



Teaching
Regulation
Agency

Ms Allison Brown: Professional conduct panel outcome

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

March 2019

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

Teacher: Ms Allison Brown

Teacher ref number: 8665376

Teacher date of birth: 22 February 1965

TRA reference: 17119

Date of determination: 28 March 2019

Former employer: Richmond School, Richmond, North Yorkshire

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 26 to 28 March 2019 at the Holiday Inn, Hinckley Road, Coventry CV2 2HP, to consider the case of Ms Allison Brown.

The panel members were Mr Brian Hawkins (teacher panellist – in the chair), Mrs Ann Walker (former teacher panellist) and Mr Martin Pilkington (lay panellist).

The legal advisor to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Luke Berry of Browne Jacobson LLP solicitors.

Ms Alison Brown 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 24 October 2018.

It was alleged that Ms Allison Brown was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at the Richmond School from May 2015 until November 2017:

1. In or around 2017, she failed to administer and/or manage AQA music assessments appropriately and/or in accordance with the guidance, in that she:
 - a. On or around 10 April 2017, during the Easter holidays, prepared assessment work on behalf of Student C and/or Student D and/or Student E;
 - b. Indicated on a Teacher Feedback Form for Student C's Bach Minuet that she did not have assistance with this assessment and/or she used both hands when performing the piece of music, when this was not the case;
 - c. Submitted one or more assessments to the examinations board which had not been completed by the identified candidate, in particular:
 - i. 'Sporting Chance', which was incorrectly submitted as Student C's own work;
 - ii. Student D's ensemble and/or saints 2, which was incorrectly submitted as Student D's own work;
 - iii. 'When the Saints', which was incorrectly submitted as Student E's own work;
 - iv. 'Habits' which was incorrectly submitted as Student E's own work;
 - v. An ensemble piece which was incorrectly submitted as Student C's record.
2. Her conduct as may be found proven at 1 above was dishonest and/or lacked integrity.

At the outset of the hearing, Mr Berry informed the panel that the TRA would offer no evidence in relation to allegations 1c iv and v and invite the panel to find those allegations not proved.

Ms Brown did not admit the alleged facts and did not admit unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

As to whether the hearing should proceed in the absence of Ms Brown

Ms Brown was not present and not represented. The panel was presented with a copy of an email from Ms Brown's union representative dated 14 March 2019 which stated that, 'Ms Brown does not wish to attend the hearing and understands that this will proceed in her absence'. After hearing representations from Mr Berry and receiving legal advice, the Chair announced the decision of the panel as follows:

The panel has given careful consideration to the fact that Ms Brown is not present and will no longer be represented at this hearing. The panel has decided that the hearing should continue in the absence of Ms Brown for the following reasons:

1. Ms Brown's union representative has confirmed in her email dated 14 March 2019 that Ms Brown will not be attending the hearing and that, as a consequence, the union will not be providing representation. The panel would have preferred to have received written confirmation from Ms Brown confirming that she does not wish to be represented at the hearing by someone other than her union representative. However, taking all of the circumstances into account, the panel is satisfied that Ms Brown has voluntarily waived her right to attend the hearing.
2. No application for an adjournment has been made. The panel noted that the hearing was adjourned on a previous occasion when Ms Brown had to attend a funeral. The panel is satisfied that Ms Brown is aware of her ability to seek an adjournment of today's hearing if she is unable to attend but wishes to attend on a later date. In these circumstances the panel is not satisfied that an adjournment of today's hearing would result in Ms Brown's attendance on a later date.
3. There is a public interest in this hearing proceeding and the panel has also taken into account the interests of the witnesses called to give evidence.

As to whether Pupil C should be permitted to give evidence via Skype

Ms Brown explained that Student C currently resides in Fiji. Mr Berry submitted that it would not be proportionate for Student C to attend the hearing in person due to the time and costs involved. Accordingly application was made for her to give evidence by video link. The panel was presented with a copy of an email from Ms Brown's union representative dated 11 January 2019 confirming Ms Brown's agreement that Student C be allowed to give evidence by video link. The panel directed that Student C shall give her evidence by video link from her home in Fiji commencing at 8am on Tuesday 27 March 2019.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 4

Section 2: Notice of Proceedings and Response – pages 6 to 13

Section 3: Teaching Regulation Agency witness statements – pages 15 to 29

Section 4: Teaching Regulation Agency documents – pages 31 to 572

Section 5: Teacher documents – pages 574 to 581

In addition, the panel agreed to accept the following documents that were submitted in support of the preliminary applications:

Application bundle index – pages 582 to 591.

