



Teaching
Regulation
Agency

Miss Joanna Clifford: Professional conduct panel outcome

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

December 2022

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

Teacher: Miss Joanna Clifford
TRA reference: 20006
Date of determination: 14 December 2022
Former employer: Gresham's Prep School, Norfolk

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 14 December 2022 by virtual means, to consider the case of Miss Clifford.

The panel members were Dr Martin Coles (former teacher panellist – in the chair), Mrs Sharon Bhogal (teacher panellist) and Mrs Kelly Thomas (lay panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Mr Mark Millin of Kingsley Napley solicitors.

Miss Clifford was present and was represented by Mr Doug Frame of Fosters Solicitors LLP.

The hearing took place in public, save that aspects of the hearing relating to Miss Clifford's health were heard in private. The hearing was recorded.

Allegations

The panel considered the allegation set out in the notice of proceedings dated 3 October 2022.

It was alleged that Miss Clifford was guilty of having been convicted of a relevant offence at any time, in that:

1. On 17 January 2020, she was convicted of the road traffic offence of driving a motor vehicle with excess alcohol on 3 December 2019, contrary to the Road Traffic Act 1988 s 5(1)(a).

Miss Clifford admitted the fact of the allegation and that she was guilty of having been convicted of a relevant offence.

Preliminary applications

The panel considered an application from Miss Clifford that aspects of the hearing relating to her health should be held in private. It decided that it was in the public interest for the hearing to be held in public but that it would hear these portions of the hearing in private in order to protect the confidentiality of matters relating to Miss Clifford's health. The panel was satisfied that this would not be contrary to the public interest or the interests of justice.

Summary of evidence

Documents

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

Section 1: Chronology and List of Key People – pages 4 to 6

Section 2: Notice of hearing and response – pages 7 to 14

Section 3: Teaching Regulation Agency documents – pages 15 to 215

Section 5: Teacher's representation – pages 216 to 267

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

Witnesses

The panel heard no oral evidence.

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 22 February 2010, Miss Clifford commenced employment with Gresham's Prep School (the "School") as a part-time learning support teacher. On 1 September 2017, Miss Clifford began her role as a full-time year 3 teacher. On 3 December 2019, Miss Clifford was involved in a road traffic accident and was arrested by the police. On 31 August 2020, it was agreed between Miss Clifford and the School that her employment would come to an end.

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 17 January 2020, she was convicted of the road traffic offence of driving a motor vehicle with excess alcohol on 3 December 2019, contrary to the Road Traffic Act 1988 s 5(1)(a).

Miss Clifford admitted this allegation.

The panel has seen the memorandum of an entry in the register of the Norfolk Magistrates' Court. This confirmed that Miss Clifford was convicted, following a guilty plea, of driving a motor vehicle on a road after consuming so much alcohol that the proportion of it in her breath, namely 81 micrograms of alcohol in 100 millilitres of breath, exceeded the prescribed limit contrary to section 5(1)(a) of the Road Traffic Act 1988. Miss Clifford was fined £700, ordered to pay a surcharge to fund victim services of £70 and ordered to pay costs of £105 to the Crown Prosecution Service. She was also disqualified from holding or obtaining a driving licence for 22 months, with that disqualification to be reduced by 22 weeks if she satisfactorily completed a course approved by the Secretary of State. The panel accepted this as conclusive proof of the conviction and the facts necessarily applied by the conviction.

Findings as to conviction of a relevant offence

The panel was satisfied that the conduct of Miss Clifford, in relation to the facts it found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Miss Clifford 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.

[REDACTED]. Following this accident, Miss Clifford was arrested and subsequently convicted for driving with excess alcohol. [REDACTED]. The School's child protection and safeguarding policy stated that the welfare of children at the School is paramount and [REDACTED]. This policy required Miss Clifford to recognise [REDACTED]. The statutory guidance, Keeping Children Safe in Education requires that safeguarding and promoting the welfare of children is everyone's responsibility, and Miss Clifford, as a teacher was obliged to adhere to those duties.

The panel noted that Miss Clifford's actions were relevant to teaching, working with children and working in an education setting. Her actions indicated a willingness to put children at risk whilst under the influence of alcohol and that her actions were out of control.

The panel noted that the behaviour involved in committing the offence would have been likely to have had an impact on the safety and security of pupils, [REDACTED]. It also potentially affected the safety of other members of the public given that Miss Clifford came to be involved in an accident whilst under the influence of alcohol.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Miss Clifford's behaviour in committing the offence would be likely to affect public confidence in the teaching profession, since it gives rise to concern about the safety of pupils in her care.

