



Teaching
Regulation
Agency

Mr Craig Embrey: Professional conduct panel meeting outcome

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

March 2023

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

Teacher: Mr Craig Embrey

Teacher ref number: 1688312

Teacher date of birth: 8 August 1989

TRA reference: 19728

Date of determination: 13 March 2023

Former employer: Connell Co-op College, Manchester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually via Microsoft Teams on 13 March 2023, CV1 2WT, to consider the case of Mr Craig Embrey.

The panel members were Mr Stephen Chappell (lay panellist – in the chair), Ms Susanne Staab (teacher panellist) and Mrs Gemma Hutchinson (teacher panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Embrey that the allegation be considered without a hearing. Mr Embrey 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 Embrey or his representative.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 29 December 2023 (as amended pursuant to the panel's determination below).

It was alleged that Mr Embrey was guilty of having been convicted of a relevant offence, in that:

1. On or around 5 July 2021, he was convicted of Assault Occasioning Actual Bodily Harm contrary to Offences Against the Persons Act 1861 s.47

Mr Embrey admitted the allegation and that this conviction was for a relevant offence.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology and list of key people – pages 3 to 4

Section 2: Notice of referral, response and Notice of meeting – pages 5 to 10

Section 3: Statement of agreed facts and presenting officer representations – pages 11 to 13

Section 4: Teaching Regulation Agency documents – pages 14 to 128

Section 5: Teacher documents – page 129

In addition, although the Notice of meeting was not originally included within section 2, it was provided to the panel at the same time as the bundle and was accordingly incorporated as part of it.

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Embrey on 15 December 2022.

Decision and reasons

The panel announced its decision and reasons as follows:

In advance of the meeting, the TRA agreed to a request from Mr Embrey for the allegation to be considered without a hearing.

The panel had 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 was necessary or appropriate in this case.

The panel proceeded to consider the case carefully, having read all of the documents, and reached a decision. It accepted the legal advice provided.

Mr Embrey was previously employed as a business studies teacher at the Connell Co-op College ("the College").

He commenced work at the College in August 2017.

On 18 January 2020, Mr Embrey was accused of assault during the course of an incident and was interviewed by the police the next day.

On 24 March 2020, Mr Embrey notified the College that he had been charged with an offence.

On 15 May 2020, Mr Embrey was suspended by the College, which commenced a disciplinary investigation. A disciplinary hearing took place on 11 November 2020.

On 10 June 2021, Mr Embrey was convicted in Liverpool Crown Court of assault occasioning actual bodily harm. He was sentenced on 5 July 2021.

Mr Embrey was referred to the TRA by the [REDACTED].

Findings of fact

The findings of fact are as follows:

The panel found the following allegation against you proved, for these reasons:

On or around 5 July 2021, you were convicted of Assault Occasioning Actual Bodily Harm contrary to Offences Against the Persons Act 1861 s.47

Mr Embrey admitted the facts of the allegation.

He accepted that:

- On 18 January 2020, he headbutted Person A in the face.

- Person A was 16 years old at the time.
- Person A suffered a cut lip, which required three stitches.
- He was convicted in the Crown Court at Liverpool of assaulting a person thereby occasioning him actual bodily harm.

The panel was presented with a certificate of conviction from Liverpool Crown Court ("the Certificate")

The panel noted there was a discrepancy between the Certificate and a copy of Mr Embrey's PNC record, which was also included in evidence. The latter document suggested that the date of conviction was 5 July 2021, as pleaded in the allegation.

However, the Certificate suggested that the date of conviction was, in fact, 10 June 2021.

The panel concluded that the latter date was likely to be accurate. However, it did not consider this issue was material to the extent that it warranted an adjournment of this meeting. The salient facts were clear and admitted.

Accordingly, and whilst there was no opportunity to seek representations from the parties, the panel accepted the legal advice provided and decided it could, in the exercise of its inherent jurisdiction, amend the allegation to include the words '*or around*' prior to the date specified. That reflected the discrepancy and ensured that this decision would not be inaccurate.

In short, the panel did not consider it would be in the public interest to adjourn this meeting and thereby prolong these proceedings in circumstances where there was no prejudice to Mr Embrey. To the contrary, it considered he would be prejudiced by an adjournment. The panel considered this decision was also consistent with the public interest in ensuring allegations are accurately pleaded.

Moving on the facts of the allegation, as amended, the Certificate confirmed that Mr Embrey was convicted, further to his guilty plea, of Assault Occasioning Actual Bodily Harm contrary to the Offences Against the Persons Act 1861 s.47.

He was sentenced to:

- A Community Order for 9 months, carrying out unpaid work for 90 hours.
- A Rehabilitation Activity Requirement.
- Pay compensation in the sum of £900.
- Pay a victim surcharge in the sum of £95.
- Pay costs in the sum of £300.

