



Teaching  
Regulation  
Agency

# **Ms Kirsten Heath: Professional conduct panel outcome**

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

**November 2019**

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

**Teacher:** Ms Kirsten Heath  
**Teacher ref number:** 1067632  
**Teacher date of birth:** 29 August 1987  
**TRA reference:** 17747  
**Date of determination:** 14 November 2019  
**Former employer:** Bridgetown Primary School, Stratford-upon-Avon

### **A. Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 14 November 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Ms Kirsten Heath.

The panel members were Mr Paul Hawkins (teacher panellist – in the chair), Ms Hilary Jones (lay panellist) and Mr Chris Rushton (lay panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan solicitors.

The presenting officer for the TRA was Ms Kayleigh Brooks of Browne Jacobson solicitors.

Ms Heath 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 19 September 2019 ("the Notice").

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

1. Whilst applying for the role of and/or whilst employed as a teacher at Bridgetown Primary School in Stratford-upon-Avon ("the school") she:
  - (a) claimed to have completed her Newly Qualified Teacher induction year when in fact she had not;
  - (b) failed to provide to the school when requested any or any sufficient evidence of having completed a Newly Qualified Teacher induction year;
  - (c) provided false and/or inaccurate details in respect of an establishment at which she claimed to have passed her Newly Qualified Teacher induction year;
  - (d) permitted and/or arranged for an e-mail to be sent from E-mail Account A to the school on or around 30 April 2018 which asserted that she had completed her Newly Qualified Teacher induction year when in fact she had not;
  - (e) worked as a teacher notwithstanding that she had not completed a Newly Qualified Teacher induction year.
2. Her conduct as may be found proved at Allegation 1 lacked integrity and/or was dishonest in that her conduct was in order to improve her prospects of securing and/or retaining paid employment.

Ms Heath had responded to the Notice confirming that she admitted the allegations and that the facts of those allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

### **Application to proceed in the absence of Ms Heath**

The panel considered an application from the presenting officer to proceed in the absence of Ms Heath.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice had been sent in accordance with Rules 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures") and that the requirements for service had been satisfied.

The Notice, hearing documentation and various letters had been sent to Ms Heath's last known address and various attempts had been made to contact her by telephone and email.

Whilst Ms Heath had not engaged or responded to the various letters and emails sent to her, she had at least responded to the Notice and confirmed that she did not intend to be present or represented. Ms Heath had also submitted a further, brief submission shortly before the hearing. The panel was accordingly satisfied that she was, plainly, aware of the hearing.

The panel went on to consider whether to proceed in Ms Heath's absence or to adjourn, in accordance with Rule 4.29 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Ms Heath is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to her as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Ms Heath for the following reasons:

- Ms Heath had not sought an adjournment and there was no medical evidence before the panel which indicated that Ms Heath was unfit to attend the hearing.
- The panel was satisfied that Ms Heath's absence was voluntary and she had waived her right to attend.
- There was no indication that Ms Heath might attend at a future date and no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.
- There is an obligation on all professionals who are subject to a regulatory regime to engage with their regulator.

- There was a witness present to give evidence to the panel who would be inconvenienced were the hearing to be adjourned.

Having decided that it was appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Ms Heath is neither present nor represented.

## **Request for the hearing to be held in private**

The panel carefully considered a request made by Ms Heath, in her response to the Notice, for the hearing to take place in private. In determining this request the panel took account of the submissions made by the presenting officer and accepted the legal advice provided.

In her short, undated letter submitted to the TRA shortly before the hearing, Ms Heath made reference to her family and health circumstances in support of her request.

The request was opposed by the TRA for the reasons set out by the presenting officer.

The panel took into account the fact that there is a presumption that these proceedings will take place in public and there is a public interest in the openness and transparency of the disciplinary process.

The panel also noted that the outcome of the hearing will be announced in public.

On balance, the panel did not consider that it was appropriate for the hearing to take place in private. Whilst the panel recognised the reasons for Ms Heath's request, it did not consider that it was appropriate, in this case, to depart from the general rule. The public interest in the hearing taking place in public outweighed Ms Heath's stated concerns. Insofar as Ms Heath alluded to health-related matters, the panel also took account of the fact that no medical evidence had been submitted.

