THE TEACHING AGENCY

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Mr Alexander Grubisic

Teacher date of birth: redacted

TA Case ref no: 9096

Date of Determination: 1 February 2013

Former Employer: Little Bowden Primary School, Leicestershire

A. Introduction

A Professional Conduct Panel (“the Panel”) of the Teaching Agency convened on 31st January and 1st February 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Alexander Grubisic.

The Panel members were Mr Martin Pilkington, Lay Panellist – in the Chair, Mr Kevin Nolan, Teacher Panellist and Ms Cynthia Bartlett, Teacher Panellist.

The Legal Adviser to the Panel was Mr Angus Macpherson of Counsel.

The Presenting Officer for the Teaching Agency was Louisa Atkin of Browne Jacobson LLP.

Mr Alexander Grubisic was present but not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation as amended set out in the Notice of Proceedings dated 20th November 2012.

It was alleged that Mr Alexander Grubisic was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

Whilst employed as Head Teacher at Little Bowden Primary School, Leicestershire,

1. he altered the contents of a number of the 2011 SATs papers:
   a. before they were sent for external marking;
b. in doing so acted dishonestly, in that he made the alterations intentionally, knowing or believing that pupils could be awarded additional marks as a result of the alterations he had made;

2. Under his authority, the security of the 2011 SATs papers was breached as a result of maladministration.

Mr Grubisic admitted the facts of allegation 1(a). He did not admit the facts of allegation 1(b) or allegation 2, nor that he was guilty of unacceptable professional conduct / conduct that may bring the profession into disrepute.

C. Summary of Evidence

Documents

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

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<td>Witness A 4th September 2012 Pages 11-12</td>
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<td>Witness C 15th January 2013 Add pages 162A-164</td>
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<th>Teaching Agency Documents</th>
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<td>QCDA Assessment and Reporting Arrangements 2011; Add pages 165-214</td>
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<td>Bundle of completed SATS papers. Add pages 215-331</td>
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<th>Teacher Documents including the following witness statements</th>
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As mentioned, the Panel agreed to accept additional documents where set out above.

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Opening Statements
On behalf of the Teaching Agency

Ms Atkin referred to the burden and standard of proof, and the definition of unacceptable professional conduct and conduct which may bring the profession into disrepute. She stated that 39 students had had their SATs results annulled. In respect of the allegation of dishonesty, she referred to the two part test in R v. Ghosh: Would Mr Grubisic behaviour be regarded as dishonest by reasonable and honest people. Must Mr Grubisic have known that it would be so regarded by such people?

The panel should consider whether:

1. alterations were made to the completed SATs papers, something admitted by Mr Grubisic and the subject of Witness A’s evidence;
2. the alterations were made before marks were awarded, again admitted by Mr Grubisic and the subject of Witness A’s report;
3. Mr Grubisic made the alterations, again admitted by Mr Grubisic and the subject of Witness B’s evidence;
4. there was maladministration, in respect of which they will hear:
   a. the evidence of Witness C and Witness B’s.
   b. admissions by Mr Grubisic that the school needed to address secure storage of papers;
5. the alleged maladministration breached the security of the 2011 SATs papers, mentioning that Witness C will explain that gaps in procedure provided opportunities to alter papers;
6. as part of the dishonesty, the alterations increased the marks awarded to pupils.

The panel may wish to consider whether Mr Grubisic’s position in fact amounts to a denial or to mitigation. He does not challenge Witness B’s conclusions and he refers to his own “overreaction”.

On behalf of the Defence

Mr Alexander Grubisic stated:

- SATs papers arrived in the school in March / April 2011. The allocated papers were to go in a cupboard which was too small in the view of the Chairman of the Governors and the Secretary of the School.
- He was not the sole administrator of the SATs tests, but the main administrator. He did not actually administer them.
- It was not possible to store the completed SATs papers in the school other than in the Head Teacher’s room. Sealing was not possible until the end of a whole test which could be in 4 parts.
- As to the alterations, the papers were placed in alphabetical order and date order. He overreacted in respect of the papers on the Wednesday. If his behaviour was “intentional” dishonesty, why did he alter the papers in a public way? He shared his concerns that the answers in the papers would be misinterpreted with Witness E. She agreed.
• When the SATs papers were returned after marking, they were opened. He referred to the marking scheme and began to analyse the marking of papers. He was endeavouring to meet a time scale for appeal. He referred to the unsatisfactory SATs appeals in the previous year. This had caused friction. The papers had to be checked. When checking, he inadvertently wrote on the papers. He worked on all the SATs papers and wrote on some of them. Witness A has wrongly concluded that all the alterations were made before they were sent. He never altered maths papers A and B or the longer and shorter task writing papers.
• He challenges Witness E’s evidence. She was the deputy head. Her statement loaded the case against him. He did admit altering the spelling papers, the reading comprehension papers and the mental arithmetic paper.
• He was having personal difficulties as well as professional challenges.
• Witness B never interviewed the chairman of the Governors.
• English papers have 4 parts: spelling, reading comprehension, a shorter writing task and a longer writing task. Maths papers have 3 parts: mental arithmetic, Paper A and Paper B.
• Some children were Special Needs children. Alterations in ink are permitted in these papers. They are not down to him.

Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

Witness A, Forensic Examiner of Handwriting and Questioned Documents.

His witness statement dated 23rd September 2012 was taken as read. In the statement, he explained that he had prepared a report based upon his examination of a number of key stage 2 test scripts from Little Bowden Primary School. He reached the conclusion that a number of key stage 2 tests scripts had been altered by someone other than the pupil whose script it was and that the alterations had all been done by the same person. In particular he noted that the changes related to the Reading, Spelling and Mental mathematics papers and that the latter must have been done when the tests were completed and collated into alphabetical order. Indentations were identified on Mental mathematics scripts sequenced in a pile in alphabetical order, pointing to the conclusion that, when amendments were made in a script above, they featured in the script below.

• He used the shorter writing task scripts of each pupil as the reference document for that pupil;
• He explained findings by reference to:
  o Pupil RD’s spelling test (pages 25 -33). Sometimes he found erased words underneath a word inserted. Having undertaken the exercise, he compared the writing of the non-pupil letters;
  o Pupil HN’s spelling test (pages 30 and 31). There were quite a number of differences with the reference document of pupil HN.
• In respect of Maths Test A, he could not ascertain whether any changes were made before or after marking. He did observe that the word “banana” appeared not to have been made in the relevant pupil’s hand in 5 cases.
Other than the word “banana”, the evidence that someone made an entry on the papers was inconclusive.

**Cross-examination**

- Similarly he could not reach a conclusion in relation to Maths Test B.
- On Mental maths the evidence relates to identical impressions. He cannot time the date when an alteration was made. He can say that erasures below came first.

**Panel questions**

- Referring to his report on pages 23 to 25, the phrases identified were not in the child’s hand. Sometimes there were erasures underneath. They were in one other person’s hand. For an example of an addition, a change or an erasure Witness A referred to pages of 14 and 15 of the completed SATs test papers.
- Mental maths indentations: Witness A referred to WB and RB’s scripts in relation to question 5 as examples.
- In order to ascertain whether there were additions, changes or erasures, he either used oblique lighting or ESDA.

**Witness B**, Investigating Officer with Leicester County Council.

Her witness statement dated 10\(^{th}\) August 2012 was taken as read. In the statement, Witness B explained that, in the course of the disciplinary investigation which ensued after the Qualification and Curriculum Development Agency (“QCDA”) had annulled all the SATs results from Little Bowden Primary School for 2011, on 16\(^{th}\) September 2011, Mr Grubisic informed Individual I, the Chairman of the Governors of the School, that he checked and altered some spelling papers and some reading and comprehension papers, and that he checked and made clearer mental arithmetic papers. He explained that by “made clearer” he meant that he had altered the scripts. He acknowledged that the alterations were made before the scripts were sent for marking and that he was acting alone. He admitted that the SATs papers were not secured in a secure storage space.

**Witness B interviewed**

a. Witness E, the Deputy Head and a Year 6 teacher for maths, on 22\(^{nd}\) September 2011. She disclosed that completed maths papers were collected in alphabetical order. She observed the Head Teacher looking through the mental maths papers with pencil in hand. She said that she had been suspicious of certain high marks in the 2010 SATs results.

b. Witness F, a Year 6 teacher with responsibility for literacy, on 22\(^{nd}\) September 2011. Likewise she disclosed that completed papers were collected in alphabetical order. She referred to a conversation with the Head Teacher prior to the 2010 tests in which he had said that she should not be concerned about incorrect answers and that she should “just cheat”. She had been very
surprised at the good results achieved in 2010. Her husband had moved to Oadby Manor School to remove himself from the situation.

c. Witness G, on 22\textsuperscript{nd} September 2011. His concerns included noting that the Head Teacher had gone through the 2010 results with pencil in hand. He said that the 2010 results were far above his expectations. On one occasion he saw the Head Teacher with papers all over his office floor with pencil in hand. He had moved to Oadby Manor School so that he would not be at Little Bowden shall there be a similar occurrence.

d. Mr Alexander Grubisic, the Head Teacher of Little Bowden Primary School, on 26\textsuperscript{th} September 2011. He referred to his personal circumstances at the time. He denied that correct answers were given to the children sitting a maths test in 2010. He suggested that over writing and rubbings out had been made to scripts after the papers were returned from marking. He acknowledged looking at spelling and reading comprehension tests, but denied looking at Maths papers A and B and the writing tests. He said he got carried away with the spelling tests. He had done it to give children “a fair crack of the whip” bearing in mind his experience of previous markers. He did it to obtain “a correct view of the answers”. He denied making alterations in 2010. He admitted looking at the spelling, reading comprehension and mental maths papers in 2011 and placing numbers in a box when a child had the right answer but not put it in the box.

