



Teaching
Regulation
Agency

Mr Matthew Hudson: Professional conduct panel meeting outcome

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

November 2018

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

Teacher: Mr Matthew Hudson
Teacher ref number: 9437709
Teacher date of birth: 6 November 1971
TRA reference: 16429
Date of determination: 15 November 2018
Former employer: Fairfield Care Services Ltd

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the Agency”) convened on 15 November 2018 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Mr Matthew Hudson.

The panel members were Mr Geoffrey Penzer (lay member – in the chair), Ms Ann Walker (former teacher panellist) and Mr Anthony Bald (teacher panellist).

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

In advance of the meeting, the Agency agreed to a request from Mr Matthew Hudson that the allegation be considered without a hearing after taking into consideration the public interest and the interests of justice. Mr Matthew Hudson provided a signed Statement of Agreed Facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Matthew Hudson or his representative.

The meeting took place in private, save for the announcement of the panel's decision, which was announced in public and recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Meeting dated 18 October 2018, as clarified in a letter of 12 November 2018.

It was alleged that Mr Matthew Hudson had been convicted, at any time, of a relevant offence, in that on or around 20 March 2018 in Cheshire Magistrates' Court of the following offences:

1. Driving or being in charge of a motor vehicle with the proportion of specified controlled drug, namely Methylenedioxyamphetamine, above the specified limit on or around 7 June 2017, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. He was subsequently disqualified from driving for an obligatory period of 12 months, and made subject to a victim surcharge in the sum of £30.00 and a collection order. He was also sentenced to pay a fine in the sum of £162.00, and costs in the sum of £105.00.
2. Driving or being in charge of a motor vehicle with the proportion of specified controlled drug above specified limit, namely Benzoylecgonine, on or around 7 June 2017, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

C. Summary of evidence

Documents

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

Section 1: Chronology – pages 1 to 2

Section 2: Notice of Referral, Response and Notice of Meeting – pages 3 to 9b

Section 3: Statement of Agreed Facts and presenting officer Representations pages 10-15

Section 4: Teaching Regulation Agency documents – pages 16 to 46

Section 5: Teacher documents – pages 47 to 71

Section 6: Additional documents – pages 72 to 91

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

Statement of Agreed Facts

The panel considered a Statement of Agreed Facts, which was signed by Mr Matthew Hudson on 16 August 2018.

D. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case and reached a decision.

The panel confirms that it has read all the documents provided in the bundle in advance of the meeting.

In advance of the meeting, the Agency agreed to a request from Mr Matthew Hudson that the allegations be considered without a hearing. The panel has the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction is necessary or appropriate in this case. The panel considered the interests of justice and given that the facts of the allegation have been admitted, Mr Hudson has requested a meeting and the panel has the benefit of Mr Hudson's representations, the panel was of the view that justice would be adequately served by considering this matter at a meeting.

The panel carefully considered the public interest. The panel noted that if the case proceeded in a meeting, there would be a public announcement of the panel's decision. The panel also had in mind that if a hearing were convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

Mr Hudson was employed as a lead teacher at Fairfield Care Services Ltd from 11 April 2012 to 9 June 2017. Cheshire Constabulary informed the Agency on 9 June 2017 that Mr Hudson had been arrested on 7 June 2017 on suspicion of driving a motor vehicle while unfit through drugs.

Findings of fact

Our findings of fact are as follows:

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

You have been convicted at any time, of a relevant offence, in that you were convicted on or around 20 March 2018 in Cheshire Magistrates' Court of the following offences:

- 1. Driving or being in charge of a motor vehicle with the proportion of specified controlled drug, namely Methylenedioxyamphetamine, above the specified limit on or around 7 June 2017, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. You were subsequently disqualified from driving for an obligatory period of 12 months, and made subject to a victim surcharge in the sum of £30.00 and a collection order. You were also sentenced to pay a fine in the sum of £162.00, and costs in the sum of £105.00.**

The panel had regard to the Statement of Agreed Facts signed by Mr Hudson in which he has accepted the particulars of this allegation. The panel has also seen the memorandum of an entry in the register of the Cheshire Magistrates' Court confirming that Mr Hudson had changed his plea to guilty and was subsequently convicted and sentenced as stated in the allegation. The panel accepts the conviction as conclusive proof that establishes the relevant facts. This allegation is therefore found proven.

