



Teaching
Regulation
Agency

Mrs Kate McCann (Née Smith): Professional conduct panel outcome

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

January 2020

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	6
D. Summary of evidence	8
Documents	8
Witnesses	8
E. Decision and reasons	8
Panel's recommendation to the Secretary of State	20
Decision and reasons on behalf of the Secretary of State	23

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

Teacher: Mrs Kate McCann
Teacher ref number: 0061520
Teacher date of birth: 14 June 1979
TRA reference: 17774
Date of determination: 9 January 2020
Former employer: [Redacted]

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 8 and 9 January 2020 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mrs Kate McCann.

The panel members were Ms Hilary Jones (lay panellist), Ms Karen McArthur (lay panellist – in the chair) and Mr Phillip Riggon (teacher panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the TRA was Ms Helen Smith of DAC Beachcroft LLP.

Mrs McCann was not present and was not represented.

The hearing took place in private and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 15 November 2019.

It was alleged that Mrs McCann was guilty of unacceptable professional conduct and/or conduct that may bring the teaching profession into disrepute in that, whilst a teacher at the School:

1. She engaged in inappropriate social media contact with Individual A:
 - a. by accepting a social media 'friend request' from Individual A;
 - b. by exchanging a high volume of social media messages with Individual A on dates between 2 July and 2 August 2017;
 - c. by exchanging inappropriate social media messages on dates between 2 July and 2 August 2017 with Individual A, including in particular:
 - i. messages referring to matters of a sexual nature;
 - ii. messages in which she referred to Individual A as "daughter" and/or to herself as "mother" or "mum and/or allowed her to refer to her as "mother" or "mum";
 - iii. messages which referred to drinking alcohol;
 - iv. messages which referred to drug taking;
 - v. messages in which she commented on individual A's parents;
 - vi. messages in which she discussed Individual A leaving home.
2. She sent social media messages to Individual A on dates between 2 July and 2 August 2017 whilst she was at school during working hours.
3. She sent one or more social media messages to Individual A on dates between 2 July and 2 August 2017 about members of staff at the school that:
 - a. revealed confidential matters to Individual A;
 - b. were disparaging;
 - c. contained her personal thoughts about various members of staff.
4. She sent one or more social media messages about pupils and/or ex pupils of the School on dates between 2 July and 2 August 2017 that:
 - a. revealed confidential matters to Individual A;
 - b. were disparaging;
 - c. contained her personal thoughts about various pupils and/or ex pupils of the School.

5. She met up with Individual A, on the following occasions:
 - a. on or around 4 July 2017 at Venue A;
 - b. on or around 17 July 2017 at Venue B;
 - c. on 1st August 2017.
6. She did not notify the School or any other appropriate third party when Individual A disclosed information to her that she had suicidal thoughts and/or that she was taking medication between 2 July and 2 August 2017.
7. She caused or permitted Individual A to mark year 7 and year 8 examination papers between 2 July and 2 August 2017.
8. Her behaviour, as set out in all or any of the allegations above took place in circumstances where you were aware or should have been aware that Individual A was a particularly vulnerable young person.
9. By her conduct set out in the following paragraphs, she failed to observe a proper boundary appropriate to a teacher's professional position:
 - a. Paragraph 1;
 - b. Paragraph 2;
 - c. Paragraph 3;
 - d. Paragraph 4;
 - e. Paragraph 5;
 - f. Paragraph 6;
 - g. Paragraph 7.
10. By her conduct in the following paragraphs, she failed to demonstrate proper and professional regard for the ethos, policies and practices of the School:
 - a. Paragraph 1;
 - b. Paragraph 2;
 - c. Paragraph 3;
 - d. Paragraph 4;
 - e. Paragraph 5;
 - f. Paragraph 6;
 - g. Paragraph 7.

11. By her conduct in the following paragraphs, she failed to maintain high standards of behaviour within and/or outside of school:

- a. Paragraph 1;
- b. Paragraph 2;
- c. Paragraph 3;
- d. Paragraph 4;
- e. Paragraph 5;
- f. Paragraph 6;
- g. Paragraph 7;

12. By her conduct set out in Paragraph 6 above, she failed to have proper regard for the need to safeguard Individual A's well-being.

Mrs McCann did not explicitly admit the allegations so the panel proceeded on the basis that each was denied and, therefore, that unacceptable professional conduct and/or conduct that may bring the profession into disrepute were also denied.