- Witness B referred to Mr Grubisic’s admission that he had tampered with papers. She concluded in her report dated 28\textsuperscript{th} September 2011 that his actions in altering test papers represented gross misconduct and recommended that there be a formal disciplinary hearing.
- Maladministration was to do with the storage of the papers and what should have happened to them before and after delivery. They were not stored in the same cupboard after being completed. The cupboard where they had been stored was not a huge space. However if the papers fitted into the cupboard before, they could have fitted afterwards. If not, they should have been locked in the Head Teacher’s study.
- The guidance gave precise instructions as to the storage of papers. Papers can be sent off once all the individual tests of a particular SAT are complete. They are sent off in an outer package with several different packages inside referable to the component parts of each test. Documents should be locked away and not accessible. That was the Head Teacher’s responsibility.
- Error trapping is a way of demonstrating that changes made had been given marks and therefore had to have been made before the papers were marked.
- Indentations could be seen on sequential papers stacked in alphabetical order, as Witness A explained in his report. Although Mr Grubisic had said that scripts were changed after they were returned to the school, other teachers denied this.
- The investigation considered Mr Grubisic’s personal circumstances and his contention that he had merely made things clearer for the markers as children’s answers had not been clear before.
Cross-examination

- At the first meeting on 16\textsuperscript{th} September 2011, Witness B could not remember instructing everyone “not to discuss the case outside of the 4 walls of the room”.
- The storage cupboard was outside the Head Teacher’s office in a corridor but she had not inspected it.
- She assumed that the minutes (at page 45) were accepted as Mr Grubisic signed them.
- Witness H stated she may have visited Little Bowden. She did not remember Witness H saying there was an alternative cupboard. She does not know if Witness H was correct in saying SATs papers could not be written on.
- She did know that the papers were in school before they were returned to the QCDA. She thought that the SATs results came out at the end of the summer holiday. The papers were back in school at that time.
- Witness G received an offer for a new appointment in April 2010. She does not recall that Witness G and Witness F gave false statements in the disciplinary enquiry. Page 41 is Individual I’s note.
- She did not check the validity of the Witness’s F and G’s statements.
- She recalled a discussion about mental arithmetic being done first.

Panel Questions

- Mr Grubisic admitted to Witness B that he altered several tests but not all. The volume was not clear. He disputed the volume – but it is set out in Witness A’s report. He admitted altering some of the children’s answers on some of the spelling, comprehension and mental arithmetic papers. She was instructed to ascertain who had altered the papers. Mr Grubisic admitted it and the disciplinary investigation followed. He also admitted not securing the papers in a cupboard.
- Mr Grubisic was clear about the nature of the alterations in the papers. He was making the scripts clearer – he had actually written on them. She did not know if that would have made a difference to the children’s marks. The original investigation had been called on the basis that a number of the children had got higher marks. By the time she spoke to Mr Grubisic the results had been annulled. She did not have the test papers to enable her to understand what Witness A was saying. She did ask Mr Grubisic how many alterations he had made, but he was not specific.
- Witness H told Witness B that it was not possible that alterations were made after the papers were returned as marks had already been awarded (based on the scripts with alterations). See page 75. Witness H had not got involved in that investigation. Mr Grubisic asked that the team carrying out the investigation limit the interviewing as he had admitted tampering with the SATs tests.
- When asked if she had checked factual assertions of witnesses, bearing in mind that one person appeared to have said that the Head Teacher had
discussed kgs and tons with the children although it turned out she had in fact
discussed them with Witness E, she stated that broadly she had not checked
the facts of any allegations.
• She did not choose the staff to interview. The Chair of the Governors selected
them. QCDA had identified that papers had been altered. Therefore the main
people that she was asked to interview were the Head Teacher, Witness F
and Witness E. The latter two administered SATs in Year 6. She did not
consider interviewing the secretary.
• The Head Teacher’s office would not be secure as he may not be there. She
could not answer whether it would be satisfactory if the room could be locked.
• She did not know what the alleged maladministration of security was in
relation to the storage of the SATs papers. The issue was around how they
were stored and kept secure. Her understanding is that the papers should be
locked away. Mr Grubisic said they were not kept securely.
• The matter arose as a whistle blowing complaint with the Chair of Governors.
The Chair passed it to the local authority which passed it to the QCDA.