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

Witnesses

The panel heard oral evidence from the following witnesses called by Mr Berry:

- Witness A, former [Redacted] of Richmond School.
- Witness B, [Redacted] at Richmond School.
- Student C, former pupil at the school.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirmed it had read all of the documents provided in the bundle in advance of the hearing.

Ms Allison Brown commenced employment at the Richmond School in North Yorkshire ('the School') on 1 September 2015 as the Lead Teacher for Music. Ms Brown had the overall responsibility for the teaching of the music curriculum. The allegations in this case relate to Unit 3 of the GCSE Music examination involving Year 11 students in 2017. Unit 3 required candidates to perform two different pieces; one for individual performance and

one for group performance. The specification for Unit 3 issued by the examination body, AQA, defined individual performance as 'one person playing/singing/maintaining an independent melodic/rhythmic part'. The specification for group performance stated that it 'must consist of two or more live players including the candidate'. Both performances were required to be recorded and sent to an AQA moderator. Unit 3 represented 40% of the total marks for the GCSE Music examination.

The panel heard that on 19 June 2017, Mr Witness B, [Redacted], reported a concern in relation to the Unit 3 work to the [Redacted] at the time, Mr Witness A. Witness B reported that he had checked the computer in the recording studio where students' work was recorded and burnt to disc for submission to AQA using a programme called Cubase. As a result of doing so, Witness B had concerns about the validity of the work attributed to three of the students; Students C, D and E. Ms Brown was suspended on 22 June 2017 pending a disciplinary investigation. The concerns were also reported to AQA.

The panel has heard oral evidence from Mr Witness A, Mr Witness B and Student C. Although Ms Brown did not attend this hearing and did not give oral evidence, the panel took into consideration her written statement prepared for these proceedings and her responses during the School's disciplinary investigation. In addition to the oral and written evidence presented, the panel listened to recordings that were attributed to Students C, D and E.

Findings of fact

The findings of fact are as follows:

It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at the Richmond School from May 2015 until November 2017:

- 1. In or around 2017, you failed to administer and/or manage AQA music assessments appropriately and/or in accordance with the guidance, in that you:**
 - a. On or around 10 April 2017, during the Easter holidays, prepared assessment work on behalf of Student C and/or Student D and/or Student E;**

Ms Brown has admitted that she attended the School on 10 April 2017, which was during the Easter holidays, in order to transfer recordings to the Cubase system. Ms Brown stated that there was a need to transfer work to Cubase because students stored files elsewhere with many performances made on a keyboard, which saved recordings locally. Other work by students was saved on pen drives and ipads. Ms Brown explained in her written statement that she attended the school on 10 April 2017 to transfer recordings to the Cubase system. She denied editing or creating new recordings. She also explained that the only way to transfer recorded pieces from these sources to Cubase was to play

the audio and manually record on Cubase. The panel was presented with copies of log reports for 10 April 2017, some of which referred to the work of students other than Students C, D and E.

Witness B gave evidence that the computer running the Cubase recording software was located in the recording studio at the School. This was a standalone computer which could only be accessed by being present in the recording studio. Witness B also stated that tracks were date stamped, as are all subsequent amendments. He said that work transferred to Cubase from an ipad or a clavinova piano was shown as an audio track and the date of creation would show as the date of the transfer. Witness B also stated that there was a section of the software known as 'Audio Pool' from which individual recordings can be accessed in their entirety before they are amended or mixed down to burn to CD. Witness B gave evidence that he reviewed the files on Cubase in relation to Students C, D and E and had concerns as to whether this work complied with the AQA specification. Witness B stated that Students C, D and E were the three students in the cohort that were struggling. On the instructions of Witness A, Witness B also checked files for other students, but did not have any concerns.

It is not in dispute that Ms Brown prepared assessment work for a number of students on 10 April 2017. It is not alleged that Ms Brown's actions were inappropriate in relation to students other than Students C, D and E. The panel considered whether the manner in which Ms Brown prepared the assessment work for Students C, D and E involved a failure to administer and/or manage AQA music assessments appropriately and/or in accordance with AQA guidance. The panel considered the position in relation to Students C, D and E in turn.

