

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

Decision of a Professional Conduct Panel and the Secretary of State

Teacher: Ms Charmian Nex
Teacher ref no: 9637506
Teacher date of birth: 20 May 1968
Case ref no: 9327
Date of Determination: 3rd May 2013
Former Employer: Ridgewood High School, Stourbridge, West Midlands

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 1 May 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Charmian Nex.

The Panel members were:

Professor Ian Hughes (Lay Panellist– in the Chair);
Mrs Sharon Gimson (Lay Panellist); and
Mr Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mr Michael Williams, Barrister.

The Presenting Officer for the National College for Teaching and Leadership was Mrs Mary Page of Kingsley Napley Solicitors.

Ms Nex was neither present nor represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings (“the Notice”) dated 21 January 2013.

It was alleged that Ms Nex was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a Teacher at Ridgewood High School, Stourbridge she failed to:

1. Provide adequate advice to staff regarding the preparation of coursework for Unit 2 of the Citizenship GCSE Course in 2011;

2. Forward email requests for college references to the appropriate member of staff;
3. Forward work experience forms to the appropriate member of staff;
4. Suitably prepare Student A and Student B, two Year 11 students, to enable them to complete their full GCSE Citizenship Course;
5. Follow exam board guidelines relating to GCSE controlled assessments;
6. Submit coursework (controlled assessments) for Student A and Student B, two Year 11 students to the exam board;
7. Suitably prepare 95 Year 10 students to enable them to complete Unit 4 of the GCSE Citizenship Course in 2011.

Ms Nex did not respond to the Notice (notwithstanding a reminder letter sent to her registered address on 18 February 2013), and has not otherwise responded to the allegations. Accordingly, the Panel proceeded as if they were denied.

C. Preliminary Applications

Proof of Service and Proceeding in the Absence of the Teacher

Miss Page submitted that the Notice of Proceedings (“the Notice”) dated 21 January 2013 (at pages 5a to 5e) complied with paragraph 4.10 of the Disciplinary Procedures for the Regulation of the Teaching Profession (“the Disciplinary Procedures”) and had been served in accordance with regulation 19 of The Teachers’ Disciplinary (England) Regulations 2012. She noted that the Notice had been sent to Ms Nex’s last known address.

She submitted further that, if the Panel determined that the Notice had been correctly served, then it should proceed in the absence of the teacher in accordance with paragraphs 4.26 to 4.28 of the Disciplinary Procedures. She said that Ms Nex had not responded to any communication from the Teaching Agency/National College and, accordingly, that an adjournment would serve no useful purpose.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

1. As a general principle, a teacher has the right to be present before a Panel convened to hear her case. However, pursuant to paragraphs 4.26 to 4.28 of the Disciplinary Procedures, a Panel may proceed with a hearing in the absence of a teacher where it is satisfied, firstly that the Notice of Proceedings has been served on the teacher in accordance with paragraph 4.10 of the Disciplinary Procedures.
2. That paragraph requires the National College to provide the Panel with evidence that a notice in proper form was served, in accordance with regulation 19 of The Teachers’ Disciplinary (England) Regulations 2012, at least eight weeks before the hearing date, unless otherwise agreed with the teacher. The Panel must also enquire as to whether any reason for Ms Nex’s

absence has been communicated to either the Presenting Officer or the Teaching Agency/National College.