Re-examination.

• Glass windows give onto the corridor from the secretary’s office leading to the
Head Teacher’s office.
• Witness B accepts that when Mr Grubisic said that he did not want many staff
to be involved in being interviewed, he had not seen Witness A’s report.

Panel Questions

• Maladministration is anything which affects the integrity and security of a
SATs test.
• QCDA investigated because a whistle blower contacted the local authority
who contacted the QCDA.
• She visited the school in the first few days of term.
• QCDA commissioned Witness A before visiting the school.
• The test papers were returned to the school.
• There is one bag for each SAT subject.
• In the context of bags not being locked away, whether there was
maladministration depends on where they were and the circumstances.
• She confirmed that both Year 6 teachers did report that the majority of the
handwritings do not belong to the pupils.
• “TAG” means test administrators guide.
• The recommendation on page 34 includes a reference to Test A. Witness A
did not identify Test A as having alterations, but the maladministration team
had conducted its own investigation in addition to that of Witness A. That may
explain it.
• Transcribers transcribing alone (in the absence of the pupil) does not conform
to the guidance. Some schools do it – teacher writing on top of a child’s script
with a different coloured pen.
• The gaps which Witness C identified in the procedure were as follows:
  o Storing of the test papers: discrepancy between when and how papers
    were collated between Y6 teacher and HT;
o Equipment allowed: Y6 teachers confirmed no erasers, but in the test papers the investigation team saw evidence of rubbings out;

- When the Y6 teachers, looking at the English papers, observed that they were not in the children’s handwriting, she asked the Head Teacher whose handwriting it was. He said, he didn’t know. She meant over 50% of the papers included handwriting which did not belong to the children.
- Witness H was the local authority contact and dealt with key stage 2 matters. Witness H took notes. She did not ask questions.

Re-examination

- Where a Head Teacher’s office is locked (and the papers secure therein), whether that was maladministration would depend on where the papers were, and why they were not in a bag or a cupboard.
- If the papers were in the Head Teacher’s office, not locked and the Head Teacher was there, she would question why the papers were not locked away.
- When papers are completed, they go into a grey bag. When all are completed, they are sealed. If in grey bag and sealed and the Head Teacher is not there and the door is locked, it would not be maladministration.
- The spelling test is the first of the English tests, not the last.

Witness C, Project Manager, Department for Education

Her witness statement dated 15th January 2012 was taken as read. In the statement, Witness C explained that she undertook the investigation for the QCDA on the key stage 2 National Curriculum tests at Little Bowden School.

- She explained that marks were awarded against the altered scripts. Therefore the amendments must have been made at the school.
- She referred to paragraph 12.2 of the QCDA guidance on the security of completed test scripts.
- She did not have concerns about the Head Teacher’s office being a secure place. Schools have a responsibility to find a secure place such as a lockable cupboard. It is an expectation that the cupboard could be locked. It would not be secure if papers were in the Head Teacher’s office which is locked. See para 12.2 of the QCDA Guidance.
- If not secured properly or packaged properly, the opportunity for maladministration is there.
- Witness A’s report was shown to the Head Teacher and the Year 6 teachers.

Cross-examination

- She completed the report on 5th September 2011. It may have been the same date as she was in school. She came in with Witness H.
- The list of people to interview was given to her by Witness F.
- Transcribers sitting with a child should write exactly what a child said on the transcripts.
- It is not encouraged that transcribers should work on their own.
Rubbers were allowed apart from in the Mental maths tests.
If scripts have been completed, it is not acceptable that they are left with the Head Teacher unless packaged and locked in a cupboard.
It should be possible to secure Test papers properly after the children had completed the tests if they were secured before.
Papers should be sealed when all the papers are done. With English this will be done after the elapse of 3 days.

Panel Questions

There were two separate grey bags for the subjects English and Maths. The tests for each subject should be placed in the relevant grey bag. The bag is sealed and then collected by courier.
Witness C confirmed that of the scripts she examined, over half had been altered.

