



Teaching
Regulation
Agency

Mr Darren Waters: Professional conduct panel outcome

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

January 2023

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

Teacher: Mr Darren Waters

TRA reference: 18770

Date of determination: 17 January 2022

Former employer: Bath College

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 16 to 17 January 2023, to consider the case of Mr Waters.

The panel members were Mrs Christine McLintock (teacher panellist – in the chair), Ms Elizabeth Pollitt (teacher panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

The presenting officer for the TRA was Ms Leila Chaker instructed by Kingsley Napley LLP.

Mr Waters was present was represented by Ms Lizzy Bowman of NASUWT.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 24 October 2022.

It was alleged that Mr Waters was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. On 24 May 2019, whilst a teacher at The Paragon School, you:
 - a) Were on the school premises whilst under the influence of alcohol
 - b) Fell asleep in a practice room
 - c) Did not deliver your scheduled lessons
2. On 5 June 2019, whilst a teacher at the Beechen Cliff School, you:
 - a) Were on the school premises whilst under the influence of alcohol
 - b) Fell asleep in the staff toilets
 - c) Did not deliver your scheduled lessons
3. On 20 June 2019, whilst a teacher at the Beechen Cliff School, you:
 - a) Were on the school premises whilst under the influence of alcohol
 - b) Taught pupils whilst under the influence of alcohol
 - c) Fell asleep in the music classroom
4. On 10 October 2019, whilst a teacher at Bath College, you:
 - a) Were on College premises whilst under the influence of alcohol
5. By reason of your conduct in paragraphs 1 to 4 above, you demonstrated a lack of integrity.

It was further alleged that Mr Waters had been convicted of a relevant offence at any time, in that:

6. On 16 July 2019, you were convicted of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath namely 90 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit on 17 December 2018, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988.

By a statement of agreed facts signed by Mr Waters and dated 8 June 2020, Mr Waters admitted allegations 1 to 3 and that they amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In a supplemental statement of agreed facts sign by Mr Waters and dated 22 September 2022, Mr Waters admitted allegation 4 and denied allegation 5. Mr Waters admitted allegation 6 but denied that it amounted to a relevant offence.

Preliminary applications

At the start of hearing, Ms Chaker made an application to place an opening note before the panel, which contained a summary of the TRA's position in the case. This application was not opposed by Ms Bowman.

During the course of the hearing, Ms Bowman made an application to admit a letter from Mr Waters' GP. Ms Bowen had indicated at the start of the hearing, that this letter was outstanding and was likely to arrive at some point during the hearing. This application was not opposed by Ms Chakar.

In both these applications, the panel considered the documents were relevant and that it would be fair to admit them. Accordingly, the panel granted both applications.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 6 to 8

Section 2: Notice of proceedings and response – pages 9 to 23

Section 3: Teaching Regulation Agency documents – pages 24 to 248

In addition, the panel agreed to accept the following:

Opening note by the presenting officer – pages 249 to 260

GP letter from Mr Waters – page 260

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

Witnesses

The TRA did not call any live witnesses.

The panel heard oral evidence from Mr Waters.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Waters is a music teacher and held a number of teaching posts at the time of these allegations. Those posts were as a music peripatetic teacher at Beechen Cliff School ("the School") from 1 September 2013 to 8 October 2019, as a peripatetic guitar teacher at The Paragon School (Prior Park Schools) ("the School") from 11 June 2016 to 15 November 2019 and at Bath College ("the College") for around 15 years up to 2019.

As a result of the incidents below involving the misuse of alcohol, the schools made referrals to the TRA.

Findings of fact

The findings of fact are as follows:

- 1. On 24 May 2019, whilst a teacher at The Paragon School, you:**
 - a) Were on the school premises whilst under the influence of alcohol**
 - b) Fell asleep in a practice room**
 - c) Did not deliver your scheduled lessons**

The panel considered the evidence in the bundle which consisted of the School's investigation. It suggested that on 24 May 2019, that the [REDACTED] had found Mr Waters asleep in the music practice room at around 11am. It was noted that Mr Waters' speech was slurred once he was awoken. There was no suggestion that there were any pupils in the room at the time. It was also stated that Mr Waters had not taught any lessons that day.

In the School's investigation, Mr Waters explained that difficulties he was having with [REDACTED] had come to a head in January 2019. As a result of those [REDACTED], he had turned to alcohol to self-medicate. Mr Waters further described that he had become [REDACTED] on consuming alcohol in the evenings in order to settle his nerves. He stated that he had consumed alcohol into the early hours of 23 May 2019 which

resulted in him falling asleep on 24 May 2019 at school. Mr Waters stated that although he was [REDACTED], he had never consumed alcohol whilst at school.

In his statement of agreed facts, Mr Waters admitted this allegation.