However, the panel agreed that should sensitive, personal matters arise during the course of the hearing, which was not anticipated, the public ought to be excluded at the appropriate time.

## **D. Summary of evidence**

### **Documents**

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

Section 1: Correspondence – pages 1 to 22

Section 2: Teaching Regulation Agency witness statements – pages 23 to 26

Section 4: Teaching Regulation Agency documents – pages 27 to 156

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

In addition, the panel agreed to admit a short, undated letter from Ms Heath which was submitted to the TRA shortly before the hearing. This was relevant to the matters to be determined by the panel and it was appropriate to admit the document in the interests of a fair hearing. The letter was added to the case papers at page 158.

## **Witnesses**

The panel heard oral evidence from Individual A called by the presenting officer.

Individual A is [REDACTED].

## **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.

### **Introduction**

Ms Heath was employed by Bridgetown Primary School ("the School") as a reception teacher between September 2017 and December 2018.

It was submitted, and the panel accepted, that a teacher is required to be appropriately qualified in accordance with applicable regulations.

In summary, following an individual achieving a teaching qualification they are required to complete a Newly Qualified Teacher (NQT) induction year, at the successful conclusion of which they will attain fully qualified teacher status (QTS).

Whilst there were some exceptions to the need to undertake an induction year, these were not applicable in relation to Ms Heath.

It was confirmed that there was no issue as to the fact that Ms Heath had completed the academic part of her teaching qualification.

However, following her appointment by the School, as a fully qualified teacher, in or around April 2018 concerns arose as to whether Ms Heath had completed her NQT induction year.

These matters were, initially, raised with Ms Heath by the School in informal meetings and in correspondence.

It subsequently became apparent, following enquiries being made, that Ms Heath may not have completed her induction year, despite her indications to the contrary. This led to the School commencing a disciplinary process.

Prior to the conclusion of that process, and during a period of sickness absence, Ms Heath resigned from her position with effect from 31 December 2018.

Ms Heath was subsequently referred to the TRA by the School.

### **Evidence considered by the panel**

The panel carefully considered all of the written and oral evidence presented. It accepted the legal advice provided.

The panel heard oral evidence from Individual A who was called by the presenting officer. Individual A was [REDACTED] at the School. From April to August 2018, Individual A was [REDACTED] following the departure of the previous [REDACTED]

The panel considered that Individual A was a credible witness who gave clear evidence.

Ms Heath did not attend to give evidence and nor did she provide a witness statement specifically addressing the allegations set out in the Notice.

However, she had admitted the facts of all of the allegations in her response to the Notice. Ms Heath provided some context to her admissions in her recent letter to the TRA.

Whilst the panel was mindful that the burden of proof rests with the presenting officer, Ms Heath's admissions were accepted and the panel went on to consider the extent to which her admissions were consistent with the other evidence before it.

The panel confirms that it has not relied upon any findings made, or opinions expressed, during the School's investigation. It formed its own, independent view of the allegations based on the evidence presented to it.

### **Findings of fact**

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

- 1. Whilst applying for the role of and/or whilst employed as a teacher at Bridgetown Primary School in Stratford-upon-Avon ("the school") you:**
  - (a) claimed to have completed your Newly Qualified Teacher induction year when in fact you had not**

Individual A gave evidence that Ms Heath had applied for the post of reception teacher at the School in response to an advertisement which specifically sought the appointment of a fully qualified teacher.

He stated that, during the recruitment process, Ms Heath represented to the School that she had QTS and that she had completed her induction year at Owl's Nursery in Richmond ("the Nursery").

These assertions were accepted at face value by the School.

Individual A stated, in oral evidence, that had Ms Heath notified the School that she had yet to complete her induction year, consideration would have been given to taking her on as an NQT teacher. He confirmed that, given Ms Heath's purported experience and how she presented in interview, it was more likely than not that she would have employed by the School in that capacity.

