



Teaching  
Regulation  
Agency

# **Mr Philip Short: Professional conduct panel outcome**

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

**February 2021**

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

**Teacher:** Mr Philip Short  
**Teacher ref number:** 7376020  
**Teacher date of birth:** 31 March 1955  
**TRA reference:** 17694  
**Date of determination:** 24 February 2021  
**Former employer:** Chadwell Heath Academy

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by way of remote video link on 22 February 2021 to consider the case of Mr Short.

The panel members were Ms Caroline Tilley (lay panellist – in the chair), Mr Neil Hillman (teacher panellist) and Ms Nicola Hartley (lay panellist).

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

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

Mr Short was not present and was not represented.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 17 December 2020.

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

Whilst employed as the Head of Biology at the Chadwell Heath Academy:

1. During the 2017/18 academic year, he provided assistance to pupils beyond what is permitted by the OCR examinations board in respect of the A Level Biology A H420/01 (June 2018) and/or the A Level Biology A H420/02 (June 2018) examination paper(s), specifically by:
  - a. providing questions to pupils in advance of the formal examinations in or around June 2018, which he knew and/or ought to have known would appear in those examinations;
  - b. providing feedback, on students answers and/or providing answers in advance of the formal examinations in or around June 2018, which were in response to questions which you knew and/or ought to have known would appear in those examinations;
2. His conduct as may be found proven at 1a and/or 1b above lacked integrity and/or was dishonest, in that he provided such questions and/or feedback knowing that those pupils would have an unfair advantage over other pupils taking those examinations who had not received such questions and/or feedback in advance.

In Mr Short's response to the notice of proceedings, he has denied the allegations that were set out in a letter dated 18 February 2020. Those allegations were in similar terms to the present allegations set out in the notice of proceedings dated 17 December 2020. He has also denied the allegations in a letter dated 12 March 2020. Given that Mr Short has denied the allegations, he is taken to also have denied having committed unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## Preliminary applications

The panel noted that since the date of the referral to the TRA in this case, new Teacher Misconduct Disciplinary procedures for the teaching profession were published in May 2020 (the "May 2020 Procedures"). The panel understands that the earlier provisions contained within the Teacher misconduct disciplinary procedures for the teaching profession updated in April 2018 (the "April 2018 Procedures") apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the

case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

### Proceeding in Absence Application

The panel has considered whether this hearing should continue in the absence of the teacher.

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

The panel is also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

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

The panel has taken as its starting point the principle from R v Jones that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel has recognised that fairness to the teacher is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in GMC v Adeogba & Visvardis.

In making its decision, the panel has noted that the teacher may waive his right to participate in the hearing. The panel has firstly taken account of the various factors drawn to its attention from the case of R v Jones [2003] 1 AC1.

- i) The notice of proceedings was sent to Mr Short on 17 December 2020 to the same address that has previously been used, to which Mr Short has previously responded. On 20 February 2020, Mr Short had responded to an earlier notice of proceedings. He had answered "no" to the questions of whether he intended to be present at the hearing and whether he intended to be represented. The presenting officer explained that a colleague had called Mr Short in the week before this hearing was due to commence, and Mr Short had indicated that he may wish to attend. The presenting officer spoke with Mr Short on 21 February 2021 and Mr Short confirmed that he did not wish to engage in the proceedings and the hearing. The presenting officer sought confirmation of this in writing from Mr Short. When this was not received, the presenting officer spoke with Mr Short again, on the morning that the hearing was due to commence. Mr

Short repeated that he did not intend to appear. Prior to the panel making its decision, the presenting officer informed it that Mr Short had finally responded moments previously. His response stated that he did not wish to appear at a hearing and that no forms/allegations should be sent to him, nor did he wish to receive any further letters or emails. The panel was satisfied that Mr Short is aware of the proceedings, and that Mr Short has expressly stated that he does not wish to attend. The panel therefore considers that Mr Short has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.

