



Teaching
Regulation
Agency

Ms Sarah-Jane Yates: Professional conduct panel outcome

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

January 2019

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

Teacher: Ms Sarah-Jane Yates

Teacher ref number: 3452525

Teacher date of birth: 17 February 1973

TRA reference: 017004

Date of determination: 31 January 2019

Former employer: Erith School, Kent

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 29 January to 31 January at Study Inn, 175 Corporation Street, Coventry, CV1 1GU to consider the case of Ms Sarah-Jane Yates.

The panel members were Mr Michael Lewis (former teacher panellist – in the chair), Mr John Matharu (lay panellist) and Mr Phillip Riggon (teacher panellist).

The legal adviser to the panel was Mrs Natascha Gaut of Eversheds Sutherland International LLP solicitors.

The presenting officer for the TRA was Mr Andrew Cullen of Browne Jacobson LLP solicitors.

Ms Yates was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 29 November 2018.

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

Whilst employed as a teacher at Erith School:

1. she provided false/and or misleading information;
 - a. to one or members of staff at Erith School in or around February or March 2015;
 - i. by suggesting that she had passed her skills tests;
 - ii. by providing a document which suggested that she had been awarded QTS on 24 February 2015;
 - b. within an application form she completed on or around 30 June 2017 which suggested that she had been awarded QTS;
 - c. to one or more members of staff at Sedgehill School in or around July 2017 by providing a document which suggested that she had been awarded QTS;
 - d. in or around July 2017, during one or more discussions with;
 - i. members of staff at Sedgehill School;
 - ii. members of staff at the Teaching Regulation Agency (then known as the National College for Teaching and Leadership);
2. her actions as may be found proven at 1 above lacked integrity and/or were dishonest in that she provided false and/or misleading information in order to support her claim that she had been awarded Qualified Teacher Status and/or had completed her induction period, which she knew was untrue.

In advance of the hearing Ms Yates denied the allegations and denied being guilty of unacceptable professional conduct and or/ conduct which may bring the profession into disrepute.

C. Preliminary applications

The panel considered as a preliminary point whether it had jurisdiction to consider the case. The case posed by the TRA set out that Ms Yates did not have qualified teacher status at the time of her employment at the school, which encompassed the time period in which the allegations took place, but was a teacher by the time of her referral to the Secretary of State. The question the panel needed to decide was whether Ms Yates could be subject to the jurisdiction of the Secretary of State in these proceedings.

The issue for the panel to determine was whether the phrase “is employed or engaged to carry on teaching work within section 141A of the Education Act 2011 and para 2 of the Teachers’ Disciplinary (England) Regulations 2012” encompassed the situation in this case, despite Ms Yates not having qualified teacher status at the time the allegations took place. The panel was advised that s141B allows the Secretary of State to investigate a case where an allegation is referred that a person meeting the definition within s141A:

- a) may be guilty of unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or
- b) has been convicted (at any time) of a relevant offence.

The panel was also advised to consider the definition of Teaching Work in Regulation 3 of the Regulations.

The panel was advised that the legal meaning of an enactment is the meaning that corresponds to the legislator’s intention in passing the enactment. The panel was asked to consider the legal meaning of the phrase “is employed or engaged to carry on teaching work”. The panel was advised that if it considered the legal meaning of the phrase to be plain, then it would not need to interpret the phrase further.

However, if the panel did consider the phrase to be ambiguous, then the panel should consider the intended legal meaning and reach a balanced and common sense judgement. The panel was directed to the following principles it may wish to consider in determining this, including that the law should:

- serve the public interest;
- be just;
- be certain and predictable;
- be coherent and self-consistent;
- that Parliament will have intended for a provision to be given on its literal meaning on an ordinary and natural interpretation;
- the provision to meet the legislative purpose and remedy the issue it was directed towards;

- the provision not to be interpreted in a way that produces an absurd, unworkable or impractical result;
- the provision not to be interpreted in a way that produces unjustifiable inconvenience in terms of unnecessary technicalities; inconvenience to business, taxpayers or legal proceedings;
- the provision not to be interpreted in a way that produces an anomaly;
- the provision not to be interpreted in a way that produces a futile, pointless or artificial result, including pointless legal proceedings.