3. I do not intend to rehearse those. The Panel is familiar with them, the full text of each is available to the Panel and it should have regard to them when deciding if notice has been properly served upon the teacher.
4. If the Panel not so satisfied then it should adjourn the matter. If the Panel is satisfied that service has been effected then it should go on to consider whether it is appropriate to proceed in Ms Nex's absence.
5. The discretion of a court or tribunal to proceed in absence is one which has been described by the courts as 'severely constrained'. As the House of Lords held in *R v Jones (Anthony)* [2003] 1 AC 1; [2002] UKHL 5, that discretion 'should be exercised with the utmost care and caution.' In exercising that discretion, Panels must strike a careful balance between fairness to the teacher and the wider public interest that cases such as this should be pursued expeditiously.
6. In reaching a decision, the Panel must have regard to all of the circumstances of the case and, in particular, those factors identified by the Court of Appeal in *R v Hayward* [2001] QB 862 and approved on appeal by the House of Lords in *Jones* (supra). Although those principles have been developed in criminal cases, the decision of the Privy Council in *Tait v The Royal College of Veterinary Surgeons* [2003] UKPC 34 makes clear that the jurisprudence applies equally in regulatory proceedings such as these. Essentially, the factors which the Panel must consider are:
 - i. The nature and circumstances of the teacher's behaviour and, in particular, whether her behaviour is deliberate, voluntary and such that she has plainly waived her right to appear.
 - ii. Whether the teacher is likely to attend if the matter is adjourned.
 - iii. The likely length of any adjournment.
 - iv. Whether the teacher wished to be legally represented at the hearing
 - v. The extent of the disadvantage to the teacher in not being able to give her account of events having regard to the nature of the evidence against her.
 - vi. The risk of an improper conclusion in the teacher's absence.
 - vii. The general public interest that a hearing should take place within a reasonable time.
 - viii. The effect of delay on the memory of witnesses.
7. The key issue, according to the High Court in the case of *Jawid Yusuf v The Royal Pharmaceutical Society of Great Britain* [2009] EWHC 876 (Admin), is whether a teacher has voluntarily chosen not to attend.

8. The Panel may have been led to believe that another factor that it should consider is the seriousness of the offence. Such was the view of the Court of Appeal in *Hayward*. However, on appeal to the House of Lords, that was held not to be a relevant factor in the exercise of discretion.
9. In due course, the Panel should, provide reasons for its decision. In so doing, it is crucial that the Panel demonstrates by its language that it has appreciated that the discretion which it is exercising is one that must be exercised with the utmost care and caution.
10. Should the Panel decide to proceed in Ms Nex's absence, I would remind it that it then has a duty to ensure that the hearing is as fair as the circumstances permit. In particular, reasonable steps must be taken to test the case against Ms Nex and to make such points on her behalf as the evidence permits. The Panel must, of course, avoid speculating upon the reason for Ms Nex's absence; and treating that absence as any support for the National College's case.

The Panel announced its decision and reasons for that decision as follows:

In a letter dated 21 January 2013, sent by post to Ms Nex's last known address, Ms Nex was given notice of these proceedings in the form required by paragraph 4.10 of the Disciplinary Procedures, including the day, time and venue for this hearing.

The Panel is satisfied that such service complied with regulation 19 of The Teachers' Disciplinary (England) Regulations 2012, in that the Notice of the Hearing was sent by post to Ms Nex's last known address. Accordingly, the Panel went on to consider whether to proceed in the absence of the teacher, pursuant to paragraph 4.28 of the Disciplinary Procedures.

In so doing, the Panel had at the forefront of its mind that the discretion to proceed in the absence of a teacher is one which should be exercised with the utmost care and caution, that the crucial question is whether the respondent has voluntarily waived her right to be present or represented at these proceedings, and that it must strike a careful balance between fairness to the teacher and the wider public interest that cases of this type should be progressed expeditiously. The Panel has had regard to all of the circumstances of the case and to the factors set out by the Legal Adviser in his advice.

The Panel has heard that Ms Nex has failed to engage with any inquiry. There has been no correspondence or contact from the outset of the Teaching Agency/National College investigation and she did not respond either to the Notice or to the reminder letter sent to her on 18 February 2013. No reason for Ms Nex's absence has been communicated to either the Presenting Officer or the Teaching Agency/National College.

In those circumstances, the Panel has no reason to believe that Ms Nex would attend at any future date, were it to adjourn this matter today. The Panel is satisfied that Ms Nex has, in effect, disassociated herself from these proceedings and, accordingly, that her absence today is voluntary.

Two witnesses have attended to assist the Panel today. They are to deal with matters that, in some cases, took place some years ago and an adjournment would not only inconvenience them but would also have the potential to affect their recollection of the events with which they will deal.

In such circumstances, the Panel has determined to proceed in Ms Nex's absence. This is a case where the public interest in proceeding without further delay outweighs Ms Nex's own interests.

D. Summary of Evidence

Documents

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

Section 1	Chronology and Anonymised Pupil List	pages 1 - 5
Section 2	Notice of Proceedings	pages 5a - 10
Section 3	National College Witness Statements	pages 11 - 28
Section 4	National College Documents	pages 29 - 202

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

Brief summary of evidence given

1. Witness A

The Panel heard evidence from Witness A, Ridgewood High School's Deputy Head and Faculty Improvement Partner. She was also Ms Nex's line manager.

