



National College for  
Teaching & Leadership

# **Mrs Lisa Horton Professional conduct panel outcome**

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

**November 2016**

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

**Teacher:** Mrs Lisa Horton

**Teacher ref number:** 0450957

**Teacher date of birth:** 17 September 1973

**NCTL case reference:** 14842

**Date of determination:** 28 November to 30 November 2016

**Former employer:** Darrick Wood School, Kent County Council

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 28 to 30 November 2016 at Study Inn Conference, 175 Corporation Street, Coventry, CV1 1GU (on 28 to 29 November 2016) and at 53 to 55 Butts Road, Earlsdon Park, Coventry, CV1 3BH (on 30 November 2016) to consider the case of Mrs Lisa Horton.

The panel members were Mrs Marion May (teacher panellist – in the chair), Mr Maurice McBride (lay panellist) and Mrs Gill Goodswen (teacher panellist).

The legal adviser to the panel was Mr Parminder Benning of Eversheds LLP.

The presenting officer for the National College was Ms Louisa Atkin of Browne Jacobson LLP.

Mrs Lisa Horton was present on day two of the hearing and was at all times represented by Mr Richard Roberts of Counsel.

The hearing took place in private, save for the announcement of the panel’s decision, which was announced in public and recorded.

## **B. Allegations**

The panel considered the allegations set out in the Notice of Proceedings dated 7 July 2016.

It was alleged that Mrs Lisa Horton was guilty of unacceptable professional conduct in that whilst employed as a teacher at Darrick Wood School, Kent between 1 September 2015 and 30 November 2015, she:

1. Provided an improper level of assistance to one or more pupils in respect of the GCSE ISA resits, including by:
  - a. Providing answers to be copied;
  - b. Allowing additional time;
  - c. Altering their practical results;
  - d. Marking and returning work to pupils for improvement;
2. Acted dishonestly, in that she intentionally provided improper assistance in an attempt to ensure that one or more pupils in her class would receive a better mark than they would otherwise have received;
3. Acted dishonestly in that she instructed pupils not to tell anyone how the GCSE Science ISA re-sit had been conducted in order to conceal her wrongdoing in relation to it.

Mrs Lisa Horton admitted allegation 1b above.

## **C. Preliminary applications**

### **Proceeding in the absence of the teacher**

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

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

The panel has determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher, noting that she will only be absent from the hearing on certain days due to her medical condition.

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

In making its decision, the panel has noted that the teacher may waive her right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. Mrs Horton has had more than 8 weeks' notice of the hearing date and in fact responded to the Notice of Proceedings on 3 August 2016. In her response to the Notice of Proceedings, Mrs Horton indicated that she proposed to attend but for one out of the three hearing days. However, her legal representative and representative from the NASUWT will be present throughout the entire hearing. The panel heard submissions that Mrs Horton's representatives will be able to obtain instructions if required. The panel therefore considers that the teacher has waived her right to be present at the entire hearing in the knowledge of when and where the hearing is taking place.

The panel has had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There is no indication that an adjournment might result in the teacher attending the hearing.

The panel has had regard to the extent of the disadvantage to the teacher in not being able to give her account of events, having regard to the nature of the evidence against her. The panel does not believe the teacher will be disadvantaged as although the teacher, herself, does not propose to attend the entire hearing, her representative from the NASUWT and her legal representative will be present and will present the teacher's case. Accordingly, the panel will have the benefit of representations made by the teacher's representative and is able to ascertain the lines of defence. The panel has the teacher's evidence addressing mitigation and is able to take this into account at the relevant stage. Furthermore, as stated above, the panel note that the teacher's representative will be able to obtain instructions from the teacher on those days she is not present at the hearing.

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

is possible; 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.

### **Admission of Documents**

The presenting officer made an application to admit into the evidence the signed witness statement of Pupil Q.

The presenting officer stated that the National College had only recently received a signed copy from the witness. The document provides probative evidence that will assist the panel in reaching its decision when determining the allegations. Turning to the issue of fairness it was noted that an unsigned copy of the statement had been circulated previously and therefore the teacher has had an opportunity to comment upon the contents thereof. The teacher's representative had no objections to the inclusion of this document.

