



Teaching
Regulation
Agency

Mr Jamal Shah: Professional conduct panel outcome

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

August 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	5
Documents	5
Witnesses	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	9
Decision and reasons on behalf of the Secretary of State	12

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

Teacher: Mr Jamal Shah
Teacher ref number: 1056588
Teacher date of birth: 22 July 1986
TRA reference: 19481
Date of determination: 24 August 2023
Former employer: Now Education

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 24 August 2023 by way of a virtual hearing, to consider the case of Mr Jamal Shah.

The panel members were Mrs Christine McLintock (teacher panellist – in the chair), Mrs Melissa West (teacher panellist) and Mr Maurice Smith (lay panellist).

The legal adviser to the panel was Ms Abigail Hubert of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Leah Redden of Browne Jacobson solicitors.

Mr Shah was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 7 June 2023.

It was alleged that Mr Shah was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst placed at Starbank School:

1. On or around 20 May 2020, he made one or more inappropriate comments to and/or in the presence of one or more members of the public, specifically he stated;
 - a) 'you're just a bunch of pakis' or used words to that effect;
 - b) 'you're fucking hypocrites' or used words to that effect;
 - c) 'I've got some dickhead here' or used words to that effect; and
 - d) 'just fucking pakis' or used words to that effect;
2. His conduct at Allegation 1 was contrary to Fundamental British Values.

Mr Shah made no admission of fact.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Shah was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Shah.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Shah in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures').

The panel noted that the bundle was sent to Mr Shah at his last known address on 31 March 2023 and this was signed for by "J. SHAH". The Notice of Proceedings was subsequently also sent to this address on 7 June 2023. The presenting officer confirmed that the application to proceed in Mr Shah's absence was sent to him at the same address and had also been signed for. The panel determined that on the balance of

probabilities “J. SHAH” was Mr Shah and concluded that Mr Shah’s absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel noted that Mr Shah had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Shah was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Shah was neither present nor represented.

Summary of evidence

Documents

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

- Section 1: Notice of proceedings and response to notice of proceedings – pages 3 to 14
- Section 2: TRA documents – pages 16 to 29
- Section 3: Teacher documents – none provided

In addition, the panel agreed to accept the following:

- Proceeding in absence bundle - pages 3 - 37

The panel members confirmed that they had read all of the documents within the bundle and viewed the dashcam footage referred therein in advance of the hearing. The panel also confirmed that they had read the additional documents relevant to the application to proceed in the absence of the teacher.

Witnesses

No witnesses were called to provide oral evidence at the hearing.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Shah was a long-term agency teacher of nurture at Starbank School ('the School'). Mr Shah had general teaching responsibilities of small groups of between 8 and 12 pupils.

On 20 May 2020, an incident took place in a public carpark whereby Mr Shah allegedly made remarks of a racial nature, to a member of the public.

Mr Shah was voluntarily interviewed by the police and denied the allegations against him. A copy of the dashcam footage was provided to the police. Although the victim was initially supportive of a prosecution, this support was then withdrawn due to personal reasons. As a result, the police decided to take no further action.

The matter was referred to the TRA on 27 August 2020.

Findings of fact

The findings of fact are as follows:

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

- 1. On or around 20 May 2020, you made one or more inappropriate comments to and/or in the presence of one or more members of the public, specifically you stated;**
 - a) 'you're just a bunch of pakis' or used words to that effect;**
 - b) 'you're fucking hypocrites' or used words to that effect;**
 - c) 'I've got some dickhead here' or used words to that effect; and**
 - d) 'just fucking pakis' or used words to that effect;**

The panel noted that during the police interview, Mr Shah had said that he had used "*obscenities*" during the altercation however, denied using the word "paki". The panel considered the dashcam footage provided and concluded that Mr Shah had made the comments outlined at allegation 1(a) to 1(d) or used words to that effect.

The panel noted that it was clear from the dashcam footage that Mr Shah was in a public car park, and that the comments at allegation 1(a) to 1(d), or words to that effect, were made to the victim. The panel also noted that during part of the altercation one other vehicle can be seen in the dashcam footage, although it is not clear whether the occupant(s) can hear the comments being made by Mr Shah.

The panel considered whether the comments at allegations 1(a) to 1(d) were inappropriate and noted the circumstances in which the comments were made. In particular, the panel noted that the altercation involved a parent and child car parking

space and the dashcam footage showed an individual in the victim's car stating to Mr Shah that they had children in the car. The panel therefore considered that the comments made by Mr Shah were inappropriate.