Witness A confirmed the truth of her statement (at pages 12 – 23). Her evidence was, in essence, that in May 2011, Ms Nex and a colleague raised concerns with her regarding the manner in which Unit 2 of the Citizenship GCSE course had been taught. Essentially, Year 10 students had not been properly prepared to answer controlled assessment questions. The revised syllabus for that unit (introduced in September 2009) required students to approach a topical issue from two viewpoints. The previous syllabus simply required them to look, uncritically, at a topic. Notwithstanding that Ms Nex had attended a training day held in June 2009 to prepare for the change to the syllabus, Ms Nex had failed to teach to the revised requirements. Accordingly, students were not prepared to look at a topic critically and, in consequence, were unable to access the higher marks available for the unit. So far as Witness A was aware, no other school had failed to appreciate the teaching consequences of the syllabus change.

Because of that, 179 students were withdrawn from the unit as it was felt they would underachieve. The cost to the school as a result of the students being withdrawn was £1,306.70.

Thereafter, Witness A was appointed to investigate the inadequate preparation of students. She gave evidence of the concerns identified in the course of her investigation, which form the basis of Particulars 2 to 7 of the allegations. In relation to the last of those, she told the Panel that 95 students (all of whom were amongst those withdrawn from Unit 2) also had to be withdrawn from Unit 4 of the GCSE Citizenship Course, at a cost to the school of £693.50. Although she could not recall the detail, she said that the controlled assignments that had been submitted and marked did not fully address the criteria necessary and, hence, students were failing to access the higher marks available for the unit.

2. Witness B

The Panel heard evidence from Witness B, Ridgewood High School's Deputy Head and co-ordinator of staff well being. He confirmed the truth of his statement (at pages 25 – 28), in which he described the various support mechanisms that had been made available to Ms Nex from as early as January 2008, including support in organising work placements for students from that date and the provision of 10 hours a week administrative support from June 2009.

He said that he had a number of informal meetings with Ms Nex in early 2011 and a formal 'wellbeing meeting' that was held in May 2011 in order to discuss Ms Nex's workload, the organisation of that workload and the further support that might be provided to her.

E. Decision and Reasons

The Panel announced its decision and reasons as follows:

The Panel has now carefully considered the case before it and had reached a decision.

The Panel Members confirm that they have read all the documents provided in the bundle in advance of the hearing.

Background

Ms Nex commenced employment at Ridgewood High School, Stourbridge, West Midlands ("the School") in September 2007. She was appointed as the Curriculum Team Leader for Vocational and Life Skills and received an additional stipend for the extra responsibility that the post brought with it.

In May 2011 Ms Nex and a colleague raised concerns with Witness A, the School's Deputy Head and Faculty Improvement Partner, and Ms Nex's Line Manager. Essentially, Year 10 students had not been properly prepared to compete

a controlled assessment which made up Unit 2 of the Citizenship GCSE course. In consequence, 179 students were withdrawn from the unit as, because of inadequate preparation, it was felt they would underachieve. The cost to the school as a result of the students being withdrawn was £1,306.70.

Thereafter, Witness A was appointed to investigate the inadequate preparation of students. In the course of her investigation, Witness A identified a number of other issues which form the basis of Particulars 2 to 7 of the allegations, as set out hereunder.

In relation to the last of those particulars, 95 students (all of whom were amongst those withdrawn from Unit 2) were withdrawn from Unit 4 of the GCSE Citizenship Course (at a cost to the school of £693.50) after Ms Nex had marked some of the coursework and was unhappy with the marks obtained.

It is alleged that by virtue of her failures, Ms Nex was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Findings of fact

Our findings of fact are as follows:

In essence, the case against Ms Nex turns on the evidence of Witness A. Her statement was served upon Ms Nex and has not been challenged. In the absence of Ms Nex, the Panel sought to take reasonable steps to test Witness A's evidence and to make such points on behalf of the teacher as the evidence permitted.

The Panel found Witness A to be a credible witness, who was prepared to acknowledge defects in her recollection of matters. It is apparent that she had conducted a searching investigation into Ms Nex's professional performance and the consequences that resulted from those failures. Although in some cases hearsay, there is evidence in the papers supportive of the findings of Witness A's investigation.