Mr Alexander Grubisic

He confirmed the contents of his statement at page 147.
He had prepared a document “Aleks Script” at page 56 which was his statement in the internal disciplinary proceedings. He mentioned that the pupils’ scripts were reviewed for correct marking when they came back. On review, some things were rubbed out or crossed out.
He said he reviewed the Mental maths papers on the day of the test with Witness E and observed workings out all over the place. He stated “these will not get well marked”. He admitted he panicked in reaction to what he saw and that what he did was a complete overreaction.
He admitted using the word “cheat” in a conversation heard by Witness F in respect of the SATs tests in 2010 but explained that it was a joke. 2010 was the first year he had administered SATs at Little Bowden. Witness G and Witness F had objected to his having any part of the 2010 SATs. He said that the expected results for the 2011 year were very high.
He referred to his paper at page 68 which relates to private and confidential matters. In that paper he admits “tampering” with 2011 results “purely driven by a rash reaction to some papers at a time when he was under great stress and strain”. He wanted all the children to have “a fair crack of the whip and not be penalised by marking that is not an accurate reflection of each child’s true ability”. He set out his achievements at Little Bowden in his script.
The alterations to the mental arithmetic, spelling and reading and comprehension paper were done on the Wednesday in the week of the SATs tests. It was a rushed and rash decision, made under stressful circumstances. Some of the information was shared with Witness E. She shared the scrutiny of the mental arithmetic papers, having calculated how many right answers each child had made. Witness E had the maths papers. He asked her to assist in packaging English papers.
• Spelling papers – he went over some words or letters which were not clear with a pencil. When the papers were returned from the markers, there were many rubbings out, crossings out etc. On their return he analysed the papers. Some parts of the children’s’ scripts were already rubbed out when sent. Some children had rubbers. He circled some answers which were not clear. Papers came in and were in alphabetical order. His alterations were in respect of perhaps less than 50% of the papers. Papers were originally in a grey bag, in a room and locked. He made the alterations when checking for alphabetical order etc. The 4th English test involved transcripts and they had not arrived when they were waiting for the courier. Witness E was present, assisting with packing and collecting the transcripts. He showed Witness E the uncertainties on the answers and explained the reason for it in terms of why there were uncertainties. He had no answer booklet. It was clarification. He was not concerned with the marks the child would get. Just that the child gets the mark to which he / she was entitled. Examples: on page 30:
Box 15: going over the 2nd “O” to make it clearer;
Box 10: the crossing out is not by himself

• Reading and comprehension. He was alarmed by spelling, and multiple choice answers. He was concerned by multiple circles around answers; answers on the wrong line; unclear lines drawn to boxes linking answers; and spellings on that paper. On page 3, section 1 he had made clearer the d and the i. The i to the e is a change but did not add to the mark. Some changes may have been done during transcripts and on the papers of special needs children.
Witness A said: “so you know” and “have been” are examples of the sorts of changes he might have made on the papers. Mr Grubisic agreed.

• Mental arithmetic. The papers were brought to him by Witness E. She had looked at them and had already assessed the marks for the Mental maths paper. He explained about the spelling paper and that she had similar concerns. He made alterations to the pupils’ Mental maths papers. For example pupil WB in Q5: there is a 6 and it looks as if it has been heavily crossed out and a 5 put in. Pupil BA in Q20: the decimal point answer. Mr Grubisic went over the decimal point to make it clearer. On pupil SB’s paper: there are lots of crossings out and confusion. Q1, 1st digit is a 6. He made the 6 clearer.

• He accepts that his actions were in breach of the SATs guidelines at paragraph 12.2. He had done SATS since 1997/98. He stated that there was a need to collate the completed test papers into the right order. Therefore they had to be looked at. He bitterly regretted what he had done. He broke the rules. He got carried away.

• He made a serious mistake. He regretted what had happened. It was never his intention to benefit himself or the school or overinflate the marks. He spoke to all the affected children and their parents. He is very very sorry. It happened at a bad time for him. It was not to get more level 4s than level 3s. He did not target paper A and B which carried the most marks. For example child NC – got 15 marks. The paper was very poor. If a box was left blank,
no marks. MG got 19. Witness E told him to make clearer the decimal point. He did and the pupil received a mark. HC had made massive crossings out – they really frightened him. He took out some unnecessary writing afterwards. At the end of the day, it was done by him and he is very sorry.

Cross-examination

- See pg. 15 in the bundle of SATs papers: the answer to Q15 is “Giant’s hole”. However there are different words visible underneath that have been crossed out i.e. “Darley Dale”. He changed it. The insertion of the correct answer was not just clarifying the child’s answer. The pupil received a mark. At Q18 is written “So he does not sound worried.” It appears to be Mr Grubisic’s handwriting. The words rubbed out do not seem to say the same thing as the final answer. The pupil received a mark for the changed answer.

- It was not honest conduct submitting work done by him as if it was the pupil’s work. The pupils received marks. Mr Grubisic admitted that he could see that other people would consider this to be dishonest. In hindsight he knew what he did was wrong.

