



Teaching
Regulation
Agency

Ms Louise Marie McKiernan: Professional conduct panel outcome

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

June 2019

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

Teacher: Ms Louise Marie McKiernan
Teacher ref number: 1143497
Teacher date of birth: 23 November 1988
TRA reference: 17044
Date of determination: 25 June 2019
Former employer: St Peter Chanel Catholic Primary School, Kent

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the Agency”) convened on 24 to 25 June 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Ms Louise McKiernan.

The panel members were Mr Michael Lewis (former teacher panellist – in the chair), Ms Margaret Windsor (teacher panellist) and Mr Kevin Robertshaw (lay panellist).

The legal adviser to the panel was Mrs Charlotte Wood of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the Agency was Ms Naomh Gibson of Browne Jacobson LLP solicitors.

Ms McKiernan 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 5 March 2019.

It was alleged that Ms Louise McKiernan was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher at St Peter Chanel Catholic School from September 2016 to 23 January 2018 she:

1. Provided false information for the purposes of indicating that she was entitled to Qualified Teacher Status (QTS) in that she;
 - a. Falsified a document confirming that she had passed the numeracy skills test, when she had not passed the test;
 - b. Provided false information regarding the agency with whom she allegedly sat the numeracy skills test;
 - c. Falsified a reference from Individual A confirming that she had successfully completed the '*QTS element*' of her Postgraduate Certificate in Education course, when she had not
2. Her conduct as may be found proven at allegation 1a and/or 1b and/or 1c above was dishonest and/or lacked integrity.

Ms McKiernan admitted allegations 1a, 1b and 2 as set out in the Statement of Agreed and Disputed Facts but denied allegation 1c and 2 relating to that sub-allegation only.

C. Preliminary applications

Application to proceed in the absence of Ms McKiernan

The panel considered whether to continue in the absence of the teacher.

The panel was satisfied that the TRA had complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

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

In making its decision, the panel noted that the teacher may waive her right to participate in the hearing. The panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The panel was satisfied that Ms McKiernan was aware of the proceedings and has, since August 2018 sent correspondence to the TRA and chosen to accept service of documents via email. The panel therefore considered that the teacher had waived her right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The panel 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 was no indication that an adjournment might result in the teacher attending the hearing. The panel noted that Ms McKiernan had chosen not to be present and there was no medical evidence to support her claim of a stress related illness and/or incapacity. Furthermore, Ms McKiernan had sufficient time to obtain independent legal advice and to send a representative in her absence but chose not to do so. The panel noted that there had been two previous adjournments in this case and any further delay would result in the matter not being dealt with expeditiously.

The panel had regard to the extent of the disadvantage to the teacher in not being able to give her account of events, having regard to the nature of the evidence against her. The panel had the benefit of considering the Statement of Agreed and Disputed Facts and was able to ascertain the lines of defence. The panel noted that all witnesses relied upon were to be called to give evidence (save for Individual A) and the panel could 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 had regard to exercising 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 also noted that there were a number of witnesses present at the hearing, who were prepared to give evidence, and that it would be inconvenient for them to return again.

The panel had regard to the seriousness of this case, and the potential consequences for the teacher and accepted that fairness to the teacher was of prime importance. However, it considered that as Ms McKiernan had waived her right to appear and taking account of the inconvenience a further adjournment would cause to the witnesses and the conclusion of this case; that on balance, it was in the public interest to proceed with the hearing.

Application to admit documents

The presenting officer applied to admit documents including correspondence to and from Ms McKiernan and the presenting officer, an application to excuse Individual A from giving evidence and an additional document produced by Witness 1, on or around 20 June 2019.

The panel noted that the 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 its discretion.

The panel took into account representations from the presenting officer with regards to the admission of documents. The panel exercised caution when considering whether to allow the documents to be admitted given the absence of the teacher from the hearing.

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 determined that both of these factors applied.

The panel confirmed that it allowed those documents to be included in the bundle and paginated at pages 180 to 207.