Having considered all of the evidence, both oral and documentary, and having given such weight to the hearsay evidence as is appropriate in all of the circumstances, the Panel has found the following particulars of the allegations proved, for the reasons set out:

Particular 1

That she failed to:

“Provide adequate advice to staff regarding the preparation of coursework for Unit 2 of the Citizenship GCSE Course in 2011”.

In September 2009 the School's exam board, Edexcel, introduced a new syllabus for the Citizenship GCSE that required students to approach a topical issue from two viewpoints in order to access higher marks. The previous syllabus simply required them to look, uncritically, at a topic. Notwithstanding that Ms Nex had attended a training day held in June 2009 to prepare for the change to the syllabus, Ms Nex had

failed to teach to the revised requirements, or to advise her colleagues in the faculty of that significant change. Accordingly, students were not prepared to evaluate different viewpoints and, in consequence, were unable to access the higher marks available for the unit.

So far as Witness A was aware, no other school had failed to appreciate the teaching consequences of the syllabus change.

According to Witness A, Miss Nex claimed that she had asked the trainer at the training day whether it was still possible to do a campaign (i.e. an uncritical study of a topic) in Unit 2 and that she was told that this was acceptable, although Witness A was unable to verify whether such was the case. The Panel does not consider it probable that she was told such a thing when it seems that the reason for the syllabus change was to encourage students to think more critically and evaluate different ideas and viewpoints.

On 8 April 2011, Ms Nex and a colleague began to moderate the controlled assessments. It seems from the evidence that it was not until then that Ms Nex realised that the coursework was not in line with the Edexcel assessment criteria and that, because of the way that their teaching had been structured, students were unable to access the higher marks available for the unit.

The Panel shares the view expressed by Witness A in her oral evidence that such a serious failure would not be expected of a teacher in Ms Nex's position, particularly one who had been trained, specifically, in the requirements of the syllabus.

Particular 2

That she failed to:

“Forward email requests for college references to the appropriate member of staff”.

On 20 June 2011, a member of the School's administrative staff told Witness A that she had been contacted by Stourbridge College, with a request for a reference for a student. It was said that an earlier request made to Ms Nex had not been actioned.

At that time, Ms Nex was absent from the School on long-term sick leave. Accordingly, Witness A caused Ms Nex's user area on the School's IT system to be accessed. That revealed that, between November 2010 and March 2011, Ms Nex had received 55 emails from Stourbridge college requesting references, of which only six had been read. None had been forwarded to the member of staff responsible for co-ordinating such requests or otherwise actioned.

As the un-actioned emails were discovered, there was no long-term impact on the students involved. However, it would have delayed the students' application process and, had the discovery been made any later, may have had an adverse effect on their academic futures as their places at Stourbridge College may have gone to other applicants.

Particular 3

That she failed to:

“Forward work experience forms to the appropriate member of staff”.

Following the ‘wellbeing’ meeting on 19 May 2011, the School asked cover supervisors (permanent staff within the School that cover for other teachers when they are not available to take their own classes) to help to organise the Faculty. They began by tidying the Faculty and ensuring that everything was in order. In so doing two work experience forms which had not been processed were found in Ms Nex’s office. Under previous support arrangements that had been established, those forms ought to have been dealt with by the Work Experience Co-ordinator.

As they were not, there was a delay in organising the work experience for the students concerned.

Particular 4

That she failed to:

“Suitably prepare Student A and Student B, two Year 11 students to enable them to complete their full GCSE Citizenship Course”.

Students A and B, completed the GCSE short Citizenship course in 2010. In April 2011 they asked Ms Nex, if they could complete Units 3 and 4 of the Citizenship course in order to obtain a full GCSE.

As the course syllabus had changed between 2010 and 2011 they were required to sit all 4 units, including the two that they had already completed for the short course. It is apparent from the evidence of Witness A and the statements of the two pupils that she produces (at pages 100 to 118) that Ms Nex was not aware of the requirement and did not advise the students accordingly. If Ms Nex was unsure as to that, Witness A would have expected her to check the position, either during the training day she attended in June 2009 or by contacting Edexcel when planning the curriculum.

Particular 5

That she failed to:

“Follow exam board guidelines relating to GCSE controlled assessments”.