However, Ms Heath had expressly confirmed her QTS, although she relayed that she had some difficulty in providing proof of her completing her NQT induction year.

The headteacher, at the time, nevertheless offered the job of reception teacher to Ms Heath with the assurance that Ms Heath would 'sort out' the evidence for her induction year as soon as possible.

Individual A confirmed that, upon the [REDACTED] leaving the School, one of the first tasks they undertook as [REDACTED] was to ensure that the Single Central Register was up to date. Upon checking the Register, it became apparent to him that there remained a gap in relation to Ms Heath's teaching status.

This was raised directly with her on an informal basis initially, then in correspondence and, subsequently, at a formal investigation interview on 11 September 2018. Individual A confirmed that Ms Heath, throughout this time, maintained that she had completed her induction year at the Nursery. However, despite multiple requests, she could not prove or evidence that she had done so.

Individual A accordingly resolved to make further enquiries. Ultimately, information he obtained from the Department for Education evidenced that Ms Heath had not completed her induction year.

Individual A stated that, as further inquiries were made regarding Ms Heath's QTS, he learned from the School's local authority HR department that the maximum period of time between qualifying from university with a teaching degree and completing the induction year was five years. It was, therefore, clear that Ms Heath had missed the window of opportunity to complete her induction year.

In her response to the Notice, Ms Heath confirmed that she admitted this allegation. The panel was satisfied that this was consistent with the evidence before it.

The panel therefore concluded that:

- (i) Ms Heath did claim that she had completed her NQT induction year, both at the time of her application to the School and, subsequently, in response to specific enquiries made by the School; and
- (ii) She had not in fact done so.

The panel therefore found allegation 1(a) proved.

- (b) failed to provide to the school when requested any or any sufficient evidence of having completed a Newly Qualified Teacher induction year**

Individual A confirmed that both he and the School's administrator had requested, from Ms Heath, evidence of her NQT induction year on a number of occasions, starting in the Autumn term of 2017.

However, he confirmed that the only evidence that Ms Heath ever provided to the School, to support her claim that she had completed her induction year, was financial documentation. This came in paperwork purporting to be payslips and a P60 tax certificate for her time allegedly working in the Nursery.

Individual A also raised this issue with Ms Heath through various informal meetings and letters to her.

Individual A's evidence was that Ms Heath had been given ample opportunity, with time specific deadlines, to provide clear evidence to prove that she had completed her induction year.

In her response to the Notice, Ms Heath confirmed that she admitted this allegation. The panel concluded that this admission was consistent with the evidence before it.

The panel therefore found allegation 1(b) proved.

**(c) provided false and/or inaccurate details in respect of an establishment at which you claimed to have passed your Newly Qualified Teacher induction year**

As noted above, Individual A confirmed that Ms Heath had expressly represented to the School that she had completed her NQT induction year at the Nursery.

The panel noted that in her application to the School, Ms Heath had stated that she was employed at the Nursery from September 2012 to October 2014 as a "*nursery teacher teaching children ages 2-4*".

In response to Ms Heath's continuing failure to provide evidence to support her assertions, Individual A resolved to make his own enquiries in relation to the Nursery.

Individual A stated that, in addition to stating, in general terms, that she had completed her NQT induction year at the Nursery, Ms Heath had expressly indicated that she had been observed by someone from the appropriate authority.

However, Individual A said that when he got in touch with Richmond Borough Council ("the Council"), he was told that there was no record of the Nursery or of Ms Heath.

Individual A also made further enquiries of Companies House and Ofsted.

In relation to the former, Individual A stated that there was no record of the Nursery. In relation to the latter, Individual A stated that there was no record of any prior inspections or reports in relation to the Nursery.

In those circumstances, and given Ms Heath's admission, the panel was satisfied that the details provided by Ms Heath, as regards her completion of an NQT induction year at the Nursery, were false and inaccurate.

The panel therefore found allegation 1(c) proved.

**(d) permitted and/or arranged for an e-mail to be sent from E-mail Account A to the school on or around 30 April 2018 which asserted that you had completed your Newly Qualified Teacher induction year when in fact you had not**

The panel was referred to an email purporting to be from Individual B dated 30 April 2018.