The panel's attention was drawn to the decision of the High Court in *Zebaida v Secretary of State for Education* [2016] EWHC 1181. Here, the court stated that in respect of a conviction case, a common sense and plain reading of the legislation allowed for referral to the Secretary of State of a person who is employed or engaged in teaching (whenever the conduct giving rise to the concern takes place) or who was so employed or engaged at the time the conduct complained of takes place or comes to light.

However, the High Court in *Alsaifi v Secretary of State for Education* [2016] EWHC 1591 drew a distinction between conviction cases and other conduct. Within this case the court had noted that the *Zebaida* case involved a conviction for a sexual offence and that therefore under section 141B(1)(b), the teacher's conviction *at any time* could trigger a referral. The Court distinguished this from the situation where a person was not a teacher at the time of the alleged misconduct, but was at the time of the referral. The court noted that s141B(1)(a), the provision relating to unacceptable professional conduct or conduct that may bring the profession into disrepute, contained no reference to the conduct being *at any time*. In those circumstances the court did not consider that it was obvious that it was the intention of Parliament that such a person should be subject to investigation but for the purpose of the case before it, did not need to reach a determination on this point, merely stating there were arguments both for and against such an interpretation. There is therefore no settled case law which deals with this point.

The legal adviser suggested that the panel may wish to take into account the following arguments for and against jurisdiction, drawn from the *Alsaifi* case, when reaching its determination:

- 1) the absence of reference to "at any time" in s141B(1)(a) in contrast to its presence in s141B(1)(b);
- 2) whether the alleged conduct could bring the teaching profession into disrepute if the person in question was not a teacher at the time;
- 3) whether the conduct in question casts doubt on a person's suitability to teach such that Parliament must have intended that it could be investigated;
- 4) whether conduct could be described as unprofessional if it was committed at a time when the person was not a teacher.

The panel was reminded that each case should turn on its own facts.

The panel considered that Ms Yates would fall within the definition of a teacher. The panel concluded that at all times Ms Yates was engaged to carry out teaching work and took the legal meaning of the phrase “is employed or engaged to carry on teaching work” as plain and unequivocal and therefore did not need to interpret the phrase any further. The panel also considered the definition of Teaching Work in Regulation 3 of the Regulations. The panel decided that on the facts of the case that Ms Yates could be considered as undertaking the various activities as defined under “Teaching Work” and that, more specifically, she was in a trusted position which required no direction or supervision from a qualified teacher. This was further evidenced by her application to Sedgehill School where she was applying in respect of a head of English teaching post.

The panel also considered an application to admit additional documentation from the presenting officer. The presenting officer, on behalf of the teacher, applied to admit 3 documents, namely correspondence relevant to the proceeding in absence application, the signed witness statement of Ms Yates and the written submissions made on behalf of Ms Yates. Those documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel.

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

The panel took into account the representations from the presenting officer and considered that the documentation relating to the proceeding in absence application were pertinent to the application and therefore needed to be admitted. The panel also took into account that the witness statement of Ms Yates and the written submissions were documents either created by or on behalf of Ms Yates and that their inclusion within the bundle was even more important given that a decision to proceed in absence needed to be undertaken.

The panel was satisfied that the documents were relevant to the proceedings and these documents were added to the bundle. The signed witness statement replaced the statement contained within the bundle and was paginated to reflect the original page numbers of pages 145 to 154. The email correspondence regarding proceeding in absence was added and paginated as pages 158 to 159 and lastly, the written submissions were added and paginated from pages 160 to 168.

The panel lastly, considered an application as to whether this hearing should continue in the absence of Ms Yates.

After hearing submissions from the presenting officer and reviewing the documentation, namely the documents at pages 158 and 159 of the bundle, the panel is satisfied that TRA has complied with the service requirements of paragraph 19 a to c of the Teachers’ Disciplinary (England) Regulations 2012, (the “Regulations”). The panel is also satisfied

that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the “Procedures”).

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

The panel understands that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one.

