



Teaching
Regulation
Agency

Ms Nicola Hurst: Professional conduct panel outcome

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

July 2021

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

Teacher:	Ms Nicola Hurst
Teacher ref number:	0941085
Teacher date of birth:	17 March 1989
TRA reference:	17790
Date of determination:	15 July 2021
Former employer:	Bedford High School, Greater Manchester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 12 to 15 July 2021, to consider the case of Ms Nicola Hurst (“Ms Hurst”).

The panel members were Mr Gamel Byles (teacher panellist – in the chair), Ms Sonia Simms (lay panellist) and Mr Peter Ward (lay panellist).

The legal adviser to the panel was Carly Hagedorn of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Mr Jacob Rickett of Capsticks LLP.

Ms Hurst was not present, but was represented at the hearing by Ms Denise Robinson, National Association of Schoolmasters Union of Women Teachers (“NASUWT”).

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 23 April 2021.

It was alleged that Ms Hurst was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. Between 1 September 2016 and 23 May 2018, she sought to identify artwork produced by her as the GCSE work of
 - a) Pupil C,
 - b) Pupil E,
 - c) Pupil H.

2. Between 1 September 2016 and 23 May 2018, she provided artwork produced by unknown pupils to
 - a) Pupil A,
 - b) Pupil H.for use as their own GCSE work;

3. Between 1 September 2016 and 23 May 2018, she sought to identify artwork produced by
 - a) ex-Pupil J as the GCSE work of Pupil A,
 - b) Pupil 3 as the GCSE work of Pupil H;

4. On a date between 1 September 2016 and 23 May 2018, she instructed Pupil 2 to assist Pupil A with their GCSE work;

5. By your conduct set out in the foregoing paragraphs, she
 - a) was dishonest, and/or
 - b) failed to act with integrity.

Ms Hurst denied all of the allegations and that they amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Proceeding in absence

The panel considered whether this hearing should continue in the absence of the teacher.

The panel was satisfied that the TRA complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018, (the "Procedures").

The panel exercised its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took into account the principle from R v Jones that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional.

In making its decision, the panel noted that the teacher may waive her right to participate in the hearing. The panel took into account the various factors drawn to its attention from the case of R v Jones [2003] 1 AC1.

As the teacher's representative was present during the hearing, the panel noted that Ms Hurst would have been aware of the proceedings and had absented herself. The panel therefore considered that Ms Hurst waived her right to be present at the hearing.

The panel did not consider that an adjournment might result in the teacher attending voluntarily as the teacher's representative informed the panel that the lengthy process has already impacted on Ms Hurst's health and that she would not be attending the hearing.

Ms Hurst was represented at the hearing and could receive instructions during the hearing, if necessary. The panel had the benefit of representations made by the teacher's representative.

The panel noted that they could test that evidence in questioning witnesses attending the hearing, considering such points which are favourable to the teacher, and reasonably available on the evidence. The panel did not identify any significant gaps in the documentary evidence provided to it and should such gaps arise during the course of the hearing, the panel may take such gaps into consideration in considering whether the hearing should be adjourned for such documents to become available and in considering whether the presenting officer has discharged the burden of proof. The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel recognised that the allegations against the teacher were serious and that there was a real risk that if proven, the panel will be required to consider whether to recommend that the teacher ought to be prohibited from teaching.

The panel recognised that the efficient disposal of allegations against teachers is required to maintain confidence in the profession.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that in light of the teacher's waiver of her right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these were serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

Additional evidence

The teacher's representative applied to admit a photograph of Ms Hurst's original artwork. This document was not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether the document should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel took into account the representations from the teacher's representative and no objection was raised by the presenting officer to the admission of the document.

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel was satisfied that the document may reasonably be considered to be relevant to the case as an undisputed example of the artwork produced solely by the teacher.

