



Teaching
Regulation
Agency

Mr Julian McAlpine: Professional conduct panel outcome

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

December 2018

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	5
Documents	5
Witnesses	5
E. Decision and reasons	5
Findings of fact	6
Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence	7
Panel's recommendation to the Secretary of State	8
Decision and reasons on behalf of the Secretary of State	10

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

Teacher: Mr Julian McAlpine
Teacher ref number: 0636248
Teacher date of birth: 5 December 1974
TRA reference: 17073
Date of determination: 19 December 2018
Former employer: Jack Hunt School, Peterborough

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 19 December 2018 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Mr Julian McAlpine.

The panel members were Mr Alex Osiatynski (teacher panellist – in the chair), Ms Sarah Evans (teacher panellist) and Mr Diljinder Sekhon (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Ian Perkins of Browne Jacobson LLP solicitors.

Mr McAlpine was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 5 October 2018.

It was alleged that Mr Julian McAlpine was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction at any time of a relevant offence, in that:

1. On 12 March 2018 at South East Suffolk Magistrates' Court in Ipswich he was convicted for possession of a controlled drug (Class A) on 18 July 2017 which was contrary to section 5(2) of the Misuse of Drugs Act 1971 and for which he was sentenced to pay an £800 fine, £85 costs, £80 victim surcharge and for the controlled drug to be forfeit and destroyed.
2. On 12 March 2018 at South East Suffolk Magistrates' Court in Ipswich he was convicted for possession of an additional offence of possession of a controlled drug (Class A) on 18 July 2017 which was contrary to section 5(2) of the Misuse of Drugs Act 1971 and for which he received no additional sentence other than that the controlled drug to be forfeit and destroyed.

In the absence of a response from Mr McAlpine, the panel treated the allegations as not admitted.

C. Preliminary applications

Application to proceed with the hearing in the absence of Mr McAlpine

The presenting officer made an application to proceed with the hearing in the absence of Mr McAlpine. Mr Perkins referred to attempts to contact Mr McAlpine by letter, email and telephone. Mr Perkins stated that the emails had been sent to Mr McAlpine at the email address provided by the school and that Mr McAlpine had sent an email to the school from that email address on 7 April 2018. After receiving legal advice and retiring to consider the application, the chair announced the decision of the panel as follows:

The panel has decided to proceed with the hearing in the absence of Mr McAlpine for the following reasons:

- The Notice of Proceedings was sent to Mr McAlpine in accordance with paragraph 4.11 of Teacher misconduct: disciplinary procedures for the teaching profession
- Mr McAlpine has not responded to the Notice of Proceedings, nor to other communications sent to him by post, email or telephone. The panel was satisfied that the relevant contact information was correct and derived from his former employer and other relevant authorities. At no time has Mr McAlpine advised the

TRA of any change of contact information. The panel was satisfied that Mr McAlpine has decided not to engage with the proceedings and has voluntarily waived his right to attend the hearing

- There has been no application for an adjournment and no purpose would be served by an adjournment. There is nothing to indicate that Mr McAlpine would subsequently engage if these proceedings were adjourned.
- There is a public interest in regulatory proceedings taking place reasonably promptly

D. Summary of evidence

Documents

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

Section 1: Chronology and correspondence – pages 2 to 6

Section 2: Notice of Proceedings and Response form – pages 8 to 14

Section 3: Teaching Regulation Agency evidence – pages 16 to 65

In addition, the panel agreed to accept documents submitted by Mr Perkins in support of his application to proceed in the absence of Mr McAlpine, namely:

- an email from the presenting officer to Mr McAlpine dated 17 December 2018
- a note of a telephone call made by the presenting officer on 17 December 2018.

These additional documents were added to section 3 of the bundle as pages 66 and 67 respectively.

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

Witnesses

There were no witnesses.

E. Decision and reasons

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

The panel read all the documents provided in the bundle in advance of the hearing.

Mr Julian McAlpine was employed as a Science Teacher and Personal Tutor at Jack Hunt School, Peterborough. He worked at the school as a supply teacher and then on a temporary contract before becoming a permanent member of staff from September 2016.

On the morning of 18 July 2017, police officers attended Mr McAlpine's home to execute a warrant under section 23 of the Misuse of Drugs Act. As they were about to execute the warrant, Mr McAlpine left his house and got into his car, at which point he was detained. He admitted to being in possession of [redacted], a Class A drug. His house and car were searched and controlled drugs were seized. Mr McAlpine stated that he had purchased the drugs for his own consumption and denied that he had ever supplied drugs to anyone else. Mr McAlpine also stated that he had never taken this drug onto school premises. The police search of the school premises confirmed no evidence of any drug related activities. There is no suggestion in any of the evidence before the panel that any unlawful activity took place at the school.

Mr McAlpine was charged with two offences of being in possession of Class A drugs. He appeared at Suffolk Magistrates' Court on 12 March 2018 when he pleaded guilty to the two offences. He was fined £800 and ordered to pay costs of £85 and a victim surcharge of £80. Orders were also made that for the seized drugs to be forfeited and destroyed.

Findings of fact

The panel's findings of fact are as follows:

- 1. On 12 March 2018 at South East Suffolk Magistrates' Court in Ipswich you were convicted for possession of a controlled drug (Class A) on 18 July 2017 which was contrary to section 5(2) of the Misuse of Drugs Act 1971 and for which you were sentenced to pay an £800 fine, £85 costs, £80 victim surcharge and for the controlled drug to be forfeit and destroyed.**
- 2. On 12 March 2018 at South East Suffolk Magistrates' Court in Ipswich you were convicted for possession of an additional offence of possession of a controlled drug (Class A) on 18 July 2017 which was contrary to section 5(2) of the Misuse of Drugs Act 1971 and for which you received no additional sentence other than that the controlled drug to be forfeit and destroyed.**

The panel was presented with a copy of a memorandum of conviction from Suffolk Magistrates' Court dated 12 March 2018, which stated that Mr Julian McAlpine was convicted following his pleas of guilty to the two offences specified in the allegations.

