
| <b>TRA reference:</b>         | 18312                                     |
| <b>Date of determination:</b> | 25 September 2020                         |
| <b>Former employer:</b>       | Blessed Henry Newman RC College in Oldham |

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 25 September 2020 over Microsoft Teams to consider the case of Mr David Hewitt.

The panel members were Ms. Alison Platts, (lay panellist – in the chair), Mr. Paul D Hawkins (teacher panellist), and Mr. Adnan Qureshi (lay panellist).

The legal adviser to the panel was Matthew Corrie, Barrister of Blake Morgan LLP.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request by Mr David Hewitt that the allegations be considered without a hearing. Mr Hewitt provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel considered the case at a meeting without the attendance of the presenting officer or Mr David Hewitt.

The meeting took place in private.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 18 September 2020.

It was alleged that Mr Hewitt was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or had been convicted of a relevant offence in that:

1. On or around 7 July 2018 you took a member of the public, who had been reported in the media to have been involved in the conspiracy to supply Class A drugs, on a trip with students without declaring it to and/or seeking permission from the College;
2. In or around 2018 you were convicted of one or more driving offences. Mr Hewitt has admitted the facts alleged within the Statement of Agreed Facts which is signed by him on 5 February 2020 and the presenting officer on 6 March 2020.

Within the same document Mr Hewitt has admitted that the conduct amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute. He also admits to having been convicted of a relevant offence.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of referral and response – pages 5 to 8a

Section 3: Statement of Agreed Facts and the Presenting Officer Representations - pages 10 to 16

Section 4: Teaching Regulation Agency documents – pages 18 to 158

Section 5: Teacher documents – pages 160 to 170.

In addition, the panel agreed to accept the following material that has been provided on behalf of the TRA, namely:

- a. A MG5 police report in relation to Mr Hewitt's arrest on 24 September 2018 which led to convictions for driving whilst disqualified and drink driving;
- b. A witness statement from Witness A dated 24 September 2018.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the meeting and the additional documents admitted by the panel.

## **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by both Mr Hewitt and the presenting officer.

The panel has also considered all the other evidence within the documents.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision. In reaching its decision the panel received and accepted advice from the legal advisor.

In advance of the meeting, the TRA agreed to a request made on behalf of Mr Hewitt by his union representative for the allegations to be considered without a hearing. The panel is aware of its power to direct that the case be considered at a hearing but does not consider that such a direction was necessary, appropriate or in the interests of justice in this case.

Whilst there were no preliminary applications the panel noted that allegation 2 set out:

*"2. In or around 2018 you were convicted of one or more driving offences."*

However, the statement of agreed facts set out in detail the particular of three specific driving offences.

The panel considered that there was no ambiguity in the charge and that it was clear that Mr Hewitt was aware of the charge made against him. The panel, therefore, considered that it was fair to proceed in the circumstances.

Mr Hewitt was employed as a teacher at the Blessed Henry Newman RC College in Oldham ("the School") between September 2007 and 19 December 2018.

On or around 16 July 2018 Mr Hewitt was one of two teachers who was supervising pupils on a school trip at a local rugby club. He was accompanied on this trip by a friend

who, unknown to him, had a prior conviction for conspiracy to supply Class A drugs. The issue here being that Mr Hewitt did not go through the official channels of seeking permission for a third party to attend so that they could be subjected to appropriate checks.

Mr Hewitt has been convicted of the following offences:

- i. On 13 September 2018 Mr Hewitt was convicted of driving on 25 August 2018 whilst over the legal alcohol limit and was fined, ordered to pay prosecution costs and a victim's surcharge and disqualified from driving for 40 months;
- ii. On 11 October 2018 Mr Hewitt was convicted of two further offences, one of driving whilst over the legal limit and another of driving whilst disqualified. Both convictions relate to the same incident on 24 September 2018. Mr Hewitt was sentenced to a two-month term of imprisonment suspended for a year and disqualified from driving for three years.

## 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. *On or around 7 July 2018 you took a member of the public, who had been reported in the media to have been involved in the conspiracy to supply Class A drugs, on a trip with students without declaring it to and/or seeking permission from the College***

This allegation was admitted and the admission was unambiguous.

Moreover, it was supported by evidence within the evidence bundle. In particular the panel took into account:

- i. The witness statement and exhibits of Individual A, Director of Support Services at the School, dated 11 December 2019 in respect of the requirement to seek permission to bring a third party on a school trip and that this was not done. It is apparent from her evidence that had Mr Hewitt followed the correct procedure Individual A would have carried out checks including a DBS check in order to see if it was appropriate that he attend;
- ii. The letter from Individual B dated 4 December 2019 in which he confirms that he attended the school trip along with Mr Hewitt and the students;

- iii. The newspaper article which establishes that Individual B had been reported in the media as having been involved in a conspiracy to supply Class A drugs.