In making its decision, the panel has noted that the teacher may waive her right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The panel had reviewed the documentation provided by the presenting officer with regards to this application and after reviewing all of the evidence the panel considered that Ms Yates had unequivocally waived her right to be present at the hearing in the knowledge of when and where the hearing was taking place. The panel considered that the TRA took all reasonable steps open to it to confirm that both Ms Yates and her representation would not be attending the hearing and if an adjournment was granted that they would not attend this either.

The panel has had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There has also been an indication from the documentation subsequently added to the bundle at pages 158 and 159 that unequivocally states that the teacher will not be attending the hearing and that she does not wish to seek an adjournment as she believes that she would not be in a position to attend the hearing even if it was rescheduled.

The panel has had regard to the extent of the disadvantage to Ms Yates in not being able to give her account of events, having regard to the nature of the evidence against her. The panel noted that all of the witnesses relied upon were called to give evidence and the panel would be able to test that evidence in questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel also has the benefit of written representations made by the teacher’s representative and the statement made by Ms Yates and is therefore able to ascertain the lines of defence. The panel will exercise its vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher’s account.

The panel has had regard to the seriousness of this case, and the potential consequences for Ms Yates and has accepted that fairness to the teacher is of prime importance. However, it considers that in light of the teacher’s waiver of her right to appear; by taking such measures referred to above to address unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the

witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

D. Summary of evidence

Documents

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

Section 1: Chronology – pages 2 to 3

Section 2: Notice of Proceedings and Response – pages 5 to 11

Section 3: Teaching Regulation Agency witness statements – pages 13 to 22

Section 4: Teaching Regulation Agency documents – pages 24 to 143

Section 5: Teacher documents – pages 145 to 157

In addition, the panel agreed to accept 3 additional documents and paginated them as detailed above.

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 from Erith School, Witness B from Sedgehill School and Witness C, an executive officer of the Teacher Qualification Unit of the TRA. All of the above witnesses were called by the presenting officer.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case before us and have reached a decision.

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Ms Yates was appointed to Erith School in May 2014 as an unqualified teacher. The information on her personnel file at this time stated that her name was 'Sarah-Jane Yates'; her teacher reference number ("TRN") was '3452525' and her status was a 'trainee teacher'. The School did initially offer her a TLR (Teaching and Learning Responsibility) payment however, immediately realised that Ms Yates was an unqualified teacher and revoked this offer as they "were unable to award a TLR allowance in light of

your current unqualified teacher status". Instead Ms Yates was paid an equivalent "additional allowance".

On 26 February 2015 Ms Yates forwarded a copy of a QTS ("Qualified Teacher Status") certificate belonging to another member of staff to an outside email account. Within this email Ms Yates detailed the name "Sarah-Jane Elizabeth Yates" and the teaching number "3452526". It was made clear to the panel during evidence that this email only came to light when Witness A was conducting his investigation into Ms Yates, following the referral from Sedgehill School in 2017.

In February 2015, Ms Yates alleged that she took and passed the remaining skills test. Ms Yates alleged that she took her test with the provider Pearson in the Sidcup examination centre. Ms Yates said that she was subsequently informed via email that she had successfully achieved QTS but states that she was not provided with the QTS certificate. Ms Yates stated that on receiving this email she informed both her line manager and the School's HR officer, that she had completed the skills test and been awarded QTS. Ms Yates confirms that she provided the skills test certificate to the HR department but did not provide the School with the QTS certificate.

On 13 March 2015, the School's HR officer signed a copy of what appears to be a QTS certificate in respect of Ms Yates. The name on the certificate is 'Sarah-Jane Elizabeth Yates' and the TRN given is '3452526'. According to the investigation of Witness A, the School then acted on this information and recognised Ms Yates as a qualified teacher and remunerated her according to the main scale rather than the unqualified teacher scale.

A year later Ms Yates had progressed from the main scale and had moved to the upper spine (UPS1) as evidenced by the document signed by the head teacher on 20 October 2016. The panel also observed that Ms Yates was no longer being paid the additional allowance but was now being paid a TLR alongside her UPS1 salary.