By reason of the above, the panel has decided to admit the document and these should be paginated as follows:

- Teacher's original artwork – page 625

Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 6 to 9

Section 2: Notice of proceedings and response – pages 10 to 16

Section 3: Teaching Regulation Agency witness statements – pages 17 to 36

Section 4: Teaching Regulation Agency documents – pages 37 to 602

Section 5: Teacher documents – pages 603 to 624

In addition, the panel agreed to accept the following:

- Teacher's original artwork – page 625

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

Witnesses

The panel heard oral evidence from the following witnesses called by the presenting officer on behalf of the TRA:

Witness A – [redacted]

Witness B – [redacted]

Witness C – [redacted]

Witness D – [redacted]

No witnesses were called by the teacher's representative.

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 Hurst was employed as a teacher from 1 September 2011 at Bedford High School ("the School"). On 23 May 2018, an allegation of malpractice in relation to examinations

and assessments was made by a pupil in Ms Hurst's art class. It was alleged that Ms Hurst had included artwork in the GCSE exam portfolios of some pupils that had not been produced by them. Ms Hurst was invited on 15 October 2018 to a disciplinary hearing to be held on 5 November 2018. Ms Hurst resigned from her post as Teaching and Learning Coordinator of Art on 29 October 2018. In July 2019, the Assessment and Qualifications Alliance ("AQA") determined that Ms Hurst had committed deception by substituting candidates' non-examination assessment portfolio work with work produced by others.

Findings of fact

The findings of fact are as follows:

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

1. Between 1 September 2016 and 23 May 2018, you sought to identify artwork produced by you as the GCSE work of

a) Pupil C,

The panel considered the notes from the meeting between Pupil C, the deputy headteacher and the HR manager on 5 June 2018. Pupil C identified a drawing he had drawn previously in his sketchbook. Pupil C said "*Miss had rubbed it out and Miss drew it and painted it.*" "*The face was drawn by Miss.*" Pupil C said that he "*didn't like it*". The drawing was supposed to be Pupil C's girlfriend and he said that "*it didn't look like her*".

The panel found that the evidence from the pupil was reliable and credible.

The panel found allegation 1(a) proved.

1. Between 1 September 2016 and 23 May 2018, you sought to identify artwork produced by you as the GCSE work of

b) Pupil E

The panel considered a written statement from Pupil 1 dated 23 May 2018: "*Also, with [Pupil] E in the year 10 mock, she started his canvas again for him and finished the canvas completely herself*".

On 12 June 2018, a meeting was held between Pupil 1, the deputy headteacher and the HR manager. Pupil E's portfolio was presented to Pupil 1 during the meeting. When discussing a picture of a yellow flower, Pupil 1 stated "*Miss drew out the whole picture. Miss did the top petal and right hand petal. [Pupil] E tried to do the bottom right petal*".

The panel also considered the meeting notes between Pupil 5, the deputy headteacher and the HR manager held on the 13 June 2018. The notes stated that "*Miss helped and*

painted shaded petals top and right hand side petals”, when referring to the yellow flower image in Pupil E’s portfolio.

The panel noted that the pupils had given corroborating accounts. The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 1(b) proved.

1. Between 1 September 2016 and 23 May 2018, you sought to identify artwork produced by you as the GCSE work of

c) Pupil H

The panel considered the note from the meeting between Pupil H, the deputy headteacher and the HR manager held on the 18 June 2018. Upon review of her sketchbook, Pupil H said *“Photo 9 is Miss Hurst’s... I didn’t see it being drawn but Miss said she had drawn it.”*

The panel considered the notes from the meeting between Pupil 3, the deputy headteacher and the HR manager held on the 15 June 2018. On review of Pupil H’s portfolio, when referring to pages 9 and 10, Pupil 3 stated that *“Miss did these for [Pupil] H. Miss was drawing them out, it’s Miss’s handwriting”*.

“The Temples (picture 12) Miss did, drawing was already done”. Pupil 3 saw *“Miss paint it in front of [Pupil] H.”*

When referring to the Egyptian Queen / leaf page (picture 14), Pupil 3 said *“[Pupil] H didn’t do that, it was Miss...Miss had done this page and said to [Pupil] H “just add some tiny bits of shading” and [Pupil] H said “oh thanks that’s really good.””*

The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 1(c) proved.

