



Teaching
Regulation
Agency

Ms Eleanor Howell: Professional conduct panel hearing

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

December 2024

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

Teacher: Ms Eleanor Howell

TRA reference: 21353

Date of determination: 11 December 2024

Former employer: Baskerville School, Birmingham

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 11 December 2024 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Ms Eleanor Howell.

The panel members were Ms Susan Ridge (lay panellist – in the chair), Mr Maurice Smith (lay panellist) and Ms Samantha Haslam (teacher panellist).

The legal adviser to the panel was Ms Natalie Kent of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Aleksandra Manning-Rees of 5 St Andrew's Hill Chambers, instructed by Kingsley Napley LLP solicitors.

Ms Howell was present and was represented by Ms Megan Fletcher-Smith of Cornwall Street Barristers, instructed by Thompsons Solicitors.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation set out in the notice of proceedings dated 3 September 2024.

It was alleged that Ms Howell was guilty of having been convicted of a relevant offence, in that:

1. On 10/03/2022 you were convicted of the following offence:
 - a) Driving a motor vehicle with excess alcohol on 22/02/22 contrary to the Road Traffic Act 1988 s.5(1)(a) at Birmingham and Solihull magistrates.

Ms Howell admitted the facts of allegation 1(a) within her witness statement and at the commencement of the hearing, admitted that this amounted to a conviction of a relevant offence.

Preliminary applications

Application for part of the hearing to be heard in private

The panel considered an application from the teacher's representative that part of the hearing [REDACTED], [REDACTED] should be heard in private.

The panel heard submissions from the presenting officer and the teacher's representative on the application before reaching its decision. The presenting officer did not object to the application.

The panel granted the application. The panel considered that whilst there was a presumption that professional conduct hearings be heard in public, it was not contrary to the public interest for the part of the hearing, which was the subject of the application, to be heard in private.

The panel considered that the areas covered in the application legitimately related to aspects of Ms Howell's private life and there was no contrary public interest in those areas being discussed in private. The hearing was still being held in public and these were discrete and limited areas which would not undermine the public's ability to otherwise understand the case. The panel recognised that allowing these sections of the hearing to be heard in private would enable Ms Howell to give the best evidence. The panel therefore granted the application.

Summary of evidence

Documents

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

- Section 1: Chronology and list of key people – pages 3 to 5
- Section 2: Notice of proceedings and response to notice of hearing – pages 6 to 12
- Section 3: Teaching Regulation Agency documents – pages 13 to 48
- Section 4: Teacher documents – pages 49 to 58

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

Witnesses

The TRA did not call any witnesses to give evidence at the hearing.

The panel heard the oral evidence of Ms Howell.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Ms Howell was employed at Baskerville School (“the School”) from 16 March 2021 as a supply teacher via a recruitment agency, PK Education.

On 22 February 2022, an incident occurred in which West Midlands Police were called to a road traffic collision involving Ms Howell and [REDACTED]. Ms Howell was arrested for consuming alcohol over the legal limit to drive.

On 10 March 2022, Ms Howell was found guilty of the offence of “driving a motor vehicle with excess alcohol” and was disqualified from driving for 18 months. As a result, [REDACTED] made a referral to the TRA on 15 December 2022.

Findings of fact

The findings of fact are as follows:

- 1. On 10/03/2022 you were convicted of the following offence:**

a) Driving a motor vehicle with excess alcohol on 22/02/22 contrary to the Road Traffic Act 1988 s.5(1)(a) at Birmingham and Solihull magistrates.

The panel noted that Ms Howell admitted the facts of this allegation but nonetheless considered all the evidence before it and came to a decision.

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 memorandum of conviction from Birmingham and Solihull Magistrates Court which set out that Ms Howell pleaded guilty to the offence and on the 10 March 2022, Ms Howell was convicted of driving a motor vehicle on a road after consuming so much alcohol that the proportion of her breath exceeded the prescribed limit.

In respect of the conviction, Ms Howell was fined £200; ordered to pay a surcharge to fund victim services of £34; ordered to pay costs of £135 to the Crown Prosecution Service; a collection order made and disqualification from holding or obtaining a driving licence for 18 months, to be reduced by 18 weeks if by the 6 March 2023 Ms Howell satisfactorily completed a course approved by the secretary of state that is not to exceed £250. Ms Howell's driving record was also endorsed.

On the basis of the memorandum of conviction and the evidence that had been provided, the panel found allegation 1(a) proven.

Findings as to conviction of a relevant offence

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

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

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

The panel noted that the individual's actions were not directly relevant to teaching, working with children and/or working in an education setting as the incident relating to the conviction had taken place in Ms Howell's private life in her own time.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety of members of the public, but not necessarily on pupils.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Ms Howell's behaviour in committing the offence could undoubtedly 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 considered there were a number of exacerbating factors which led it to this conclusion. These were:

- The significant volume of alcohol which was found in the teacher's sample;
- That the offence had resulted in a road traffic collision involving a member of the public;
- That [REDACTED] had been in the car at the time and had been injured in the incident; and
- That a member of the public had felt it necessary to take Ms Howell's car keys away from her to prevent her continuing to drive.