On 24 May 2017 Ms Yates' CV was sent to Sedgehill School by Masterclass Education in respect of a head of English post. Ms Yates subsequently attended an interview at Sedgehill School on 26 May 2017. Ms Yates was successful in her application and was offered the job. On 6 June 2017, Ms Yates contacted the TRA and was informed that she did not hold QTS. On the 30 June 2017, Ms Yates retrospectively completed an application form for the position and indicated within this document that she had been awarded QTS. On 20 & 21 July 2017 discussions took place between Ms Yates, Sedgehill School and the TRA regarding Ms Yates' qualified teacher status. More specifically, Sedgehill School had concerns regarding the presentation and information contained on the certificate. When these concerns were raised with Ms Yates she proposed that there must have been a clerical error at some point, whether that be with the school or the TRA. On 24 July 2017, Sedgehill School received an email from the TRA which indicated that there was no mix-up of the TRNs and that according to TRA records Ms Yates never completed her initial training.

On 25 July 2017 Sedgehill School wrote to Ms Yates and withdrew the offer that had been made and also contacted Erith School in writing to confirm that Ms Yates did not appear to hold QTS.

On 7 August 2017 Ms Yates took and passed her literacy skills test and on 31 August 2017 Ms Yates took and passed her numeracy skills test. On 1 September 2017 Ms Yates was officially awarded QTS.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegation(s) against you proven, for these reasons:

Whilst employed as a teacher at Erith School:

- 1. You provided false/and or misleading information including;**
 - a. to one or members of staff at Erith School in or around February or March 2015;**
 - i. by suggesting that you had passed your skills tests;**

The panel reviewed Ms Yates' statement which stated, at paragraph 37 on page 150 of the bundle, that Ms Yates was contacted by email to confirm that she had achieved QTS and that she subsequently "shared this information with members of staff at the school". The panel also had sight of an email, at page 155 of the bundle, which confirmed that the sender, Individual E had seen confirmation of Ms Yates' successful completion of the maths skills test.

The panel also heard live evidence from Witness A which was contrary to this. Witness A stated that he had conducted a review of Individual E's emails, as part of his investigation on behalf of the school, and did not find any evidence in these emails relating to Ms Yates' passing her skills tests or obtaining QTS.

The Panel heard evidence from Witness C where he confirmed that there was an online records system, referred to as 'the portal'. Witness C analysed this to check that Ms Yates' account reflected the online records. Witness C confirmed that Ms Yates had not passed any skills test prior to 24 February 2015, a screenshot evidencing this can be found at page 78 of the bundle. Witness C confirmed that the portal was an accurate record of a teacher's exam history for the professional skills tests. Witness C also stated that, in this scenario, it is the responsibility of the initial teacher training (ITT) (Institute of Education, University College London) provider to inform the relevant body once the tests have been passed. Witness C also confirmed that if the ITT provider hadn't done this then he would also expect the teacher to have checked their records had been updated.

This is important because Ms Yates could not be recommended for the award of QTS until she had completed and passed these skills tests. The evidence indicates that Ms Yates was aware of the requirement to have passed the skills tests as a condition for the award of QTS. The panel observed from the evidence, that no successful skills tests results were recorded until August 2017.

Witness C emailed the ITT provider to enquire about Ms Yates' teacher status. The ITT provider confirmed that they had not "recommended Ms Yates for the award of QTS because she had not completed her professional skills tests". The status of 'in training' was correct at 31 July 2012 because at that point Ms Yates had not passed the two skills tests. This status remained recorded as such on the official database until the matter was investigated in July 2017. Ms Yates asserts that she sat and passed both of the outstanding skills tests at some time between May 2014, when she was appointed to the school, and some time in February 2015 when she states she was awarded QTS. Witness C confirmed that there was no record of these tests being passed. Ms Yates has maintained her version of events throughout.

The panel notes the email between Individual E and Ms Yates and that there is no signed declaration of truth. The panel also notes that Witness A was unable to find any record of this confirmation within Ms Yates' personnel file. The panel also notes that no evidence was presented by Ms Yates with regard to her personnel file and lastly, the portal reflected the evidence provided by both Witness A and Witness C and not the assertion made by Ms Yates.