C. Preliminary applications

The panel considered an application from Ms Smith to proceed in the absence of Mrs McCann.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel had sight of a Notice of Proceedings dated 15 November 2019 ("the Notice"), sent to Mrs McCann. Whilst the Notice was sent less than the necessary eight weeks as required by Rule 4.11 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures"), the panel also had sight of an email from Mrs McCann, dated 15 November 2019, in which she waived this necessary time-frame requirement.

The panel was also content that the Notice contained all of the necessary information required by Rule 4.12 of the Procedures.

The panel was therefore satisfied that the necessary rules of the Procedures had been followed and that the requirements for service had been satisfied.

The panel went on to consider whether to proceed in Mrs McCann's absence or to adjourn, in accordance with Rule 4.29 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mrs McCann was not in attendance and was not represented at the hearing, and the extent of the disadvantage to her as a consequence with it proceeding in her absence.

On balance, the panel decided that the hearing should continue in the absence of Mrs McCann for the following reasons:

- On 15 November 2019 and 9 December 2019, Mrs McCann had responded to emails from Ms Smith enquiring whether she would be in attendance. These emails from Ms Smith made specific reference to the hearing dates and Mrs McCann had confirmed that she would not be present;
- The Notice, containing information about the hearing, was signed for by Mrs McCann on 18 November 2019;
- In a telephone call and email to Ms Smith on 8 January 2020, Mrs McCann confirmed that she was content for the hearing to proceed in her absence and did not seek an adjournment;
- There is no medical evidence before the panel which indicated that Mrs McCann was unfit to attend the hearing due to ill-health.
- The panel was satisfied that Mrs McCann was fully aware of the hearing and her absence was voluntary, therefore waiving her right to attend.
- The risk of reaching the wrong conclusion and the disadvantage to Mrs McCann in not being present are mitigated by the fact that she was interviewed during the School's investigation, gave full answers to the concerns and had agreed with the content of the minutes of the meeting;
- There is a public interest in hearings taking place within a reasonable time.
- There is a burden on all professionals who are subject to a regulatory regime to engage with their regulator.
- There was one witness present to give evidence to the panel, who would be significantly inconvenienced were the hearing to be adjourned.

Having decided that it was appropriate to proceed, the panel strived to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mrs McCann was not present or represented.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 1 to 4

Section 2: Notice of proceedings and response – pages 5 to 16

Section 3: Teaching Regulation Agency witness statements – pages 24 to 44

Section 4: Teaching Regulation Agency documents – pages 45 to 305

Section 5: Teacher documents – pages 308 to 309

In addition, the panel agreed to accept the following:

- Email exchange on 6 January 2020 between Ms Smith and Mrs McCann – pages 310 to 311; and
- DX Tracking Confirmation – pages 312 to 313.

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

Witnesses

The panel heard oral evidence from

- Witness A, [redacted]

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

Mrs McCann had been employed at [redacted] (“the School”) since 1 September 2001 as a [redacted]. At the beginning of August 2017, a complaint was received by the School from the parents of Individual A, a former pupil at the School [redacted]. The complaint was in respect of contact that Mrs McCann had with their daughter over Facebook. The parents had printed the messages, which amounted to over 900 A4 pages.

In a meeting on 17 October 2017 between Witness A and Mrs McCann, Mrs McCann accepted exchanging messages with Individual A during July 2017 and that these had

been inappropriate. Mrs McCann explained that a co-dependent friendship had developed between the two but accepted that the messages were inappropriate.

Mrs McCann subsequently resigned from her position at the School.

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. You engaged in inappropriate social media contact with Individual A:

a. by accepting a social media 'friend request' from Individual A;

The panel received evidence on this allegation from Witness A who explained in her witness statement that she held a meeting with Mrs McCann on 17 October 2017 ('the Meeting'). The panel had the notes of the meeting ('the Notes'), which had been signed by Mrs McCann on 20 November 2017 as being an accurate record of what was discussed.

Witness A confirmed that Mrs McCann told her during the Meeting that she had received and accepted a 'Facebook friend request' from Individual A in June 2017. This confirmation was corroborated within the Notes.

The panel therefore find this allegation proved.

b. by exchanging a high volume of social media messages with Individual A on dates between 2 July and 2 August 2017;

The panel heard live evidence on this matter from Witness A who explained that in August 2017, Individual A's parents delivered to the School over 900 pages of messages, between two individuals, produced from Facebook Messenger.

