



Teaching
Regulation
Agency

Mrs Kay Duffin: Professional conduct panel outcome

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

May 2024

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

Teacher:	Mrs Kay Duffin
Teacher ref number:	0341017
Teacher date of birth:	8 September 1975
TRA reference:	21643
Date of determination:	7 May 2024
Former employer:	Welton Primary School, Welton

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 7 May 2024 by way of a virtual hearing, to consider the case of Mrs Kay Duffin.

The panel members were Ms Jo Palmer-Tweed (teacher panellist – in the chair), Mr Paul Anderson (teacher panellist) and Mrs Rachel Curry (lay panellist).

The legal adviser to the panel was Mr Nicholas West of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Lee Bridges instructed by Kingsley Napley solicitors.

Mrs Duffin was not present and was not represented.

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

Allegation

The panel considered the allegation set out in the notice of proceedings dated 11 March 2024.

It was alleged that Mrs Duffin was guilty of having been convicted of a relevant offence, in that:

1. On or around 18 May 2022, she was convicted of driving a motor vehicle after consuming so much alcohol on 25 April 2022 that the proportion of it in her breath exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and schedule 2 to the Road Traffic Offenders Act 1988.

Mrs Duffin admitted the acts of allegation 1, as set out in the response to the notice of hearing dated 4 April 2024. However, she did not admit that the those admitted facts amounted to a relevant conviction.

Preliminary applications

Application to proceed in the absence of the teacher

Mrs Duffin was not present at the hearing nor was she represented. The presenting officer made an application to proceed in the absence of Mrs Duffin. The presenting officer provided additional documents in support of this application, namely: a service bundle of 24 pages; and email correspondence between Mrs Duffin the TRA dated 28 February 2024. The panel agreed to admit these documents and consider them in respect of this application.

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 Mrs Duffin in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the 2020 Procedures'). The panel noted the Notice of Proceedings had not been sent to Mrs Duffin at least ten weeks before the date of the professional conduct panel hearing as required by paragraph 5.23 of the 2020 Procedures. However, the panel was provided with a copy of an email chain between Mrs Duffin and the TRA on 28 February 2024 where Mrs Duffin expressly waived this notice requirement. The panel was therefore satisfied that the requirement to send the Notice of Proceedings ten weeks before the date of the hearing had been expressly waived by Mrs Duffin.

The panel concluded that Mrs Duffin's absence was voluntary and that she was aware that the matter would proceed in her absence.

The panel noted that Mrs Duffin had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure her attendance at a hearing. There was no medical evidence before the panel that Mrs Duffin 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 Mrs Duffin 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: Chronology and key people list – pages 4 to 5
- Section 2: Notice of hearing and response – pages 6 to 18
- Section 3: TRA documents – pages 19 to 451

In addition, the panel agreed to accept the following for the purposes of considering the application to proceed in the absence of the teacher:

- A service bundle of 24 pages; and
- Email correspondence between Mrs Duffin and the TRA dated 28 February 2024.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel had decided to admit.

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.

Mrs Duffin commenced employment as a class teacher at Welton Primary School ('the School') on 4 November 2019.

On 25 April 2022, Mrs Duffin was stopped in her car by the police and found to be over the legal limit for alcohol. Mrs Duffin was arrested as a result.

On 18 May 2022, Mrs Duffin was convicted at Humber Magistrates' Court. She was later sentenced on 8 June 2022.

Mrs Duffin was formally suspended from the School pending an internal investigation on 23 June 2022. LADO multi-disciplinary meetings were held between June and September 2022. The School's investigation report was submitted on 8 September 2022 and a disciplinary hearing was held on 3 November 2022.

An appeal hearing was held on 12 January 2023 and the matter was referred to the TRA by the local authority on 6 March 2023.

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 18 May 2022, you were convicted of driving a motor vehicle after consuming so much alcohol on 25 April 2022 that the proportion of it in your breath exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and schedule 2 to the Road Traffic Offenders Act 1988.**

The panel considered the response to the notice of hearing signed by Mrs Duffin on 4 April 2024, in which she admitted the particulars of allegation 1. However, she did not admit that the facts of the allegation amounted to a conviction of a relevant offence.