2. Between 1 September 2016 and 23 May 2018, you provided artwork produced by unknown pupils to

a) Pupil A

for use as their own GCSE work

The panel considered Pupil 1’s written statement which was compiled between May and June 2018 where she stated that Ms Hurst *“has also taken work from last year/previous year [pupils] and put it into his [Pupil A’s] file claiming it is his work”*.

The panel considered the note of the meeting between Pupil 1 and the headteacher held on the 24 May 2018. Pupil 1 stated that Ms Hurst *“took 2 canvases and stuck them in*

Pupil A's book". Pupil A said that she *"had seen these pieces of work before in that classroom and they were now in [Pupil] A's file"*.

When the headteacher presented Pupil A's portfolio and asked Pupil 1 to go through it, referring to pages 4 and 5 of the portfolio, Pupil 1 stated, that *"these pieces were not Pupil A's work"*. Pupil 1 said that she *"had seen them amongst Year 11 stuff or in the back room"*.

When referring to pages 6 and 7 of Pupil A's portfolio, Pupil 1 identified the bottom right painting (blue face) saying she *"had seen this painting on display on the wall before, last year, and was sure that this was how previous years' pieces of artwork were backed"*.

The panel considered the interview note from the headteacher's meeting with Pupil 2 held on the 24 May 2018. *"[Pupil] 2 went through the portfolio presented and identified a number of pieces of work that were not [Pupil] A's work. Page 1, Page 3 were not [Pupil] A's work. Pupil 2 commented on one piece of work saying "the teacher (NH) had found this piece of work and it had the same first name as [Pupil] A written on the back of the piece of artwork" and the teacher said "they're yours now" to Pupil A who replied "ok"*.

A meeting took place between Pupil 6, the deputy headteacher and the HR manager on 7 June 2018. In this meeting, Pupil 6 identified Pupil A as having been given access to work produced by previous pupils. Pupil 7 also identified Pupil A as having been given access to work produced by previous pupils in a meeting with the deputy headteacher and the HR manager held on the 7 June 2018.

In a meeting between Pupil 8, the deputy headteacher and the HR manager held on the 15 June 2018, Pupil 8 said *"Other [pupils] got work from Miss. Miss got previous work out from the backroom. Yes I saw her give it to [Pupil] A."*

The panel noted that the pupils had given corroborating accounts. The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 2(a) proved.

2. Between 1 September 2016 and 23 May 2018, you provided artwork produced by unknown pupils to

b) Pupil H

for use as their own GCSE work

The panel considered the note from the meeting between Pupil H, the deputy headteacher and the HR manager held on the 14 June 2018. Pupil H identified a number of pieces in her portfolio which was not her artwork. For example, when referring to the picture of four flowers, Pupil H said *"Miss came out with these. Don't know whose work it is. Miss said use these". I stuck them in my portfolio."*

The panel considered the statement from Pupil 3's meeting held on the 5 June 2018 with the deputy headteacher and the HR manager. Pupil 3 said that she witnessed "*Miss Hurst ripping out peoples work. Big black paper, Miss took work off black paper – handed it to [Pupil] A and [Pupil] H. [Pupil] H said that's not mine, miss said "it's yours now". Miss was saying "sush" to [Pupil] 3.*"

On 13 June 2018, Pupil 3 attended a meeting with the deputy headteacher and the HR manager. Pupil 3 was asked to go through the portfolio of Pupil H to identify if any work was not Pupil H's work. On page 2 of the portfolio, there were four pictures of flowers. Pupil 3 remembered Miss Hurst giving these four pieces to Pupil H and Miss said "*these are yours*".

The deputy headteacher and the HR manager also met with Pupil 5 on 13 June 2018. Pupil H's portfolio was presented to Pupil 5. When referring to the image of the yellow flower, Pupil 5 said that she "*thinks this is someone else's work. It just looks like some of the work I've seen in the backroom and we don't back work like that.*"

In a meeting between Pupil 8, the deputy headteacher and the HR manager held on the 15 June 2018, Pupil 8 said "*[Pupil] H didn't have a lot of work and then all of a sudden there was all this work appeared in her portfolio. [Pupil] H told me that Miss had given work to [Pupil] H. Miss said to [Pupil] H that some of the work in her Egyptian booklet wasn't good enough and Miss ripped the pages out and Miss pulled out pages from another girl's book and gave these to [Pupil] H. Miss put Egyptian stuff in [Pupil] H's book*".