The panel carefully considered all of the evidence within the hearing bundle relating to the circumstances of this offence.

The panel accepted the Certificate as conclusive proof of the commission of the offence by Mr Embrey and accordingly found the allegation proved.

Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether Mr Embrey's conviction was for a relevant offence, which he also admitted.

Whilst the panel took Mr Embrey's admission into account, it made its own, independent determination.

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

The panel considered that by reference to Part 2, Mr Embrey 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
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ...

The panel considered that Mr Embrey's actions were relevant to teaching, working with children and working in an education setting. The victim was, at the time, under eighteen, which was an aggravating feature.

Mr Embrey also had a duty to act as a role model. In that regard, the panel considered that his actions fell far short of the standard of behaviour expected.

The panel took account of how the teaching profession is viewed by others. It concluded that Mr Embrey's behaviour, in committing this offence, was highly likely to affect public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

Mr Embrey had committed an act of violence, which the Advice states is likely to be considered a relevant offence. It resulted in a community order and a rehabilitation activity requirement. The sentencing remarks amply demonstrated the seriousness of Mr Embrey's actions, which included the fact that the act of violence in question was a headbutt. That was particularly concerning. It had a physical and mental impact on the victim and it was also of note that this was a public act of violence.

The panel did take into account the evidence before it of mitigating circumstances on the part of Mr Embrey, including his guilty plea and those other factors referred to in the Court's sentencing remarks.

Although the panel found this evidence to be of note, it concluded that the seriousness of the offending behaviour that led to the conviction was relevant to his ongoing suitability to teach. Given the nature and circumstances of the offence in this case, 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 should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

It considered there was a strong public interest consideration in respect of the protection of members of the public given the serious findings of an offence of violence against a victim who was under eighteen.

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

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

Weighed against these matters, the panel also considered whether there was a public interest in retaining Mr Embrey in the profession, should he choose to return to teaching.

He has an otherwise good record and there was some information about Mr Embrey's prior practice within the evidence. His competence had not been called into question. However, in all the circumstances, the panel was not persuaded that there was a particularly strong public interest in retaining Mr Embrey in the profession. For instance, there was no evidence before the panel, such as references and testimonials, to suggest that Mr Embrey had demonstrated exceptionally high standards in his professional conduct or contributed significantly to the education sector.

In light 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 Embrey.

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 Embrey. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- 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 some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

In the light of its findings and having regard to the evidence before it, the panel considered the following mitigating factors were present in this case:

- Mr Embrey had not been subject to any previous regulatory or disciplinary proceedings.
- This was also an isolated incident. Mr Embrey had no previous convictions and it was identified, at the time of his sentence, that he was considered to be at low risk of re-offending.
- The incident did not occur in the education setting and did not involve pupils.
- Mr Embrey confirmed that he had successfully met the terms of his sentence. To that extent, he had rehabilitated his conduct in the context of his conviction.

- Mr Embrey had fully participated in these proceedings and made full admissions. He had also pleaded guilty in the criminal proceedings.
- Mr Embrey's actions occurred in the context of a very specific set of factual circumstances. For instance, there was reference within the Court's sentencing remarks to the fact that Mr Embrey panicked and felt threatened immediately prior to the assault.
- Mr Embrey had shown clear regret and remorse. He had apologised for his actions. To some extent, he recognised and accepted that he had fallen short of the standards expected of him. To that extent, Mr Embrey had shown some insight.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Mr Embrey's conduct amounted to a breach of the Teachers' Standards and was deliberate. Whilst it noted the circumstances of the incident, the panel was not satisfied it could be said that he was acting under duress, even if he may have acted on impulse in the moment. Mr Embrey chose to leave his home and put himself in the situation in question. He also did so at a time when he was under the influence of alcohol, something the Court recognised as an aggravating feature.
- Mr Embrey was in a position of trust and responsibility as well as a role model. The panel considered he ought to have known what was expected of him and conducted himself accordingly.
- This was a serious offence as demonstrated by the Court's sentence.
- It occurred in public and the victim was under eighteen, although the panel noted there was no evidence of a lasting impact.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate nor appropriate response to not recommend a prohibition order.

Recommending that the publication of adverse findings was sufficient would, in this case, unacceptably compromise the public interest considerations present, despite the severity of the consequences for Mr Embrey of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. It decided that the public interest considerations outweighed the interests of Mr Embrey.

It did consider, given the mitigating factors present, that the risk of repetition was low.

However, the panel concluded that the conduct was too serious to recommend that the publication of adverse findings would be sufficient.

Although it was an isolated episode in the context of Mr Embrey's life and career as a whole, this was a serious offence, which involved headbutting a person under eighteen, who was not known to him, in public.