Witness A confirmed that one of the individuals was Mrs McCann, as identified from the photo accompanying the messages and the other party was Individual A. The messages were exchanged within a one month period, as identified by the time and date stamps.

Witness A confirmed that Individual A had been a pupil at the School [redacted] and had developed a strong relationship with Mrs McCann who provided her with support. Witness A reiterated to the panel that this relationship was entirely appropriate and helped Individual A when she was suffering personal difficulties in her last year at the School.

Witness A confirmed that, during the Meeting, Mrs McCann had accepted that this message exchange involved her and Individual A.

The panel had the benefit of having the messages before it and noted that each page contained a number of messages and therefore the total number of messages would be counted in the thousands.

In the panel's view, such a number of messages in a one-month period was an extremely high volume, especially between a teacher and pupil, and therefore found this allegation proved.

In the remainder of the decision, due the close proximity in time from Individual A leaving the School and the relevant period involved in the allegations, the panel determined that Individual A would be referred to as a pupil.

c. by exchanging inappropriate social media messages on dates between 2 July and 2 August 2017 with Individual A, including in particular:

i. messages referring to matters of a sexual nature;

The panel heard live evidence on this allegation from Witness A. She explained that during the Meeting, Mrs McCann acknowledged that the messages were inappropriate but that she had got 'caught up in what was going on' and treated Individual A like a friend. Mrs McCann also accepted that, within the messages, 'hummus' was used as a slang term for sex.

The panel could clearly see from the messages that there were a large number that referred to sex or sexual activity in some manner, including discussions of Mrs McCann's sex life with her husband, underwear and condoms. [Redacted]

- [Redacted]

On the basis of Mrs McCann's acceptance and the messages, the panel found this allegation proved.

ii. messages in which you referred to Individual A as "daughter" and/or to yourself as "mother" or "mum and/or allowed her to refer to you as "mother" or "mum";

The panel heard live evidence on this allegation from Witness A. She explained to the panel that, during the Meeting, Mrs McCann had accepted being known to Individual A as her 'school mum' and this was a term used to indicate the level of support provided during the school day.

Witness A explained that were such a reference to be used once, and all parties were happy for the term to be used, then it may be acceptable. However, in Witness A's view, the context and number of references made the use inappropriate.

The panel noted that there were a significant number of messages, sent by both Mrs McCann and Individual A, that referenced each other as 'mother' or 'daughter' (or some variance of the same). The panel also considered the messages in which Mrs McCann had sent to Individual A, telling her when she would 'wake her up', 'to go to bed' and to 'brush her teeth' to also be relevant to this allegation as this was akin to how a parent may deal with their child.

Some of the following messages appeared particularly pertinent:

- *"I've changed it to mum"* (Individual A telling Mrs McCann the name that she had saved her as in her phone);
- *"Yes daughter"* (Mrs McCann to Individual A);
- *"Good morning mother"* (Individual A to Mrs McCann); and
- *"Mother question...Mum feels slightly more intelligent now"* (Mrs McCann to Individual A).

The panel did note that there was a message from Individual A's mother to Mrs McCann in April 2017, which does refer to Mrs McCann as Individual A's 'school mum'. It was not, therefore, a term that was being wholly used without the parent's knowledge, but this message was sent when Individual A was still a pupil at the School.

Nevertheless, the terms being used within the messages were 'mother' and 'daughter' (or variances) not 'school mum'. These messages were also being sent at a time when Individual A had left the school and were used along with references to the role a parent may play with a child.

The panel did consider such use of the term to be inappropriate and therefore found this allegation proved.

iii. messages which referred to drinking alcohol;

iv. messages which referred to drug taking;

The panel heard live evidence on these allegations from Witness A. she explained to the panel that Mrs McCann accepted, during the Meeting, that the messages were inappropriate but that she had been 'caught up' in the moment.

The panel noted that the messages, on multiple occasions, contained clear references to alcohol and drug taking.

[Redacted]

On the basis of the large number of references within the messages to both alcohol and drugs, the panel found this allegation proved.

v. **messages in which you commented on Individual A's parents;**

vi. **messages in which you discussed Individual A leaving home.**

The panel heard live evidence on these allegations from Witness A, who confirmed that during the Meeting, Mrs McCann had accepted sending, and receiving messages, with Individual A in respect of her parents and leaving home.

