



Teaching
Regulation
Agency

Mr John Ashworth: Professional conduct panel outcome

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

September 2023

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

Teacher: Mr John Ashworth
TRA reference: 19428
Date of determination: 12 September 2023
Former employer: The Bulwell Academy, Nottingham

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 11 and 12 September 2023 remotely via Microsoft Teams, to consider the case of Mr Ashworth.

The panel members were Mrs Jane Gotschel (teacher panellist – in the chair), Ms Katie Dent (lay panellist) and Mr Duncan Tilley (lay panellist).

The legal adviser to the panel was Miss Sarah Price of Blake Morgan solicitors.

The presenting officer for the TRA was Mr David Collins of Capsticks solicitors.

Mr Ashworth was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation set out in the notice of proceedings dated 11 August 2023.

It was alleged that Mr Ashworth was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as a teacher at The Bulwell Academy ("the School"):

1. On or around 8 October 2019, he:
 - a) picked up Pupil A by placing one or both arms around his chest;
 - b) moved Pupil A from one side of the corridor to the other;
 - c) moved Pupil A with such force that Pupil A struck against a door or wall;
 - d) moved Pupil A with such force that Pupil A's head to hit the door or wall;
 - e) held Pupil A against the door or wall;
 - f) continued to hold Pupil A against the door or wall when he said that he could not breathe or words to that effect.

The hearing proceeded as a disputed case.

Preliminary applications

The panel considered an application from the presenting officer to proceed in the absence of Mr Ashworth.

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*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice of Proceedings ("the Notice") had been sent in accordance with Rules 5.23 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures") and that the requirements for service had been satisfied. Although the Notice was not sent 10 weeks before the hearing, the panel saw evidence that Mr Ashworth had waived his right to the 10 weeks' notice period. Mr Ashworth was clearly aware of the hearing and had confirmed that he would not be attending or represented.

The panel went on to consider whether to proceed in Mr Ashworth's absence or to adjourn. The panel had regard to the fact that its discretion to continue in the absence of

a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Ashworth was not in attendance and would not be represented at this hearing, should it proceed, and the extent of the disadvantage to him as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mr Ashworth for the following reasons:

- Mr Ashworth had not sought an adjournment and had indicated a wish for it to proceed in his absence.
- The panel was satisfied that Mr Ashworth's absence was voluntary and he had waived his right to attend.
- The risk of reaching the wrong conclusion and the disadvantage to Mr Ashworth in not being present were mitigated by the fact that he had provided submissions in respect of the allegations.
- The panel saw some evidence that Mr Ashworth's [REDACTED] allowing him to attend the hearing at a future date. Therefore, there was no indication that Mr Ashworth might attend at a future date such that no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.
- There is a burden on all professionals who are subject to a regulatory regime to engage with their regulator.
- There was a witness present to give evidence to the panel who would be significantly inconvenienced were the hearing to be adjourned.

Having decided that it would be appropriate to proceed, the panel sought to ensure that the proceedings were as fair as possible in the circumstances, despite Mr Ashworth neither being present nor represented.

The panel considered an application from the TRA that part of the hearing should be held in private. The panel heard and accepted the legal advice provided. The panel decided that it was in the public interest for the hearing to be held in public but decided it would hear matters relating to [REDACTED] in private.

The panel noted that particular 1d needed a minor amendment. This did not change the meaning of the allegation, but was a typographic error. The amendment is as follows:

- d) moved Pupil A with such force that Pupil A's head to hit the door or wall;

Summary of evidence

Documents

In advance of the hearing, the panel received two bundles of documents which included:

Section 1: Chronology and anonymised pupil list and List of Key People – pages 1 to 9

Section 2: Notice of proceedings – pages 10 to 15

Section 3: Teaching Regulation Agency witness statements – pages 16 to 27

Section 4: Teaching Regulation Agency documents – pages 28 to 333

Section 5: Teacher documents – pages 334 to 397

Section 6: Other material (CCTV footage)

Section 7: Revised Notice of Hearing – pages 398 to 409

Section 8: Teacher's Response – 410 to 422

The panel members confirmed that they had read all of the documents within the bundles and viewed the CCTV footage, in advance of the hearing.

Witnesses

The panel heard oral evidence from:

- Witness A, [REDACTED] - called by the TRA

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 Ashworth had been employed at The Bulwell Academy ("the School") since 1 September 2019 as an English teacher. On 8 October 2019, Mr Ashworth used physical intervention to separate Pupil A and Pupil B, who were fighting in the corridor at the School.