Application for special measures

The panel considered paragraph 4.71 of the Procedures and noted that there was medical evidence which attested to Individual A's ill health and the impact his attendance would have on his current condition. The panel noted that the Occupational Health Report was dated 15 November 2018 and there was no recent medical evidence but the presenting officer confirmed that Individual A's condition remained the same. The panel also had regard to Ms McKiernan's concern for Individual A in giving a live witness testimony.

The panel directed that Individual A was to be treated as a vulnerable witness since the panel was satisfied that the quality of his evidence was likely to be adversely affected given the Individual A's current medical condition. With leave from the panel, Individual A was not required to give evidence and his evidence was admitted as hearsay.

Application to exclude the public

The panel noted that in the response to the Notice of Proceedings dated 26 August 2018, Ms McKiernan asked for the hearing to be held in private but no evidence in support of the application was provided at that time, or subsequently.

The panel considered whether to exercise its discretion under paragraph 11 of the Regulations and paragraph 4.57 of the Procedures to exclude the public from all or part of the hearing.

The panel determined not to exercise its discretion under paragraph 11(3)(b) of the Regulations and the second bullet point of paragraph 4.57 of the Procedures that the public should be excluded from the hearing.

The panel took into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of the proceedings and also to maintain confidence in the teaching profession.

The panel noted that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing is preferable to a permanent exclusion of the public.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised persons list – pages 2 to 3

Section 2: Notice of Proceedings and Response – pages 5 to 30

Section 3: Teaching Regulation Agency witness statements – pages 32 to 47

Section 4: Teaching Regulation Agency documents – pages 49 to 131

Section 5: Teacher documents – pages 133 to 179

In addition, the panel agreed to accept the following:

- Application form dated 10 May 2019 – pages 180 to 185
- Email exchange between the presenting officer and Ms McKiernan dated 21 June 2019 – pages 186 to 189
- Email exchange between the presenting officer and Ms McKiernan dated 21 and 24 June 2019 – pages 190 to 195
- Email from Ms McKiernan to the presenting officer dated 22 June 2019 – pages 196 to 197
- Email exchange between the presenting officer and Ms McKiernan dated 26 May 2019, 4 June 2019 and 6 June 2019 – pages 198 to 203
- Document produced by Witness 1 created on or before 20 June 2019 – pages 204 to 207

The panel members confirmed that they had read all of the documents in advance of the hearing, and in the case of the additional documents, during the course of the hearing.

Witnesses

The panel heard oral evidence from:

Witness 1 – Customer Service Manager

Witness 2 - Headteacher

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Ms McKiernan was employed by St Peter Chanel Catholic School (“the school”) until her resignation on 23 January 2018.

Ms McKiernan had attended the University of Cumbria in 2011 to 2012 for a Postgraduate Certificate in Education course (“P.G.C.E course”).

The panel noted that in order to obtain QTS status, a teacher has to pass separate numeracy and literacy skills tests.

On 26 June 2016, Ms McKiernan applied for a position of Class Teacher at the school and on her application form confirmed that she had QTS status. Ms McKiernan was successful in her application and commenced employment at the school in September 2016. During this time the school was unable to register Ms McKiernan as a Newly Qualified Teacher (“NQT”) as she was not recorded as having attained QTS. The Department for Education advised that there was no record of Ms McKiernan passing a numeracy skills test but she had passed the literacy skills test. Ms McKiernan informed the school in September 2017 that she had passed this test during the summer break, with an agency and provided evidence in support. Further evidence was provided by Ms McKiernan from a lecturer at her university purporting to attest to having obtained QTS status. The school was unable to verify the evidence provided and an investigation was commenced.

The allegations against Ms McKiernan are that she provided false information to the school about her QTS status and in doing so, she falsified documents on more than one occasion. The TRA alleged that such conduct was dishonest and/or lacked integrity and

as such she was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Findings of fact

Our findings of fact are as follows:

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

Whilst employed at St Peter Chanel Catholic School you:

- 1. Provided false information for the purposes of indicating that you were entitled to Qualified Teacher Status (QTS) in that you;**
 - a. Falsified a document confirming that you had passed the numeracy skills test, when you had not passed the test;**

The panel considered Ms McKiernan's admissions in the Statement of Agreed and Disputed Facts in that she admitted that she had falsified a document as proof that she had sat and passed the numeracy skills test.