As to Student C, having listened to the recording of a piece, Bach Minuet in G, Witness B stated that the performance of this piece as a soloist would require an experienced pianist. He had seen no evidence that Student C could perform at that level. Witness B stated that it was conceivable that Student C could have taken part in the recording, but playing only the right hand part. In his opinion the more demanding left hand part was not Student C's work. Witness B also said that there was 'some very un-rhythmic piano playing and wrong notes that affected the piece'. However, if this was the case, the examination specification had been contravened as it would then become an ensemble (two performers) and could not be entered as a solo performance.

As part of the School's investigation, a written opinion was also obtained from Individual A, an experienced instrumental [Redacted]. Individual A described the recording as a 'polished performance completed by an accomplished pianist – certainly someone who has been learning for 1 or 2 years if not more'.

In her written statement for this hearing, Ms Brown said that the recording was of a solo piece played by Student C with both hands. Ms Brown stated that when Student C started to learn to play this piece she was playing the right hand only. However, as Student C grew more competent, Ms Brown stated that they rehearsed together with

Student C playing the right hand whilst Ms Brown played the left hand. Then Student C progressed to playing the left hand herself.

The panel heard evidence from Student C, whom the panel regarded as a credible witness. Student C stated that the instruments that she was using for her coursework were her voice and the guitar, although mainly her voice. Student C stated that Ms Brown thought that she could achieve a better grade using the piano. This suggestion was made in around April 2017 and Ms Brown gave her Bach's Minuet in G to learn. Student C said that she had no previous experience of playing the piano but that she practised the piece about three times each week over a period of three weeks prior to recording it for the assessment. Student C said that she is, 'very left handed' and only played with her left hand. Student C gave evidence that she played the right hand part with her left hand. Student C said that there was never a time when she played this piece with both hands or when she and Ms Brown played the piece together.

The panel noted that Ms Individual B, [Redacted], provided a written statement at the request of Ms Brown in connection with the School's disciplinary proceedings. In this written statement, Individual B stated that she she was impressed with the progress that Student C made in performing the piece. Individual B stated that Student C learned the right hand piece first and then the left, finally recording it into the Clavinola. However, the panel noted that Individual B's evidence was contradicted by Student C who was emphatic in her evidence that she had only ever played the piece with her left hand and never with both hands. The panel was satisfied that Student C did not have the competence to play the piece with both hands and that she had not done so.

Witness B also reviewed the ensemble piece attributed to Student C entitled, 'Sporting Chance'. Witness B stated that the Candidate Record Form submitted to AQA, known as the CRF, declared that Student C played Piano Secondo. He said that this is part of the Bass Clef which Student C did not read and also required the use of two hands together. He saw no evidence of Student C's ability to use two hands together throughout the course. Witness B stated that there were no comments which supported the student performance of this piece and the AQA moderator noted that it was poor practice not to give supporting comments to assist in the moderation. Student C gave evidence that she did not play the piece entitled 'Sporting Chance'. In her written statement, Ms Brown admitted that she incorrectly attributed the piece to Student C and that this was a genuine error on her part.

As regards Student D, Witness B gave evidence that he located recordings entitled '[Student D] ensemble' and '[Student D] Saints 2' which showed on Cubase to have been created on 10 April 2017. When Student D was interviewed as part of the School's disciplinary investigation she stated that she had not come into the School during the Easter holidays. She also stated that she had been struggling with music since Year 10 and that she thought that she was at U grade standard. Witness B stated that the individual performance attributed to Student D was, 'When the Saints'. On listening to this

recording, Witness B stated that there was a 'delicate musical moment' and a 'clear melody' that, in his opinion, was above Student D's ability. In relation to the ensemble piece ('Love Me Tender') Witness B stated that he located within the Audio Pool file a recording of a recorder being played following which he could hear two female voices. He identified these as Ms Brown and Individual B. Witness B stated that the sound of the recorder had been added to the recording that was submitted to the AQA moderator. Accordingly, the piece attributed to Student D cannot have been performed live with the recorder as required by the specification for a group performance. Witness B stated that this would not be apparent from listening to the recording without access to the Audio Pool file, which the AQA moderator would not have.

