



Teaching
Regulation
Agency

Miss Jemma Rutherford: Professional conduct panel outcome

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

April 2023

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

Teacher: Miss Jemma Rutherford
TRA reference: 20529
Date of determination: 17 April 2023
Former employer: Broughton Primary School, North Lincolnshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 17 April 2023 via MS Teams to consider the case of Miss Rutherford.

The panel members were Mr Martin Coles (former teacher panellist – in the chair), Ms Victoria Jackson (teacher panellist) and Miss Charlotte McCallum (lay panellist).

The legal adviser to the panel was Ms Alexandra Byard at Eversheds Sutherland (International) LLP.

The presenting officer for the TRA was Mr Shaun Moran of Capsticks LLP solicitors.

Miss Rutherford was present and was represented by Ms Louise Price of Counsel.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation set out in the notice of proceedings dated 24 January 2023.

It was alleged that Miss Rutherford was guilty of having been convicted of a relevant offence, in that:

1. On 17 November 2020, at Grimsby Magistrates' Court, she was convicted of 'causing death by careless or inconsiderate driving'.

Miss Rutherford accepts that she has a conviction of a relevant offence but denies that the offence would be likely to affect public confidence in the teaching profession if she were allowed to continue teaching.

Preliminary applications

There were four preliminary applications.

The panel considered an application from Miss Rutherford that parts of the hearing should be held in private. It decided that it was in the public interest for the hearing to be held in public but decided it would hear certain parts of Miss Rutherford's evidence in private.

The panel considered an application from Miss Rutherford to disregard the word "dangerous" on page 41 of the main hearing bundle. The presenting officer and the teacher representative were in agreement that this reference to "dangerous" was factually incorrect. The panel decided that the reference to "dangerous" on page 41 should be disregarded for the purposes of this hearing.

The panel considered an application from Miss Rutherford to admit late documents, being Miss Rutherford's bundle of documents, which were not served in accordance with the procedures. The teacher representative confirmed that the documents were sent to the TRA on 11 April 2023. The panel members considered the application, but the panel members had not been notified of the additional documents. The panel decided not to grant the application on the basis that (1) section 5 of the main bundle contained "teacher documents" which included a statement from Miss Rutherford and character references; and (2) the teacher was here today and the panel could hear evidence live.

The panel considered an application from the presenting officer to adduce documents: (1) unredacted copy of the CPS comments which are redacted in the main bundle at pages 73 to 75; and (2) media coverage of the fatality. The panel heard representations from the presenting officer and the teacher representative. The panel decided that neither documents should be adduced as the panel did not consider the documents to be relevant to their deliberations on the findings of fact and so the application was not granted.

Summary of evidence

Documents

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

Section 1: Chronology and key list of people – pages 3 to 5

Section 2: Notice of proceedings and response – pages 6 to 17

Section 3: Statement of Agreed Facts – pages 18 to 19

Section 4: Teaching Regulation Agency documents – pages 20 to 162

Section 5: Teacher documents – pages 163 to 178

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

Witnesses

The panel heard oral evidence from Miss Rutherford.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Miss Rutherford had been employed at Broughton Primary School, North Lincolnshire since 1 September 2017 as a teacher. On 17 November 2020, at Grimsby Magistrates' Court, Miss Rutherford was convicted of 'causing death by careless or inconsiderate driving'. Miss Rutherford was suspended on 3 September 2020 and resigned on 31 March 2021.

Findings of fact

The findings of fact are as follows:

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

- 1. On 17 November 2020, at Grimsby Magistrates' Court, Miss Rutherford was convicted of 'causing death by careless or inconsiderate driving'.**

The conviction was admitted and was supported by evidence presented to the panel namely the certificate of conviction. The conviction was therefore, found proved.

The panel was satisfied that the conduct of Miss Rutherford, in relation to the facts it found proved, involved a breach of the Teachers' Standards. The panel considered that by reference to Part 2, Miss Rutherford was in breach of the following standard:

- not undermining fundamental British values, including the rule of law

The panel noted that the individual's actions were not directly related to teaching, working with children or working in an education setting. The conviction related to a serious motoring offence.

The panel also took account of the way the teaching profession is viewed by others. The panel did not consider that Miss Rutherford's conviction would affect public confidence in the teaching profession, if the teacher was allowed to continue teaching.