- 2. Driving or being in charge of a motor vehicle with the proportion of specified controlled drug above specified limit, namely Benzoylecgonine, on or around 7 June 2017, contrary to section 5A(1)(a) and (2) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.**

The panel had regard to the Statement of Agreed Facts signed by Mr Hudson in which he has accepted the particulars of this allegation. The panel has also seen the memorandum of an entry in the register of the Cheshire Magistrates' Court confirming that Mr Hudson had changed his plea to guilty and was subsequently convicted as stated in the allegation. The panel accepts the conviction as conclusive proof that establishes the relevant facts. This allegation is therefore found proven.

Findings as to conviction of a relevant offence

The panel noted that the individual's actions were relevant to teaching, working with children and working in an education setting, his convictions being clearly contrary to the firm message to pupils not to engage in drug taking or conduct of this nature. Mr Hudson made representations that the offences involved taking "recreational" drugs outside the school context. The panel saw evidence that after taking drugs Mr Hudson had been teaching in school on 7 June 2017 and was subsequently tested to be over the prescribed limit for driving, having been stopped by the police at 17:25.

The panel is satisfied that the conduct of Mr Hudson in relation to the facts it has found proved, involved breaches of the Teachers' Standards. We consider that by reference to Part Two, Mr Hudson 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;
 - showing tolerance of and respect for the rights of others;
 - not undermining fundamental British values, including ... the rule of law, individual liberty and mutual respect...;
- 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 noted that the behaviour involved in committing the offences could have had an impact on the safety of members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Hudson's behaviour in committing the offences could affect public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that the teacher's behaviour did not lead to a sentence of imprisonment, which is indicative that the offence was not at the most serious end of the possible spectrum.

This is a case involving serious driving offences given that it led to disqualification from driving. The Advice states that such offences; particularly involving drugs are likely to be considered relevant offences.

The panel has taken into account the written evidence that has been adduced attesting to Mr Hudson's exemplary record as a teacher from the proprietor of Fairfield House School and from parents of a child with special and complex needs taught by Mr Hudson. The panel also noted that he led the school from "unsatisfactory" to "good" with outstanding features in its 2017 OFSTED inspection. The panel has also taken into consideration Mr Hudson's account of the personal difficulties he describes that he was suffering at the relevant time. That is corroborated by an account provided by Mr Hudson's sister and one of his colleagues. Mr Hudson has described the support service he has attended several times to address these issues and to develop a positive outlook on life and to

adopt a healthy lifestyle, albeit the panel has no independent evidence of the steps taken or their impact.

Mr Hudson had previously been instructed by the school to not drive any company vehicle, not to drive any child, not to drive staff and not to work on a 1:1 basis with any of the children. This followed a previous allegation against Mr Hudson in respect of drug use, which did not result in a conviction. The panel reached no conclusion whether Mr Hudson had on that occasion indulged in drug use but did consider that the risk assessment the school had taken on that occasion were sufficient to warn Mr Hudson and other members of staff against conduct of that nature.

Although the panel finds the evidence of Mr Hudson's teaching proficiency to be of note and the steps he has taken to address his lifestyle issues to be encouraging, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to his ongoing suitability to teach. The panel considers that a finding that these convictions are relevant offences is necessary to reaffirm clear standards of conduct to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of conviction of a relevant offence, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely the protection of pupils; the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct. The panel also considered the interest of retaining the teacher in the profession to be relevant.

In light of the panel's findings against Mr Hudson, which involved convictions for serious driving offences involving drugs, there is a strong public interest consideration in respect of the protection of pupils given that the public nature of his convictions directly contravenes the clear messages pupils should receive regarding the avoidance of drug-taking. The panel also considered it of relevance that it had seen evidence of Mr Hudson having attended school after having taken drugs.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hudson were not treated with the utmost seriousness when regulating the conduct of the profession. The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Hudson was outside that which could reasonably be tolerated.