As regards Student E, Witness B stated that she had recorded the ensemble piece called 'Habits' with the student's guitar teacher present and the performance was moderated in the School. The mark on the CRF was also in line with the moderation. Therefore, there were no concerns about Student E's group performance. However, the solo piece that was returned by the AQA moderator during the school's investigation was entitled 'When the Saints'. Witness B stated that he was not aware that she played this piece in any lesson. Witness B stated that he was aware that Student E had been practising 'Love Me Tender' on the keyboard. Witness B stated that Cubase showed the piece submitted to the AQA moderator to have been created on 10 April 2017.

When Student E was interviewed as part of the School's investigation, she stated that she played 'Love Me Tender' on the keyboard for her solo piece. She subsequently qualified this to say that the piece that she played was 'Skip To My Lou'. Student E did not refer to playing 'When The Saints'. As to the recorded performance of 'When The Saints'. Witness B stated that this contained elements of musicality and a 'swagger' that, in his opinion, were beyond the ability of Student E. In his experience, Student E's playing was always 'very metronomic and bland'.

In her written statement for this hearing, Ms Brown did not specifically address the allegation relating to Student E. However, in an earlier written submission by her union representative, it was stated that, in her notebook, Ms Brown had Student D as having performed 'When the Saints' but that she had made an error and confused the students D and E.

Taking all of this evidence into account, the panel was satisfied that Ms Brown's preparation of assessment work for Students C, D and E involved a failure to administer and manage the music assessments appropriately and in accordance with the AQA guidance.

The panel found allegation 1a proved.

- b. Indicated on a Teacher Feedback Form for Student C's Bach Minuet that she did not have assistance with this assessment and/or she**

used both hands when performing the piece of music, when this was not the case;

The panel was presented with a copy of the CRF for Student C. Ms Brown does not dispute that this form was completed by her. There is a section on the form headed, 'Details of additional assistance given'. The following instructions are contained in that section of the form: 'Record here details of any assistance to this candidate which is beyond that given to the class as a whole and beyond that described in the specification (continue on separate sheet if necessary)'. This section of the form was left blank. There was no information on the form as to any assistance given to Student C. Furthermore, in the absence of any comment to the effect that Student C did not use both hands, the AQA moderator would be entitled to assume that both hands had been used.

The panel was satisfied that, in not completing the section relating to assistance or including any other comment on the form, Ms Brown was indicating that the student did not have assistance and that she was using both hands during the performance.

The Panel found allegation 1b proved.

c. Submitted one or more assessments to the examinations board which had not been completed by the identified candidate, in particular:

i. 'Sporting Chance', which was incorrectly submitted as Student C's own work;

As previously stated, Student C had given evidence that she had not played the piece entitled 'Sporting Chance'. Ms Brown admitted that she attributed the piece to Student C and that this was a genuine error on her part.

The panel found allegation 1c i proved.

ii. Student D's ensemble and/or saints 2, which was incorrectly submitted as Student D's own work;

Based on the evidence referred to in relation to allegation 1b, the panel was satisfied that the recordings of the individual performance and group performance submitted in relation to Student D did not represent that student's own work in accordance with the AQA specification.

Ms Brown admitted that she made errors in relation to attributing recorded pieces to individual students, including Student D.

The panel found allegation 1c ii proved.

iii. 'When the Saints', which was incorrectly submitted as Student E's own work;

Based on the evidence referred to in relation to allegation 1b, the panel was satisfied that the recording of 'When The Saints' submitted in relation to Student E did not represent that student's own work in accordance with the AQA specification.

Ms Brown admitted that she made errors in relation to attributing recorded pieces to individual students and that she had confused the work of Students D and E.

The panel found allegation 1c iii proved.

iv. 'Habits' which was incorrectly submitted as Student E's own work;

At the outset of the hearing, Mr Berry informed the panel that no evidence would be offered in relation to this allegation. The panel also noted the evidence of Witness B that there were no concerns in relation to this piece.

The panel found allegation 1c iv not proved.

v. An ensemble piece which was incorrectly submitted as Student C's record.

At the outset of the hearing, Mr Berry informed the panel that no evidence would be offered in relation to this allegation as it was a duplication of allegation 1c i. On that basis, the panel found allegation 1c v not proved.

2. Your conduct as may be found proven at 1 above was dishonest and/or lacked integrity.

In determining whether the proven conduct was dishonest, the panel considered Ms Brown's state of knowledge or belief as to the facts before determining whether her conduct was dishonest by the standards of ordinary decent people.

