



Teaching  
Regulation  
Agency

# **Mr Andrew Prestoe: Professional conduct panel outcome**

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

**October 2021**

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

**Teacher:** Mr Andrew Prestoe

**TRA reference:** 17231

**Date of determination:** 15 October 2021

**Former employer:** Samuel Ward Academy Trust, Haverhill, Suffolk.

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4 to 8 October 2021 and 11 to 15 October 2021 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Andrew Prestoe in a joint hearing with Mr Howard Lay and Mrs Pat Stalker.

The panel members were Mr Maurice McBride (lay panellist – in the chair), Ms Fiona Tankard (teacher panellist) and Mr John Armstrong (lay panellist). The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Miss Lucy Coulson of Counsel, instructed by Browne Jacobson LLP solicitors.

Mr Howard Lay was present and was represented by Mr Jonathan Storey of Counsel, instructed by Mr Colin Henderson.

Mr Andrew Prestoe was present on 4, 7 and 15 October 2021 only, but was represented throughout by Mr Tim Glover, Solicitor of the Association of School and College Leaders.

Ms Pat Stalker was present on 4 to 8, and 11 and 12 October 2021 and was represented by Mr Andrew Faux of Counsel instructed by Mr Faisal Sameja on 4 to 8 October 2021 and by Mr Sameja alone on 11 to 15 October 2021

The hearing was recorded and took place in public, save that the panel agreed to hear evidence relating to [REDACTED].

## **Allegations**

### **Mr Andrew Prestoe**

It was alleged that Mr Andrew Prestoe was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst a Deputy Head Teacher from 2012 and then a Head of School at Samuel Ward Academy Trust from September 2013 until May 2016, he:

1. Failed to have adequate regard for the need to safeguard pupils' well-being in connection with Individual C (former teacher at SWAT) in accordance with statutory provisions and/or applicable guidance.
2. Submitted or allowed or caused others to submit data in connection with the school's annual census in 2015 and 2016 that he knew or should have known to be incomplete and/or which failed to give a true picture of the school's performance.
3. Caused, allowed and/or failed to report exam malpractice after he became aware of it in connection with pupils' assessed work from 2012 - 2016, specifically in relation to:
  - a. the identifying and over-assisting pupils, either by himself or others, in relation to pupils' English coursework in the academic year 2011 - 2012;
  - b. the inflation of grades entered for controlled assessments in the modern foreign language subject of French in the academic year 2015 - 2016;
4. The facts as may be found proven at allegations 2 and 3 above amount to dishonesty and/or a lack of integrity.

Mr Prestoe admitted allegations 1, 2 and 3b. In relation to allegation 3a, he admitted identifying students who were under performing and required further assistance, but denied over-assisting them. As to allegation 4, Mr Prestoe admitted that his conduct in allegation 2 was dishonest and lacked integrity, but made no such admission in respect of allegation 3. Mr Prestoe admitted that his conduct in allegations 1, 2, 3b and 4 amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Preliminary applications**

### **Applications to admit additional documents**

An application was made by the presenting officer to submit a revised opening note to correct an inaccuracy in the note previously circulated. There was no objection by the parties and the panel agreed to admit the revised document, whilst noting that it did not constitute evidence.

Mr Storey applied to admit additional documents, namely [REDACTED] and a statement of Individual A dated 31 August 2021. There was no objection by the other parties to the admission of these documents and the panel agreed to admit them. They were added to section 5 of the bundle as pages 205 to 211.

Mr Glover applied to admit additional documents, namely exhibits to the statement of Mr Prestoe, a further witness statement of Mr Prestoe, and his signed statement of agreed facts. There was no objection by the parties to the admission of these documents and the panel agreed to admit them. They were added to section 6 of the bundle as pages 58 to 96.

Mr Faux applied to admit additional documents, namely the response to Notice of Proceedings and a signed copy of the statement of agreed facts of Mrs Stalker. There was no objection by the other parties to the admission of these documents and the panel agreed to admit them. They were added to section 7 of the bundle as pages 291 to 299.