The panel heard evidence from Witnesses 1 and 2 and found both witnesses to be credible. Witnesses 1 and 2 provided further clarity on the factual circumstances and the extent to which Ms McKiernan falsified the document.

The panel heard that the document produced by Ms McKiernan differed from the template letter produced by the test centre in a number of ways including format and content. In addition certificates of successful completion of tests are electronically produced by an automated system and cannot be altered by the staff at the test centre.

Witness 1 carried out an extensive search of the test centre systems to ascertain whether Ms McKiernan had passed the test using a different name, address or email address but was unable to locate a record of pass for the numeracy test. It was evidenced that Ms McKiernan had taken the numeracy test on a number of occasions using different email addresses, more recently on 19 June 2019. The panel heard live evidence from Witness 1 that over 100,000 tests a year were verified and that the likelihood of a system error was excluded by a number of checks and mechanisms. The panel accepted the evidence of Witness 1 that there was no error in the test result system.

The panel found allegation 1a proven.

- b. Provided false information regarding the agency with whom you allegedly sat the numeracy skills test;**

The panel considered Ms McKiernan's admissions in the Statement of Agreed and Disputed Facts in that she provided false information to the school regarding her QTS status and in doing so she falsified a document from an agency where she purported to have sat the numeracy skills test.

As with allegation 1a the panel was satisfied that the admissions made by Ms McKiernan were genuine.

The panel had regard to the documentary evidence contained in the hearing bundle, in particular a letter and email produced by Ms McKiernan, purporting to be sent from the skills test centre in Belfast. The same test centre carried out a search on their systems which revealed no search results for Ms McKiernan. Additionally, the panel noted that the email format and content differed from the template version sent by the test centre. The panel read evidence that the email purporting to have been sent by the test centre in Belfast confirming her test results had been generated on an Apple Mac system. The test centre email system is entirely Windows based. The panel accepted this evidence.

The panel found allegation 1 b proven.

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

The panel went on to consider whether the facts found proven at allegation 1a and 1b were dishonest and/or lacked integrity. In doing so when considering integrity, the panel had regard to the case of *Wingate & Anr v SRA* and *SRA v Malins* and for dishonesty, the case of *Ivey v Genting Casinos (UK) Ltd*.

The panel accepted Ms McKiernan's admissions in the Statement of Agreed and Disputed Facts in that she accepted that she had acted dishonestly and her behaviour lacked integrity.

The panel heard evidence from Witness 2 who confirmed that the school had asked Ms McKiernan on a number of occasions for proof of her QTS qualification. The panel found the school to be supportive of Ms McKiernan and employed her as a newly qualified teacher in good faith, despite not receiving proof of her qualification. The panel heard that colleagues at the school had supported Ms McKiernan when she took the numeracy test in December 2017. It was a collegiate working environment and the school, in particular Witness 2, believed Ms McKiernan and felt badly let down by her once the facts came to light.

The panel was satisfied that Ms McKiernan was aware, or ought to have been aware that she had not obtained the QTS qualification, having received an email from the Teaching Qualifications Unit at the Department for Education on 20 December 2016 confirming the same. On the balance of probabilities, the panel was satisfied that Ms McKiernan, knew what the requirements were to be a

qualified teacher and that she had to pass all QTS elements. In support of this, she had taken the numeracy test on numerous occasions, most recently in June 2019.

The panel determined that Ms McKiernan acted dishonestly and lacked integrity in falsifying the documents as set out in allegations 1a and 1b.

The panel noted that Ms McKiernan's actions were not a momentary lapse of judgement and that she knew (or ought to have known) that her actions were dishonest and lacked integrity.

Ms McKiernan had misled the school, including Witness 2, for many months and had falsely produced documentation to support her claim.