The Panel has had regard to the Guidelines setting out the requirements for controlled assessments contained within the papers and the evidence – albeit hearsay evidence – from Students A and B that they were not supervised as required by those guidelines and, moreover, that Ms Nex encouraged pupils to share and copy each other’s work. Students A and B also said that Ms Nex had said she would review their work and ensure that it reached A* standard.

Particular 6

That she failed to:

“Submit coursework (controlled assessments) for Student A and Student B, two Year 11 students to the exam board”.

According to Witness A, on 11 May 2011, Ms Nex approached the School’s Examination Officer, requesting that he enter Students A and B for Units 1 and 2 of the Citizenship Course as late entries (having, the Panel presumes, belatedly become aware of the need for them to take these course Units). Having done so, Ms Nex, as their teacher, was required to submit their marks and controlled assessment for Unit 2 by the deadline of 15 May 2011.

The Examinations Officer reminded Ms Nex of that requirement but she told him that she had added the marks for Students A and B to the original mark sheet and had already submitted them to Edexcel. Ms Nex also said she had scanned the controlled assessments and emailed them to the exam moderator. However, on 24 May 2011, Ms Nex told the Examinations Officer that she was not sure of the address to which she sent the controlled assessments.

As a result, the Examinations Officer completed new mark sheets for Students A and B and Ms Nex agreed to re-send the controlled assessments. However, despite repeated enquiries from Edexcel and attempts by the Examinations Officer to establish the whereabouts of the controlled assignments, those assignments were not located. Accordingly, the School was obliged to withdraw both students from the course.

The Panel notes that Witness A’s evidence as to what was said by Ms Nex to the Examinations Officer and as to that which was said by him to her is, in its entirety, hearsay. However, it is supported by a signed statement from the Examinations Officer and correspondence in various forms that passed between him and Ms Nex. In all of the circumstances, the Panel is satisfied that it is evidence upon which it can properly rely.

Having considered all of the evidence, both oral and documentary, and having given such weight to the hearsay evidence as is appropriate in all of the circumstances, the Panel has found the following particulars of the allegations not proved, for the reasons set out:

Particular 7

That she failed to:

“Suitably prepare 95 Year 10 students to enable them to complete Unit 4 of the GCSE Citizenship Course in 2011”.

According to Witness A, 95 students were attempting to pass the full, four unit GCSE Citizenship course. That required each student to complete a controlled assessment for Unit 4, which was taught by Ms Nex.

Witness A's statement identifies that at around the same time that the Unit 2 assessments were moderated in April 2011, Miss Nex also raised concerns relating to the Unit 4 assessments She had, it seems, marked some of the assessments submitted to her and found that the students were failing to access the higher marks with the answers they had written.

Although there is some discrepancy between Witness A's witness statement and her earlier investigation report, it is apparent that the 95 students were withdrawn from the unit, as it was felt that they would underachieve. By whom that decision was taken is a moot point but not one that impacts on the Panel's reasoning.

As it has been advised to do, the Panel has given the constituent words and phrases of the particular their ordinary meaning. From the evidence, the Panel is satisfied that the students concerned did 'complete' the unit, in that they submitted the required controlled assessments. The fact that the School did not feel that the standard reflected the true potential of the students, and therefore withdrew them, is neither here nor there.

Findings as to Conduct

Having found the facts of Particular 1 to 6 proved, the Panel went on to consider whether Ms Nex's failures amounted to unacceptable professional conduct and/or conduct that may have brought the profession into disrepute. In so doing, the Panel had regard to the advice of the Legal Adviser and to the *Teachers' Standards* published by, or on behalf of, the Secretary of State. Those standards require teachers to demonstrate consistently high standards of personal and professional conduct. They are expected to uphold public trust in the profession.

The Panel has heard – and has been reminded by the Legal Adviser – that during Ms Nex's tenure, there were staff shortages within the Faculty, brought about, in part at least, by the absence because of illness of Ms Nex and another member of staff and has had regard to the occupational health reports from 2011 and the information contained therein as to the state of Ms Nex's health at the time, albeit that the information is somewhat limited.