The panel noted that the pupils had given corroborating accounts. The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 2(b) proved.

3. Between 1 September 2016 and 23 May 2018, you sought to identify artwork produced by

a) ex-Pupil J as the GCSE work of Pupil A

The panel considered Pupil 1's interview with the headteacher held on the 24 May 2018. When the headteacher presented Pupil A's portfolio and asked Pupil 1 to go through it, Pupil 1 was "*100% positive that both these pieces were not [Pupil] A's work and further commented that the top piece of artwork was a previous Year 11 [pupil's] work who is no longer at the school and will be referred to as [Pupil] J*".

On 25 May 2018, a meeting took place between Pupil A, Pupil A's grandmother, the deputy headteacher and the HR manager. In this meeting, Pupil A asked if he could take more of the black backing off the blue Francois Neilly canvas that had the name of Pupil J on the top of the canvas back, which he did and found the name of Pupil J written further down on the back of the canvas picture as well as on the top.

On 13 June 2018, a meeting took place between ex-Pupil J and the HR manager. In the meeting ex-Pupil J confirmed that the pictures taken by the HR manager of Pupil A's portfolio did contain ex-Pupil J's work. The photos of ex-Pupil J's work formed part of the evidence.

The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 3(a) proved.

3. Between 1 September 2016 and 23 May 2018, you sought to identify artwork produced by

b) Pupil 3 as the GCSE work of Pupil H

The panel considered the meeting between Pupil 3, the deputy headteacher and the HR manager held on the 15 June 2018. Pupil 3 confirmed in the meeting that she changed her topic from 'Egyptian' to 'Under the Sea'. Pupil 3 was going to put her work in the bin, Miss said "don't do that". Pupil 3 asked "why?" Miss said "I'm going to use it for [Pupil] H. Miss started to staple the ripped out pages from [Pupil] 3's old sketchbook of work and put it into a [plain] book (new book). [Pupil] 3 didn't say anything. This new book was [Pupil] H's book."

On 18 June 2018, a meeting took place between Pupil H, the deputy headteacher and the HR manager. When Pupil H reviewed pages 2 and 3 of her sketchbook, she said "Yes it's [Pupil] 3's. [Pupil] 3 tried to put them in the bin and Miss Hurst said "no leave them here". "Miss Hurst put the pages in the book, in class, whilst I was stood next to her. Miss stapled the pages because they wouldn't stick in because they had been ripped". Pupil H identified further artwork in her sketchbook which was Pupil 3's work.

The panel noted that the pupils had given corroborating accounts. The panel found that the evidence from the pupils was reliable and credible.

The panel found allegation 3(b) proved.

5. By your conduct set out in the foregoing paragraphs, you

a) were dishonest

The panel had regard to the legal adviser's advice when considering an allegation of dishonesty. The panel needed first to ascertain subjectively the actual state of Ms Hurst's knowledge or belief as to the facts. Secondly, the panel needed to determine whether Ms Hurst's state of mind was honest or dishonest by the application of the objective standards of the ordinary honest person.

The panel firstly turned its mind to the actual state of Ms Hurst's knowledge or belief as to the facts. The panel considered the statement from Pupil 3's meeting held on the 5 June 2018 with the deputy headteacher and the HR manager. Pupil 3 said that she witnessed

“Miss Hurst ripping out peoples work. Big black paper, Miss took work off black paper – handed it to [Pupil] A and [Pupil] H. [Pupil] H said that’s not mine, miss said “it’s yours now”. Miss was saying “sush” to Pupil 3.