### **Application for evidence to be given by video link**

The panel considered applications for some of the witnesses to give evidence by video link, rather than appear in person. Miss Coulson made an application in relation to Witness B and Witness D. Mr Glover made an application in relation to Witness F. Mr Storey made an application in relation to Witness H, Witness I, Witness G and Witness J. There was no objection by any party to any of these applications. The panel agreed that, in the current circumstance and given the agreement of the parties, each named witness be permitted to give evidence by video link.

### **Application for part of the hearing to be in private**

Mr Storey made an application on behalf of Mr Lay for [REDACTED]. There was no objection by the presenting officer or the other parties. The panel agreed that, whilst the hearing would take place in public, the hearing would go into private session should it be necessary to [REDACTED].

### **Application to act as a witness supporter**

Mr Storey made an application that Mr Lay's wife be permitted to act as a witness supporter for Mr Lay. Specifically, the application was for Mrs Lay to be able to sit next to Mr Lay during the hearing and, if required, when giving evidence, in order to provide emotional support and practical assistance in navigating the bundle. There was no objection by any of the other parties. The panel agreed that Mrs Lay be permitted to act as a witness supporter in the manner outlined in Mr Storey's application.

### **Application in relation to the scope of the evidence**

In her opening note, Miss Coulson indicated her intention to explore with all three teachers the alleged culture and history of cheating/pressure in the School. The panel considered an application by Mr Faux on behalf of Mrs Stalker, and by Mr Glover on behalf of Mr Prestoe, regarding the scope of the pleaded allegations. Mr Faux and Mr Glover submitted that the allegations were very specific as to the time period and conduct alleged, that the TRA should be held to that narrow case as pleaded, and that it would be unfair to allow a broad exploration of issues. Mr Faux and Mr Glover also referred to parts of the evidence which they submitted should be excluded. Mr Storey's position, on behalf of Mr Lay, was to agree with the applications of Mr Faux and Mr Glover in principle, but not make any specific submissions about evidence to be excluded.

After hearing the submissions, receiving legal advice and retiring to consider the matter, the chair announced the decision of the panel, as follows:

'The panel has considered an application by Mr Faux on behalf of Mrs Stalker, and Mr Glover on behalf of Mr Prestoe, regarding the scope of the pleaded allegations. Mr Faux and Mrs Stalker also referred to parts of the evidence that they say the panel should exclude which they submit goes beyond the scope of the allegations pleaded against Mrs Stalker and Mr Prestoe. Mr Storey's position on behalf of Mr Lay was to agree with the applications of Mr Faux and Mr Glover in principle, but not make any specific submissions about evidence to be excluded.

On behalf of the TRA, Miss Coulson submitted that evidence about the alleged culture of cheating and pressure within the school was relevant to the issue of culpability and was consistent with an investigative approach. The panel concluded that evidence concerning the alleged culture of examination malpractice and pressure felt by staff to participate in this alleged practice was of potential relevance to any assessment of culpability in relation to the pleaded allegations. The panel was clear that it would be wrong to make any findings of fact relating to alleged conduct beyond that specifically pleaded.

The panel took into consideration the submissions made by Mr Faux and Mr Glover about evidence that they said should be excluded from the bundle. Given the potential relevance of some of that evidence to establishing the wider culture of the leadership within the school, the panel determined that it would not exclude the evidence from the bundle at this stage, but would exercise extreme caution when making any factual determination against any individual teacher.'

## Summary of evidence

### Documents

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

Section 1: Case Management Hearing decisions and anonymised pupil list – pages 2 to 13

Section 2: Notices of hearing and response – pages 15 to 23

Section 3: Teaching Regulation Agency witness statements – pages 25 to 118

Section 4: Teaching Regulation Agency documents – pages 120 to 542

Section 5: Mr Howard Lay documents – pages 2 to 211

Section 6: Mr Andrew Prestoe documents – pages 2 to 96

Section 7: Mrs Pat Stalker documents – pages 2 to 300

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 decided to admit.