However, the panel also considered that there was a strong public interest consideration in retaining Mr Hudson in the profession, since his abilities as an educator have been praised and he is able to make a valuable contribution to the profession as evidenced by the significant improvement that OFSTED recognised during Mr Hudson's tenure as lead teacher of Fairfield House School. This has been endorsed by a parent who recognised Mr Hudson's enthusiasm and dedication to working with children with special and complex needs.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Hudson

In carrying out the balancing exercise, the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Hudson. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- 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 of ... the rule of law...
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. Mr Hudson has indicated his actions were not deliberate, as he believed there would have been no trace of the substances found left in his blood. However, the panel considered that the consumption of the substances themselves had been deliberate; and having consumed them Mr Hudson ought to have exercised greater caution before driving. The panel has seen evidence from Mr Hudson, corroborated by

his sister and a colleague as to the personal difficulties he was experiencing at the time that impacted upon his behaviour. Mr Hudson has a previously good teaching record.

The panel has seen testimonial evidence from a colleague who has attested to Mr Hudson's kind and caring nature, his involvement in the day-to-day teaching of children; the high regard in which his teaching was held; and his good relationship with parents of pupils. The panel has seen evidence from the proprietor at the school at which Mr Hudson was lead teacher who has referred to him as being efficient, enthusiastic and competent; his thinking outside the 'box'; his active involvement in all he does; his good rapport and his positive relationships with staff, pupils and their families. Mr Hudson's sister has referred to the focus he places on putting others first. A parent of a pupil in the school referred to Mr Hudson as being enthusiastic, honest, hard-working, trustworthy, conscientious and patient; that he worked really hard to make their child happy, confident and taught her methods to help her communicate, achieving more with her than anybody else over a period of 5/6 years.

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

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

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the adverse public interest considerations outweigh the interests of Mr Hudson. The seriousness and nature of the conduct was a significant factor in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes class A drug abuse or supply. The panel has found that Mr Hudson has been responsible for driving under the influence of Class A drugs. However, the panel took account of the compelling evidence of the contribution Mr Hudson has in the past made to the profession and considered that he has the potential to make a further contribution in the future if he were

sufficiently rehabilitated. Mr Hudson has demonstrated insight in seeking support for the issues he has been facing; he has admitted that his behaviour has been unacceptable and has expressed genuine remorse.

The panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period. The panel recommends that Mr Hudson should be allowed to apply for the prohibition order to be set aside after a period of two years. Mr Hudson recognises that he has to address his lifestyle issues and has already begun to do so. A review period of two years would potentially enable him to seek to demonstrate his fitness to return to teaching without a prolonged loss of his skills from the profession. Providing this opportunity is in the public interest, especially given the highly specialist area of his expertise.

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 the allegations proven and found that those proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mr Hudson 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;
 - showing tolerance of and respect for the rights of others;
 - not undermining fundamental British values, including ... the rule of law, individual liberty and mutual respect...;
- 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 Hudson, 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. The panel has not made any observations on this matter. I have taken into account the panel's comments on insight and remorse, which the panel sets out as follows, " Mr Hudson has demonstrated insight in seeking support for the issues he has been facing; he has admitted that his behaviour has been unacceptable and has expressed genuine remorse." 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 considered that, "Mr Hudson's behaviour in committing the offences could affect public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community."

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, 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 Hudson himself. The panel has pointed to evidence of Mr Hudson, "to him as being efficient, enthusiastic and competent; his thinking outside the 'box'; his active involvement in all he does; his good rapport and his positive relationships with staff, pupils and their families."

A prohibition order would prevent Mr Hudson from teaching and would clearly deprive the public of his contribution to the profession for the period that it is in force.

I have placed considerable weight on the finding of the panel that Mr Hudson, “has been responsible for driving under the influence of Class A drugs.” The panel also point to the, “seriousness and nature of the conduct”.

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 two year review period. That is the minimum period set out in the legislation.

I have considered the panel’s comments “A review period of two years would potentially enable him to seek to demonstrate his fitness to return to teaching without a prolonged loss of his skills from the profession.”

I have considered whether a two year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession.

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

This means that Mr Matthew Hudson 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 19 November 2020, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Matthew Hudson remains prohibited from teaching indefinitely.

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

Mr Matthew Hudson has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he/she is given notice of this order.

delete signature as appropriate

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

Decision maker: Alan Meyrick

Date: 19 November 2018

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