Witness D, who was present during the pupil meetings, confirmed in her oral evidence that all pupils were referring to Ms Hurst when referring to “Miss” during the meetings. The panel noted that because Ms Hurst had said “sush” to Pupil 3, Ms Hurst acted deliberately and was conscious of her conduct.

The panel noted that Witness C had stated in evidence that when Ms Hurst produced samples of work, for Ms Hurst and Witness C to moderate together, Ms Hurst only produced the sample portfolios of pupils which solely contained their own original work. The panel considered that Ms Hurst deliberately concealed the pupil portfolios which contained work which was not created by the owner of the portfolio. Furthermore, the panel found that these actions would be regarded by the standards of ordinary, decent people to be dishonest.

The panel found Witness C’s evidence to be reliable and credible.

The panel therefore found allegation 5a proved.

5. By your conduct set out in the foregoing paragraphs, you

b) failed to act with integrity

When considering lack of integrity, the panel recognised that this allegation connotes adherence to the ethical standards of one’s own profession that involves more than mere honesty. It is linked to the manner in which the profession professes to serve the public.

The panel recognised that in addition to Ms Hurst acting dishonestly, Ms Hurst’s actions fell short of the ethical standards and the AQA examination regulations.

The panel noted Ms Hurst’s disregard for the significant potential risk to the pupils’ academic future as a result of her actions. In addition, the panel noted the risk of reputational damage to the School.

The panel considered that Ms Hurst’s behaviour did not adhere to the ethical standards of a teacher and was in contrast to the manner in which the profession professes to serve the public. The panel therefore found allegation 5b proved.

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

4. On a date between 1 September 2016 and 23 May 2018, you instructed Pupil 2 to assist Pupil A with their GCSE work

The panel considered the notes from the meeting between Pupil 2, the headteacher, the assistant headteacher and the HR manager dated 24 May 2018.

“[Pupil] 2 was told by the teacher to help [Pupil] A and did so by finishing the piece of coursework and producing the writing on it, writing what they thought was correct as [Pupil] A didn’t know what to write.”

When questioned by the teacher’s representative, Witness A confirmed that pupils are expected to adopt the “*see three before me*” technique, where pupils are expected to find assistance from three sources to address a query they may have before asking for help from their teacher. Witness A confirmed that asking another pupil could form part of one of those three steps.

The panel found Witness A to be reliable, credible and had exercised due diligence appropriately and professionally.

The panel noted that three different types of handwriting were identified by Pupil A and Pupil 2 in Pupil A’s portfolio.

The panel considered Ms Hurst’s written statement to the school in response to the school’s investigation. Ms Hurst stated that “*some pupils have handwriting that cannot be read clearly or is too big to fit in certain areas, there is no rule to say I or someone else cannot write out their annotation, providing it has been dictated by the pupil/s*”.

The panel noted that it was not clear from the evidence what exactly Ms Hurst had instructed Pupil 2 to do.

On the balance of probabilities, the panel did not find allegation 4 proved.

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

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

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as “the Advice”.

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

- at all times observing proper boundaries appropriate to a teacher's professional position
- 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.

As head of department for a number of years, Ms Hurst should have been aware of the AQA specifications in relation to the appropriate amount of support that pupils can receive as part of their GCSE preparation. In addition, Ms Hurst had received training in relation to the AQA requirements. The panel was satisfied that the conduct of Ms Hurst amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Ms Hurst's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that the offence of serious dishonesty was relevant.

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.

Accordingly, the panel was satisfied that Ms Hurst was guilty of unacceptable professional conduct.

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

The panel found that Ms Hurst acted dishonestly and her actions fell short of the ethical standards and the AQA examination regulations. The panel noted Ms Hurst's disregard for the significant potential risk to the pupils' academic future as a result of her actions. In addition, the panel noted the risk of reputational damage to the School.

The panel therefore found that Ms Hurst's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1(a), 1(b), 1(c), 2(a), 2(b), 3(a), 3(b), 5(a) and 5(b) proved, the panel further found that Ms Hurst's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct/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 considered 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 found two of them to be relevant in this case, namely, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Ms Hurst, which involved findings of malpractice and a failure to act honestly and with integrity, there was a strong public interest consideration in that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Hurst 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 Hurst was outside that which could reasonably be tolerated.