- ii)* In the circumstances, the panel does not consider that adjourning the case will result in Mr Short attending the hearing. The likely length of any adjournment is unknown, but would be some way in the future, and there has already been delays in hearing this case due to the hiatus caused by the Covid 19 pandemic.
- iii)* Mr Short has not expressed any wish to be represented at the hearing in his absence. The panel has the benefit of representations made by the teacher and will take these into consideration. The panel has noted that there are four witnesses due to be called to give evidence. The panel can test their evidence in questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel is also able to exercise 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.
- iv)* The panel does not consider the risk of reaching an improper conclusion about the absence of the teacher to be significant in light of Mr Short's clear indication that he does not wish to attend.
- v)* The panel has recognised that the allegations against the teacher are serious and that there is a real risk that if proven, the panel will be required to consider whether to recommend that the teacher ought to be prohibited from teaching.
- vi)* The panel recognises that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession. The conduct alleged is said to have taken place whilst the teacher was employed at Chadwell Heath Academy (the "academy"). The academy will have an interest in this hearing taken place in order to draw a line under the events which have given rise to these allegations.

- vii) The panel also notes that there are four witnesses due to give evidence, and that it would be inconvenient for them to re-attend at a later date. Delaying the case may impact upon the memories of those witnesses, especially given that there has already been a delay in the hearing of this case.

The panel has decided to proceed with the hearing in the absence of Mr Short. The panel considers that in light of the teacher's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

#### Application to admit late documents

The presenting officer subsequently applied to admit the Joint Council for Qualifications (JCQ) Instructions for conducting examinations dated 1 September 2017 to 31 August 2018 (the "Instructions") and a booklet of examination questions with handwritten answers (the "Booklet"). The booklet was provided by OCR (the examinations board) to the presenting officer, being a document that OCR was provided with by the academy during its investigation. The panel noted that there are references within the panel bundle to pupils being provided with questions in advance of the examination and being permitted to answer them. The presenting officer made representations, that the witnesses to be called will be able to confirm the origin of the booklet.

The documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel is required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel exercised caution in exercising its discretion given that it has determined to proceed with the hearing in the absence of Mr Short.

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 is satisfied that the Instructions may reasonably be considered to be relevant to the case, since an issue for the panel to consider will be whether the alleged actions if found proven, constituted assistance beyond that which is permitted. The panel is also satisfied that sight of the booklet would assist in considering this issue.

With regard to the question of fairness, the documents were provided to Mr Short at the end of the week preceding the hearing and Mr Short has raised no objection to their admission during the calls he has had with the presenting officer. The booklet only became available to the presenting officer in response to a recent query of OCR to have

a clearer version of some screenshots contained within the panel bundle made available. As an alternative, OCR made the booklet available to the presenting officer.

By reason of the above, the panel has decided to admit the instructions and booklet.

## **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 1 to 5

Section 2: Notice of proceedings and response – pages 6 to 23

Section 3: Teaching Regulation Agency witness statements – pages 24 to 283

Section 4: Teaching Regulation Agency documents – pages 284 to 380

Section 5: Teacher documents – pages 381 to 384

In addition, the panel agreed to accept the following:

Instructions – pages 385 – 462

Booklet - pages 463 - 471

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

### **Witnesses**

The panel heard oral evidence from the [REDACTED] of the OCR examination board; the [REDACTED] and two former pupils of the academy called by the presenting officer.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

Mr Short began his career as a teacher in 1978. He was employed as a Teacher of Science in charge of Biology and Examinations Officer at Chadwell Heath Academy (“the academy”) from September 2005. On 11 June 2018, OCR was notified of suspected malpractice at the academy and an investigation ensued. On 19 June 2018, Mr Short was suspended. He resigned from his position on 25 June 2018.



## 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:

### **Whilst employed as the Head of Biology at the Chadwell Heath Academy:**

- 1. During the 2017/18 academic year you provided assistance to pupils beyond what is permitted by the OCR examinations board in respect of the A level Biology A H420/01 (June 2018) and/or the A level Biology A H420/02 (June 2018) examination paper(s), specifically by:**
  - a. providing questions to pupils in advance of the formal examinations in or around June 2018, which you knew and/or ought to have known would appear in those examinations;**

The biology papers H420/01 and H420/02 were despatched by OCR and were delivered to the academy on 15 May 2018, according to delivery information provided by OCR in readiness for the examinations to be held on 7 June 2018 and 11 June 2018.