Individual A explained the context to this email. He stated that Ms Heath had indicated to him that Individual B had been 'head of school' at the Nursery and that this email had

been received by the School in support of Ms Heath's assertions that she had completed her NQT induction year.

Within the body of the email, the person identifying herself as Individual B purported to confirm this. It records:

*"I can confirm that [Ms Heath] completed her induction period with me at my nursery in London ... I have written multiple letters to the council to try and gather some official evidence for her but I have had no luck so far."*

However, Individual A confirmed that, despite repeated attempts by the School to contact her, no further communications were received from Individual B.

In addition, the panel noted that the bare assertion, within this email that Ms Heath had completed her NQT induction year, was unsupported and contrary to the other evidence before it. Not least, the assertion within the email that efforts had been made to liaise with the Council was expressly contradicted by Individual A's testimony.

The email was, in the panel's opinion, highly suspicious.

Whilst Ms Heath admitted this allegation, it was unclear on what basis. The panel was, therefore, unable to determine whether Individual B was a real person or if the email was entirely fictitious and originated from Ms Heath. Given Ms Heath's assertion that she "*got caught up in a lie that then spiralled out of control*", the latter was certainly a possibility.

In any event, on the balance of probabilities, the panel was satisfied that Ms Heath had permitted and/or arranged for this e-mail to be sent to the School and that it falsely asserted that Ms Heath had completed her NQT induction year at the Nursery, when she had not.

The panel therefore found allegation 1(d) proved.

**(e) worked as a teacher notwithstanding that you had not completed a Newly Qualified Teacher induction year**

It was clear from the evidence that Ms Heath worked as a teacher at the School with effect from September 2017. It was also clear, as outlined above, that Ms Heath did not complete her NQT induction year. These matters were not challenged by Ms Heath and she admitted this allegation.

The panel therefore found allegation 1(e) proved.

**2. Your conduct as may be found proved at Allegation 1 lacked integrity and/or was dishonest in that your conduct was in order to improve your prospects of securing and/or retaining paid employment.**

Having found the facts of allegation 1(a) to 1(e) proved, the panel went on to consider whether Ms Heath's conduct was dishonest and/or lacked integrity.

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

As regards lack of integrity, the panel had regard to the decision of the Court of Appeal in *Wingate v SRA; SRA v Mallins* [2018] EWCA Civ 366. The panel recognised that professional integrity denotes adherence to the standards of the profession and the panel therefore considered whether, by her actions, Ms Heath had failed to adhere to those standards.

In light of the panel's findings in relation to allegations 1(a) to (e), and having carefully considered the evidence before it, the panel was satisfied that, in relation to each of these allegations, Ms Heath's conduct was dishonest, by the standards of ordinary decent people, which she accepted. In her recent, undated letter to the TRA, Ms Heath confirmed:

*"I wanted to write this letter firstly to sincerely apologise. I know that by not being honest I have jeopardised my career and also brought into question my trust and integrity as a teacher. .... I never meant any harm, I got caught up in a lie that then spiralled out of control."*

Ms Heath went on to provide a context to her actions.

Given the panel's findings, and Ms Heath's clear admission, it concluded that Ms Heath must have known what she was doing.

Individual A stated that the School was seeking a teacher with QTS and that Ms Heath had expressly confirmed that she had completed her NQT induction year. It was also clear that this claim was false, which Ms Heath would of course have known.

Whilst this was a serious matter in itself, Ms Heath had perpetuated her dishonest conduct by maintaining this falsehood when challenged by the School. She had ample opportunity to come clean and did not do so. To the contrary, she exacerbated the situation by permitting and/or arranging for an email to be sent to the School on 30 April 2018 which she would have known was completely false.

The panel was satisfied that Ms Heath's actions were deliberate and pre-meditated. She maintained her false claim from the time of her application in April 2017 through to her resignation in December 2018, despite repeated, direct enquiries made of her.

As well as admitting her dishonesty, Ms Heath further stated that her actions were driven by a desire to seek to provide for her child. Having regard to the wording of allegation 2,

the panel was therefore satisfied that Ms Heath's motives were to, initially, seek employment at the School and then, subsequently, to retain her position.