Witness A explained to the panel that, in her view, Individual A's parents played an active role in the pupil's education and life. Witness A had no concerns as to Individual A's home life or the care that was being provided to her. In Witness A's view, it was not appropriate for a teacher to comment on the parenting of a pupil, unless there is a safeguarding concern. Were this to be the case, then there were procedures to be followed.

The panel noted Mrs McCann's responses to the questions put to her during the Meeting on this topic. The panel had the benefit of reviewing the messages and noted that there were a large number exchanged regarding Individual A leaving home and her parents being discussed.

[Redacted]

In the panel's view, these messages were clearly outside of a teacher's remit and cross the boundary as to what is appropriate between a teacher and pupil. The panel therefore find these allegations proved.

2. You sent social media messages to Individual A on dates between 2 July and 2 August 2017 whilst she was at school during working hours.

The panel heard live evidence on this matter from Witness A, who stated that the School's term did not finish until around 19 July 2017 and that Mrs McCann was teaching up until that time.

During the Meeting, Mrs McCann accepted that she had sent Facebook messages, to Individual A, whilst she was at School during working hours. The panel had sight of a number of messages, which appeared to corroborate this fact, including:

- *"Yes meeting with other SENCOs...They've now put the air conditioning on. I've had to move my chair"* (Mrs McCann to Individual A);
- *"I'm bored now. We've got to the part where the middle age women moaning about their bosses"* (Mrs McCann to Individual A);

- *"I'm teaching Year 8 and I have to hold the tears of laughter in"* (Mrs McCann to Individual A); and
- [Redacted]

On the basis of the evidence of the messages sent by Mrs McCann and her admission during the Meeting, the panel find this allegation proved.

3. You sent one or more social media messages to Individual A on dates between 2 July and 2 August 2017 about members of staff at the school that:

- a. revealed confidential matters to Individual A;**
- b. were disparaging;**
- c. contained your personal thoughts about various members of staff.**

The panel heard live evidence on this allegation from Witness A who explained that Mrs McCann had accepted sending messages on this concern to Individual A but that it was just 'general conversation'.

Witness A explained to the panel that these messages included discussion of staff members as to whether they were 'MILFs' or 'DILFs', staff leaving events, other personal relationships of staff and their obsession with sex, marriage relationships and [redacted].

The panel also noted that there was reference to the death of a teacher's husband, [redacted]. This appeared to the panel to be information that was confidential and not to be shared.

The messages clearly contained information about staff at the School that was confidential and included Mrs McCann's personal thoughts, which were often disparaging. The panel therefore found this allegation proved.

4. You sent one or more social media messages about pupils and/or ex pupils of the School on dates between 2 July and 2 August 2017 that:

- a. revealed confidential matters to Individual A;**
- b. were disparaging;**
- c. contained your personal thoughts about various pupils and/or ex pupils of the School.**

The panel heard live evidence on this allegation from Witness A, who confirmed that Mrs McCann had accepted during the Meeting that she had sent Individual A messages about pupils or ex-pupils.

During the Meeting, Mrs McCann had admitted that the messages contained information that was inappropriate to be discussed with Individual A and included references to pupils taking drugs and exam success.

From the bundle of messages, the panel took note of the following:

- [Redacted]
- Message exchange at page 276 to 277 regarding pupils and their relationships;
- Message exchange at page 525 regarding pupils in Mrs McCann's classes and how they may have done in exams; and
- Message exchange at pages 485 to 486 regarding specific pupils being a 'disease' and 'bad'.

The panel determined that any information regarding pupils and their exam success was a confidential matter and the remainder of messages were clearly with reference to pupils in a disparaging manner and were Mrs McCann's personal thoughts.

The panel therefore found this allegation proved.

5. You met up with Individual A, on the following occasions:

- a. on or around 4 July 2017 at Venue A;**
- b. on or around 17 July 2017 at Venue B;**
- c. on 1st August 2017.**

The panel heard live evidence on this allegation from Witness A, who confirmed that Mrs McCann had accepted during the Meeting that she had met with Individual A, on the three dates, after she was no longer a pupil at the School.

This admission by Mrs McCann was corroborated within the Notes and the panel also determined that the following messages were pertinent:

- *"OK, we can meet up, but will have to be after break tomorrow...11.30, Venue A?"* (3 July 2017);
- *"I'll see you at 11.30 then"* (4 July 2017 from Individual A to Mrs McCann); and

- *"You still want to meet for coffee or do you want to pack...Still meet for coffee...Venue B...Sorry for talking LOADS. Was good to see you..."* (17 July 2017 message exchange).