The panel found the following particulars of the allegation 1c against you not proven, for these reasons:

Whilst employed at St Peter Chanel Catholic School you:

1. Provided false information for the purposes of indicating that you were entitled to Qualified Teacher Status (QTS) in that you;

c. Falsified a reference from Individual A confirming that you had successfully completed the 'QTS element' of her Postgraduate Certificate in Education course, when you had not

The panel noted that Ms McKiernan strenuously denied this allegation on numerous occasions and that Ms McKiernan did not accept that she had not obtained QTS status.

The panel did not have the benefit of considering the oral witness testimony of Individual A as it had determined the application for special consideration and the witness was excused from giving evidence based on his current ill-health.

The panel exercised caution when applying weight to Individual A's account as his evidence was not tested by cross-examination.

The panel had regard to Individual A's witness statements and exhibits. In particular the letter in which Ms McKiernan alleged was produced by Individual A.

Individual A explained that Ms McKiernan did not obtain QTS status whilst at University as she was not successful in passing the numeracy test. It was not commonplace for tutors to provide references to students; this was completed centrally by the university at the request of a prospective employer.

The panel had regard to Individual A's witness account that the reference (relating to this allegation) was similar to "form letters" issued to students seeking to

register with the training council. “Form letters” differed from references. Individual A had no memory of preparing a “form letter” for Ms McKiernan but Ms McKiernan may have requested one. In addition “*she would have been entitled to ask for one as [he understood] that she had successfully completed her P.G.C.E modules*”. Whilst Individual A cannot recall providing a “form letter” he stated that the content of the letter that is the subject of this allegation, was similar but that he would not have made reference to Ms McKiernan having QTS status.

The panel was satisfied that Ms McKiernan had completed the P.G.C.E course but not all the QTS elements.

The panel had regard to Ms McKiernan’s account in that Individual A did produce the letter at her request. Ms McKiernan required a letter from Individual A as she was returning to Ireland and in order to apply for state benefits she needed evidence that she was a teacher, in the process of seeking work.

On the balance of probabilities, the panel was satisfied that a “form letter” was produced by Individual A. However the panel formed the view that the “form letter” provided by Individual A was for the purpose of seeking employment and did not refer to Ms McKiernan having passed the QTS element.

The panel formed the view that Ms McKiernan had extracted a portion of the letter provided by Individual A and used this extract to falsely represent her qualification to the school, with regards to passing the QTS element.

The panel determined that the TRA had not discharged its evidential burden sufficiently (either in respect of the evidence presented to it or in submissions) in respect of allegation 1c and therefore found this sub allegation not proven.

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

Having found a number of the allegations to have been proven, the panel went 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 had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel referred to as “the Advice”.

The panel is satisfied that the conduct of Ms McKiernan in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Ms McKiernan was 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 in their own attendance and punctuality.

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel is satisfied that the conduct of Ms McKiernan fell significantly short of the standards expected of the profession.

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

The panel found that Ms McKiernan demonstrated fraudulent behaviour and/or 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 McKiernan is guilty of unacceptable professional conduct. Ms McKiernan was repeatedly dishonest and knew (or ought to have known) that she was dishonest. The panel is concerned about evidence that Ms McKiernan is continuing to display misleading and dishonest behaviour, up to the point of the hearing.

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 found that Ms McKiernan's actions 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 a 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 and declaring and upholding proper standards of conduct.

In light of the panel's findings against Ms McKiernan, which involved acting dishonestly and without integrity by falsifying documents and continually providing misleading information with regards to her QTS status, there is a strong public interest consideration in maintaining public confidence in the profession and that confidence in the profession could be seriously weakened if conduct such as that found against Ms McKiernan were not treated with the utmost seriousness when regulating the conduct of the 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 McKiernan was outside that which could reasonably be tolerated.

Notwithstanding 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 McKiernan.

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 McKiernan. 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;
- misconduct seriously affecting the education sector;
- abuse of position or trust of her colleagues; and
- dishonesty that 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 determined that the teachers actions were deliberate, calculated and motivated by personal benefit.