- Storage: page 4 of the QCDA guidance booklet sets out the Head Teacher’s responsibilities: keep all test materials secure and treat them as confidential. Other responsibilities are set out at paragraph 12.2.

- It was a 10 or 15 minute process. He has admitted to alterations in mental arithmetic, spelling and reading comprehension. Dealing with the latter, there were 33 different pupils with changes. There were written additions on the majority of pupil’s papers. It was done very quickly.

- He did look at the scripts to make annotations. When the scripts were being made ready for packaging, the door was open. That was when he made the alterations. No-one else could have made the changes. The cupboard would not accommodate the tests once they had been opened.

- The extent of the alterations were as follows:
  14 spelling alterations, many multiple alterations;
  33 comprehension and writing alterations, most multiple alterations; and
  many in mental mathematics.

- The alterations were done in a very short time. He was waiting for Witness F’s transcript tests to come back. Once the courier arrived, the papers would have to go. The Papers arrived at lunch time and the courier arrived by 1.00 pm.

Panel Questions

- He was told when the courier is coming on a specific day;
- The English SAT test finished on a Tuesday pm.
- At that time all English papers were not in a grey bag as some pupils were doing transcripts in English on the Wednesday morning. Witness F collected the relevant scripts in order to complete the transcripts. She asked for at least 6.
Mental maths and the English transcripts tests arrived on the Wednesday.
Courier came before 1.00 pm.
He had read the SATs booklet. So had Witness F and Witness E.
Alterations were done to give the children a better chance of getting a mark. Not a higher level.
There was no consciousness as to which child’s scripts were altered and which answers were altered.
Targets for this cohort of children were high (as were teacher predictions) but not as high as the previous year. His own targets were not an issue. The alterations were not about lifting the SATs results, or about his own salary or position.
Contrary to page 46 (interview with Mr Grubisic), completed papers were not sealed but they were stored in grey bags. The door of the Head Teacher’s office was locked when the SATs tests were finished unless he was there.
He had left the school early on the Tuesday before 3.00 pm to see his solicitor. He locked the door to his office.
He cannot remember rubbing out any spellings. At the bottom of page 30 of the bundle of SATs papers there is a rubbing out. However the child is a Special Needs child and they were allowed rubbers.
On return from marking, he rubbed out some things. The maths papers are looked at by the maths teachers. He did it so that they would be easier to look at. He had done this before.
He is working at a private nursery and infant school at Leamington Spa. It is closing due to low numbers. He is a type of business manager. He shows parents around. He does a little bit of teaching, swimming etc. His employers are aware of these proceedings.
Teaching is going well. It is very different from before, with much younger children;
Little Bowden was his second headship.
He feels that he should have had nothing to do with SATs in April / May 2011. He had tried not to and was under pressure with his father dying. He did not feel he could impose the administration of SATs on Witness F. He would not get involved in Year 6 SATs again.
He regrets his mistake. He’d been in the profession for 27 years. He had offered his resignation. He had a wide role at the school. He has a card (page 111) signed by all members of staff except those who gave evidence against him. He produced the original. He had a major building project at the school to take care of.
He considers the way in which he was portrayed by certain members of the staff is inaccurate and unfair. He complains about the circumstances in which he was dismissed.
He loves teaching. He is a referee. He would like to put right what he has done.
Closing Submissions:

Presenting Officer

She reminded the panel of the definition of dishonesty to which she referred at the outset. She referred to the definition of maladministration mentioned by Witness C as follows: maladministration causes the QCDA to doubt whether the SATs papers were the work of the pupils themselves. She suggested that Mr Grubisic had admitted dishonesty.

She referred to the definition of unacceptable professional conduct and conduct which may bring the profession into disrepute. She acknowledged that the burden of proof of the facts was upon herself and that the standard was the balance of probabilities. Unacceptable professional conduct and conduct which may bring the profession into disrepute was a matter for the panel, without reference to the burden or standard of proof.

Mr Grubisic

He accepted that his conduct had been unprofessional; that his conduct can be perceived as dishonest and premeditated. It was not deliberate. He got carried away. He regretted what he had done. He had never been accused of being dishonest before. He was under a great deal of strain. He has a good history in the profession. He got the job with good references. Ofsted has praised his leadership and management. He acknowledged that this isolated incident is serious. It could affect his future. He asks the panel to taken into account his history.