On the basis of the admission during the Meeting and the copies of messages, the panel find this allegation proved.

- 6. You did not notify the School or any other appropriate third party when Individual A disclosed information to you that she had suicidal thoughts and/or that she was taking medication between 2 July and 2 August 2017.**
- 12. By your conduct set out in Paragraph 6 above, you failed to have proper regard for the need to safeguard Individual A's well-being.**

The panel heard live evidence on these allegations from Witness A. She explained to the panel that Individual A was a very capable pupil who developed mental health issues in her final year at the School. These issues manifested themselves in different ways during the year [redacted].

Witness A confirmed that Mrs McCann had undertaken mental health and DSL training, although she was not the School's DSL. Mrs McCann had an active role in assisting Individual A during the year and was identified by the School as being a key member in supporting her.

By example, Witness A explained that when Individual A went on a ski-trip with the School in February 2017, Mrs McCann and Individual A's mother liaised to prepare a Care Plan for her. Mrs McCann was also supportive when Individual A had an operation in April 2017.

The School considered Mrs McCann's role in supporting Individual A as being necessary and appropriate.

The panel noted, however, that within the messages there were references from Individual A having exceeded the recommended dosage of [redacted]. The panel did also note that Mrs McCann's responses were generally warning Individual A as to the dangers and providing some support to her. However, there was no evidence that Mrs McCann had made any other attempts to ensure Individual A, a vulnerable person due to her mental state, was safe.

Individual A had only recently left the School and the messages were sent between the two due to the relationship that arose from their teacher/pupil relationship. The panel accepted that, due to Individual A no longer being on roll, the School may not, therefore, have been the appropriate organisation for Mrs McCann to contact upon receipt of these messages.

However, in the light of the content of the messages and Individual A's mental health issues, the panel did consider it was necessary for Mrs McCann to have contacted a third party, such as social services, to appropriately safeguard Individual A but failed to do so, despite her training in this area.

The panel therefore found these allegations proved.

7. You caused or permitted Individual A to mark year 7 and year 8 examination papers between 2 July and 2 August 2017.

The panel heard live evidence from Witness A on this matter. She confirmed that, during the Meeting, Mrs McCann accepted that she had given Individual A examination papers to mark as she had not had time to do it. Witness A explained that this was completely unacceptable as Individual A had not been trained as to how to mark work and was not employed by the School.

The panel noted the following messages:

- *"nearly finished your year 7s"* (Individual A to Mrs McCann);
- *"Do you want your papers so they can do improvements on them?"* (Individual A to Mrs McCann);
- *"Wait, are you picking up your exam papers tonight"* (Individual A to Mrs McCann); and
- *"Thanks for marking them, I'll get some money to you for it."* (Mrs McCann to Individual A).

On the basis of Mrs McCann's answers in the Meeting and the clear references, within the messages, to Individual A marking papers, the panel found this allegation proved.

8. Your behaviour, as set out in all or any of the allegations above took place in circumstances where you were aware or should have been aware that Individual A was a particularly vulnerable young person.

For the reasons given for allegations 6 and 12, the panel accepted that Individual A was vulnerable at the relevant time and Mrs McCann should have been more aware of the relationship that was developing.

The panel found this allegation proved.

9. By your conduct set out in the following paragraphs, you failed to observe a proper boundary appropriate to a teacher's professional position:

a. Paragraph 1;

- b. Paragraph 2;
- c. Paragraph 3;
- d. Paragraph 4;
- e. Paragraph 5;
- f. Paragraph 6;
- g. Paragraph 7.

Teachers have to maintain clear and unambiguous boundaries between themselves and pupils to ensure the respective roles can be properly fulfilled and no other relationship develops. Boundaries continue for some time after the formal teacher/pupil relationship has ended.

In this particular case, due to the close proximity of Individual A leaving the School, her vulnerability and her age, the panel considered that in July/August 2017, appropriate boundaries should still have been maintained by Mrs McCann.

In this matter, Mrs McCann appears to have misjudged where such boundaries were and allowed a friendship to develop between herself and Individual A. The content and volume of the messages indicate that there was no longer a teacher/pupil relationship in place and Mrs McCann did not display the necessary high standards expected of a teacher.

The panel therefore found this allegation proved.