The panel considered the public interest consideration in retaining the teacher in the profession. No doubt had been cast upon Ms Hurst's abilities as an educator, but the panel noted a lack of supporting evidence of her recent abilities.

The panel did see a job reference dated 20 June 2012 from a previous colleague of Ms Hurst which stated:

"Nicola is an excellent teacher. From my experiences she delivers outstanding / innovative lessons. Her class management is very good. Her attitude towards work is superb. I would highly recommend her to work in the school."

The panel noted that this reference was given eight years ago and there was no current evidence to consider. However, the panel considered that Ms Hurst had been internally promoted at the School indicating that the School deemed her to be competent and had the sufficient skills to be the Teaching and Learning Coordinator of Art.

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 Hurst.

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 Hurst. 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;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;

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 evidence that Ms Hurst's actions were deliberate as she told Pupil 3 to "*sush*" when she gave Pupil 3's artwork to Pupil H.

There was no evidence to suggest that Ms Hurst was acting under duress.

The panel considered whether Ms Hurst's actions were out of character. However, there was no character evidence before the panel.

The panel did not see evidence which showed Ms Hurst was previously subject to disciplinary proceedings/warnings.

The panel noted that the teacher's representative commented upon Ms Hurst's health at the time of the incidents which may have contributed to her actions. There was no medical evidence presented to the panel for consideration.

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 Ms Hurst 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 Ms Hurst. The fact that Ms Hurst acted dishonestly and showed a complete disregard for the AQA examination regulations were significant factors in forming that opinion. The panel considered the need to maintain the public confidence and integrity in GCSE work. Ms Hurst completely undermined these fundamental principles. The panel noted that Ms Hurst involved pupils in her deception. 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 two years.

The panel noted that Ms Hurst showed no insight or remorse in respect of her conduct.

The panel decided that the findings indicated a situation in which a review period would be appropriate. The panel did not consider that Ms Hurst's actions resulted in any personal gain and that she was motivated by a misguided belief that she was simply helping the pupils. As such, the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a two-year review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. In this case, the panel has found one of the allegations not proven, I have therefore put that matter entirely from my mind.

The panel has made a recommendation to the Secretary of State that Ms Nicola Hurst should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Ms Hurst 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

- at all times observing proper boundaries appropriate to a teacher's professional position
- 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 Ms Hurst fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include a finding of malpractice and a failure to act honestly and with integrity.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may 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 Ms Hurst, and the impact that will have on her, is proportionate and in the public interest.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel noted that Ms Hurst showed no insight or remorse in respect of her conduct." In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and 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 considered the need to maintain the public confidence and integrity in GCSE work. Ms Hurst completely undermined these fundamental principles. The panel noted that Ms Hurst involved pupils in her deception. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect." I am particularly mindful of the finding of malpractice dishonesty 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 unacceptable professional conduct, 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 Hurst herself and the panel comment “No doubt had been cast upon Ms Hurst’s abilities as an educator, but the panel noted a lack of supporting evidence of her recent abilities.” However “the panel considered that Ms Hurst had been internally promoted at the School indicating that the School deemed her to be competent and had the sufficient skills to be the Teaching and Learning Coordinator of Art.” A prohibition order would prevent Ms Hurst 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 regarding dishonesty “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 Ms Hurst. The fact that Ms Hurst acted dishonestly and showed a complete disregard for the AQA examination regulations were significant factors in forming that opinion.”

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Hurst 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, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2 year review period.

I have considered the panel’s comments “The panel did not consider that Ms Hurst’s actions resulted in any personal gain and that she was motivated by a misguided belief that she was simply helping the pupils. As such, the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a two-year review period.”

I have considered whether 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 and in this case I have decided it does.

This means that Ms Nicola Hurst 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 21 July 2023, 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, Ms Hurst remains prohibited from teaching indefinitely.

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

Ms Hurst has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.

A handwritten signature in black ink, appearing to read 'SABuxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 16 July 2021

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