D. Decision and Reasons

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mr Grubisic proven, for these reasons:

Whilst employed as Head Teacher at Little Bowden Primary School, Leicestershire:

1. Mr Grubisic altered the contents of a number of the 2011 SATs papers:
   a. before they were sent for external marking;

based on Mr Grubisic’s admission. The panel carefully considered the extent of the alterations in the light of Mr Grubisic admission. It noted that Mr Grubisic accepted in his evidence that his alterations were not limited to clarifications but included the substitution of different phrases or words or letters to make a different answer to that given by the pupil. It accepted the evidence that in the reading papers, he altered the papers of some 33 pupils. In respect of the spelling test, Mr Grubisic altered some answers of 14 pupils. In respect of the mental maths tests, there were alterations to the papers of some 21 pupils. The panel was mindful that Witness A, the forensic examiner of the scripts, identified all the alterations as being made by a single hand. Mr Grubisic’s admissions mean that that hand was his own. The only
question therefore is whether the alterations were made before or after marks were awarded by the examiners. The panel finds, based on Mr Grubisic’s admissions, that the alterations must have been made before the papers were submitted to the markers because marks were awarded based on the altered scripts.

b. in doing so acted dishonestly, in that he made the alterations intentionally, knowing or believing that pupils could be awarded additional marks as a result of the alterations he had made;

The panel find this charge proved. Mr Grubisic acknowledged that his actions would be perceived by other people as dishonest. Mr Grubisic said that he now recognises that his actions would be perceived as being dishonest. The issue however is whether Mr Grubisic knew, at the time, that other people would perceive his actions as dishonest. The panel bears in mind Mr Grubisic’s state of mind on the Wednesday of the relevant week and his assertions that what he did was done in the presence of Witness E and with the door open. It has noted the guidance to a Head Teacher in the SATs document which is as follows:

_The test scripts must not be looked at, annotated or reviewed in any way ......

Mr Grubisic has 27 years in the profession and had been familiar with SATs papers since about 1998. He added words or answers which pupils had not put down on their papers. He accepted that the consequence of what was done may have or could have secured pupils marks which would not otherwise have been awarded. The panel therefore finds on the balance of probabilities that Mr Grubisic knew that what he was doing would have been regarded as dishonest by the standards of ordinary people. Mr Grubisic must have known that ordinary people would not countenance a Head Teacher altering scripts to obtain marks for the pupils which would not have been awarded by the markers. Mr Grubisic actions were not limited to making clear answers which the pupils had given.

2. _Under his authority, the security of the 2011 SATs papers was breached as a result of maladministration._

The panel finds the facts of this charge proved. The Teaching Agency alleges breach of security by reason that the completed papers were not locked in a cupboard, but were left in the Head Teacher’s office. The door of that office was not locked when Mr Grubisic was present. It was locked at other times. The panel reject this argument. The guidance at paragraph 12.2 requires the head teacher to store the tests scripts securely in the packaging provided and keep them in a secure place (such as a lockable cupboard or storeroom) until they are collected. The requirement of a lockable cupboard or store room is not prescriptive. There was evidence that there was no other appropriate store room present at the school and the cupboard was too small after the scripts had been opened. It seems to the panel that the Head Teacher’s office may be a secure place. There was no evidence that the papers were not stored in the packaging provided when Mr Grubisic was not looking at them.

However the panel consider that this charge is proved on Mr Grubisic’s own evidence in 3 ways as follows:
1. Contrary to paragraph 12.2 of the guidance, and according to the evidence of Witness C, Mr Grubisic did not store the English SATS papers securely on Tuesday 10th May 2011. Although the tests were complete on that day, contrary to the requirements to which Witness C referred, Mr Grubisic did not secure the papers in the grey packaging.

2. Mr Grubisic released up to about 10 English papers to Witness F on Wednesday morning 11th May 2011 to carry out transcriptions. These transcriptions should have been carried out on 10th May 2011 as soon as the test was complete. See para 13.5 of the Guidance.

3. Mr Grubisic did not obtain the mental maths papers as soon as the mental maths test was complete. Witness E retained the completed papers for a period of time after the test was completed during which she reviewed the answers and identified the marks she anticipated for each child. Contrary to paragraph 12.2 of the guidance, the papers were therefore not returned immediately to the Head Teacher.

Findings as to Unacceptable Professional Conduct/Conduct that may bring the profession into disrepute

The panel finds that by reason of the matters which it has found, Mr Grubisic failed to demonstrate consistently high standards of personal and professional conduct. Mr Grubisic did not uphold public trust in the profession or maintain high standards of ethics and behaviour. Mr Grubisic did not have a proper and professional regard for the policies and practices of the school of which Mr Grubisic was the Head Teacher. In those circumstances it finds that Mr Grubisic fell significantly short of the standard of behaviour expected of a teacher. Unacceptable professional conduct is therefore proved. It does not find separately that Mr Grubisic was guilty of conduct that may bring the profession into disrepute as his actions were referable to the school itself.