The panel had concluded that several behaviours found proved in this case indicated that a prohibition order would be appropriate. In addition, the panel felt that public confidence in the profession could be weakened if conduct of this nature was not treated with the utmost seriousness. It was satisfied that a prohibition order was also necessary and appropriate to declare proper standards of conduct in the profession.

Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered.

The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period.

However, the panel did not consider that any of these behaviours were present in this case.

The panel also took account of the fact that Mr Embrey had an otherwise unblemished record. Mr Embrey was clearly regretful and recognised that he had behaved unacceptably. He had satisfied the Court's sentence and showed some insight. In those circumstances, the panel concluded that the risk of repetition, of the same or similar behaviour as that found proven, was reduced.

Further, Mr Embrey could, potentially, make a positive impact in education should he chose to return to education subject to demonstrating, to a future panel, that he is someone who can be trusted to demonstrate and adhere to the standards of the profession and maintain public confidence in it.

The panel therefore decided that its findings indicated a situation in which a review period would be appropriate.

As such, the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period.

In terms of the length of that review period, the panel concluded that a review period of three years was proportionate in this case, given the seriousness of Mr Embrey's conduct.

The panel noted that this was an offence of violence, which the Advice suggests is likely to weigh in favour of a longer period before a review is considered.

In this case, the panel considered that a period of three years is both sufficient and necessary to meet the public interest. It would allow Mr Embrey to have an opportunity to reflect on the panel's findings, gain further insight into the nature and implications of his actions and demonstrate that he is able to adhere to the standards of the profession. The panel considered the fact that the violent act was a headbutt, in public, against a victim who was under eighteen, was such that a period of less than three years would not satisfy the public interest considerations Mr Embrey's conduct gave rise to.

In summary, the panel therefore decided that its findings indicated a situation in which a review period would be appropriate and that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a review period of three years.

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 Embrey should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Mr Embrey 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

- showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach ...

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

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 Mr Embrey, 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 pupils. The panel has observed, “It considered there was a strong public interest consideration in respect of the protection of members of the public given the serious findings of an offence of violence against a victim who was under eighteen.” 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, “Mr Embrey had shown clear regret and remorse. He had apologised for his actions. To some extent, he recognised and accepted that he had fallen short of the standards expected of him. To that extent, Mr Embrey had shown some insight.”

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 considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Embrey were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of violence 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 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 Embrey himself and the panel comment “the panel also considered whether there was a public interest in retaining Mr Embrey in the profession, should he choose to return to teaching.

He has an otherwise good record and there was some information about Mr Embrey's prior practice within the evidence. His competence had not been called into question. However, in all the circumstances, the panel was not persuaded that there was a particularly strong public interest in retaining Mr Embrey in the profession. For instance, there was no evidence before the panel, such as references and testimonials, to suggest that Mr Embrey had demonstrated exceptionally high standards in his professional conduct or contributed significantly to the education sector.”

A prohibition order would prevent Mr Embrey 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.

In this case, I have placed considerable weight on the following comment from the panel, “Mr Embrey's conduct amounted to a breach of the Teachers' Standards and was deliberate. Whilst it noted the circumstances of the incident, the panel was not satisfied it could be said that he was acting under duress, even if he may have acted on impulse in the moment. Mr Embrey chose to leave his home and put himself in the situation in question. He also did so at a time when he was under the influence of alcohol, something the Court recognised as an aggravating feature.”

I have also placed considerable weight on the finding of the panel that “Although it was an isolated episode in the context of Mr Embrey's life and career as a whole, this was a serious offence, which involved headbutting a person under eighteen, who was not known to him, in public.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Embrey 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, in light of the circumstances in this case, 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 3 year review period.

I have considered the panel's comments "The panel noted that this was an offence of violence, which the Advice suggests is likely to weigh in favour of a longer period before a review is considered."

"The panel considered that a period of three years is both sufficient and necessary to meet the public interest. It would allow Mr Embrey to have an opportunity to reflect on the panel's findings, gain further insight into the nature and implications of his actions and demonstrate that he is able to adhere to the standards of the profession. The panel considered the fact that the violent act was a headbutt, in public, against a victim who was under eighteen, was such that a period of less than three years would not satisfy the public interest considerations Mr Embrey's conduct gave rise to."

In this case, factors mean that allowing a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings involving violence with a victim under the age of 18.

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

This means that Mr Craig Embrey 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 21 March 2026, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Embrey remains prohibited from teaching indefinitely.

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

Mr Craig Embrey has a right of appeal to the King'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 'SABuxcey', with a horizontal line extending from the start of the signature.

Decision maker: Sarah Buxcey

Date: 15 March 2023

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