The panel considered all of the evidence, and on the balance of probabilities it found that Ms Yates had not undertaken and passed her skills tests and therefore by telling members of staff that she had, the panel finds that she was telling them false/misleading information. The panel therefore found this allegation proven.

ii. by providing a document which suggested that you had been awarded QTS on 24 February 2015;

The panel notes that to obtain QTS a teacher needs to have passed both the literacy and numeracy skills tests. As discussed at 1.a.i. above the panel has found that at the relevant time Ms Yates did not possess the requirement to be awarded QTS.

The panel has weighed all the evidence put before it in live and written testimony and tested it where possible.

The panel has noted Ms Yates' assertions but in her absence and the absence of her legal representative has not been able to test these further.

The panel has heard evidence that the middle name Elizabeth which features within the QTS certificate provided by Ms Yates is not recorded in any relevant database. Witness C told the panel that it is therefore not possible for a name not recorded in the database to find its way on to a QTS certificate.

The panel heard evidence that when a prospective teacher commences ITT he or she is issued with a unique teacher reference number (TRN). In the case of Ms Yates this was 3452525. This TRN remains with a teacher throughout their career and into retirement. The panel notes that on the QTS certificate dated 24 February 2015 provided by Ms Yates the unique TRN is 3452526. Witness C explained that this number had been allocated to a different teacher and therefore could not be the TRN of Ms Yates.

The panel also heard evidence from Witness C that the system cannot generate a QTS certificate if the record still shows that the teacher is 'in training' and/or has not successfully passed the skills tests.

Further, Witness C told the panel that QTS certificates are not emailed to teachers but that a link is sent to teachers notifying them they can print the officially generated QTS certificate. Ms Yates however asserts that she was sent an email attaching the QTS certificate which she then forwarded, without ever opening the attachment, to the HR department of her school. Witness C told the panel that there is no record of any communication relating to Ms Yates' QTS qualification having taken place.

The panel cannot be certain of the provenance of the February 2015 QTS certificate. The panel noted the email communication between Ms Yates and her brother-in-law, page 44 and 46 of the bundle. The panel noted that the email was sent from Ms Yates and it contained a QTS certificate in the name of a teacher that Ms Yates was mentoring at the time. Ms Yates explains that this certificate was attached in error. A second email bearing the name 'Sarah-Jane Elizabeth Yates' and TRN '3452526' was also sent minutes later to the same external email account.

The panel was told by Witness C, corroborating Individual F's evidence detailed on page 117, that it is technically possible to manipulate a certificate which has been legitimately issued and downloaded.

The panel considered all of the evidence, and on the balance of probabilities it found that the QTS certificate presented by Ms Yates, dated 24 February 2015, which suggested that she had been awarded QTS was false and therefore misleading. The panel therefore found this allegation proven.

b. within an application form you completed on or around 30 June 2017 which suggested that you had been awarded QTS;

The panel had sight of a number of emails from 26 May 2017, on page 86 of the bundle, confirming the offer of the position as head of English for Sedgehill School.

The panel had sight of the application, found at pages 60 to 72 of the bundle, in which Ms Yates affirms that she had QTS. The panel also had sight of Witness C's statement, on page 20 of the bundle, which confirmed at paragraph 9 that Ms Yates had been informed by Individual D, a TRA officer, on 6 June 2017, that she did not hold QTS. This information appears to have been given to Ms Yates as a result of an enquiry initiated by

Ms Yates herself. Notwithstanding the information that Ms Yates had received from the TRA, the form she completed on the 30 June 2017 states that she does have QTS and at page 69 of the bundle Ms Yates signs confirmation of the accuracy of the information contained within the form.

The panel notes that it has seen no evidence that Ms Yates did anything further between 6 June 2017, when she had received the information from the TRA, and 30 June 2017 when she submitted the form. The panel therefore finds that the information provided within the form was false and misleading and that Ms Yates knew this. The panel therefore find the allegation proven.

c. to one or more members of staff at Sedgehill School in or around July 2017 by providing a document which suggested that you had been awarded QTS;

The panel had sight and the benefit of Witness B's evidence, specifically page 17 paragraph 10, which stated that Ms Yates gave them a QTS certificate "which looked like it had tip-ex on it". The certificate in question contained the name Sarah-Jane Elizabeth Yates and contained the TRN 3452526.