The teacher's representative then made an application to admit into the evidence additional testimonials. The teacher's representative stated that the admission of documents was fair, as the testimonials are of a similar nature as the other testimonials contained within the bundle, and will not prejudice the National College. Furthermore, they are relevant and will particularly assist the panel should they reach the mitigation stage. The presenting officer did not object to the inclusion of the documents.

The panel had regard to paragraph 4.18 of the Procedures which provides the "*panel may admit any evidence, where it is fair to do so, which may reasonably be considered relevant to the case*". In view of the nature and seriousness of the allegations, the panel held that the documents were relevant and would assist in determining the allegations raised. Furthermore, the panel considered the need for fairness. The panel is comprised of experienced members, who will accordingly afford the document the appropriate weight in due course. The panel were minded to exercise its discretion and admit both documents.

### **Application to adduce evidence from further witness**

The presenting officer made an application to adduce oral evidence from Pupil M who had not been named in the Notice of Proceedings dated 7 July 2016. The teacher's representative objected to the application.

The panel had regard to paragraph 4.49 of the Procedures which provides that "the procedure at the panel hearing will be determined by the chair" and also to paragraph 4.68 which states that "[t]he panel may require any person to attend and give evidence ... at the hearing". The panel also note that pursuant to 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 therefore considered it does have a discretion to decide whether it will allow the evidence of Pupil M to be adduced by video link.

The panel accepted that the evidence of Pupil M, who was a pupil within the class sitting the ISA, would provide probative evidence that will assist the panel in reaching its decision when determining the allegations. The panel acknowledged the submissions of the presenting officer and also the concerns raised by the teacher's representative concerning fairness. The panel is comprised of experienced members, who will accordingly afford the evidence the appropriate weight in due course. Furthermore, the panel note that the teacher is present at the hearing today and will have an opportunity to provide immediate instructions to her representative having had the benefit of first hand hearing the evidence of the pupil. The panel also note that whilst a formal witness statement has not been served, Pupil M's contemporaneous account is available in the hearing bundle.

The panel has had regard to the seriousness of this case, and the potential consequences for the teacher and has accepted that fairness to the teacher is of prime importance. Furthermore, the panel note that these proceedings should be conducted in an investigative manner. The panel considered that, on balance, these are serious allegations and the panel will find Pupil M's evidence probative and the teacher's representative will have sufficient opportunity to prepare responses to issues raised. Therefore, Pupil M will be permitted to give evidence.

Having decided to adduce evidence, the panel considered whether Pupil M could deliver her evidence via video-link. Due to the age of the witness, the panel considered Pupil M to be a child witness within the meaning of paragraph 4.71 of the Procedures. The Procedures therefore permit Pupil M's evidence to be given by video link.

## **D. Summary of evidence**

### **Documents**

In advance of the hearing, the panel received two bundles of documents, Bundle A and Bundle B. The first bundle, Bundle A, included:

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

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

Section 3: NCTL witness statements – pages 15 to 22

Section 4: NCTL documents – pages 24 to 152

Section 5: Teacher documents – pages 154 to 195

The second bundle, Bundle B, included:

Section 1: AQA – 'Your guide to GCSE controlled assessment' – pages 1 to 9

Section 2: AQA – ‘GCSE Sciences Guidance on controlled assessment’ – pages 10 to 89

Section 3: AQA – Controlled Assessment Secondary Data Sheet – pages 90 to 92

Section 4: JCQ – Instructions for conducting examinations – pages 93 to 168

Section 5: JCQ – Information for candidates – controlled assessments – pages 169 to 170

Section 6: Exhibit KH2 – Scripts completed by Mrs Horton’s class – pages 171 to 627

Section 7: Exhibit KH7 – Scripts completed by Set 7 class – pages 628 to 696

Section 8: Scripts completed by Set 1 class – pages 697 to 879

In addition, the panel agreed to exercise its discretion afforded by the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession and admit the following documents into the evidence to Bundle A:

Section 3: Witness Statement of Pupil Q – pages 22a to 22b

Section 6: Additional Testimonials – pages 196 to 211

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

## **Witnesses**

The panel heard oral evidence from:

Witness A     Headteacher of Darrick Wood School     on behalf of the NCTL

Witness B     Science teacher at  
Darrick Wood School     on behalf of the NCTL

Pupil Q     Pupil at Darrick Wood School     on behalf of the NCTL

Pupil M     Pupil at Darrick Wood School     on behalf of the NCTL

Mrs Horton     Supply teacher     on behalf of Teacher

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundles.