The panel found allegation 1(a) to 1(d) proven.

2. Your conduct at Allegation 1 was contrary to Fundamental British Values.

The panel firstly noted that whilst the comments that were made at allegation 1(b) and 1(c) were disrespectful, rude and unacceptable, the panel did not consider the language used in those comments to be contrary to fundamental British values. However, the panel considered that it was clear that the language used in allegations 1(a) and 1(d) demonstrated a lack of mutual respect and tolerance to the victim and their family and were contrary to fundamental British values.

The panel also noted Mr Shah's comments in the police statement when he was asked whether he would expect someone to be offended by the word "paki", to which he responded that it would not be offensive if it was between two people of the same ethnicity. The panel considered that it is not acceptable to use the type of language used by Mr Shah in any situation in this country and that such language by Mr Shah was contrary to fundamental British values.

The panel found allegation 2 proven.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher misconduct: The prohibition of teachers, which is referred to as 'the Advice'.

The panel was satisfied that the conduct of Mr Shah, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Shah 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
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs

The panel considered that Mr Shah had clearly demonstrated behaviour that undermines fundamental British values and showed a lack of mutual respect and tolerance of other individuals however, the panel noted that the language used during the altercation did not relate to the victim's "*faith or beliefs*" but rather their nationality.

The panel considered that the victim and their family have the right to be able to drive and park in a car park without receiving verbal racial abuse from another member of the public and, despite the incident only lasting just over thirty seconds, the panel considered the impact Mr Shah's behaviour may have had on the victim and their family.

The panel noted that as part of any safeguarding and/or equality and diversity training, which Mr Shah should have received in his role as an agency teacher, information is provided on the type of language that is unacceptable and that should be challenged by a teacher if used by pupils. Therefore, Mr Shah should have been aware that the language he was using in that situation was inappropriate and unacceptable.

The panel also noted that during the police interview, Mr Shah denied using the word "paki" when on the dashcam footage he can clearly be heard using this term on two occasions.

The panel was satisfied that the conduct of Mr Shah amounted to misconduct which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Shah's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that the offence of intolerance and/or hatred on the grounds of race/religion or sexual orientation was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, as the panel concluded that each of the allegations 1(a)-(d) and 2 based on the particulars found proved in respect of each allegation, amounted to unacceptable professional conduct, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

The panel noted that the allegations took place outside the education setting in that they took place outside of school and involved members of the public in a public place who, on the balance of probabilities, would not have been aware that Mr Shah was a teacher. However, given the influence that teachers have, and the trust placed in teachers by members of the public, the panel believed that Mr Shah's actions were relevant to his profession as a teacher. The panel noted that the victim's children were in the car, and they were exposed to, and potentially could have been influenced by, Mr Shah's behaviour. The panel also noted Mr Shah's views on using the type of language in

allegations 1(a) and (d) that he expressed during the police interview, in particular, that the term “paki” can be used as “*day to day banter*” between two individuals of the same ethnicity. Given Mr Shah’s expressed views to the police, the panel considered there could be a risk of Mr Shah using this type of language in a school to a pupil or another teacher.

Accordingly, the panel was satisfied that Mr Shah was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils’ lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel considered the inappropriate behaviour that had been found proven against Mr Shah. The panel noted that those at the incident were not necessarily aware that Mr Shah was a teacher however, the panel considered that it was not the type of behaviour that the public would expect to see from a teacher. The panel again noted that the victim’s children were present in the car when the comments were made and did not consider that this type of conduct would be what you expect from someone in a role model position working with children.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, which could potentially damage the public perception of the teaching profession.

The panel therefore found that Mr Shah’s actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a)-(d) and 2 proved, the panel further found that Mr Shah’s conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel’s recommendation to the Secretary of State

Given the panel’s findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, 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.

The panel was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found the following to be relevant: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Shah, which involved making inappropriate and racial comments in the presence of one or more members of the public, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Shah was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel noted that Mr Shah's actions undermined fundamental British values and considered that there could be a risk of him repeating this type of behaviour in the future due to Mr Shah's views expressed during the police interview. In particular, that Mr Shah considered that it would be acceptable to use the word "paki" in day-to-day banter between two people of the same ethnicity and further, that Mr Shah did not consider he had done anything wrong during the altercation. The panel also noted that during the police interview under caution Mr Shah was recorded describing the incident as "*nonsense*".