The panel was satisfied that the memorandum related to Mr Julian McAlpine and accepted the legal advice that the memorandum of conviction could be treated as conclusive proof of the commission of the offences concerned.

The panel found allegations 1 and 2 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 the allegations to have been proven, the panel considered whether the facts of each proven allegation amounted to conviction of a relevant offence.

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

The panel was satisfied that the conduct of Mr McAlpine in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part Two, Mr McAlpine 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;
 - not undermining ... the rule of law;
- 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 has also taken account of how the teaching profession is viewed by others. The panel considered that Mr McAlpine's behaviour in committing the offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

This was a case involving offences of possession of class A drugs which the Advice states is likely to be considered a relevant offence.

The panel considered that a finding that these convictions are relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Having made a finding that Mr McAlpine was convicted of relevant offences, subsequent to the submission of the presenting officer and the legal advice received, the panel did not consider it necessary to proceed to a consideration of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of conviction of relevant offences, the panel considered 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 was an appropriate and proportionate measure, and whether it was 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 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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

There is a strong public interest consideration in respect of the protection of pupils. Society has the right to expect teachers to uphold the law, promote positive values and to educate children with regard to their personal safety and the harmful effects of illegal substances. Furthermore, there is an expectation that teachers will be a positive influence as role models in all these respects. Mr McAlpine's actions and behaviours were clearly at odds with these expectations.

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

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

In view of the clear public interest factors 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 McAlpine.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of prohibition as well as the interests of Mr McAlpine. The panel took further account of the Advice, which suggested 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;
- the commission of a serious criminal offence.

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.

There was no evidence that Mr McAlpine's actions were not deliberate. There was no evidence to suggest that Mr McAlpine was acting under duress.

The panel noted that Mr McAlpine admitted his offences at the earliest opportunity and, when arrested, he stated: "Since my mid twenties I have had a problem with [redacted]. I would use it sporadically, off and on and I would smoke it. For a number of years, I have attempted to persistently rid myself of [redacted] from my life and I have been on a [redacted]. Lately, however, I have found things quite difficult, and was tempted to use [redacted] once more."

The panel did not have the benefit of further information from Mr McAlpine as to his medical history and any ongoing treatment. Similarly, no references or testimonials have been provided.

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 recommending a prohibition order is a proportionate and appropriate response. Recommending that publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences of prohibition for Mr McAlpine.

The panel considered whether or not it would be appropriate to recommend a review period of the order. The panel was mindful 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. These behaviours include class A drug abuse. However, the panel noted that the offences were confined to Mr McAlpine's personal use of the drugs and that the memorandum of conviction referred to actions already taken by Mr McAlpine which obviated a community order. Furthermore, the panel felt that it would be appropriate for Mr McAlpine to be given a further opportunity to present evidence of his state of health and evidence of his reflecting on his actions and behaviours which have led to this prohibition.

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 a prohibition order to be recommended with provision for a review after a period of five years.

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 convictions. The panel went on to say of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, "Having made a finding that Mr McAlpine was convicted of relevant offences, subsequent to the submission of the presenting officer and the legal advice received, the panel did not consider it necessary to proceed to a consideration of unacceptable professional conduct and/or conduct that may bring the profession into disrepute. "

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

In particular, the panel has found that Mr McAlpine 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;
 - not undermining ... the rule of law;
- 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 relevant convictions 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 McAlpine 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 observed that there is a, “strong public interest consideration in respect of the protection of pupils.” The panel went on to say, “there is an expectation that teachers will be a positive influence as role models in all these respects. Mr McAlpine's actions and behaviours were clearly at odds with these expectations.” A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “The panel noted that Mr McAlpine admitted his offences at the earliest opportunity”. In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts at risk future pupils safety. 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, “public confidence in the profession could be seriously weakened if conduct such as that found against Mr McAlpine were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of relevant convictions for possession of a controlled drug (Class A) in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of a relevant convictions 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 McAlpine himself. The panel say, “no references or testimonials have been provided.”

A prohibition order would prevent Mr McAlpine 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.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McAlpine has made to the profession. In my view, it is necessary to impose a

prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by full remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 5 year review period.

I have considered the panel's comments, "that the offences were confined to Mr McAlpine's personal use of the drugs and that the memorandum of conviction referred to actions already taken by Mr McAlpine which obviated a community order." Furthermore, the panel felt that it would be appropriate for, "Mr McAlpine to be given a further opportunity to present evidence of his state of health and evidence of his reflecting on his actions and behaviours which have led to this prohibition."

The panel has also said that a 5 year review period would, "be proportionate in all the circumstances for a prohibition order to be recommended with provision for a review after a period of five years."

I have considered whether a 5 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 serious nature of the convictions found and the lack of full insight or remorse.

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

This means that Mr Julian McAlpine 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 9 January 2024, 5 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 McAlpine remains prohibited from teaching indefinitely.

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

Mr Julian McAlpine 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.

A handwritten signature in black ink, appearing to read 'Dawn Dandy', with a stylized, sweeping flourish at the end.

Decision maker: Dawn Dandy

Date: 20 December 2018

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