For the same reasons, the panel was also satisfied that Ms Heath's actions lacked integrity. By her actions, Ms Heath had failed to adhere to the ethical and professional standards expected of her.

Accordingly, the panel found allegation 2 proved.

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

Having found all of the allegations proved, the panel went on to consider whether the facts of those proved 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 Heath, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part Two, Ms Heath was in breach of the following standards:

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

The panel also considered whether Ms Heath's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. Having done so, it concluded that the offence of serious dishonesty was relevant. The Advice indicates that a panel is likely to conclude that an individual's conduct would amount to "unacceptable professional conduct" where they are found to have displayed such behaviour.

On balance, the panel was satisfied that the conduct of Ms Heath amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. She had falsely represented to the School that she had completed her NQT induction year and she maintained her dishonesty over a protracted period and in response to direct enquiries from the School. This conduct had clear repercussions. It impacted the School both financially and in terms of failing to meet its safeguarding requirements.

Ms Heath was also teaching children without being appropriately qualified. The panel had in mind that the purpose of an induction year is to allow an NQT to demonstrate that their performance against the relevant standards is satisfactory by the end of the period and to equip them with the tools to be an effective and successful fully qualified teacher. Ms Heath bypassed this requirement and she did so deliberately. She had, subsequently, repeatedly sought to cover up her lies whilst, at the same time, continuing to teach pupils at a school which thought she was fully qualified.

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

In relation to whether Ms Heath's conduct may bring the profession into disrepute, 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 Heath's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 and 2 proved, the panel further found that Ms Heath's conduct amounted 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 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.

In the light of the panel's findings against Ms Heath, which involved serious and protracted dishonesty and a lack of integrity, there was a strong public interest consideration in respect of the protection of pupils.

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

The panel also 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 Heath was outside that which could reasonably be tolerated.

To the contrary, the panel did not consider that there was a strong public interest consideration in retaining Ms Heath in the profession. There were no references or testimonials before the panel and whilst Individual A described her as a competent teacher, he alluded to various shortcomings in relation to her practice. Ms Heath had, in any event, indicated that she had no intention to return to the profession.

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 Heath.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Ms Heath.

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 proved. 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; and
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

Even though some of the behaviour found proved 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 appropriate or proportionate.

The panel considered that the following mitigating factors were present in this case:

- There was no evidence that Ms Heath had been subject to any previous regulatory or disciplinary proceedings.

- These matters only came to light following a change of headship and the checking of the Central Register.
- The panel was presented with some, albeit limited, evidence of her teaching practice. Individual A stated that her lesson observations were all judged as being satisfactory or good. Individual A also stated that, at the time of her appointment, the School received references which were adequate.
- Ms Heath admitted all of the allegations. There was some evidence of regret, remorse and insight in her recent letter to the TRA. In that letter, she stated she was "*ashamed of her behaviour*".
- Whilst there was no supporting evidence before the panel, Ms Heath referred to challenging personal circumstances at the time. However, whilst Ms Heath had referred to her being a single parent at the time and associated challenges, Individual A stated that he understood she had adequate support. Further, whilst Ms Heath alluded to health-related issues, there was no medical evidence before the panel.

Weighed against this, the aggravating features in this case were that:

- Ms Heath's actions were deliberate and she was no evidence to suggest she was acting under duress. The panel concluded that Ms Heath's behaviour was calculated and motivated.
- Her actions impacted on the School.
- In the absence of hearing from Ms Heath, the panel was unable to explore with her the extent of the insight she had gained into her failings.
- Ms Heath had participated in these proceedings to a very limited extent.
- Ms Heath's actions amounted to a clear breach of the Teachers' Standards. She had acted dishonestly and without integrity. She had ample time and opportunity to come forward and confess to her actions and did not do so.
- Ms Heath had presented no evidence in mitigation beyond her limited, unsigned letter submitted shortly before the hearing. There were no character references or testimonials before the panel.

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.