On Day 6 of the hearing, Mr Sameja made an application to admit an additional document consisting of a record of telephone calls between Mrs Stalker and her union representative dated 7 February 2021. This had been referred to in Mrs Stalker's oral evidence on Day 5 of the hearing. There was no objection by any of the parties and the panel agreed that this document should be added to section 7 of the bundle as page 301.

On Day 10 of the hearing, Mr Sameja made an application to admit an additional document consisting of a YouGov report entitled, 'Exploring the issue of off-rolling' dated 9 May 2019. There was no objection by any of the parties and the panel agreed that this document should be admitted.

### Witnesses

The panel heard oral evidence from:

- Witness A, [REDACTED];
- Witness B, [REDACTED]; (by video link);
- Witness C, [REDACTED];
- Witness D, [REDACTED]; (by video link);
- Witness E, [REDACTED];

- Mr Andrew Prestoe;
- Witness F, [REDACTED]; (by video link);
- Mrs Pat Stalker;
- Mr Howard Lay;
- Witness G, [REDACTED]; (by audio link);
- Witness H, [REDACTED]; (by video link);
- Witness I, [REDACTED]; (by video link);
- Witness J, [REDACTED]; (by video link).

## **Decision and reasons**

The panel carefully considered this case and reached decisions in relation to each teacher.

These allegations arise out of events that took place at the Samuel Ward Academy ('the School'), which was previously known as Samuel Ward Upper School. It converted to academy status in the academic year 2010-11, later becoming an integral part of the Samuel Ward Academy Trust ('the Trust'). In 2018 it was renamed the Unity Schools Partnership.

Mr Howard Lay was the head teacher of the School from 2000 until 2012. He became the Executive Head Teacher in 2012 and CEO of the Trust in 2013.

Mr Andrew Prestoe was a deputy head teacher of the School between 2010 and 2013, when he became Head of School. [REDACTED].

Mrs Pat Stalker was an assistant head teacher of the School between 2010 and 2016.

The School had been rated by Ofsted as outstanding in 2008 and again in 2012.

It was relevant to these proceedings that as CEO of the Trust, Mr Lay kept in close contact with the senior leadership of the School, including maintaining an office at the School.

In 2018, an internal investigation took place following a number of concerns raised by members of staff about examination malpractice in respect of coursework. The investigation confirmed a number of instances of exam malpractice and resulted in the exposure of the practice of 'off-rolling' at a senior level within the School. Also, during this

investigation, some instances of safeguarding concerns were identified in relation to Mr Prestoe.

The panel was aware that the general term 'off-rolling' can be interpreted in different ways. For the purposes of these proceedings, off-rolling at the School was defined by the panel as the deliberate removal of some Year 11 pupils' names from the School's SIMS system immediately prior to the January census. The names of the removed pupils were re-entered onto the School roll very shortly after the census date. The purpose of this exercise was to ensure that a small percentage of pupils unlikely to achieve five GCSEs graded A to C were not included in the School's results data, thereby misrepresenting the School's GCSE performance.

In considering this case, the panel was very conscious that the allegations against each of the teachers referred to specified periods of time. The panel was presented with evidence of events pre-dating those periods of time. The panel was invited by the presenting officer to consider that wider evidence of the culture within the School as being of potential relevance to the pleaded allegations. The panel understood that it would be wrong to make any findings of fact relating to alleged conduct beyond that specifically pleaded in the allegations. However, the panel considered that it was important to understand the background culture and practices within the School in order to make findings on culpability.

The panel accepted the legal advice provided.

The panel heard evidence from a number of former teachers and a current teacher at the School, called by the TRA. On behalf of the teachers, the panel also heard evidence from the three teachers who were the subjects of these proceedings, together with a number of former teachers of the School, a former School Improvement Partner and a [REDACTED].

## **Findings of fact**

**It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst a Deputy Head Teacher from 2012 and then a Head of School at Samuel Ward Academy Trust from September 2013 until May 2016, you:**

- 1. Failed to have adequate regard for the need to safeguard pupils' well-being in connection with Individual C (former teacher at SWAT) in accordance with statutory provisions and/or applicable guidance.**

Mr Prestoe admitted allegation 1 and signed a statement of agreed facts.