The panel was satisfied that Mr Waters' admission was unequivocal and consistent with the surrounding evidence it had considered. The panel therefore found this allegation proved.

2. On 5 June 2019, whilst a teacher at the Beechen Cliff School, you:

- a) Were on the school premises whilst under the influence of alcohol**
- b) Fell asleep in the staff toilets**
- c) Did not deliver your scheduled lessons**

The panel considered the evidence in the bundle which consisted of the School's investigation. It stated that when a member of staff went to use the staff toilets, they could hear somebody snoring in one of the cubicles. Initial attempts to rouse the occupant were unsuccessful and at some point, whilst staff were outside the toilet, Mr Waters left the toilet and was identified as the person asleep in the toilet. This took place from around 9am to 10am. Mr Waters was scheduled to start teaching at 9am.

When approached by a senior colleague about this situation, Mr Waters initially denied that it was him, but later admitted this in the school's investigation.

In the School's investigation, Mr Waters explained that he had spent the night in a hostel and had had a poor night's sleep whilst consuming alcohol.

In his statement of agreed facts, Mr Waters admitted this allegation and that he had consumed alcohol that morning before attending the school to teach lessons.

The panel was satisfied that Mr Waters' admission was unequivocal and consistent with the surrounding evidence it had considered. The panel therefore found this allegation proved.

3. On 20 June 2019, whilst a teacher at the Beechen Cliff School, you:

- a) Were on the school premises whilst under the influence of alcohol**
- b) Taught pupils whilst under the influence of alcohol**
- c) Fell asleep in the music classroom**

In the School's investigation report it is set out that on the 20 June 2019, Mr Waters was found asleep in a music classroom by a senior colleague who had entered the classroom

with a pupil around lunchtime. The senior colleague sent the pupil out and got another colleague to come and assist. During the morning of that day, Mr Waters had undertaken lessons with pupils.

In the School's investigation, Mr Waters accepted he had consumed alcohol around 7:30am prior to coming into school and stated he had not been in a good place with his [REDACTED].

In his statement of agreed facts, Mr Waters admitted this allegation.

The panel was satisfied that Mr Waters' admission was unequivocal and consistent with the surrounding evidence it had considered. The panel therefore found this allegation proved.

4. On 10 October 2019, whilst a teacher at Bath College, you:

a) Were on College premises whilst under the influence of alcohol

In the College's investigation report, it set out that on 10 October 2019, Mr Waters was found asleep in the staff room by a colleague. It was a day that Mr Waters did not have any lessons, so was not expected to be in the College. Mr Waters admitted to a colleague at the time that he had consumed alcohol earlier in the day before coming into the College.

In his statement of agreed facts, Mr Waters admitted this allegation.

The panel was satisfied that Mr Waters' admission was unequivocal and consistent with the surrounding evidence it had considered. The panel therefore found this allegation proved.

5. By reason of your conduct in paragraphs 1 to 4 above, you demonstrated a lack of integrity.

The panel considered Mr Waters' actions went beyond mere breaches of school policies and teaching standards. In particular, Mr Waters' actions in knowingly consuming alcohol before attending school and then undertaking classes was of significant concern to the panel. In addition, the panel considered Mr Waters' actions in attending an educational setting whilst under the influence of alcohol on a day where he did not have lessons equally concerning.

Notwithstanding Mr Waters' [REDACTED], the panel considered that Mr Waters' actions demonstrated such poor judgement that his ability to distinguish between acceptable conduct and inappropriate conduct had apparently evaporated. The panel were satisfied that in the teaching profession, repeated episodes of alcohol related misconduct such as this, would amount to acting with a lack of integrity and found this allegation proved.

6. On 16 July 2019, you were convicted of driving a motor vehicle after consuming so much alcohol that the proportion of it in your breath namely 90 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit on 17 December 2018, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988.

The panel considered the memorandum of conviction and police summary in the bundle. Those details were consistent with the allegation.

In his statement of agreed facts, Mr Waters admits this allegation, although in his live evidence his account was that he had no intention of driving whilst under the influence, which was at odds with the offence he had pleaded guilty to.

Whilst noting Mr Waters' evidence, the panel was not prepared to 'look behind' the fact of conviction and found 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 all 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 and/or conviction of a relevant offence.

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

Unacceptable professional conduct (allegations 1 to 5)

The panel was satisfied that the conduct of Mr Waters, in relation to the facts found proved, involved breaches of the Teachers' Standards.

The preamble to the Teacher's Standards requires teachers to:

"make the education of their pupils their first concern, and are accountable for achieving the highest possible standards in work and conduct. Teachers act with honesty and integrity"

The panel considered that, by reference to Part 2, Mr Waters 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.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Waters' conduct displayed behaviours associated with any of the offence types listed on pages 12 to 14 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, but the teacher was not convicted of an offence, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct. The panel noted that 'serious offences involving alcohol' was a displayed behaviour on that list. The panel considered that this highlighted the seriousness in how they should approach professional misconduct which included the misuse of alcohol.