The panel noted that Ms Howell's behaviour did not lead to a sentence of imprisonment, which was indicative that the offence was potentially at the less serious end of the possible spectrum. However, the panel also noted that this was a case concerning a serious driving offence involving alcohol which the Advice states is more likely to be considered a relevant offence.

The panel also noted that Ms Howell herself considered that this was a serious offence and admitted that it was a relevant offence in the context of the teaching profession.

The panel found that the seriousness of the offending behaviour that led to the conviction was relevant to Ms Howell's fitness to be a teacher. The panel considered that a finding that this conviction was a relevant offence was necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession, which it considered could otherwise be weakened.

The panel therefore determined that the facts of the proven allegation amounted to a conviction of a relevant offence.

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 a number of them 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;
- 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 Ms Howell, which involved being convicted of a serious motor offence involving alcohol, particularly in circumstances where [REDACTED] child was in the car and there had been a collision involving a member of the public, there was a strong public interest consideration in the maintenance of public confidence in the profession.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Howell 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 Ms Howell was outside that which could reasonably be tolerated. However, the panel noted that since the incident and conviction, Ms Howell had been working in a teaching role and there had not been any further incident of a similar nature. The panel therefore considered that the public interest consideration in declaring proper standards of conduct in the profession had diminished over time.

The panel accepted that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon her abilities as an educator and she is able to make a valuable contribution to the profession, particularly in her chosen field of special needs education.

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 Ms Howell. 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 Ms Howell.

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, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

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 Ms Howell's actions were not deliberate.

There was no evidence that Ms Howell was acting under extreme duress.

There was limited evidence to suggest that Ms Howell demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.

However, the panel did accept that this was an isolated incident at a time where Ms Howell states that she was experiencing [REDACTED]. The panel considered the written statement of Ms Howell, where she stated that in respect of the incident in February 2022 she went through "one of the most painful experiences of her life". Ms Howell explained that the incident was out of character for her and that she is aware that the outcome could have been much worse for her, [REDACTED] child and the public and she stated she is deeply affected by this.

Ms Howell stated that she completed a comprehensive drink driving course, which was a 3-day course over 3 weeks where she learnt about the devastating impact of drink driving.

Ms Howell stated that over the past two and a half years she has experienced significant personal growth and has become stronger [REDACTED].

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, taking into account 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 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 proportionate and appropriate in this case.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession. This was particularly so in circumstances where the panel was satisfied that the insight and remorse which Ms Howell had demonstrated was such that the risk of repetition was low and there was no evidence that a prohibition order of at least two years would “*produce any material change or serve any useful purpose*”. The panel was satisfied that Ms Howell had developed an understanding of what had gone wrong on the day of the incident and had taken steps to safeguard against this happening again in the future, which had allowed her to continue teaching without further incident in the time since the conviction.

Decision and reasons on behalf of the Secretary of State

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

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

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

The panel has made a recommendation to the Secretary of State that Ms Howell should not be the subject of a prohibition order. The panel has recommended that the findings of

a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Ms Howell 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.

The panel finds that the conduct of Ms Howell 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 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 Ms Howell, 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 noted that the behaviour involved in committing the offence could have had an impact on the safety of members of the public, but not necessarily on pupils.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “the panel did accept that this was an isolated incident at a time where Ms Howell states that she was experiencing [REDACTED]. The panel considered the written statement of Ms Howell, where she stated that in respect of the incident in February 2022 she went through “one of the most painful experiences of her life”. Ms Howell explained that the incident was out of character for her and that she is aware that the outcome could have been much worse [REDACTED], [REDACTED] and the public and she stated she is deeply affected by this.” 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 Ms Howell, which involved being convicted of a serious motor offence involving alcohol, particularly in circumstances where [REDACTED] child was in the car and there had been a collision involving a member of the public, there was a strong public interest consideration in the maintenance of public confidence in the profession.” I am particularly

mindful of the finding of driving under the influence of alcohol with a child in the car 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 Ms Howell herself and the panel comment “There was limited evidence to suggest that Ms Howell demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.” A prohibition order would prevent Ms Howell from teaching. A prohibition order would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the level of insight or remorse. The panel has said, “Ms Howell stated that she completed a comprehensive drink driving course, which was a 3-day course over 3 weeks where she learnt about the devastating impact of drink driving.” And that “Ms Howell stated that over the past two and a half years she has experienced significant personal growth and has become stronger.”

I have also placed considerable weight on the finding of the panel that “The panel accepted that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon her abilities as an educator and she is able to make a valuable contribution to the profession, particularly in her chosen field of special needs education.”

I have given weight in my consideration of sanction therefore, to the contribution that Ms Howell is making to the profession and the level of insight and remorse demonstrated.

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: 16 December 2024

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