The panel was mindful of the highly influential role that teachers have in pupils' lives and also considered the potential consequences and risk of a teacher, who should be acting as a role model, using this type of language around pupils or colleagues.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Shah was outside that which could reasonably be tolerated by the profession and was not how the public would expect a teacher to behave.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Shah. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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 the teacher. The panel took further account of the Advice, which suggests that a prohibition

order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards; and
- actions or behaviours that undermine fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs; or that promote political or religious extremism.

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.

The panel noted that there was no evidence provided that Mr Shah's actions were not deliberate. The panel further noted that there was no evidence to suggest that Mr Shah was acting under extreme duress.

The panel noted that no mitigation evidence was submitted by Mr Shah and so it was unable to assess the extent of Mr Shah's insight or remorse for his actions. The panel however noted Mr Shah's attitude towards the altercation during the police interview and his lack of insight and / or remorse for how his comments may have been considered inappropriate and how they impacted on the victim and their family.

No evidence was submitted by Mr Shah to demonstrate exceptionally high standards in both his personal and professional conduct or to demonstrate a significant contribution to the education sector.

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 and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Shah of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Shah. The panel noted the racial nature of Mr Shah's comments together with his lack of insight and remorse were significant factors in forming that opinion. 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 for it to decide to recommend a review period of the order. 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. The panel found that these behaviours were not relevant.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours include intolerance and/or hatred on the grounds of race, religion, sexual orientation or protected characteristics. The panel found that Mr Shah was responsible for making inappropriate comments of a racial nature.

Nevertheless, the panel noted that this was a one-off incident that lasted just over thirty seconds.

The panel therefore decided that 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 two-year review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Jamal Shah should be the subject of a prohibition order, with a review period of 2 years.

In particular, the panel has found that Mr Shah 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

- not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs

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

The findings of misconduct are serious as they include a finding “that Mr Shah had clearly demonstrated behaviour that undermines fundamental British values and showed a lack of mutual respect and tolerance of other individuals”.

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 likely to 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 Shah, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed that “the victim’s children were in the car, and they were exposed to, and potentially could have been influenced by, Mr Shah’s behaviour. The panel also noted Mr Shah’s views on using the type of language in allegations 1(a) and (d) that he expressed during the police interview, in particular, that the term “paki” can be used as “*day to day banter*” between two individuals of the same ethnicity. Given Mr Shah’s expressed views to the police, the panel considered there could be a risk of Mr Shah using this type of language in a school to a pupil or another teacher.” 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 no mitigation evidence was submitted by Mr Shah and so it was unable to assess the extent of Mr Shah’s insight or remorse for his actions. The panel however noted Mr Shah’s attitude towards the altercation during the police interview and his lack of insight and / or remorse for how his comments may have been considered inappropriate and how they impacted on the victim and their family.” In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. 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, "In the light of the panel's findings against Mr Shah, which involved making inappropriate and racial comments in the presence of one or more members of the public, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Shah was not treated with the utmost seriousness when regulating the conduct 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 unacceptable professional conduct and conduct likely to bring the profession into disrepute, 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 Shah himself. The panel comment, "No evidence was submitted by Mr Shah to demonstrate exceptionally high standards in both his personal and professional conduct or to demonstrate a significant contribution to the education sector."

A prohibition order would prevent Mr Shah 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 panel's comments concerning the lack of insight or remorse. The panel has said that "the racial nature of Mr Shah's comments together with his lack of insight and remorse were significant factors" in forming its opinion that prohibition was both proportionate and appropriate.

I have also placed considerable weight on the panel's concern about "the potential consequences and risk of a teacher, who should be acting as a role model, using this type of language around pupils or colleagues."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Shah 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, that is not backed up by 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 2 year review period.

I have considered the panel's finding that "Mr Shah was responsible for making inappropriate comments of a racial nature." It also notes that "Nevertheless, the panel noted that this was a one-off incident that lasted just over thirty seconds." The panel therefore says that it "decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a two-year review period."

I have decided that a 2 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.

This means that Mr Jamal Shah 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 04 September 2025, 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 Shah remains prohibited from teaching indefinitely.

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

Mr Shah 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 'D Oatley', written in a cursive style.

Decision maker: David Oatley

Date: 25 August 2023

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