However, the Panel is satisfied that appropriate mechanisms were put into place to support Ms Nex. For example:

- from January 2009 to sometime in 2011 (when the Administrator left the School), she was given 10 hours a week administrative support;
- from January 2008, she was supported in relation to the organisation of work experience placements for pupils of the school;
- her teaching timetable was reduced from 38 to 34 hours per fortnight (thereby giving her four extra hours for organisation and management of the Faculty, which were not given to other staff in equivalent positions);
- staff from other faculties would teach some of the classes in Ms Nex's Faculty.

Ms Nex also received other, less tangible support. In May 2011, Witness B, Assistant Head and Wellbeing Teacher, held a 'wellbeing' meeting with Ms Nex to discuss her workload and to help her deal with any issues that were giving her stress. Individual A held fortnightly meetings with her, which were intended to assist her with organisational and time management.

Her failures arose against the backdrop of that comprehensive support.

In determining whether the factual particulars found proved amount to unacceptable professional conduct and/or conduct that may have brought the profession into disrepute, the Panel has had regard to the *Teachers' Standards*, together with the Code of Conduct that applied at the time of these events. The former defines unacceptable professional conduct as "misconduct of a serious nature, falling significantly short of the standards of behaviour expected of a teacher".

Ms Nex's failure to understand the revised syllabus for Unit 2 of the Citizenship GCSE Course and, hence, to provide adequate advice to staff regarding the preparation of coursework meant that 179 pupils entered for both the 'short' and 'long' citizenship course were withdrawn from the Unit, and hence were unable to obtain a pass in the subject. That meant that the time and effort that the students had invested in the subject was wasted, so that they were not able to devote as much time to other subjects. More importantly, it affected the academic development and achievement of the pupils.

Her lack of understanding of the revised syllabus also led to Pupils A and B attempting the 'long' course, without realising that they would be required to re-sit the units they had already passed when sitting the 'short' course the previous year. Moreover, the students having redone the assessment for Unit 2 at short notice and at a time when their energies might have been better employed elsewhere. Ms Nex then failed to ensure that the coursework was forwarded to the exam board.

Equally concerning, it is apparent – at least as far as Pupils A and B are concerned – that Ms Nex failed to follow the Guidelines for the conduct of controlled assignments.

It was Ms Nex's responsibility as Faculty Team Leader – and hers alone – to ensure that she understood the syllabi of the courses being taught within her department and to ensure that coursework was both completed in accordance with the appropriate guidelines and forwarded to the exam board. Her failure to do that had far reaching effects on pupils and, potentially, on the reputation of the school. It was a clear breach of the Teachers' Standards that require teachers to promote good progress and outcomes by pupils, demonstrate good subject and curriculum knowledge, make accurate and productive use of assessment and fulfil their wider professional responsibilities.

Although arguably less serious, her administrative failures in relation to the requests for references and work placement documentation also had the potential to affect not only the academic development of her students but also their preparation for future employment. It was a clear breach of the Teachers' Standards that require teachers to promote good progress and outcomes by pupils and to fulfil their wider professional responsibilities.

In all of the circumstances, the Panel is satisfied that Ms Nex's conduct was of a serious nature, falling significantly short of the standard expected of the profession and, hence, amounted to unacceptable professional conduct.

Notwithstanding Miss Page's invitation to dismiss the allegation that Ms Nex's conduct may have brought the profession into disrepute, the Panel went on to consider that allegation.

As has already been noted, Ms Nex's conduct failures had far reaching effects on a very large number pupils and, potentially, on the reputation of the school. That is compounded by the fact that she actively encouraged students to share and copy work – i.e. to commit plagiarism – and failed to supervise coursework that ought to have been supervised. That too had the very real potential to impact adversely on the reputation of the school and also on the reputation of the profession as a whole. In so doing, Ms Nex failed to demonstrate the high standards of ethics and behaviour expected of a teacher.

In all of the circumstances, the Panel is satisfied that Ms Nex's professional misconduct was of a serious nature and fell significantly short of the standard expected and may have brought the profession into disrepute.

Panel's Recommendation to the Secretary of State

The Panel heard advice from the Legal Adviser that the primary object of imposing a sanction in proceedings such as these is not to be punitive but is to protect students and maintain the standing of the profession and the confidence of the public in the profession. The impact of an Order on the teacher is also relevant, because the Panel must act proportionately but, as the primary objectives concern the wider public interest, such impact has been said not to be 'a primary consideration'.

In deciding whether to recommend the imposition of a Prohibition Order, the Panel has applied the principle of proportionality, weighing the interests of the public with those of the teacher.