The panel heard from Witness 2 (her former Headteacher) that Ms McKiernan was a good teacher, she had good relationships with pupils and colleagues and was well thought of. She responded well to feedback in appraisals. The panel had regard to a positive reference from a school she had worked at in China (page 138 of hearing bundle). The panel was not provided with further evidence to attest to Ms McKiernan's abilities as a teacher nor to her character.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel 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 decided that the public interest considerations outweigh the interests of Ms McKiernan. The nature of the dishonesty, the number of instances and the period of time (to the present day) were significant factors 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 were 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. One of these behaviours includes fraud or serious dishonesty. The panel found that Ms McKiernan has been responsible for repeatedly acting dishonestly in claiming that she had QTS status to which she was not entitled, in which she had been formally advised by the Department for Education on 20 December 2016. Ms McKiernan apologised for her actions. The panel noted that she has obtained further employment as a teacher since then, on the basis of misleading her employer into believing that she had QTS status, when she does not. The panel noted that QTS status gives access to the main pay scale for teachers and we heard from Witness 2 that Ms McKiernan was remunerated as if she was a properly qualified teacher.

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. Whilst the panel viewed the matter as not being at the most serious end of the spectrum, the panel determined that Ms McKiernan could not seek a review period until 3 years had elapsed. In addition, the panel suggested that on application to set aside Ms McKiernan may need to demonstrate: sufficient insight into her past actions and consequences on the profession and other people, genuine remorse, that she has been honest with subsequent employers and that she has legitimately acquired QTS status.

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 McKiernan should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Ms McKiernan 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 in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel stated that it, “is satisfied that the conduct of Ms McKiernan fell significantly short of the standards expected of the profession.”

The panel also found that Ms McKiernan “demonstrated fraudulent behaviour and/or serious dishonesty”.

The findings of misconduct are therefore particularly serious as they include a finding of 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 McKiernan, 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 pupils must be able to view teachers as role models in the way they behave.”

A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Ms McKiernan apologised for her actions.” In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour. Indeed the panel indicate that, “she has obtained further employment as a teacher since then, on the basis of misleading her employer into believing that she had QTS status, when she does not.” 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. The panel has taken account of the uniquely influential role that teachers can hold in pupils’ lives.” 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. Indeed the panel reinforce this, saying, “Ms McKiernan is continuing to display misleading and dishonest behaviour, up to the point of the hearing.”

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 McKiernan herself. The panel say, “ that Ms McKiernan was a good teacher, she had good relationships with pupils and colleagues and was well thought of. She responded well to feedback in appraisals. The panel had regard to a positive reference from a school she had worked at in China (page 138 of hearing bundle). The panel was not provided with further evidence to attest to Ms McKiernan’s abilities as a teacher nor to her character.”

A prohibition order would prevent Ms McKiernan 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 seriousness of the misconduct, "particularly taking into account the nature and severity of the behaviour in this case. The panel determined that the teachers actions were deliberate, calculated and motivated by personal benefit."

I have also placed considerable weight on the finding of the panel that Ms McKiernan was, "repeatedly acting dishonestly in claiming that she had QTS status to which she was not entitled, in which she had been formally advised by the Department for Education on 20 December 2016. Ms McKiernan apologised for her actions. The panel noted that she has obtained further employment as a teacher since then, on the basis of misleading her employer into believing that she had QTS status, when she does not. The panel noted that QTS status gives access to the main pay scale for teachers and we heard from Witness 2 that Ms McKiernan was remunerated as if she was a properly qualified teacher".

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

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 3 year review period.

I have considered the panel's comments, "that Ms McKiernan could not seek a review period until 3 years had elapsed. In addition, the panel suggested that on application to set aside Ms McKiernan may need to demonstrate: sufficient insight into her past actions and consequences on the profession and other people, genuine remorse, that she has been honest with subsequent employers and that she has legitimately acquired QTS status".

I have considered whether a 3 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, three factors mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty and lack of integrity found, the lack of either full insight or remorse, and the persistent and on-going nature of the dishonesty.

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

This means that Ms Louise McKiernan 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 28 June 2022, 3 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 Louise McKiernan remains prohibited from teaching indefinitely.

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

Ms Louise McKiernan 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 stylized flourish at the end.

Decision maker: Alan Meyrick

Date: 28 June 2019

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