10. By your conduct in the following paragraphs, you failed to demonstrate proper and professional regard for the ethos, policies and practices of the School:

- a. Paragraph 1;
- b. Paragraph 2;
- c. Paragraph 3;
- d. Paragraph 4;
- e. Paragraph 5;
- f. Paragraph 6;
- g. Paragraph 7;

The panel was able to review the School's Code of Conduct and determined that Mrs McCann had not undertaken her duties and responsibilities "...effectively, efficiently and diligently" nor maintained "confidential sensitive information (particularly relating to pupils)" as required by Part 7.

Similarly, as a result of Mrs McCann's Facebook messaging with Individual A, she had also breached the School's 'Model Policy on the Use of Social Networking Sites and Other Forms of Social Media (January 2018)' specifically:

- "4.1(iii) That they do not conduct or portray themselves in a manner which may-

Bring the School into disrepute;
Lead to valid parental complaints;
Be deemed as derogatory towards the school and/or its employees;
Be deemed as derogatory towards pupils and/or parents and carers;
Bring into question their appropriateness to work with children or young people.

- 4.1 (iv) That they do not form on-line friendships or enter into communication with parents/carers and pupils as this could lead to professional relationships being compromised;

- 4.1 (v) On-line friendships and communication with former pupils should be strongly discouraged particularly if the pupils are under the age of 18 years."

Witness A confirmed that the wording of the 2018 policy was consistent with what was in place at the School for July 2017.

Witness A confirmed that Safeguarding training took place at the School on an annual basis and that Mrs McCann would, therefore, have been fully aware of the School's Safeguarding Policy, which included a requirement that all adults at the School "...ensure that children are protected from harm."

By her conduct, Mrs McCann had clearly failed to adhere to the School's ethos, practices and policies. The panel found this allegation proved.

11. By your conduct in the following paragraphs, you failed to maintain high standards of behaviour within and/or outside of school:

- a. Paragraph 1
- b. Paragraph 2
- c. Paragraph 3
- d. Paragraph 4

e. Paragraph 5

f. Paragraph 6

g. Paragraph 7

For the reasons given for allegation 9, the panel found this allegation proved.

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

Having found all of the allegations proven, 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.

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 Mrs McCann, in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mrs McCann was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach; and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

In this matter, Mrs McCann's professional relationship with Individual A had developed into an inappropriate friendship, in which both had a level of dependency on the other. Whilst there was no evidence before the panel that this relationship had developed with any nefarious purpose from Mrs McCann, and Individual A was a willing participant, it was also a relationship that began between a teacher and pupil.

In the panel's view, whilst Mrs McCann may have, wrongly, viewed Individual A as a friend and peer, there were a large number of messages from Mrs McCann that were not age appropriate [redacted].

The relationship also meant that Individual A was allowed to mark exam papers, an act that could have serious repercussions for the educational future of those pupils. The relationship also meant that Mrs McCann was aware of safeguarding concerns regarding Individual A but failed to adhere to her responsibilities to ensure her safety.

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

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 was satisfied that the conduct of Mrs McCann amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel therefore determined her behaviour to amount 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 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;
- declaring and upholding proper standards of conduct;

- the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mrs McCann, which involved her allowing a friendship to develop between herself and a pupil, who was considered vulnerable, there was a strong public interest consideration in the protection of pupils, especially considering Mrs McCann's safeguarding failure.

The panel was of the view that, considering Mrs McCann had allowed a pupil to mark internal examination papers, there was a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against her was outside that which could reasonably be tolerated.

However, the panel also decided that there was a strong public interest consideration in retaining Mrs McCann in the profession, since no doubt had been cast upon her abilities as an educator and she was able to make a valuable contribution to the profession. Indeed, Witness A confirmed that Mrs McCann had, until this incident, had an exemplary record.

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

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of and against prohibition as well as the interests of Mrs McCann. 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 proven. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils).

Even though some of the behaviour found proven 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.

Whilst it appeared to the panel that there was no evidence of a concerning motive from Mrs McCann to allow the friendship to develop organically, there was no evidence that her actions were not deliberate or that she was acting under duress. However, Mrs McCann did have a previously good history and the panel accepted that the incident appeared out of character.

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, the recommendation of no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for the teacher of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs McCann.

In the panel's view, there were three primary areas of concern regarding Mrs McCann's behaviour:

- allowing an inappropriate friendship to develop with a pupil;
- a dereliction of her safeguarding responsibilities; and
- a misjudgement regarding appropriate examination marking.