The panel, therefore, find allegation 1 proven on the balance of probabilities.

**2. *In or around 2018 you were convicted of one or more driving offences.***

This allegation was admitted and the admission was unambiguous.

Further, within the evidence there are memoranda of conviction for three offences which stand as proof of the commission of the offences.

The panel, therefore, find this allegation proved.

**Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence**

Having found allegation 1 proved, the panel went on to consider whether the facts of this allegation 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 Mr Hewitt in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Hewitt 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 and maintain high standards in their own attendance and punctuality.

The panel was satisfied that the conduct of Mr Hewitt fell significantly short of the standards expected of the profession.

In reaching this decision the panel accepted that Mr Hewitt was unaware of Individual B's previous conviction. However, in failing to follow correct procedure in not either declaring or seeking permission for the attendance of a third-party Mr Hewitt failed to act in the

best interests of the students for whom he was responsible. The reason why permission is required was so that checks could be carried out to ensure that anyone attending a school trip is suitable to do so. That this was not done exposed the students to the potential risk of harm. Although Mr Hewitt was unaware of the prior conviction, its existence illustrates the need to be vigilant in ensuring proper checks are carried out before third parties attend school trips.

The panel considered this conduct to be a serious falling short of what was required in the circumstances.

The panel also considered whether Mr Hewitt'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 were relevant.

Accordingly, the panel was satisfied that Mr Hewitt 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 they behave.

As set out above the panel considered Mr Hewitt's conduct to be serious and took the view that any parent who was aware of what had taken place would be justifiably concerned that someone had been allowed to attend a school trip without any checks as to their background or suitability having been undertaken. This is even more the case given individual B's convictions.

In the circumstances, the panel considered that Mr Hewitt's conduct was such that it would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception of the profession.

Having found the facts of allegation 1 proved, the panel further found that Mr Hewitt's conduct also amounted to conduct that may bring the profession into disrepute.

In respect of allegation 2 the panel was satisfied that the conduct of Mr Hewitt in relation to the facts it found proved involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mr Hewitt 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



- not undermining fundamental British values and the rule of law.

Although the conduct that led to the convictions did not take place within the context of his teaching role, the panel is satisfied that the convictions were convictions for relevant offences because:

- i. For both offences of driving with excess alcohol Mr Hewitt was nearly three times over the legal limit;
- ii. Driving with excess alcohol and driving whilst disqualified are serious driving offences;
- iii. The gravity of Mr Hewitt's conduct is aggravated by the fact that the second offence of driving with excess alcohol and the driving whilst disqualified took place less than two weeks after the initial conviction;
- iv. In driving whilst under the influence of alcohol Mr Hewitt's conduct put others at unnecessary risk of harm;
- v. Mr Hewitt was sentenced to a two-month term of imprisonment suspended for one year with a Rehabilitation Activity Requirement and disqualified from driving for three years;
- vi. Public confidence in the profession is likely to be adversely affected by Mr Hewitt's conduct and convictions.

The panel took into account the evidence provided on behalf of Mr Hewitt including that he takes full responsibility for his actions, no longer drinks on the weekends or socially and that he has found new employment and is performing well in his employment. The panel also took into account that Mr Hewitt has accessed his GP.

Further, the panel found evidence of Mr Hewitt's proficiency as a teacher and also acknowledges that he is involved in teaching challenging and vulnerable young people. Nevertheless, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Hewitt's ongoing suitability to teach. The panel considered that a finding that these convictions were for relevant offences was 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 unacceptable professional conduct, conduct that may bring the profession into disrepute and convictions of relevant offences, 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:

- i. the protection of pupils and of other members of the public;
- ii. the maintenance of public confidence in the profession;
- iii. declaring and upholding proper standards of conduct.

The panel's findings against Mr Hewitt, involved allowing a friend, who unknown to Mr Hewitt had previously been convicted of drug offences, to attend a school trip without obtaining permission from the School and convictions for two offences of drink driving and one offence of driving whilst disqualified.

In the light of these findings the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hewitt were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel decided that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Hewitt 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 Hewitt. The panel also considered the public interest in Mr Hewitt remaining in the profession especially given that his expertise and experience is in teaching vulnerable and challenging students.

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 Hewitt. 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 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;
- actions or behaviours that undermine fundamental British values, the rule of law.