The panel was satisfied that the conduct of Mr Waters amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Repeated incidents of attending an educational setting whilst knowingly under the influence of alcohol could only be considered as a serious departure from those standards. The panel considered that an ordinary intelligent citizen would consider the blameworthiness fell with Mr Waters in these incidents. In the statement of agreed facts, Mr Waters accepted his conduct amounted to breaches of the Teachers' Standards and amounted to unacceptable professional conduct.

Accordingly, the panel found that Mr Waters' actions amounted to unacceptable professional conduct.

Conduct that may bring the profession into disrepute (allegations 1 to 5)

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 panel considered that an isolated incident of a teacher attending school and teaching lessons whilst under the influence of alcohol would be unlikely to bring the entire profession into disrepute. In this case, there were repetitive incidents of this nature which the panel considered would cause serious concern in the community. These issues would go far wider than the individual reputation of the teacher and would call into

question the professionalism of teachers generally. No pupil would be able to see a teacher as a role model in these circumstances.

In the statement of agreed facts, Mr Waters accepted his conduct amounted to bringing the profession into disrepute.

Accordingly, the panel found Mr Waters' actions amounted to conduct that would bring the profession into disrepute.

Conviction of a relevant offence (allegation 6)

The panel was not satisfied that the conduct of Mr Waters in relation to the facts it found proved, involved breaches of the Teachers' Standards.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and/or security of members of the public owing to the inherent risks of operating a vehicle whilst under the influence of alcohol. The Advice indicates offences of this type are likely to be considered a relevant offence.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mr Waters' ongoing suitability to teach. 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.

Accordingly, the panel found allegation 6 to be a relevant conviction.

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 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 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 a 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 and other members of the public
- the maintenance of public confidence in the profession

- declaring and upholding proper standards of conduct

In the light of the panel's findings against Mr Waters which involved actions linked to the repeated misuse of alcohol, there was a strong public interest consideration in respect of the protection of pupils and the public. This was due to the potential risks that may occur when a teacher is under the influence of alcohol in school, such as poor decision making and an inability to react as needed to emerging situations. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Waters were 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 Mr Waters was outside that which could reasonably be tolerated.

In view of 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 Waters.

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

Whilst the panel noted these factors were relevant, the panel considered that on the spectrum of behaviours that indicate an incompatibility for teaching, Mr Waters' behaviour in relation to these factors could properly be categorised as being at the lower end.

Even though some of the behaviour found proved in this case indicated that a prohibition order might 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 took into account the factors set out in the Advice. Mr Waters' actions were deliberate and he was not acting under duress. The panel also took into account Mr Waters' lengthy teaching history without any previous regulatory intervention.

The panel placed considerable weight to the amount of time that had elapsed since the allegations, which is now over 3 years, during which he has continued to teach. Although no references were provided to the panel, it understands that during this time, no further regulatory concerns have been raised about Mr Waters.

Whilst the panel considered Mr Waters' insight was not yet fully developed, the panel was satisfied that it was at a sufficient level in that Mr Waters was able to identify avenues of support open to him and using mechanisms such as having control over the levels of work he undertook by being a supply teacher. The panel was satisfied that he would be able to manage future deteriorations in his [REDACTED] if there are any. This was supported by the letter from Mr Waters' GP, dated 6 January 2023, [REDACTED]. The panel considered that Mr Waters had been frank and open about his conditions and actions in his evidence.

Mr Waters has fully engaged with the regulatory process and the Beechen Cliff School's investigation had described that he "openly shared difficulties he is facing in his personal life and he has sought [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. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and 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. The panel was also satisfied that the robustness of the recruiting process in the profession would be able to identify and manage any potential risk of repetition from the information identified in these reasons.

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 and in respect of one allegation, a relevant conviction.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, and 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 Mr Waters 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.
- 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 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 Waters, 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 potential risks that may occur when a teacher is under the influence of alcohol in school, such as poor decision making and an inability to react as needed to emerging situations." 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, "Whilst the panel considered Mr Waters' insight was not yet fully developed, the panel was satisfied that it was at a sufficient level in that Mr Waters was able to identify avenues of support open to him and using mechanisms such as

having control over the levels of work he undertook by being a supply teacher.” I have given this element considerable weight in reaching my decision.

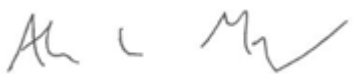
I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others 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.”

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.

In this case, I have placed considerable weight on the panel’s comments, “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. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and 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.”

For 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.



Decision maker: Alan Meyrick

Date: 19 January 2023

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