On 11 June 2018, OCR received a notification from the headteacher of another school that one of their pupils had been sent photographs on 10 June 2018 of a question which had then appeared in the examination of the paper H420/02 on 11 June 2018. That pupil was said to have received the photographs from a pupil at the academy. The panel has seen the headteacher's email informing OCR of this. The email stated that the pupil at the academy had called the pupil at the other school and told him that his teacher had predicted the patometer question from the H420/01 paper and that he wanted to send his friend some predicted questions which his teacher had given out that day.

The panel had sight of the photographs of the questions taken from the mobile phone of the pupil from the other school. The panel has compared the question set out in the photograph against that in paper H420/02 and has observed that the photograph of the question is identical to that of question 19 of the H420/02 paper. The number of the question is different in the photograph (numbered 3) but the tables and figures referred to in the question are labelled Table 19.1, Fig 19 and Table 19.2 as in paper H420/02. The senior compliance manager of OCR stated in oral evidence that the numbering of the diagrams referred to in a question would normally correspond with the question number. He also gave evidence that there were markings on the photograph which confirmed it was a photograph of the physical paper rather than a draft or printout of an electronic version.

He also gave evidence that this question had not previously appeared in any earlier OCR examination papers. The panel carefully considered this. The senior compliance manager confirmed that he was as certain of this as he could be and that OCR could find

no reference to the question being used previously within its examination papers. He stated that it was improbable that the diagrams referred to in the question would have shared the same numerical sequence with any previous paper. He also confirmed that searches had been carried out to verify that the examination paper had not illicitly been made available online. The panel was satisfied that Question 19 of the H420/02 paper had been provided to a pupil at the academy in advance of the examination.

Mr Short was interviewed by two other compliance managers of OCR. The panel has seen a summary of Mr Short's employment which confirmed he had been employed by the academy since 1978 and since September 2005 had held the position of "Teacher of Science in charge of Biology/ Examinations Officer". When interviewed, Mr Short referred to his practice of going through past papers with pupils and predicting the titles of questions that might come up. He denied that an exact question he had given pupils as part of their practice papers had materialised in the examination, but said that the same topics had come up. Mr Short provided samples of practice questions that he gave to pupils before the May half term break but was unable to explain where the particular question had come from that had come up in the examination.

The panel has seen a number of witness statements prepared by pupils who had sat the biology examinations. The panel noted that the statements appeared to follow largely the same format in explaining that there were no questions in a third biology paper which had been familiar to them, but were in the main able to identify questions in the H420/01 and H420/02 papers that they had seen prior to the examination. The panel heard live evidence from two former pupils about the conditions under which they had prepared their handwritten witness statements. They both confirmed that they were given under "exam conditions", and they did not speak with any of their fellow pupils. One of the pupils confirmed that the examination papers in question had been made available to them to assist them in making their statements. The panel found this evidence to be credible and that the statements had been prepared independently of each other.

The panel noted that a number of the witness statements provided by pupils confirmed that they had seen two questions from the H420/01 paper and one question from the H420/02 paper prior to the examinations. A number of statements confirmed that the pupils had been provided with those questions by Mr Short in advance of the examinations. For example, one pupil states "These questions were given to each individual in the biology class by Mr Short a few weeks prior to the examinations"; another states "During the last week of this half term my class and I were given a pack of questions which I can now confirm after sitting my Biology A level paper 1 and 2 were the chromista and bacteria questions"; another stated "I have seen however Q19a and b i in a pack of revision questions given prior... these questions were provided by Mr Short around 2 – 3 weeks before the May half term before exams. They were given randomly as a part of a pack of revision question [sic] that we had the option of doing. We were told they were just revision question [sic] and I assumed they were past paper questions".

Both former pupils who gave oral evidence spoke warmly of Mr Short and his ability as a teacher and were reliable in their accounts. The first pupil confirmed that when he completed the H420/01 paper, he recognised question 17 and question 18(a) and during the H420/02 paper, he recognised question 19. He confirmed that these questions were contained in a question booklet given by Mr Short prior to the examinations. Similarly, the second pupil who gave oral evidence confirmed that he had seen question 19a to 19ci “exactly before printed on a sheet given by Mr Short”, and that questions 17a to 18a are also questions that he recognised and that “It was also given to us by Mr Short”.

The panel also noted that a number of pupils refer to Mr Short not having used a marking scheme when he went over the answers to these questions with them. A marking scheme would have routinely been available for past examination papers. The panel also noted that, following the H420/02 examination, one of the pupils had drawn it to Mr Short’s attention that they had recognised the bacteria question. This pupil remembered “seeing the petri-dish question vividly” and that Mr Short replied “Oh, ok”. The pupil stated that “He did not say or do anything else”.