The panel noted page 8 of the Teacher misconduct: The prohibition of teachers ('the Advice') which states that where there has been a conviction at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel had been provided with a copy of the Certificate of Memorandum from Humber Magistrates' Court, which detailed that Mrs Duffin had been convicted of one count of driving a motor vehicle on a road after consuming alcohol contrary to section 5(1)(a) of the Road Traffic Act 1968 and Schedule 2 to the Road Traffic Offenders Act 1988. The

panel specifically noted that the memorandum stated that Mrs Duffin had been convicted upon a guilty plea.

In respect of the allegation, Mrs Duffin was disqualified from holding or obtaining a driving licence for 36 months, to be reduced by 36 weeks should she complete a course approved by the Secretary of State. In addition, she was fined £1,280; ordered to pay a surcharge to fund victim services of £128; ordered to pay costs of £85 to the Crown Prosecution Service; and a collection order was made.

On examination of the documents before the panel, the panel was satisfied that allegation 1 was proven.

Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether the facts of that proved allegation amounted to conviction of a relevant offence.

In doing so, the panel had regard to the Advice.

The panel was satisfied that the conduct of Mrs Duffin, in relation to the allegation it found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part 2, Mrs Duffin 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:
 - not undermining fundamental British values, including democracy, the rule of law...
- 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 noted that Mrs Duffin's actions were relevant to teaching, working with children and working in an education setting. The panel was of the view that outside of the School Mrs Duffin was duty-bound to uphold the professional and personal standards of a teacher, which she had not done on this occasion. The panel noted the School's 'Staff and Volunteer Code of Conduct' which states, "*circumstances in your private and personal life may impact upon your job and may result in consideration of your suitability to work with children and young people*" and teachers should not "*behave in a manner, which would lead any reasonable person to question your suitability to work with children or act as a role model*".

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety and/or security of members of the public. The panel noted the [REDACTED].

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mrs Duffin's behaviour in committing the offence could affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mrs Duffin's behaviour did not lead to a sentence of imprisonment but the panel did not consider that there were any other mitigating circumstances.

The panel further noted that this was a case concerning an offence involving a serious driving offence, particularly involving alcohol, and a serious offence involving alcohol, both of which the Advice states are more likely to be considered a relevant offence.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Mrs Duffin's ongoing suitability to teach. The panel considered that a finding that this conviction was for relevant offences was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

Panel's recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.

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 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 in this case, namely: 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 within the teaching profession and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In light of the panel's findings against Mrs Duffin which involved a conviction for drunk driving contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the

Road Traffic Offenders Act 1988, there was a strong public interest consideration in respect of the protection of pupils and other members of the public. Mrs Duffin's actions raised obvious and significant concerns regarding the wellbeing of members of the public.

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

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 Mrs Duffin was outside that which could reasonably be tolerated.

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 Mrs Duffin. 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 Mrs Duffin. 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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution...; and
- actions or behaviours...that undermine fundamental British values of...the rule of law.

The panel was satisfied that Mrs Duffin's conviction related to the commission of a serious criminal offence.

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.

There was no evidence that Mrs Duffin's actions were not deliberate.

There was no evidence to suggest that Mrs Duffin was acting under extreme duress.

No evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mrs Duffin had contributed significantly to the education sector. The panel did consider the notes from the 'Initial Multi-Agency Allegation Meeting Record' dated 23 June 2022 which stated Mrs Duffin's "*previous history, prior to 2019 is unblemished*".

The panel noted the 'Record of Oral Pre-Sentence Report' dated 24 May 2022 which was submitted as part of the bundle. This stated that Mrs Duffin "*accepts full responsibility for the offence of driving over the prescribed limit of alcohol*". Mrs Duffin explained how she had "*had a particularly difficult six to eight months at work prior to committing the offence*"; [REDACTED]

The report further stated "*Ms Duffin tells me she is appalled and ashamed by her actions and has struggled to come to terms with what she done ever since. She expressed what I consider to be genuine remorse to come to terms with her actions and reflected on how her actions could have caused harm to others or herself*".