He admitted that, between 1 September 2013 and May 2016, he failed to have adequate regard to the need to safeguard pupils' wellbeing in relation to the actions of a former

teacher (Individual C). Mr Prestoe admitted that he did not act in full accordance with statutory provisions or applicable guidance.

Mr Prestoe accepted that he received complaints about Individual C's behaviour towards pupils and that he failed to act consistently and appropriately in dealing with these complaints. He further accepted that he failed to keep the Local Authority Designated Officer (LADO) consistently involved. He acknowledged that it would have been appropriate to have taken further disciplinary action against Individual C.

The Safeguarding Case Review undertaken by Essex County Council dated 13 February 2018 identified 10 specific complaints or concerns about the conduct of Individual C between December 2013 and September 2015. The nature of these concerns related to Individual C's alleged inappropriate interactions with pupils, both on and off school premises.

Mr Prestoe admitted that he failed to conduct appropriate internal investigations into the allegations raised against Individual C. He further failed to instigate and complete the appropriate disciplinary processes regarding the management of Individual C's alleged unacceptable behaviour towards pupils. Mr Prestoe also failed to make referrals to the LADO as would have been appropriate in all the circumstances. As a result of Mr Prestoe's failure to act in this way, the pupils were exposed to an ongoing risk of potential harm by Individual C.

The panel found allegation 1 proved.

**2. Submitted or allowed or caused others to submit data in connection with the school's annual census in 2015 and 2016 that you knew or should have known to be incomplete and/or which failed to give a true picture of the school's performance.**

Mr Prestoe admitted allegation 2. He admitted that low achieving pupils were deliberately removed from the roll on or around the school census day, the purpose of which was to afford the School marginal gains so as to benefit from a higher performance rating.

Mr Prestoe admitted that he was aware of this practice within the School from the academic year 2010-2011 onwards. Mr Prestoe said that he was not comfortable with this practice, but he chose not to challenge this culture.

Mr Prestoe admitted that, in 2015 and 2016, he instructed others to remove pupils' names from the roll in order to keep the school 'outstanding'. Whilst he was Head of School, Mr Prestoe admitted that he and other staff members had half-termly meetings to identify low achieving pupils whose names were subsequently removed from the roll, in January.

Mr Prestoe admitted that in 2016, he instructed Mrs Stalker to provide a list of these named pupils to another staff member, who would then complete the mechanics of the removal.

The panel found allegation 2 proved.

**3. Caused, allowed and/or failed to report exam malpractice after he became aware of it in connection with pupils' assessed work from 2012 - 2016, specifically in relation to:**

**a. the identifying and over-assisting pupils, either by himself or others, in relation to pupils' English coursework in the academic year 2011 - 2012;**

Mr Prestoe denied this allegation. He admitted that, in the academic year 2011-2012, he was involved in tasks to help the English Department identify year 10/11 pupils whose modular examination grades and current coursework showed that they would need either further examination input or additional support with new coursework to improve their grades. However, Mr Prestoe denied that his conduct involved over-assisting pupils. He had been aware that some pupils with missing coursework were sent to Mr Lay, who was an English teacher, in order to complete coursework.

In order to find allegation 3a proved, the panel recognised it would need to be satisfied that pupils were over-assisted in relation to English coursework in the academic year 2011-2012 and that Mr Prestoe had caused or allowed this, or failed to report it.

Witness B provided a witness statement in which she said that she had witnessed Mr Lay helping a group of pupils with their GCSE English coursework that year. Witness B said that Mr Lay took them into his office and helped them with that work. In her oral evidence, Witness B acknowledged that she had not been in the room with Mr Lay and the pupils concerned and she could not give evidence about what had taken place in the room. Witness B said that, when the pupils came out of Mr Lay's room, they were saying that Mr Lay had told them that would all get A\*s.

As part of the School's investigation, [REDACTED] Individual F was interviewed. Individual F referred to an occasion when Mr Lay had volunteered to take students into his office. She said that when she subsequently marked the work, she found that certain parts sounded very similar in each pupil's work. Individual F said in her interview that she did not know if this was because the students were doing it all together or because Mr Lay was doing it inappropriately.