The panel noted that Miss Rutherford's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed, and which the Advice states is likely to be considered "a relevant offence". This was a case concerning a serious motor offence. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered "a relevant offence".

The panel took into account the sentencing remarks from the criminal proceedings that said Miss Rutherford "*has served her community in a manner that society is entitled to be proud of. She has a potential, as a professional and, given the opportunities of life, she has every prospect of remaining a contributing member of our society*".

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to fitness to be a teacher. The panel considered that a finding that this conviction was for a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Miss Rutherford, and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found that Miss Rutherford's conviction would not affect public confidence in the teaching profession, if the teacher was allowed to continue teaching.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15, and having done so, found that Miss Rutherford's conviction was not incompatible with being a teacher.

The panel accepted Miss Rutherford's evidence that her actions were not deliberate.

Miss Rutherford did have a previously good history, having demonstrated exceptionally high standards in both her personal and professional conduct and having contributed significantly to the education sector. The panel considered six character references contained in the bundle and considered the oral evidence provided by Miss Rutherford at the hearing. The panel found that Miss Rutherford showed significant insight and remorse and that she displayed initiative in getting the help and support she needed. The panel also noted that Miss Rutherford has been forthcoming in the criminal investigation and the TRA investigation. She admitted the allegations from the outset and has taken ownership of her actions. The panel found Miss Rutherford to be highly conscientious and that there were reasons of public interest to keep Miss Rutherford in the profession, particularly her service to the education sector and when considering the need to apply proportionality.

The panel 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 acknowledged the victim impact statement and the effect Miss Rutherford's careless driving had on the deceased's family. However, the panel considered that it would not be in the public interests to recommend a prohibition order.

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

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found the 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 Miss Jemma Rutherford should not be the subject of a prohibition order. The panel has recommended that the findings of a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Miss Rutherford is in breach of the following standards:

- not undermining fundamental British values, including the rule of law

The panel finds that the conduct of Miss Rutherford fell significantly short of the standards expected of the profession.

The panel noted that “Miss Rutherford’s behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed, and which the Advice states is likely to be considered “a relevant offence”. This was a case concerning a serious motor offence. The Advice indicates that a conviction for any offence that relates to or involves such offences is likely to be considered “a relevant offence”.”

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of a relevant conviction, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Miss Rutherford, 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 and/or safeguard children. The panel has observed, “The panel noted that the individual’s actions were not directly related to teaching, working with children or working in an education setting. The conviction related to a serious motoring offence.”

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel found that Miss Rutherford showed significant insight and remorse and that she displayed initiative in getting the help and support she needed. The panel also noted that Miss Rutherford has been forthcoming in the criminal investigation and the TRA investigation. She admitted the allegations from the outset and has taken ownership of her actions."

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. "The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to fitness to be a teacher. The panel considered that a finding that this conviction was for a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession."

The panel then went on to observe, "The panel also took account of the way the teaching profession is viewed by others. The panel did not consider that Miss Rutherford's conviction would affect public confidence in the teaching profession, if the teacher was allowed to continue teaching" I am particularly mindful of the finding of a conviction of causing death by careless or inconsiderate driving 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 Miss Rutherford herself and the panel comment "Miss Rutherford did have a previously good history, having demonstrated exceptionally high standards in both her personal and professional conduct and having contributed significantly to the education sector. The panel considered six character references contained in the bundle and considered the oral evidence provided by Miss Rutherford at the hearing."

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

In this case, I have placed considerable weight on the panel's comments, "The panel took into account the sentencing remarks from the criminal proceedings that said Miss Rutherford *"has served her community in a manner that society is entitled to be proud of."*

She has a potential, as a professional and, given the opportunities of life, she has every prospect of remaining a contributing member of our society”.

I have also considered “The panel acknowledged the victim impact statement and the effect Miss Rutherford’s careless driving had on the deceased’s family. However, the panel considered that it would not be in the public interests to recommend a prohibition order.”

I have also placed considerable weight on the finding “The panel found Miss Rutherford to be highly conscientious and that there were reasons of public interest to keep Miss Rutherford in the profession, particularly her service to the education sector and when considering the need to apply proportionality.”

I have given more weight in my consideration of sanction therefore, to the contribution that Miss Rutherford has made to the profession.

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.

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

Decision maker: Sarah Buxcey

Date: 20 April 2023

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