In live evidence, Witness B told the panel that she had been called into a room with Individual G and Individual H and shown the QTS certificate and asked her opinion of the certificate. Witness B informed the panel that she immediately raised concerns as to the authenticity of the document due to the fact that it looked like it contained tip-ex on the key areas of the document.

The panel also heard audio evidence of a telephone call between Individual F and Individual G discussing the authenticity of the QTS certificate. The panel also reviewed the transcript of this call and in particular page 125. Individual H was confirming with Individual F that tip-ex could be found on the document - "I don't think it's anything else but a tippex line is it? If you hold it up to the light it's a dark line so it looks like a photocopy of someone tippexing out some black lines".

The panel considered the evidence put forward by Ms Yates but, on the balance of probabilities, found that Ms Yates provided a document which was false and misleading and that Ms Yates knew this. The panel therefore find the allegation proven.

d. in or around July 2017, during one or more discussions with;

- i. members of staff at Sedgehill School;**
- ii. members of staff at the Teaching Regulation Agency (then known as the National College for Teaching and Leadership);**

The panel has reviewed all the evidence available to it in relation to both of these allegations. As set out previously, the panel notes the totality of Ms Yates' account of

events, including discussions with members of staff from Sedgehill School. The panel has also read the transcripts of Ms Yates' telephone conversations with TRA staff and listened to the audio files as well.

On the balance of probabilities the panel prefers the accounts provided by the witnesses who gave evidence and which the panel was able to test. The panel concludes that the allegation that Ms Yates provided false and or misleading information as set out in 1.d.i. and ii. proven.

2. Your actions as may be found proven at 1 above lacked integrity and/or were dishonest in that you provided false and/or misleading information in order to support your claim that you had been awarded Qualified Teacher Status and/or had completed your induction period, which you knew was untrue.

The panel received and accepted advice from the legal adviser that, if it accepted the facts alleged at allegation 1 were proven on the balance of probabilities, it should first consider the defendant's state of knowledge and belief as to the facts, and secondly whether that state of mind was dishonest, determining this by applying the standards of the ordinary honest person.

The panel noted:

1. Ms Yates knew when she took up the appointment in June 2014 that she was an unqualified teacher. Ms Yates knew this because she was remunerated on the unqualified teacher scale and was given an additional payment called an additional allowance in lieu of a TLR to which she was not entitled, as evidenced by correspondence between her and the school on pages 25-27 of the bundle, from May/June 2014.
2. Ms Yates was aware of the requirement to have passed the skills tests in literacy and numeracy in order to receive QTS. Ms Yates knew of this requirement because the question of whether she passed the skills tests was pursued throughout her narrative.
3. The records show, on page 78 of the bundle, that Ms Yates attempted and failed the literacy skills test on 29 August and 22 November 2012 and that she attempted and failed the numeracy skills test on the 30 August 2012, 23 November 2012 and 22 March 2013. Ms Yates knew that she was an unqualified teacher when she accepted the post at the school in May/June 2014 and she knew that success in the skills test was a pre-condition for QTS. Notwithstanding Ms Yates' assertions to the contrary about her success in the skills tests, there was no documentary evidence that any further tests were taken until a further entry on the portal indicated that she passed the literacy test on 7 August 2017 and the numeracy test on 31 August 2017. Both of these dates are after the offer of the post at Sedgehill School had been withdrawn.