In his evidence, Mr Lay referred to an occasion, in the summer of 2012, when the Head of English was on maternity leave. He said that he learned that three or four pupils had not completed some GCSE coursework due to oversight by their class teacher. Mr Lay said that he had simply given the pupils concerned a structure to consider when carrying

out the coursework. He said that, as the outline structure was the same for all of the pupils, this might explain why there were some similarities in their work.

The panel was not satisfied that the evidence before it established that there had been any over-assistance with the pupils' English coursework in 2011-2012.

Accordingly, the panel found allegation 3a not proved.

**b. the inflation of grades entered for controlled assessments in the modern foreign language subject of French in the academic year 2015 – 2016;**

Mr Prestoe admitted this allegation on the basis that he failed to report suspected exam malpractice when he became aware of it. The TRA presented the case on the basis that Mr Prestoe may have caused or allowed the inflation of grades entered for controlled assessments in French in the academic year 2015-2016.

Witness B gave evidence that, in April 2016, it emerged that the class of Witness C, [REDACTED], had not completed the 60% controlled assessment. Further, that those who had completed the work had attained very poor marks of around 0-5 out of 30. Witness B said that, when Ms Prestoe became aware of this, he called her and Individual G to a meeting and told Witness B to '*fix it*'. She said that Mr Prestoe told her to do whatever she could do to achieve better grades. Witness B said that she decided to carry out a legitimate unrecorded task with the pupils. She said that she then used the mark sheet on SIMS to note down the marks for the unrecorded task, but these were not to be sent to the exam board. When SIMS was examined later, the marks for the recorded tasks had been inexplicably altered.

The panel also heard evidence from Witness C, whom the panel regarded as an honest witness who did her best to assist. Witness C said that, in May 2016, she emailed Individual H, [REDACTED], with the French GCSE speaking assessment marks that she had awarded. She subsequently saw Witness B and Individual H going through these marks. Witness B told her that she would be seeing some of the pupils that day to re-do their assessments. Witness C said that she was unhappy about this as she believed that the marks that she had submitted were a true reflection of their performance.

Witness C said that she later checked SIMS and realised that some of the marks she entered had been inflated. She subsequently met with Mr Prestoe, who reassured her that the inflated grades would not be submitted to the exam board. She said that, despite this reassurance, she believed that the inflated grades had already been sent to AQA. However, the evidence presented did not clearly establish that inflated grades had been submitted to AQA. Witness C referred to an email which she believed was from AQA asking for moderation materials based on the submitted marks. The panel was presented with the results of the AQA's subsequent investigation, which did not conclude that any incorrect marks had been submitted. For his part, Mr Prestoe stated that he instructed

Individual G and the Exams Officer to remove the allegedly inflated grades and, therefore, in his view no exam malpractice had actually taken place. He accepted that he should have reported Witness C's concerns to the exam board at the time.

Although the panel could not be satisfied by the evidence presented that the incorrect grades had in fact been sent to AQA, the panel noted that inflated grades were included on SIMS for both recorded and unrecorded elements of the controlled assessments. Whilst Witness B agreed that she had entered new, improved grades for the unrecorded work, she denied entering inflated grades for recorded work. The panel was disappointed that it had never been established who was responsible for entering the inflated grades onto SIMS. The panel was satisfied that this constituted exam malpractice even though those grades were not the final grades received by AQA.

Mr Prestoe admitted that he failed to notify the exam board of the alleged malpractice. He accepted that Witness B had acted in response to his instruction to 'fix it' when she completed a new piece of French coursework. That aspect did not, in itself, constitute malpractice. However, the new coursework duplicated the subject matter of a written assessment and was, therefore, ineligible to be entered.

The Irregularities and Appeals Committee of the AQA determined by way of a letter dated 4 February 2019 to suspend his involvement in AQA's examinations until after the 2020 examination session as a result of his having committed exam maladministration in relation to the Summer 2016 GCSE French Controlled Assessment.