In determining whether the proven conduct lacked integrity, the panel considered whether Ms Brown adhered to the ethical standards of the teaching profession. In doing so, the panel was conscious of the need to avoid setting unrealistically high standards or to expect teachers to be paragons of virtue.

In considering both lack of integrity and dishonesty, the panel had regard to the fact that Ms Brown, by her own admission, had been involved in preparing students for GCSE Music examinations since 1989 and also had the experience of working as an AQA examiner.

The panel considered each proven allegation separately.

In relation to allegation 1a, the panel was satisfied that Ms Brown's actions in preparing assessment work for Student's C, D and E was inappropriate and led to work being submitted that was not in accordance with the AQA specification. Furthermore, the

submitted work would lead to the students being awarded a higher mark than justified by their respective abilities. The panel was satisfied that Ms Brown's actions involved a breach of the ethical standards of the profession in that she had a professional responsibility to ensure that the examination requirements were complied with. Therefore, her actions involved a lack of integrity.

As to dishonesty, the panel heard evidence from Witness A that, following her suspension, Ms Brown returned her laptop with all files deleted. This meant that, during the investigation, no evidence of the submissions to AQA was available. Evidence had to be retrieved from AQA to enable the investigation to proceed. Furthermore, Witness B gave evidence that he had received an email from Ms Brown asking for documents in relation to 15 students whose work was being moderated. Ms Brown's request to Witness B was made for the work of 14 students with the exception of Student C who had been on the original list. This indicated that Ms Brown did not want Witness B to look at records relating to Student C. The panel went on to find that it was Ms Brown's intention to conceal her actions.

Witness A stated in his evidence that there had been concerns in relation to Ms Brown's disorganisation and that her performance had started to be monitored quite closely prior to the examinations concerned. The panel noted that the three students were the students in the cohort that were struggling with their performances. Witness B stated that each student's mark was to be judged by reference to that student's ability. However, he said that a lead teacher, as Ms Brown was, might expect to be judged by senior management on the basis of the results that students achieved. The panel was satisfied that Ms Brown's actions were likely to have been motivated by her desire to ensure that the three students achieved reasonable marks in the examination. The panel was satisfied that Ms Brown's actions in allegation 1a were dishonest.

As to allegation 1b, the panel found that Ms Brown indicated on the CRF that Student C has used both hands when performing Bach's Minuet in G when that was not the case. The indication on the form, or lack thereof, was inaccurate and misleading. Ms Brown had a professional responsibility to ensure that the information presented was accurate. Despite her experience in relation to AQA examinations, Ms Brown failed to provide accurate information. The panel was satisfied that this was a breach of the ethical standards of the profession and amounted to a lack of integrity.

As to dishonesty, the panel was satisfied that Ms Brown must have been aware of the correct position in relation to Student C's individual performance, particularly as Student C had such a late change of musical instrument and had been struggling. Taking these factors into account, together with those already referred to in relation to the actions in allegation 1a, the panel was satisfied that Ms Brown's actions in 1b were dishonest.

As to allegation 1c i, the panel has taken into account Ms Brown's submission that it was a genuine error that she attributed the piece to Student C. However, Witness B stated in his evidence that he was not aware of any other student that was practising a piece

called 'Student Chance'. Furthermore, Witness B's evidence was that the CRF that accompanied the piece declared that Student C played Piano Secondo. He said that this is part of the Bass Clef which Student C was not able to read. It also required the use of two hands together, which was beyond the ability of Student C and Ms Brown must have been aware of this when completing the CRF. The panel was satisfied that Ms Brown's actions involved a lack of integrity and were dishonest.

As to allegation 1c ii and iii, the panel has taken into account Ms Brown's submission that she confused the two students; Student D and Student E. However, the panel rejected Ms Brown's explanation in the light of all of the evidence referred to above. The panel was satisfied that Ms Brown's actions in both 1c ii and iii lacked integrity and were dishonest.

The panel, therefore, found allegation 2 proved on the basis that all of the proven actions of Ms Brown lacked integrity and were dishonest.

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

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

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Ms Brown, in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Ms Brown was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...