4. Ms Yates was transferred from an unqualified teacher scale to the main scale applied for qualified teachers and subsequently was deemed to have fulfilled the criteria to progress to UPS1 and that her additional allowance had been converted to a TLR, as evidenced by the document at page 156 of the bundle, dated 20 October 2016 and signed by the head teacher. The panel noted that these changes in her employment and remuneration depended in part on the acquisition of QTS.
5. Ms Yates benefited substantially from these changes both professionally and financially.
6. An opportunity arose between 6 June 2017 when Ms Yates was informed by the TRA that she did not have QTS and the 30 June 2017 when she completed the application form for Sedgemoor School to pursue the matter further if she believed that errors had arisen. Ms Yates only began to undertake these further enquiries when she was challenged directly by the senior leaders of Sedgemoor School in July 2017 as to the authenticity of the QTS certificate, a photocopy of which she had presented to the school.
7. In an email on the 2 September 2017, on page 33 of the bundle, from Ms Yates to Witness A, she states that “the outcome of this investigation has been rectified and my QTS reorganised and my number on my new certificate”. The panel notes that this rectification took place at the earliest on the 31 August 2017 when she passed the maths skills test. Ms Yates goes on to state that the TRA have “assured me that no further action needs to be taken or investigated unless I want to pursue any queries. I do not”. The panel observes that the concerns about Ms Yates’ conduct relate to events prior to her finally obtaining QTS on 1 September 2017 and that the statement that “no further action needs to be taken” was incorrect.

The panel notes a number of important inconsistencies within Ms Yates’ account. The panel reviewed page 107, in particular box 5, where Ms Yates confirms to Individual F that she did receive the certificate. However, at page 146 within paragraph 11, Ms Yates states “I was not provided with a certificate”. The panel also reviewed page 150, paragraph 33, where Ms Yates states that she held her QTS certificate electronically. The panel also took into account the explanation raised by Ms Yates, on page 150 of the bundle, which stated that she was sending out a copy of her certificate to her family to enable them to make a collage of her various academic certificates.

After reviewing the evidence the panel found that Ms Yates’ was dishonest and that an ordinary honest person would also deem her behaviour as dishonest. Ms Yates undertook certain dishonest actions deliberately relating to her teacher’s status, tests she needed to undertake and documents which she needed to complete. The panel draws attention to the following example: her assertion on 30 June, within the application form to Sedgemoor School, that she had QTS when she had very recently been informed by the

TRA that she did not have this status. Furthermore she signed the declaration within the application form for Sedgehill School which expressly stated “I also understand that falsification of qualification or information may lead to withdrawal of an offer”.

The panel is satisfied that Ms Yates’ actions, as detailed above, demonstrate an absence of integrity with regard to providing false or misleading information in order to support Ms Yates’ claim that she had been awarded QTS and therefore find that this part of the allegation has been proven.

The panel heard insufficient information regarding Ms Yates’ completion of a statutory induction period and therefore the panel cannot find this part of the allegation proven.

The panel therefore concludes that allegation 2 has been proven in part.

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

Having found a number of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

The panel is satisfied that the conduct of Ms Yates in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Ms Yates is in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms Yates amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Ms Yates conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

Although no criminal allegations have formed part of this case, the panel has found that the behaviours displayed throughout this case point to fraud and serious dishonesty.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

Accordingly, the panel is satisfied that Ms Yates is guilty of unacceptable professional conduct.

The panel has taken into account how 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 has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The panel therefore finds that Ms Yates' actions constitute conduct that may bring the profession into disrepute.

Having found the facts of particulars of allegations of 1 and 2 proved, with exception of the reference to induction, the panel finds that Ms Yates' conduct amounts 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 is 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 has to consider whether it is an appropriate and proportionate measure, and whether it is 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 has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct and the interest of retaining the teacher in the profession.

In light of the panel's findings against Ms Yates, which involved allegations of dishonesty, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Yates were not treated with the utmost seriousness when regulating the conduct of the profession. The panel took account of the sustained course of dishonest conduct, between at least February 2015 and July 2017, by Ms Yates towards a number of individuals in schools and the regulatory body for the teaching profession.

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Ms Yates was outside that which could reasonably be tolerated.

The panel is aware of the public interest consideration in retaining teachers in the profession, but did not find in this case that such consideration overrides the seriousness of the misconduct found.

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

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Ms Yates. 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 are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- a deep-seated attitude that leads to harmful behaviour; and
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel found that there was no public interest consideration in retaining the teacher in the profession. No evidence in mitigation was offered but all the facts advanced by the TRA have been repeatedly denied by Ms Yates. Ms Yates has offered no insight into how her alleged actions might have been perceived.

