



Teaching
Regulation
Agency

Mr Robin Fisher: Professional conduct panel meeting outcome

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

February 2024

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

Teacher: Mr Robin Fisher

TRA reference: 21404

Date of determination: 16 February 2024

Former employer: Waterfront University Technical College, Chatham

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 19 February 2024 to consider the case of Mr Robin Fisher.

The panel members were Ms Gill Lyon (teacher panellist – in the chair), Mr Paul Millett (lay panellist) and Mrs Samantha Haslam (teacher panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

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 Fisher that the allegations be considered without a hearing. Mr Fisher provided a signed Statement of Agreed Facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer or Mr Fisher.

The meeting took place in private and was not recorded.

Allegations

The panel considered the allegation set out in the Notice of Meeting dated 7 February 2024.

It was alleged that Mr Fisher was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Waterfront UTC;

1. He engaged in inappropriate physical contact with one or more pupils on or around 28 September 2022, by;
 - a. shutting the door on Pupil A's foot and/or leg on one or more occasions.

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: Notice of proceedings and response – pages 4 to 19

Section 2: Statement of Agreed Facts and TRA representations – pages 20 to 24

Section 3: Teaching Regulation Agency documents – pages 25 to 81

Section 4: Teacher documents – pages 82 to 88

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

Statement of Agreed Facts

The panel considered a Statement of Agreed Facts which was signed by Mr Fisher on 27 November 2023.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

Mr Fisher was employed by Waterfront University Technical College (“the College”) teaching construction to classes between Years 9 to 13. Mr Fisher started working at the College at the beginning of September 2022. He did not hold Qualified Teacher Status and was employed as an ‘unqualified teacher’.

Following a classroom incident on 28 September 2022 whilst teaching a Year 10 class, the College began an investigation. Mr Fisher resigned his position during the investigatory process. Following the conclusion of the College’s investigation, it made a referral to the TRA, which has resulted in these proceedings.

Findings of fact

The findings of fact are as follows:

1. You engaged in inappropriate physical contact with one or more pupils on or around 28 September 2022, by;

a. shutting the door on Pupil A’s foot and/or leg on one or more occasions.

Mr Fisher admitted this allegation in full in the Statement of Agreed Facts. It set out:

“Mr Fisher accepts that on or around 28 September 2022, he sent Pupil A to stand outside of the classroom due to behavioural concerns. When Mr Fisher walked to the door with Pupil A, [they] did not leave the classroom and instead stood in the doorway with his foot and/or leg in the doorway which prevented the door from being closed.

Mr Fisher accepts that despite Pupil A's foot and/or leg being in the doorway, he shut the door on Pupil A's foot and/or leg twice, using an unreasonable level of force.”

Also before the panel was CCTV of the incident which showed the outside of the classroom. From the time Pupil A first left the classroom to the second time the door was closed by Mr Fisher was around 13 seconds in duration. Whilst it was not clear from the CCTV how the door made contact with Pupil A, it was clear it could have only been a momentary connection. The evidence before the panel was that Pupil A was not injured as a result, nor was there any other ongoing impact on him.

The panel considered Mr Fisher’s admission was unequivocal and consistent with the evidence before the panel. The panel therefore found 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 Fisher in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Fisher 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...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel considered, on initial reading, that Mr Fisher’s actions might be considered a mere temporary lapse. However, as Mr Fisher’s actions could have potentially caused harm to a pupil, he was in breach of his professional safeguarding responsibilities which forms the backbone of any teacher’s practice. This was therefore an incident which could not properly be considered trivial or otherwise excusable. Accordingly, the panel was satisfied that the conduct of Mr Fisher fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Fisher’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct. The panel found that none of these offences was relevant, albeit the panel also considered the absence of these factors did not undermine a finding of unacceptable profession conduct.

Accordingly, the panel was satisfied that Mr Fisher 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 they behave. The public expects that members of the profession do not take actions that would directly expose pupils to being at risk of harm from them.

The panel therefore found that Mr Fisher’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 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. 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 pupils
- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct

In the light of the panel's findings against Mr Fisher, which involved the unreasonable use of force which exposed a pupil to harm, there was a strong public interest consideration in respect of the protection of pupils. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Fisher 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 Fisher was outside that which could reasonably be tolerated.

Notwithstanding 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 Fisher.

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 Fisher. 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:

- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;

- 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);

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 was satisfied that Mr Fisher's actions in shutting the classroom door were deliberate, albeit there was no evidence it was his intention to trap Pupil A's leg or foot in the door. There was no evidence that Mr Fisher was acting under duress.

It was noted in the Local Authority Designated Officer's meeting notes on 29 November 2022 that:

“[H]is experience with the younger age group and a school setting were limited. It was confirmed that he had been provided with additional support and training to assist with this transition, but it does seem that this inexperience may well be reflected in his responses within this particular session. [Mr Fisher] had not been at Waterfront for long, and no other concerns of this nature had been identified.”

From the other evidence available to the panel in this case, it agreed with this conclusion.

The panel took into account that Mr Fisher, as an unqualified teacher, would not have received the structured training that his qualified colleagues would have benefited from in regard to behaviour management in the classroom. He was not experienced with teaching children of this age group and had only been teaching at the College for 36 days, when this incident happened. The evidence before the panel demonstrated that Pupil A was a challenging and difficult pupil to deal with. The panel considered these factors significantly reduced Mr Fisher's personal culpability in his actions.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order was a proportionate and appropriate response. 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 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.

Accordingly, the panel recommended to the Secretary of State that no prohibition order should be imposed in this case.

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 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 Robin Fisher should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Fisher 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...
- 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 Fisher 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 unacceptable professional conduct or 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 Fisher, 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, "The panel considered, on initial reading, that Mr Fisher's actions might be considered a mere temporary lapse. However, as Mr Fisher's actions could have potentially caused harm to a pupil, he was in breach of his professional safeguarding responsibilities which forms the backbone of any teacher's practice. This was therefore an incident which could not properly be considered trivial or otherwise excusable." A prohibition order would therefore prevent such a risk from being present in the future.

The panel have not commented on insight and remorse, however I have considered the following "The panel considered Mr Fisher's admission was unequivocal and consistent with the evidence before the panel."

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 Fisher, which involved the unreasonable use of force which exposed a pupil to harm, there was a strong public interest consideration in respect of the protection of pupils. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Fisher 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 Fisher was outside that which could reasonably be tolerated."

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 Fisher himself and the panel comment “It was noted in the Local Authority Designated Officer’s meeting notes on 29 November 2022 that:

“[H]is experience with the younger age group and a school setting were limited. It was confirmed that he had been provided with additional support and training to assist with this transition, but it does seem that this inexperience may well be reflected in his responses within this particular session. [Mr Fisher] had not been at Waterfront for long, and no other concerns of this nature had been identified.”

A prohibition order would prevent Mr Fisher 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 regarding mitigating factors, “The panel took into account that Mr Fisher, as an unqualified teacher, would not have received the structured training that his qualified colleagues would have benefited from in regard to behaviour management in the classroom. He was not experienced with teaching children of this age group and had only been teaching at the College for 36 days, when this incident happened. The evidence before the panel demonstrated that Pupil A was a challenging and difficult pupil to deal with. The panel considered these factors significantly reduced Mr Fisher’s personal culpability in his actions.”

I have also placed considerable weight on the finding of the panel that “The panel was satisfied that Mr Fisher’s actions in shutting the classroom door were deliberate, albeit there was no evidence it was his intention to trap Pupil A’s leg or foot in the door. There was no evidence that Mr Fisher was acting under duress.”

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: Sarah Buxcey

Date: 21 February 2024

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