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 or around 8 October 2019, you:

a) picked up Pupil A by placing one or both arms around his chest

The panel noted that Mr Ashworth appeared to accept the fact that he picked up Pupil A. This particular of the allegation was also supported by the evidence presented. In particular, the panel found that the CCTV footage clearly showed Mr Ashworth picking up Pupil A and this was also confirmed by Witness A in her oral evidence.

Particular 1a was therefore found proved.

b) moved Pupil A from one side of the corridor to the other

The panel noted that Mr Ashworth appeared to accept the fact that he moved Pupil A from one side of the corridor to the other. In his written submissions, Mr Ashworth states that he has a vivid recollection of losing his balance and falling when moving the pupil across the corridor. However, the panel did not find that this was supported by the CCTV footage, which appeared to show Mr Ashworth move deliberately across the corridor whilst holding Pupil A.

Particular 1b was therefore found proved.

c) moved Pupil A with such force that Pupil A struck against a door or wall

Mr Ashworth's written submissions suggested that he did not accept that Pupil A was struck against a wall. He further stated that there was no evidence that Pupil A struck a door with "*significant enough force as to cause any injury*".

The panel observed CCTV footage of the incident. The panel noted that Mr Ashworth appeared to throw Pupil A against a door. The panel noted that the evidence of Pupil H (obtained through the School's investigation) supported the CCTV footage; the pupil wrote "*Sir came out and dragged and slammed him against the toilet door*".

Particular 1c was therefore found proved.

e) held Pupil A against the door or wall

The panel noted that Mr Ashworth appeared to accept the fact that he held Pupil A against the door. This particular of the allegation was also supported by the evidence presented. In particular, the panel found that the CCTV footage clearly showed Mr Ashworth holding Pupil A against a door.

Particular 1e was therefore found proved.

f) continued to hold Pupil A against the door or wall when he said that he could not breathe or words to that effect.

Witness A was clear in her oral evidence that she heard Pupil A say that he couldn't breathe. The panel also saw evidence obtained during the School's investigation from various pupils who witnessed the incident, including Student E, who stated that Pupil A told Mr Ashworth "*I can't breathe*". Student B also said that he heard Pupil A say he couldn't breathe.

The panel noted Mr Ashworth's written submissions, in which he disagreed that his actions would have caused Pupil A to stop breathing, but appeared to accept that the pupil's breathing may have been "*complicated due to his clothing state*".

Particular 1f was therefore found proved.

The panel found the following particulars of the allegation against you not proved, for these reasons:

1. On or around 8 October 2019, you:

d) moved Pupil A with such force that Pupil A's head hit the door or wall

The panel observed the CCTV footage and found that it was not possible to determine if Pupil A's head hit the door or wall. Although Witness A told the panel that she heard two bangs and assumed that one was Pupil A's head hitting the door and the other was the door closing, she accepted that she did not see Pupil A's head hit a door or the wall. The panel also noted that it had not been provided with evidence from an accident or incident log, that there was no evidence that Pupil A received first aid and that Witness A in her original statement to the School had not mentioned that Pupil A had needed an ice pack for his head.

For the reasons set out above, the panel did not find particular 1d of the allegation proved.

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

The panel was satisfied that the conduct of Mr Ashworth, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Ashworth 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

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- 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.

In regards to particulars 1a and 1b, the panel considered that Mr Ashworth's actions were inappropriate, but in the particular circumstances, did not find that his conduct met the threshold of being serious misconduct. The panel was satisfied that the conduct of Mr Ashworth at particulars 1c, 1e and 1f amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel determined that, once Mr Ashworth had separated the two pupils and moved Pupil A across the corridor, his actions past this point were excessive.

The panel also considered whether Mr Ashworth's proven conduct displayed behaviours associated with any of the offences listed on page 12 of the Advice. The panel found that none of these offences were relevant.

The panel found that Mr Ashworth's conduct at particulars 1c, 1e and 1f amounted to unacceptable professional conduct.

It was clear from Mr Ashworth's written submissions that his initial motivation in separating the pupils was to safeguard pupils and others present, however his actions continued beyond what was necessary and appropriate to achieve that aim. Whilst the panel considered the findings of misconduct to be serious, it did not consider that the conduct displayed would be likely to have a negative impact on the individual's status as a teacher or would potentially damage the public perception of the profession. This was because the actions of Mr Ashworth were not planned, and throughout the incident, he appeared to be in control. Further, this was a one-off incident that took place within the School and not outside of the education setting.