The panel noted that Miss Clifford's behaviour did not lead to a sentence of imprisonment.

This was a case concerning a serious driving offence, involving alcohol. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

The panel took into account evidence of Miss Clifford's [REDACTED] at the time, [REDACTED] and the remedial steps that Miss Clifford has taken to address her problems. The panel also took account of Miss Clifford's record as a teacher prior to these issues.

Although the panel found that this evidence to be of note, the panel also found that the seriousness of the offending behaviour that led to the conviction was relevant to Miss Clifford's fitness to be a teacher. The panel considered that a finding that this conviction

was for a relevant offence 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 a conviction of a relevant offence, 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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Miss Clifford and whether a prohibition order is necessary and proportionate. 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 safeguarding and wellbeing of pupils; the protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

There was a public interest consideration in respect of the safeguarding and wellbeing of pupils, given that Miss Clifford has been convicted of driving with excess alcohol, [REDACTED], at the time of the incident.

Similarly, the panel considered that public confidence in the profession could be weakened if conduct such as that found against Miss Clifford was not treated seriously when regulating the conduct of the profession.

The panel was of the view that a public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Miss Clifford was outside that which could reasonably be tolerated.

However, the panel decided that there was also a strong public interest consideration in retaining Miss Clifford in the profession, since it is clear from the references provided to the panel referred to further below that she is able to make a valuable contribution to the teaching profession.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is

evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

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 disclosure;

misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;

failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE)

Although Miss Clifford's actions affected the safeguarding of [REDACTED], the panel did not consider there to be a continuing risk. [REDACTED].

[REDACTED].

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the Miss Clifford and whether there were mitigating circumstances.

Miss Clifford's actions were deliberate in the sense that she chose to drive her car under the influence of alcohol. [REDACTED].

There was no evidence to suggest that Miss Clifford was acting under extreme duress, in the sense of any physical threat or significant intimidation although [REDACTED].

Miss Clifford did have a previously good history, having demonstrated high standards in both her personal and professional conduct and having contributed to the education sector. The panel accepted that the incident was out of character and was borne out of the difficulties that Miss Clifford was experiencing at the time.

The panel has seen testimonial accounts from the [REDACTED] of a school that Miss Clifford worked until August 2017 that described her as conscientious, successful and reliable. He stated that Miss Clifford clearly loved her job and was good at it, that she always followed school procedure and was a supportive and committed member of the school community. The [REDACTED] of another school at which Miss Clifford worked until August 2009 stated that she was privileged to recruit and work with Miss Clifford, that she was an outstanding teacher, who always acted with honesty and integrity and consistently demonstrated high standards of personal and professional conduct. Two other colleagues at the same school described Miss Clifford as an extremely valuable member of their teaching staff. Miss Clifford has been undertaking voluntary work at a

nursery to support her intended return to teaching. A recent reference has been provided in connection with that work confirms that Miss Clifford is fit and capable to work, attending regular working hours, and being particularly skilled at supporting children with complex needs and ASD.

Miss Clifford has expressed remorse for her actions, and has already paid a significant price for her actions. She has gone to great lengths to ensure she received the treatment to help her and restore her to the person she had been before this period in her life. She acknowledges that she ought to have sought help sooner. [REDACTED].

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found the allegation proven and found that those proven facts amount to a relevant conviction.

The panel has recommended that the findings of a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Miss Clifford 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.

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 a relevant conviction, 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 Clifford, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "The statutory guidance, Keeping Children Safe in Education requires that safeguarding and promoting the welfare of children is everyone's responsibility, and Miss Clifford, as a teacher was obliged to adhere to those duties." 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, "Miss Clifford has expressed remorse for her actions, and has already paid a significant price for her actions. She has gone to great lengths to ensure she received the treatment to help her and restore her to the person she had been before this period in her life. She acknowledges that she ought to have sought help sooner. [REDACTED] 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, "The panel also took account of the way the teaching profession is viewed by others. The panel considered that Miss Clifford's behaviour in committing the offence would be likely to affect public confidence in the teaching profession, since it gives rise to concern about the safety of pupils in her care."

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 a relevant conviction 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 Clifford. The panel comment "Miss Clifford did have a previously good history, having demonstrated high standards in both her personal and professional conduct and having contributed to the education sector."

A prohibition order would prevent Miss Clifford from teaching and would also clearly deprive the public of her contribution to the profession for the period that it is in force.

For all these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'Alan Meyrick', with a vertical line at the end.

Decision maker: Alan Meyrick

Date: 16 December 2022

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