The Panel considers this to be a case where a Prohibition Order should be imposed.

There has been no suggestion of any prior misconduct or poor professional performance on Ms Nex's part. The Panel has heard – and has been reminded by the Legal Adviser – that during Ms Nex's tenure, there were staff shortages within the Faculty, brought about, in part at least, by the absence because of illness of Ms Nex and another member of staff and has had regard to the occupational health reports from 2011 and the information contained therein as to the state of Ms Nex's health at the time, albeit that the information is somewhat limited.

However, the Panel is satisfied that appropriate mechanisms were put into place to support Ms Nex. For example:

- from January 2009 to sometime in 2011 (when the Administrator left the School), she was given 10 hours a week administrative support;

- from January 2008, she was supported in relation to the organisation of work experience placements for pupils of the school;
- her teaching timetable was reduced from 38 to 34 hours per fortnight (thereby giving her four extra hours for organisation and management of the Faculty, which were not given to other staff in equivalent positions);
- staff from other faculties would teach some of the classes in Ms Nex's Faculty.

Ms Nex also received other, less tangible support. In May 2011, Witness B, Assistant Head and Wellbeing teacher, held a 'wellbeing' meeting with Ms Nex to discuss her workload and to help her deal with any issues that were giving her stress. Individual A held fortnightly meetings with her, which were intended to assist her with organisational and time management.

The Panel has not been provided with sufficient evidence to enable it to determine whether Ms Nex's health may have contributed to her professional failures. However, the Panel notes that, as a general principle, a professional is responsible for managing any health condition and the consequences of it.

This case involves a serious departure from the standards expected of a teacher. As has already been noted, Ms Nex's failures had far reaching effects on a very large number pupils and, potentially, on the reputation of the school. That is compounded by the fact that she actively encouraged students to share and copy work – i.e. to commit plagiarism – and failed to supervise coursework that ought to have been supervised. That too had the very real potential to impact adversely on the reputation of the school and also on the reputation of the profession as a whole. In so doing, Ms Nex failed to demonstrate the high standards of ethics and behaviour expected of a teacher.

In coming to its decision, the Panel has had regard to the fact that the public interest includes the retention of a qualified and otherwise competent teacher. However, in this case the Panel is satisfied that the public interest, including the maintenance of proper standards of conduct and behaviour, can be met only by the imposition of a Prohibition Order. That will send out a necessarily strong signal to the profession as to the unacceptability of such behaviour

Whilst it was Ms Nex herself who brought the problems with the syllabi for Units 2 and 4 to Witness A's attention, Ms Nex did not inform her of the backlog of reference requests and work placement documentation, even though the two met on a fortnightly basis to discuss such issues.

The Panel also is concerned that, in the course of the School's internal investigation, Ms Nex gave contradictory reasons for her various failures and did not co-operate fully with the internal investigation, or at all with the Teaching Agency/National College of Investigation. In the absence of that co-operation, the Panel must question her insight into her failures and her willingness to address them by whatever means necessary. Without those things, the Panel is of the view that Ms Nex presents a continuing risk to the academic development of students and to the reputation of the profession.

Accordingly, having had regard to the principle of proportionality, the Panel is of the view that an order should be made without limit of time.

Secretary of State's Decision and Reasons

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

The Panel has found that Ms Nex's behaviour fell significantly short of that expected of a teacher. Although on the face of it this case might appear to touch upon elements of incompetence, it is clear from the panel's findings that Ms Nex neglected many of the actions that were properly expected of her and that she encouraged plagiarism. Those actions point to misconduct on the part of Ms Nex. The public properly expects that teachers should manage their work to ensure the overall confidence in the public examination system.

I therefore support the view that it is both proportionate and in the public interest for Ms Nex to be prohibited from teaching.

Although Ms Nex has not engaged with this process and the Panel has had no evidence of her insight into her behaviour, in my view the misconduct that has been evidenced could, given time, be addressed and I am therefore putting in place a review period of 5 years. That should enable Ms Nex, if she wishes, to consider how she might evidence that her attitude and approach has changed.

This means that Ms Nex 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 13 May 2018, 5 years from the date of this order at the earliest**. If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Ms Nex remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Ms Nex 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.

NAME OF DECISION MAKER: Alan Meyrick

DATE: 3 May 2013