The panel was of the view that it was more probable than not, based upon the pupils’ evidence, that Mr Short had provided questions to pupils in advance of the examinations. However, the panel had some concerns that there was no evidence presented to it as to whether the package containing the examination papers had been opened prior to the examination and if so, by whom; nor of anything that was observed regarding the integrity of the package of examination papers on the day of the examination. The panel considered this to be a failing of the investigation, as interviewing the invigilators of the examination and the assistant examinations officer would have been obvious lines of enquiry.

The panel noted that, as examinations officer, Mr Short was responsible for “the security of examination papers when they arrive on the School premises”. In light of:

- the oral evidence of OCR’s [REDACTED] as to the improbability of the questions provided in advance by Mr Short being past papers; or being available on the internet;
- Mr Short’s role as examination officer;
- the evidence of the pupils;
- the photographs of the mobile phone contained within the bundle; and
- the instructions for conducting examinations,

the panel concluded that it was more probable than not that Mr Short had provided the questions in advance to the pupils when he knew and/or ought to have known that the questions would appear in the examinations. The panel was satisfied that this constituted assistance beyond that which is permitted given that the purpose of examinations is for all candidates to be assessed on a level playing field.

The panel found this allegation proven on the balance of probabilities.

**b. providing feedback on students answers and/or providing answers in advance of the formal examinations in or around June 2018, which were in response to questions which you knew and/or ought to have known would appear in those examinations;**

Both of the former pupils who gave oral evidence confirmed they went through the relevant questions which had featured in the exam during lesson times with Mr Short. The first pupil described to the panel how Mr Short had provided the solutions, and confirmed that he meant that Mr Short had provided the answers to the questions. The second former pupil gave oral evidence that Mr Short had said for the pupils to answer the questions, and once they had completed them, he would go over them with the pupils and give them his answers. He stated that the pupils had attempted the questions, and had been allowed to discuss the answers between themselves. Mr Short then told them the way to answer the question properly.

A number of witness statements from pupils contain similar evidence. By way of example, one pupil stated "I did see the questions of bacteria which came up on paper 2. This question was given to me in class on [sic] April/ May. I was handed the question by Mr Short in class to do as practice questions. Then we went over the question to correct the answers. This is the same for paper 1 about the chromista question. This was handed out around the same time as the other questions for paper 2 by Mr Short. We worked through the questions and went over them in class". Another pupil stated "all questions provided today for paper 1 and paper 2 were known in advance and are exactly identical to what came up in the exam. These questions were given to each individual in the biology class by Mr Short a few weeks prior to the examinations. They were presented to us as several pages stapled together.... Mr Short gave us time in class to answer the booklet and then he went through the answers. We were allowed to discuss the questions with other peers before he went through them. These revision sessions lasted for roughly 2 – 3 lessons. We were also allowed to take these booklets home".

The panel has seen a booklet provided by the academy to OCR. The [REDACTED] gave evidence that it was his understanding that this was a genuine piece of work done by a pupil in preparation for their examination. The panel noted that the booklet contained questions identical to question 17 and 18a of the H420/01 paper and question 19 of the H420/02 paper. The numbers of the questions in the booklet were different, although the figures and diagrams were labelled in accordance with the numbering in the examination papers. The panel noted that the booklet contained handwriting indicating an attempt to answer the questions. The panel considered that this booklet supported the pupils' statements that they had been allowed to answer the questions in advance of the examinations.

The panel was satisfied that Mr Short had provided feedback on pupils' answers and/or provided answers in advance of the examination. The booklet only contained the

questions that came up in the examination, and the panel considered it more probable than not that Mr Short had provided the answers/ feedback on those questions in advance to the pupils when he knew and/or ought to have known the questions would appear in the examinations for the same reasons as that referred to in respect of allegation 1a above. The panel decided that this constituted assistance beyond that which is permitted given that the purpose of examinations is for all candidates to be assessed on a level playing field.

The panel found this allegation proven on the balance of probabilities.