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 considered that the following mitigating features existed:

- i. Mr Hewitt admitted the allegations and co-operated fully with the TRA;
- ii. Mr Hewitt has no previous findings against him by his regulator and so has a previously good record;
- iii. Mr Hewitt has managed to find alternative employment and has been provided with a positive reference by his current employer.

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 was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Hewitt of prohibition. In reaching this decision the panel noted that Mr Hewitt's current employment does not list a teaching qualification as being essential on the job description.

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 Mr Hewitt.

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 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 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel did not consider that any of these applied to Mr Hewitt.

The panel considered carefully Mr Hewitt's letter dated 16 March 2020 and noted that he regrets his actions, apologises and accepts full responsibility. It is also noted that Mr Hewitt has been in touch with his GP and an organisation called Healthy Minds and has accessed the Employee Assistance Programme. However, there is no supporting material in respect of these matters. The panel is not fully satisfied that Mr Hewitt fully

understands the gravity of his conduct and the impact it is likely to have had on the reputation of the profession. So, whilst it is accepted that Mr Hewitt has shown some insight in the panel's view this is not yet complete.

Taking into account the developing insight and the public interest in Mr Hewitt being able to return to the profession, 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 review period of three years.

The panel's notes that any future reviewing panel may be assisted by the provision by Mr Hewitt of evidence in support of any progress he has made in his remediation for example but not limited to:

- i. Evidence of reflection in relation to the conduct which led to the prohibition;
- ii. Evidence from his current and/or past employers;
- iii. Evidence of his work on the Employee Assistance Programme.

## **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 allegations proven and found that those proven facts amount to unacceptable professional conduct, conduct that may bring the profession into disrepute and a relevant conviction.

The panel has made a recommendation to the Secretary of State that Mr David Hewitt should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Mr Hewitt 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 and maintain high standards in their own attendance and punctuality.
- not undermining fundamental British values and the rule of law.

The panel finds that the conduct of Mr Hewitt fell significantly short of the standards expected of the profession.

The panel noted that although the conduct that led to the convictions did not take place within the context of his teaching role, they were satisfied the convictions were for relevant offences.

The findings of misconduct are particularly serious as they include a failure to follow correct procedure in not either declaring or seeking permission for the attendance of a third-party on a school trip, exposing students to potential risk of harm and convictions for drink driving and driving whilst disqualified.

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 Hewitt, 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. I have also taken into account the panel's findings against Mr Hewitt involved "allowing a friend, who unknown to Mr Hewitt had previously been convicted of drug offences, to attend a school trip without obtaining permission, exposing students to potential risk of 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, set out as follows "he regrets his actions, apologises and accepts full responsibility". The panel also commented "it is not fully satisfied that Mr Hewitt fully understands the gravity of his conduct and the impact it is likely to have on the profession". So, whilst it is accepted Mr Hewitt has shown some insight in the panel's view this is not yet complete.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel considered "public confidence in the profession

could be seriously weakened if conduct such as that found against Mr Hewitt were not treated with the utmost seriousness". The panel observed, "conduct found against Mr Hewitt was outside that which could be reasonably tolerated". I am particularly mindful of the findings in this case, including convictions for drink driving and driving whilst disqualified and the impact that such findings have 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 Mr Hewitt. He has found alternative employment, which the panel noted does not list a teaching qualification as being essential. I also considered the panel's findings of "evidence of Mr Hewitt's proficiency as a teacher and also acknowledges that he is involved in teaching challenging and vulnerable young people."

A prohibition order would prevent Mr Hewitt from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force. However, I have also noted the panel's comment "the seriousness of the offending behaviour that led to the conviction was relevant to Mr Hewitt's ongoing suitability to teach."

I have placed considerable weight on the findings of the panel that Mr Hewitt put students at potential risk of harm and driving whilst under the influence of alcohol put others at unnecessary risk of harm. Public confidence is likely to be adversely affected by Mr Hewitt's conduct and convictions.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Hewitt has made to the profession, although the panel found evidence of Mr Hewitt's proficiency as a teacher. 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 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 "taking into account the developing insight and the public interest in Mr Hewitt being able to return to the profession, 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 review period of three years."

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, two factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the misconduct and relevant conviction and the panel's view that they were not fully satisfied that Mr Hewitt fully understands the gravity of his conduct.

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

**This means that Mr David Hewitt 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 12 October 2023, 3 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 Hewitt remains prohibited from teaching indefinitely.

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

Mr Hewitt 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.



**Decision maker: Sarah Buxcey**

**Date: 2 October 2020**

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