The panel was satisfied by the evidence presented that the ethos and practice of the School was to comply with the examination board's GCSE specification. The panel also noted that North Yorkshire County Council's Disciplinary Policy, which applied to the School, referred to the falsification of official records as gross misconduct. Ms Brown, therefore, failed to have regard for the ethos, policies and practices of the School.

The panel also considered whether Ms Brown's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that none of these offences was relevant.

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

Accordingly, the panel was satisfied that Ms Brown was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

Panel's recommendation to the Secretary of State

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

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

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

The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Brown were not treated with the utmost seriousness when regulating the conduct of the profession.

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

The panel noted that AQA suspended Ms Brown from involvement in AQA's examinations until after the 2019 examinations. In addition, Ms Brown would have to be supervised for any involvement in examinations until after the Summer 2020 examinations. The panel considered that this reduced the risk of repetition.

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 Brown.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of prohibition as well as the interests of Ms Brown. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education...of pupils, and particularly where there is a continuing risk;
- dishonesty especially where...it has been...covered up;

Even though some of the behaviour found proven in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be not appropriate or proportionate.

There was evidence that Ms Brown's actions were deliberate. Indeed the panel found that her actions were dishonest and lacked integrity.

There was no evidence that Ms Brown was acting under duress. However, in a document prepared for the School's disciplinary proceedings, Ms Brown stated that her appointment to the School, 'coincided with what has been the most difficult two years of [her] life in terms of personal circumstances.' The document stated that these included:

- Serious illness of three close relatives
- Her own health issues

In the panel's view, these circumstances could have affected her performance as head of department.

Ms Brown had a previously good history. The panel had before it evidence of her achievements in the profession. However, the panel would have benefitted from hearing from Ms Brown and it was regrettable that she did not attend to give evidence in person. In addition she did not provide professional references to support the information that she

provided to the panel about her career. The panel noted that she had provided such references to the School's disciplinary panel.

Ms Brown did not admit the majority of the allegations and sought to suggest that fault lay elsewhere, casting doubt on the reliability of the evidence of the TRA's live witnesses, whom the panel found to be credible. Ms Brown did not acknowledge the impact of the misconduct on students and colleagues. Therefore, Ms Brown has not demonstrated insight or expressed remorse.

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

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

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Ms Brown. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. These behaviours include serious dishonesty. Although the panel found that Ms Brown's conduct was dishonest, the findings were confined to one unit of the Music GCSE, involving three students out of a cohort of 21 and during a short period in an examination cycle. The panel did not, therefore, consider that this amounted to serious dishonesty.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

The panel has made a recommendation to the Secretary of State that Ms Brown should be the subject of a prohibition order, with a review period of two years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...

The findings of misconduct are particularly serious as they include a finding of both dishonesty and lack of integrity.

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 Brown, and the impact that will have on her, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed that Ms Brown's behaviour included, " misconduct seriously affecting the education...of pupils, and particularly where there is a continuing risk."

A prohibition order would therefore prevent such a risk from being present in the future. I have however also taken into account the fact that the exam board, " suspended Ms Brown from involvement in AQA's examinations until after the 2019 examinations. In addition, Ms Brown would have to be supervised for any involvement in examinations

until after the Summer 2020 examinations. The panel considered that this reduced the risk of repetition.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “ Ms Brown did not admit the majority of the allegations and sought to suggest that fault lay elsewhere, casting doubt on the reliability of the evidence of the TRA's live witnesses, whom the panel found to be credible. Ms Brown did not acknowledge the impact of the misconduct on students and colleagues. Therefore, Ms Brown has not demonstrated insight or expressed remorse.”

In my judgement, the lack of insight means that despite the action of the exam board, 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, “The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

I am particularly mindful of the finding of dishonesty and lack of integrity 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 Brown. A prohibition order would prevent Ms Brown 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 lack of insight or remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Brown 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 remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2 year review period.

I have considered the panel's comments, "Although the panel found that Ms Brown's conduct was dishonest, the findings were confined to one unit of the Music GCSE, involving three students out of a cohort of 21 and during a short period in an examination cycle. The panel did not, therefore, consider that this amounted to serious dishonesty."

I have considered whether a 2 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, I believe that it is proportionate.

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

This means that Ms Allison Brown 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 8 April 2021, 2 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 Allison Brown remains prohibited from teaching indefinitely.

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

Ms Allison Brown 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.



Decision maker: Alan Meyrick

Date: 29 March 2019

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