**2. Your conduct as may be found proven at 1a and/or 1b above lacked integrity and/or was dishonest, in that you provided such questions and/or feedback knowing that those pupils would have an unfair advantage over other pupils taking those examinations who had not received such questions and/or feedback in advance.**

The panel noted that Mr Short was an experienced examinations officer, having held that position since 2005 and would have received training for that role. The instructions for conducting examinations are clear that “You should open as few packets as possible and within 60 minutes of the published starting time for the examination”. Since the panel has found it proven that Mr Short gave the relevant questions to pupils in advance of the examination, and the evidence is that the questions were given some weeks before the examinations, Mr Short must have disobeyed that instruction. The panel sought to understand the state of Mr Short’s mind at the time of these matters. Given his training and experience as an examinations officer, and his understanding of the rules around examinations, he must have known that in doing so, he was providing his pupils with an unfair advantage over other pupils who would not have seen the questions in advance. The panel noted that during the course of his interview with compliance officers of OCR, he was very clear as to what was cheating and what was not. Therefore the panel’s view is that he would have known that his actions were dishonest. The panel was in no doubt that ordinary decent people would consider it dishonest to seek to influence the pupils’ examination results by giving them sight of the questions in advance and providing guidance as to the answers.

The teaching profession has to uphold ethical standards in the assessment of work, since to do otherwise would erode the public trust placed in the integrity and accuracy of the assessment process. There is an expectation that pupils’ marks will reflect their ability. Mr Short failed to uphold these ethical standards, having an understanding of the assessment process and, therefore, his conduct found all proven above also lacked integrity.

The panel therefore found both lack of integrity and dishonesty proven on the balance of probabilities.

## **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 these 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 Mr Short in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel noted that the preamble to the Teachers’ Standards require that “Teachers make the education of their pupils their first concern, and are accountable for achieving the highest possible standards in work and conduct”. It goes on to state that “Teachers act with honesty and integrity”. The panel considered that Mr Short had breached this requirement given the finding of dishonesty. He also failed to make the education of the pupils his first concern, given that as a result of his actions, the pupils’ grades were unable to reflect the actual work they had put in for those examinations, and had to be assessed based on their performance in the third, uncompromised paper. The panel considered that, by reference to Part 2, Mr Short 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; and
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel concluded that the conduct of Mr Short amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Short’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that the offence of fraud or serious dishonesty was relevant.

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 was satisfied that Mr Short 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 are 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 Mr Short's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1 and 2 proved, the panel further found that Mr Short'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 all of them to be relevant in this case.

In the light of the panel's findings against Mr Short, which involved dishonesty in the conduct of examinations, there was a strong public interest consideration in respect of the protection of pupils. The panel considered that there was anxiety caused to pupils as a result of their examinations being called into question and a potential impact on the pupils of having their grades affected. Similarly, there was a strong public interest in the protection of members of the public given the trust placed by them upon the integrity of the examination system.

Similarly, the panel considered that public confidence in the profession could be seriously undermined if conduct such as that found against Mr Short 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 Mr Short was outside that which could reasonably be tolerated.

The panel recognised the public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his teaching skills and subject knowledge; and he is able to make a valuable contribution to the profession. However, the panel was of the view that this consideration was outweighed by the adverse public interest considerations in this case. The panel had misgivings about the trust that could be placed in Mr Short given the dishonesty found.

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

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 Mr Short. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;

The panel did not consider Mr Short to pose a continuing risk given his stated retirement from teaching. However, it would be concerned about the potential for repetition were he to return, since the panel has found that Mr Short has demonstrated serious dishonesty. The panel considered he had breached his position of trust as the examinations officer and as a Biology teacher in ensuring fairness of the conduct of examinations.

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.

In light of the panel's findings of dishonesty, the panel found Mr Short's actions to have been deliberate.

There was no evidence to suggest that Mr Short was acting under duress. His limited representations state that he has felt [REDACTED], but the panel has seen no [REDACTED] of any [REDACTED] that might have impacted upon his actions at the



relevant time. The current [REDACTED] gave evidence that he believed that Mr Short had had some [REDACTED], but that he was not privy to the detail of what they were.