Panel’s Recommendation to the Secretary of State

The panel was mindful of the fact that Mr Grubisic had a duty as a Head Teacher to uphold and operate the public examination system. He failed to discharge that obligation, and, in doing so, acted dishonestly. In consequence of his actions, the Year 6 pupils in the school had their SATs results annulled. He did not follow the guidance for the administration of the SATs tests. The panel must have regard to the maintenance of public confidence in the profession. These were not the actions of a fledgling teacher but a teacher of 27 years’ experience and someone who had been a Head Teacher since about 2006. It must be concerned to declare and uphold proper standards of conduct.

On the other hand, it appeared, from the evidence, that Mr Grubisic was not well supported by certain members of staff involved in the SATs tests. The evidence suggested that they were aware of his altering scripts. They did not give evidence before the panel. As Head Teacher, Mr Grubisic was dismissed for the dishonest alteration of the scripts.

The panel must take into account the circumstances in which Mr Grubisic found himself. There were personal circumstances concerning his home life, especially
concerning his father, his son and his marriage. He had confided his problems to the Chair of Governors before he became involved with altering the SATs scripts. He explained to the panel that he was under pressure at the time and urged that he made no personal gain.

The panel took into account his career of 27 years and his career as a Head Teacher. It was apparent from a card which was signed and sent to him by many members of staff after he had been suspended, that he was much missed and indeed valued at the school. It appears from the matters which he put forward by way of mitigation that he achieved a great deal in his time at the school.

Looking at the matters which the *Teacher misconduct – the prohibition of teachers* enjoins the panel to consider, the panel note the following:

- This was a serious departure from the personal and professional conduct elements of the latest teachers’ standards;
- This was an abuse of position / trust although not one which seriously affected the pupils;
- This was dishonesty, but it was not repeated.

The panel do not say that Mr Grubisic’s conduct was not deliberate – it was – but it was committed at a particular time. He did have a good history both as a teacher and as a Head Teacher. He had clearly suffered a great deal. He offered his resignation to the Governors, but it was not accepted. Eventually he was dismissed.

The panel is in no doubt that he let his profession down and his office as a Head Teacher. It takes the view that he should not serve as a Head Teacher again. It will say however that he acquitted himself during the hearing entirely appropriately. He made many more admissions than he did before the hearing, including some admissions in relation to dishonesty. Allegation 2 was proved on matters which he disclosed. Further the panel recognises that he showed great character in attending the hearing unrepresented and alone for 2 days. It formed the impression, and accepted his assertion, that he wishes to remain as a teacher.

The panel has to reach a decision as to the recommendation it should make to the Secretary of State. It certainly would not want to see a position whereby Mr Grubisic will not teach again. The issue before it is whether it should recommend a short period of prohibition, limited say to 2 years, or to make no such recommendation. It has decided not to make a recommendation on the basis that his career as a Head Teacher has come to an abrupt end. He has suffered for his actions in that he was summarily dismissed for gross misconduct. It does not think it should recommend prohibition of Mr Grubisic and it does not.

**Secretary of State’s Decision and Reasons**

I have given very careful consideration to this case.

The allegations in this case and the findings in this case are very serious. The public has a right to have complete confidence in the public assessment
system and the failure of Mr Grubisic to behave in a way that enables that confidence to be held is a very serious matter.

Indeed the panel has found unacceptable professional conduct in this case. The deliberate alteration of scripts in order to give pupils apparent advantage and to enhance the results of the school is always wholly unacceptable and clearly falls below the standard expected of a teacher.

Moreover, the panel has also found dishonesty, in that Mr Grubisic has admitted that he knew that what he was doing was wrong.

The fact that Mr Grubisic was a Head Teacher at the time and held very particular responsibilities for the assessment process is a further aggravating factor in this case.

Nonetheless the purpose of a prohibition order is very clear and there are a number of factors to take into account.

A prohibition order, although its effect may be punitive should not of itself have a punitive intention. Mr Grubisic was dismissed by the school and future references will undoubtedly refer to the circumstances of that dismissal.

It is evident from the panel’s recommendation that Mr Grubisic was under considerable personal pressures at the time, and that this was a sole incident of misconduct. Although harm was done, the panel has taken the view that no serious harm was done to pupils.

A public decision of unacceptable professional conduct, including dishonest behaviour is itself very serious and is evidence that the public interest has been served in bringing this serious case to a hearing.

A decision as to whether to impose a prohibition order or not, calls for a careful balancing of proportionality and the public interest. On balance, and after very careful consideration I have decided not to impose a prohibition order in this case.

NAME OF DECISION MAKER: Alan Meyrick
Date: 4 February 2013