Having carefully considered the specific circumstances of this case and taking into account the mitigating and aggravating features present, the panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present, despite the severity of the consequences for Ms Heath of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate and decided that the public interest considerations outweighed the interests of Ms Heath.

The panel's findings in relation to Ms Heath's dishonesty and lack of integrity were a significant factor in forming that opinion. She had falsely represented to the School that she had completed her NQT induction year and she maintained her dishonesty over a protracted period and in response to direct enquiries from the School. The panel had found that this conduct had clear repercussions.

The panel therefore concluded that Ms Heath's behaviour was properly categorised as an episode of serious dishonesty. She maintained her dishonesty and lied to the School repeatedly over a period of approximately 19 months. She had deliberately sought to conceal the fact that she had not undertaken her NQT induction year.

There was also no evidence of remediation on the part of Ms Heath and very limited evidence of insight. Indeed, in her recent letter Ms Heath stated that she had "*panicked*". The panel rejected this, given the length of time over which her conduct persisted. It concluded that this called into question the extent to which Ms Heath had true insight into the nature and effect of her conduct. She had also taken a very limited part in these proceedings.

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 proved, would militate against the recommendation of a review period. These behaviours include serious dishonesty. As set out above, in the circumstances of this case, the panel concluded that Ms Heath's conduct should properly be categorised as serious dishonesty.

In light of this and having carefully considered all of the circumstances of this case, the panel decided that the findings indicated a situation in which a review period would not be appropriate.

Ms Heath's behaviour was extremely concerning and at the serious end of the spectrum. This was a protracted and serious episode of dishonesty and there was no evidence of true insight. Other than her limited, recent letter Ms Heath had presented no evidence in mitigation. The panel did have in mind the fact that prohibition orders should not be given in order to be punitive and it took account of the mitigating factors present. However, on balance, the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provision for a review period.

## **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 and found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Ms Heath should be the subject of a prohibition order, with no provision for a review period.

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

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

The panel finds that the conduct of Ms Heath fell significantly short of the standards expected of the profession.

The findings of misconduct are 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 Heath 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 observed that in light of its findings against Ms Heath which involved, “serious and protracted dishonesty and a lack of integrity, there was a strong public interest consideration in respect of the protection of pupils.” 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, “There was some evidence of regret, remorse and insight in her recent letter to the TRA. In that letter, she stated she was “*ashamed of her behaviour*”. The panel has also commented that there was, “no evidence of remediation on the part of Ms Heath and very limited evidence of insight.” In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this has the potential to put future pupils at risk. 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 public confidence in the profession could be seriously weakened if conduct such as that found against Ms Heath were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of 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 Heath herself. The panel comment, “There were no references or testimonials before the panel and whilst

Individual A described her as a competent teacher, he alluded to various shortcomings in relation to her practice. Ms Heath had, in any event, indicated that she had no intention to return to the profession.”

A prohibition order would prevent Ms Heath from teaching. A prohibition order 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. The panel say, “Ms Heath stated that she had *"panicked"*. The panel rejected this, given the length of time over which her conduct persisted. It concluded that this called into question the extent to which Ms Heath had true insight into the nature and effect of her conduct. She had also taken a very limited part in these proceedings.”

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Heath 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 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 that no provision should be made for a review period.

I have considered the panel’s comments, “Ms Heath's behaviour was extremely concerning and at the serious end of the spectrum. This was a protracted and serious episode of dishonesty and there was no evidence of true insight. Other than her limited, recent letter Ms Heath had presented no evidence in mitigation.” The panel has also said, “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious dishonesty. As set out above, in the circumstances of this case, the panel concluded that Ms Heath's conduct should properly be categorised as serious dishonesty.”

I have considered whether a no 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 and the lack of full insight and remorse.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

**This means that Ms Kirsten Heath is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** Furthermore, in view of the seriousness of the allegations found proved against her, I have decided that Ms Heath shall not be entitled to apply for restoration of her eligibility to teach.

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

Ms Kirsten Heath 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 'Dawn Dandy', with a stylized flourish at the end.

**Decision maker: Dawn Dandy**

**Date: 21 November 2019**

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