All of these three areas were extremely serious to varying degrees. 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 Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period but the panel did not consider any of these to be relevant.

In the panel's view, Mrs McCann's actions were capable of being remedied. She had admitted and accepted her actions at the earliest opportunity and that her behaviour had been inappropriate. There was no suggestion it was calculated in any manner. The panel noted Mrs McCann's explanation that her conduct had arisen, in part, due to difficulties that were present in her personal life.

The remorse and admission indicated that Mrs McCann had some insight into her actions, and why they had occurred. The panel did not, however, have the benefit of any

direct evidence or material from Mrs McCann and could only therefore rely, to some extent, on the answers she gave during the Meeting.

In the panel's view, all of the issues arose from Mrs McCann's initial gross misjudgement in allowing a friendship to develop with Individual A and, thereafter, treated her as a friend and which appeared to cloud her determination as to what was appropriate, including the marking of examination papers. However, as the examinations were internal and would not have had any long-term detrimental effect on a pupil's education, the panel determined this to be towards the lower end of the seriousness spectrum.

There was no evidence that Individual A had, in fact, been harmed by Mrs McCann's actions although a potential risk was present. The panel also noted that the conduct had taken place in a relatively short period of time and only one pupil was directly impacted.

Nevertheless, the panel also considered that whilst Mrs McCann's actions were extremely serious, especially in respect of the issues surrounding her dereliction of safeguarding duties involving a vulnerable pupil, which she had not properly explained at any point.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period after five years.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mrs McCann is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach; and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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 Mrs McCann, and the impact that will have on her, 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, "Mrs McCann's professional relationship with Individual A had developed into an inappropriate friendship, in which both had a level of dependency on the other. Whilst there was no evidence before the panel that this relationship had developed with any nefarious purpose from Mrs McCann, and Individual A was a willing participant, it was also a relationship that began between a teacher and pupil." A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The remorse and admission indicated that Mrs McCann had some insight into her actions, and why they had occurred. The panel did not, however, have the benefit of any direct evidence or material from Mrs McCann and could only therefore rely, to some extent, on the answers she gave during the Meeting."

In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts at risk the well-being of pupils. 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, "it 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."

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 Mrs McCann herself. The panel comment "Mrs McCann did have a previously good history and the panel accepted that the incident appeared out of character."

A prohibition order would prevent Mrs McCann from teaching and 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 Mrs McCann's behaviour, "which involved her allowing a friendship to develop between herself and a pupil, who was considered vulnerable, there was a strong public interest consideration in the protection of pupils, especially considering Mrs McCann's safeguarding failure."

I have also placed considerable weight on the finding of the panel that states, "Mrs McCann's actions were extremely serious, especially in respect of the issues surrounding her dereliction of safeguarding duties involving a vulnerable pupil, which she had not properly explained at any point."

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs McCann has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case that is not backed up by full insight does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 5 year review period.

I have considered the panel's comments " In the panel's view, all of the issues arose from Mrs McCann's initial gross misjudgement in allowing a friendship to develop with Individual A and, thereafter, treated her as a friend and which appeared to cloud her determination as to what was appropriate, including the marking of examination papers. However, as the examinations were internal and would not have had any long-term detrimental effect on a pupil's education, the panel determined this to be towards the lower end of the seriousness spectrum.

There was no evidence that Individual A had, in fact, been harmed by Mrs McCann's actions although a potential risk was present. The panel also noted that the conduct had taken place in a relatively short period of time and only one pupil was directly impacted.

Nevertheless, the panel also considered that whilst Mrs McCann's actions were extremely serious, especially in respect of the issues surrounding her dereliction of safeguarding duties involving a vulnerable pupil, which she had not properly explained at any point."

The panel has also said that, "Mrs McCann's actions were capable of being remedied. She had admitted and accepted her actions at the earliest opportunity and that her behaviour had been inappropriate. There was no suggestion it was calculated in any manner. The panel noted Mrs McCann's explanation that her conduct had arisen, in part, due to difficulties that were present in her personal life."

I have considered whether a 5 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. In this case, there are factors which mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These factors are the inappropriate behaviour, the dereliction of safeguarding duties involving a vulnerable pupil and the lack of full insight.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mrs Kate McCann 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 January 2025, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will

meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Kate McCann remains prohibited from teaching indefinitely.

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

Mrs Kate McCann 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 grey ink, appearing to read 'Alan Meyrick', is located below the text. The signature is written in a cursive style with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 14 January 2020

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