The panel saw evidence that showed Mr Short had previously been subject to a disciplinary warning. The warning was to remain on his record for 2 years, following a security breach in the previous year involving Pearson Edexcel examinations. The panel notes that the [REDACTED] described that breach to have been entirely different in character and resulted from a mistake made by Mr Short which he had reported. In other respects, the panel noted that the former headteacher who reported the outcome of the school's investigation of the present allegations to OCR stated that "Previous reports from external inspections have been overwhelmingly positive. Mr Short has had a reputation for his honest and conscientious approach, evidenced by his reporting of the issue [that led to the warning]". When interviewed by compliance managers for OCR, a fellow biology teacher stated that "it doesn't fit with what I have seen of his teaching practices, or his general character as a science teacher, or as an exams officer. He has always appeared, in every sense, correct and above board and worried about making sure that things are just so, for the entire time I have been here which is a long time now". The current [REDACTED] gave oral evidence that Mr Short was a well-respected member of staff who had served the academy for a long period, and that there had been no other issues in relation to his competency or discipline. The two former pupils who gave oral evidence gave a positive description of Mr Short as a teacher.

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, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Short 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 Mr Short. Providing pupils with the answers in advance of their examinations undermined the integrity of the examination process; a fundamental tenet of the education system. 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 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes fraud or serious dishonesty. There was no evidence of any personal gain to Mr Short. In the context of a teaching career of over 40 years that had been unblemished until the recent warning, the panel considered that a review period would, in this case, be appropriate. Whilst Mr Short has continued to deny the allegations, he has engaged in the process to the extent of providing his response to the allegations and representations for the panel to consider. The panel was, unfortunately, unable to assess Mr Short's insight into his actions, given his denial of them and having not had the opportunity to ask questions of him. A review period would afford him the opportunity to reflect and gain insight into his actions.

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 provision for a review period after 5 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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Short should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that M Short 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; and
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel also concluded "that the conduct of Mr Short amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

The panel also "considered whether Mr Short's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that the offence of fraud or serious dishonesty was relevant."

The findings of misconduct are particularly serious as they include a finding of serious dishonesty and lack of integrity in the context of the public examination system.

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 Mr Short, and the impact that will have on him, 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 it, “did not consider Mr Short to pose a continuing risk given his stated retirement from teaching. However, it would be concerned about the potential for repetition were he to return, since the panel has found that Mr Short has demonstrated serious dishonesty. The panel considered he had breached his position of trust as the examinations officer and as a Biology teacher in ensuring fairness of the conduct of examinations.”

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, “The panel was, unfortunately, unable to assess Mr Short’s insight into his actions, given his denial of them and having not had the opportunity to ask questions of him.”

In my judgement, the lack of evidenced insight means that there is some risk of the repetition of this behaviour and this puts at risk the future well being of pupils who suffered some distress at this action. 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 are 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 Mr Short himself. The panel comment, “The panel saw evidence that showed Mr Short had previously been subject to a disciplinary warning. The warning was to remain on his record for 2 years, following a security breach in the previous year involving Pearson Edexcel examinations. The panel notes that the [REDACTED] described that breach to have been entirely different in character and resulted from a mistake made by Mr Short which he had reported. In other respects, the panel noted that the former [REDACTED] who reported the outcome of the school’s investigation of the present allegations to OCR stated that “Previous reports from external inspections have been overwhelmingly positive. Mr Short has had a reputation for his honest and conscientious approach, evidenced by his reporting of the issue [that led to the warning]”

A prohibition order would prevent Mr Short from teaching and would also clearly deprive the public of his 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. I have also placed considerable weight on the finding of the panel that Mr Short acted dishonestly.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Short 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 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 5 year review period.

I have considered the panel’s comments “Providing pupils with the answers in advance of their examinations undermined the integrity of the examination process; a fundamental tenet of the education system.”

I have considered whether a 5 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, the panel have said “Mr Short has demonstrated serious dishonesty. The panel considered he had breached his position of trust as the examinations officer and as a Biology teacher in ensuring fairness of the conduct of examinations.”

These factors mean that a 2 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 insight.

I consider therefore that a 5 year review period is required to satisfy the maintenance of public confidence in the profession.

**This means that Mr Philip Short is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England.** He may apply for the prohibition order to be set aside, but not until 3 March 2026, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Philip Short remains prohibited from teaching indefinitely.

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

Mr Philip Short has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in blue ink, appearing to read 'Alan Meyrick', with a vertical line to the right of the signature.

**Decision maker: Alan Meyrick**

**Date: 26 February 2021**

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