The panel is of the opinion that Ms Yates' actions were deliberate. There was no evidence to suggest that Ms Yates was acting under duress, and in fact the panel found Ms Yates' actions to have a clear element of motivation and calculation.

The panel draws no inference from the absence of written character references. It is the case however, that the panel has not been able to rely on character witnesses to help with this decision. The panel did note the oral evidence of Witness A in that when asked he confirmed that there had been no previous concerns about her professional performance or personal conduct.

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 is sufficient.

The panel is of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order is not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Ms Yates. The dishonesty and absence of integrity found was a significant factor in forming that opinion. Accordingly, the panel makes 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 them to decide to recommend that a review period of the order should be considered. 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 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. These behaviours include fraud or serious dishonesty. The panel has found that Ms Yates has been responsible for serious misconduct but despite its gravity the panel do not consider that prohibition without review would be proportionate.

The panel has paid particular attention to its duty to balance its obligations towards to the teaching profession and society at large with the individual needs and interests of the teacher. In this case, whilst the panel has no doubt about the gravity of the wrongdoing, it does believe that it is right for Ms Yates to have the opportunity to demonstrate sufficient learning and change to be able to contribute at a future date to the education profession.

The panel felt 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 four years. Given the panel's current understanding of Ms Yates' lack of awareness it believes that a substantial time will be needed before she is in a position to seek readmission to the profession.

The panel would expect Ms Yates, if she were to seek to return to teaching, to be able to convince a future panel that she;

1. had reflected on and learned from these events and the prohibition,

2. could demonstrate insight into her own conduct; and
3. provide sufficient reassurance that she taken steps to ensure that these behaviours would not be repeated so that trust and confidence in her could be restored.

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, with exception of the reference to induction, 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 Ms Sarah-Jane Yates should be the subject of a prohibition order, with a review period of four years.

In particular, the panel has found that Ms Yates is in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel has set out that it, "is satisfied that the conduct of Ms Yates amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

The panel has also set out clearly that it has, "has found that the behaviours displayed throughout this case point to fraud and serious dishonesty."

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

considered therefore whether or not prohibiting Ms Yates, 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 not made any observations on this matter except to say that, “pupils must be able to view teachers as role models in the way they behave.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Ms Yates has offered no insight into how her alleged actions might have been perceived.”

In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour. 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 that it, “ has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community.” I am particularly mindful of the finding of serious dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Ms Yates herself. The panel has said that it, “ draws no inference from the absence of written character references. It is the case however, that the panel has not been able to rely on character witnesses to help with this decision. The panel did note the oral evidence of Witness A in that when asked he confirmed that there had been no previous concerns about her professional performance or personal conduct.”

A prohibition order would prevent Ms Yates 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 the serious nature of the dishonesty and the lack of insight. The panel has said, “The dishonesty and absence of integrity found was a significant factor in forming that opinion.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.”

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Yates 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 that is not backed up by insight, and which concerns serious dishonesty, 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 4 year review period.

I have considered the panel’s comments that it “has no doubt about the gravity of the wrongdoing, it does believe that it is right for Ms Yates to have the opportunity to demonstrate sufficient learning and change to be able to contribute at a future date to the education profession. “

The panel has also said that a 4 year review period would “ expect Ms Yates, if she were to seek to return to teaching, to be able to convince a future panel that she;

- had reflected on and learned from these events and the prohibition,
- could demonstrate insight into her own conduct; and
- provide sufficient reassurance that she taken steps to ensure that these behaviours would not be repeated so that trust and confidence in her could be restored.

I have considered whether a 4 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 and that a four year period is necessary to achieve the aim of maintaining public confidence in the profession. These elements are the serious dishonesty found and the lack of insight.

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

This means that Ms Sarah-Jane Yates 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 11 February 2023, 4 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will

meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Sarah-Jane Yates remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'Alan Meyrick', with a vertical line at the end of the signature.

Decision maker: Alan Meyrick

Date: 8 February 2019

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