The panel considered a letter from Mrs Duffin to [REDACTED], dated 29 June 2022 which apologised for her actions. The letter stated, "*I am very remorseful and deeply ashamed of my actions...and it has taken me some time to try and understand why I would behave in such a way, that was totally out of character*". [REDACTED].

The panel noted that Mrs Duffin accepted "*nothing excuses my impaired decisions that evening but working through my thoughts and feelings over a period of time has helped me to see things a little more clearly*". However, the panel considered evidence that Mrs Duffin had taken steps to address her behaviour [REDACTED].

No other mitigating evidence was placed before the panel. The panel concluded that Mrs Duffin had expressed remorse but had failed to show significant insight into her actions. The panel was particularly concerned that there was not sufficient evidence of Mrs Duffin understanding the transferable risk between her conduct outside of work and the expectations of her in her professional capacity as a teacher.

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 Mrs Duffin 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 Mrs

Duffin. The potentially devastating consequences that Mrs Duffin's actions could have had on the safety and wellbeing of members of the public was a significant factor 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 Mrs Duffin was not responsible for any such behaviours.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found that Mrs Duffin was not responsible for any such behaviours.

The panel took into consideration the written response of Mrs Duffin dated 4 April 2024 which stated that she doesn't "*intend to ever again*" work as a teacher. However, the panel 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 review period of two years.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found the allegation proven and found that those proven facts amount to a relevant conviction.

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

In particular, the panel has found that Mrs Duffin 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:

- not undermining fundamental British values, including democracy, the rule of law...
- 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 Mrs Duffin fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of a conviction for a relevant offence of driving a motor vehicle after consuming so much alcohol that the proportion of it in Mrs Duffin's exceeded the prescribed limit, contrary to section 5(1)(a) of the Road Traffic Act 1988 and schedule 2 to the Road Traffic Offenders Act 1988.

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 Mrs Duffin, 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, "In light of the panel's findings against Mrs Duffin which involved a conviction for drunk driving contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988, there was a strong public interest consideration in respect of the protection of pupils and other members of the public. Mrs Duffin's actions raised obvious and significant concerns regarding the wellbeing of members of the public." 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 has set out as follows, "The panel concluded that Mrs Duffin had expressed remorse but had failed to show significant insight into her actions. The panel was particularly concerned that there was not sufficient evidence of Mrs Duffin understanding the transferable risk between her conduct outside of work and the expectations of her in

her professional capacity as a teacher.” 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 has observed that “public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Duffin was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of a conviction for a serious driving offence involving alcohol 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 Mrs Duffin. The panel has commented, “No evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mrs Duffin had contributed significantly to the education sector. The panel did consider the notes from the ‘Initial Multi-Agency Allegation Meeting Record’ dated 23 June 2022 which stated Mrs Duffin’s *“previous history, prior to 2019 is unblemished”*.”

A prohibition order would prevent Mrs Duffin 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 finding of the panel that the public interest considerations outweighed the interests of Mrs Duffin. The panel has said “The potentially devastating consequences that Mrs Duffin’s actions could have had on the safety and wellbeing of members of the public was a significant factor in forming that opinion.”

I have also placed considerable weight on the panel’s comments concerning the lack of full insight.

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Duffin 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 full 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.

The panel did not find that Mrs Duffin was responsible for any behaviours that would militate against the recommendation of a review period or would weigh in favour of a longer review period. I have considered the panel's comments, "The panel took into consideration the written response of Mrs Duffin dated 4 April 2024 which stated that she doesn't *"intend to ever again"* work as a teacher. However, the panel 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 review period of two years."

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 Mrs Kay Duffin is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 15 May 2026, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Duffin remains prohibited from teaching indefinitely.

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

Mrs Kay Duffin has a right of appeal to the King's Bench Division of the High Court within 28 days from the date she is given notice of this order.



Decision maker: David Oatley

Date: 9 May 2024

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