The panel therefore did not find that Mr Ashworth's actions constituted 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, 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 a 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 pupils, declaring and upholding proper standards of conduct and the interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the protection of pupils, given the findings.

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 Ashworth was outside that which could reasonably be tolerated.

The panel decided that there was a strong public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator.

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 Ashworth.

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 Ashworth. 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- failure to act on evidence that indicated a child's welfare may have been at risk e.g. failed to notify the designated safeguarding lead and/or make a referral to

children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;

- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- violation of the rights of pupils.

The panel considered that these behaviours were not engaged to such an extent that indicated a prohibition order would be considered appropriate or proportionate.

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 considered that Mr Ashworth's action in separating the pupils was deliberate, but there was no evidence that he deliberately acted to cause any harm.

There was no evidence to suggest that Mr Ashworth was acting under duress.

The panel did not have evidence of insight or remorse from Mr Ashworth. The panel did not have the benefit of hearing from Mr Ashworth during the hearing, but accepted he was unable to attend due to [REDACTED]. The panel therefore drew no adverse inference from him not attending.

The panel found that this was a one-off incident and that Mr Ashworth's initial actions were well intentioned. The panel noted that Mr Ashworth did previously have a good record.

The panel was provided with evidence of good character. The panel noted that a previous employer reference written by Individual A on 9 May 2019 was positive and there were no concerns reported regarding his conduct. Individual A wrote "*he has strong behaviour management skills and clear expectation of classroom protocols*". She further wrote "*he is a very committed teacher who is self-reflective...*".

The panel also had sight of character references from former colleagues. A reference from Individual B dated 12 June 2022 stated "*[Mr Ashworth] stood out to me as someone who was calm, and a clearly dedicated teacher*" and "*it was so clear he had so much to offer the students*". Another reference from Individual C dated 13 June 2022 stated "*he had a very kind and caring nature*" and "*he is an amazing teacher*". The panel also noted that the reference from Individual D, dated 1 December 2019 included evidence that pupils made a "*bring back Mr Ashworth*" poster to campaign for him to return to the School.

In light of the above, the panel found that there was limited risk of repetition of Mr Ashworth's behaviour of the 8 October 2019.

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 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 sanction. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered 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 acceptable standards of behaviour. Publication of the panel's findings would meet the public interest requirement of declaring and upholding 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 some of the allegations proven and found that those proven facts amount to unacceptable professional conduct. In this case, the panel has found some of the allegations not proven. I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr John Ashworth 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
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions

- 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 finds that the conduct of Mr Ashworth fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they involve the use of excessive force against a pupil.

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, 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 Ashworth, 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/safeguard pupils. The panel has observed, “In light of the above, the panel found that there was limited risk of repetition of Mr Ashworth's behaviour of the 8 October 2019.”

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, “The panel did not have evidence of insight or remorse from Mr Ashworth. The panel did not have the benefit of hearing from Mr Ashworth during the hearing, but accepted he was unable to attend due to [REDACTED]. The panel therefore drew no adverse inference from him not attending.” I have, therefore, placed less weight on this element in my considerations.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel record that, “It was clear from Mr Ashworth's written submissions that his initial motivation in separating the pupils was to safeguard pupils and others present, however his actions continued beyond what was necessary and appropriate to achieve that aim. Whilst the panel considered the findings of misconduct to be serious, it did not consider that the conduct displayed would be likely to have a negative impact on the individual's status as a teacher or would potentially damage the public perception of the profession. This was because the actions of Mr

Ashworth were not planned, and throughout the incident, he appeared to be in control. Further, this was a one-off incident that took place within the School and not outside of the education setting.” I have given this element more weight in my considerations.

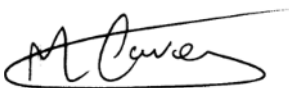
I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point 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 Ashworth himself and the panel’s comment that, “The panel decided that there was a strong public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator.” In addition, I have noted the character references supplied by former colleagues of Mr Ashworth attesting to his contribution to the teaching profession.

In this case, I have placed considerable weight on the panel’s conclusion that the nature and severity of the behaviour were at the less serious end of the possible spectrum and that there was no evidence that Mr Ashworth had intended to cause harm. I have also placed weight on the panel’s finding that this was a one-off incident, that Mr Ashworth’s initial actions were well intentioned, and that he previously had a good record.

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.



Decision maker: Marc Cavey

Date: 15 September 2023

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