The panel could not be satisfied that Mr Prestoe had caused or allowed exam malpractice. However, in addition to failing to report suspected malpractice to AQA, the panel concluded that he also should have ensured that there was a proper investigation into who had entered the inflated marks for the recorded examination on SIMS.

The panel found allegation 3b proved on the basis that Mr Prestoe failed to report exam malpractice when he became aware of it.

#### **4. The facts as may be found proven at allegations 2 and 3 above amount to dishonesty and/or a lack of integrity.**

Mr Prestoe admitted that his conduct in allegation 2 in instructing others to remove pupils' names from the roll for the purpose of keeping the school 'outstanding' was dishonest and lacked integrity. The panel was satisfied that Mr Prestoe's conduct in allegation 2 was dishonest by the standards of ordinary decent people and a breach of the ethical standards of the teaching profession. Accordingly, his conduct was dishonest and lacked integrity.

As to his conduct in allegation 3b, Mr Prestoe denied that his conduct was dishonest or lacking in integrity. In the light of the panel's factual findings, the panel was not satisfied that Mr Prestoe's conduct was dishonest. However, the panel was satisfied that his

conduct breached of the ethical standards of the teaching profession and, therefore, lacked integrity.

The panel, therefore, found allegation 4 proved.

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

Having found allegations 1, 2, 3b and 4 proved, the panel went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Mr Prestoe admitted that his conduct in allegations 1, 2, 3b and 4 amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel took those admissions into account, but made its own determinations.

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 Mr Prestoe, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Prestoe 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
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Prestoe's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mr Prestoe amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Accordingly, the panel was satisfied that Mr Prestoe was guilty of unacceptable professional conduct.

As to conduct that may bring the profession into disrepute, 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 findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the protection of pupils, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct, and the interest of retaining the teacher in the profession.

There was a public interest consideration in respect of the protection of pupils, given Mr Prestoe's failure to invoke effective safeguarding procedures whilst he was Head of School.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Prestoe were 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 Prestoe was outside that which could reasonably be tolerated.

The panel decided that there was a strong public interest consideration in retaining Mr Prestoe in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Prestoe.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Prestoe. 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 it has been repeated;

It was clear to the panel that the practice of off-rolling that occurred in this case was wholly unacceptable. Part of the School's reputation was founded on the outstanding ratings that the School had achieved and had maintained. The panel believed that a school's continued outstanding status ought to be based on accurate and honest attainment data. Off-rolling as practised by the school in this case called into question the overall validity of the School's reputation.

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.

Mr Prestoe had a previously good record. The panel noted that his suspension by the AQA was for failing to report exam malpractice rather than for any actual malpractice for which he was directly responsible. This suspension was imposed in February 2019 until the summer of 2020.

The panel was satisfied that Mr Prestoe believed that he was following an embedded off-rolling practice at the School. The panel also noted the evidence of Witness J, a witness for Mr Lay, that he believed that Mr Prestoe was not fully equipped to handle the responsibilities of a Head of School as he had relatively little experience as a deputy head teacher before being appointed as Head of School. Witness J also highlighted that Mr Prestoe did not benefit from mentorship. Mr Prestoe accepted that he ought to have sought specific safeguarding training as Head of School.

The panel considered a number of very positive testimonials in support of Mr Prestoe. One of these testimonials from a colleague [REDACTED] by Mr Prestoe at the [REDACTED] between September 2016 and February 2018 said:

*'Andy had a unique way of seeing the strengths and abilities in everyone, staff and students alike. I had the pleasure of seeing him teach on a couple of occasions and was blown away by his lessons, and his interaction with students was second to none. They always appeared so captivated and you could see the level of respect that they had for him. The welfare of children was incredibly important to him, he always had the students' best interests at heart and being able to contribute towards creating happy smiling faces with an eagerness for learning was definitely something I truly believed he prided himself on.'*

*Andy is by far one of most inspiring, committed and well driven people I have ever had the pleasure of working with and for. I always thought of him to be professional, incredibly dedicated and he was clearly very proud to be part of the educational system...The man has a gift, a gift for teaching, a gift for inspiring people and a gift for leading, I only wish that my own two children could be guided through their school lives by someone as truly remarkable as him.'*

The panel paid particular attention to evidence from Witness F, [REDACTED], where Mr Prestoe is currently employed. Witness F provided a detailed written reference and also gave oral evidence (by video link) at the hearing. Witness F confirmed that he appointed Mr Prestoe to undertake a maternity cover role as a History teacher starting in September 2018. Witness F said that, during the application process, Mr Prestoe was entirely open regarding the events at Samuel Ward Academy and the allegations against him. Witness F said:

*'The teacher who Andy covered for is one of our most inspiring and popular members of staff, therefore this was not the easiest of roles to step into. It was quickly apparent to myself, and the rest of the staff in the school, that Andy was more than equipped for this challenge. He is exceptional in the classroom. He immediately established effective routines and supported the learning of all of the students in his classes, irrespective of the ability or background. He has taught in all of the key stages in the school. He has also played a key role in the department through the production of resources and supporting the Head of History and the Head of Religious Studies.'*

*Andy is also a Year 7 tutor. He has demonstrated that he is very compassionate and has supported our students as they join the school. Given the staffing structure in the school, I have not been able to offer Andy a History post upon the return of the teacher from maternity cover, but I have been able to offer him another maternity post in Religious Studies. His proficiency in the classroom meant that myself, and*

*the leaders in humanities, wanted to ensure Andy could continue to work with our students.*

*In 2019 we appointed Andy to the position of Head of Careers in the school. Andy has been given a TLR to oversee this essential area of the school. In the time that he has been undertaking the role, he has demonstrated the wider impact he is able to have beyond the classroom and through the leadership of others. He was also given a permanent contract following on from the maternity cover.*

*From September 2021 Andy will be undertaking a further role as a Teaching and Learning Coach. This is in recognition of his exceptional practice in the classroom and our desire to have other teachers benefit from Andy's expertise. He has always been willing to support the professional practice of others and I am delighted to be able to formalise this by giving him this opportunity. Andy will be teaching both Religious Education and History classes throughout the school.*

*We are in a time when we are faced with losing unprecedented numbers of teachers from our profession and it is increasingly difficult to fill posts. I have had a number of conversations with Andy where we have discussed the decisions he made whilst he was a headteacher and the impact of those. Although I believe Andy fully accepts his failings, in respect of the allegations which he admits, he has paid a very high price for his errors both professionally and personally already. I would ask the panel that Andy can continue to teach, and continue to teach at [REDACTED] because my students and colleagues benefit greatly from him being part of our profession. My school is better for Andy being part of it and I would like him to be able to [REDACTED].'*

It was submitted on behalf of Mr Prestoe that the misconduct that has been found proved in his case occurred between five and eight years ago and he was referred to the TRA in May 2018. The case was first listed for hearing in July 2019. In accordance with the judgment in *Selvarajan v GMC* [2008] EWHC 182, the panel accepted that the longer the threat of prohibition order is hanging over a teacher's head the more severe such a sanction will be. Although this was not a decisive consideration, it was a factor that the panel took into account when assessing proportionality.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Having considered the mitigating factors that were present, as outlined above, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the

teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

## **Decision and reasons on behalf of the Secretary of State**

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

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

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

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

In particular, the panel has found that Mr Prestoe 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
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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 Mr Prestoe, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “the practice of off-rolling that occurred in this case was wholly unacceptable.” 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 the wider issue of evidence relating to insight and remorse, which the panel sets out as follows, “Witness F said that, during the application process, Mr Prestoe was entirely open regarding the events at Samuel Ward Academy and the allegations against him.” 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, “The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

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 Mr Prestoe himself. The panel set out evidence of Mr Prestoe’s teaching contribution.

A prohibition order would prevent Mr Prestoe from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning Mr Prestoe’s contribution, “The panel paid particular attention to evidence from Witness F, [REDACTED].”

For all of these reasons I agree with the panel that in this case, “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.”

A handwritten signature in blue ink, consisting of stylized initials and a surname, followed by a vertical line.

**Decision maker: Alan Meyrick**

**Date: 20 October 2021**

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