Mrs Horton was employed as a science teacher at Darrick Wood School (“the School”) from 1 September 2015. Prior to this date, on 26 August 2015, Mrs Horton was sent a PowerPoint presentation in relation to the GCSE science Investigative Skills Assessment (“ISA”) re-sit.

On 12 October 2015, having completed the ISA during September, students were overheard discussing their experiences during the ISA in a maths class. The next day the science papers completed by Mrs Horton’s students were reviewed. Concerns were then raised with the headteacher and on 14 October 2015 Mrs Horton was suspended. The following day, on 15 October 2015, Mrs Horton tendered her resignation.

On 2 November 2015, a disciplinary investigation meeting was held between Witness A and Mrs Horton and later on 19 November, Mrs Horton requested that she bring the end of her employment forward. Her resignation was then accepted on 23 November 2015. Mrs Horton’s employment with the school terminated on 30 November 2015.

## **Findings of fact**

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

- 1. Provided an improper level of assistance to one or more pupils in respect of the GCSE ISA re-sits, including by:**
  - a. Providing answers to be copied;**

This particular of the allegation is denied by Mrs Horton.

The panel considered the written evidence of Pupil Q who described that during completion of Section 2, the pupils were split into groups, A to D. She stated “[a]fter being given the test paper Mrs Horton put the answers to one question at a time on the board however, each different letter correlated to the answer ... worded differently”. Pupil Q went on to state that Mrs Horton then “gave us sheets specifically for our letter with every question and told us to copy”. This account was consistent with the oral account given by the pupil and the account relayed to the headteacher on 10 November 2015.

Furthermore, this was corroborated by oral evidence of Pupil M, who provided a consistent account to the one relayed to the headteacher on 10 November 2015. However, the panel does note that in their contemporaneous notes of the incident, taken on 14 October 2015, both Pupils Q and M fail to make reference to answers being provided on pieces of paper, only referencing the answers being placed on the board.

Having said that, the panel refer to the contemporaneous accounts taken from other pupils on 14 October 2015, and note that nine out of ten pupils state Mrs Horton provided them with answers, with many referencing being split into groups A to D and answers

being placed on the board and/or being given pieces of paper with answers on them. The panel recognised that the events took place over a year ago and witnesses cannot be expected to remember with clarity, events which occurred 12 months ago. In spite of that, the panel does note that the key events recalled by witnesses were consistent.

Therefore, the panel found the evidence of Pupil Q and Pupil M to be credible, cogent and honest. Furthermore, the evidence did not appear to be exaggerated in any way.

The panel had regard to the scripts completed by the pupils in Mrs Horton's class. They noted a number of peculiarities. Firstly, answers to a number of questions in Section 2, including, but not limited to, questions 2a, 2b, 2d and 3, were very similar if not identical, in some cases the same errors being repeated across the scripts. Secondly, in response to any one question, for example question 2b, there were three sets of answer across the scripts; a group of six pupils had near identical answers, another group of six had near identical answers and a group of ten pupils had near identical answers. Finally, the answers were highly sophisticated, with one such answer being described by Witness B as "beautiful".

The panel also considered the scripts completed by pupils in other classes, namely, Set 1 and Set 7. The panel noted that the answers to question 2b, whilst referencing key phrases, were not identical or even similar. Furthermore, they were not to the same high standard as the answers found in the scripts completed by Mrs Horton's class, Set 4.

In her evidence, Mrs Horton accepted that the pupils' scripts are similar, if not identical, however, attributes this to the pupils being able to copy directly onto their Candidate Research Notes ("CRN") from the PowerPoint presentation prepared by Witness B and her meticulously teaching pupils the day before the examination. This was reiterated by Mrs Horton in her oral evidence, during which she described how she raised her concerns regarding the PowerPoint presentation with Witness B. In particular, reference was made to a chain of e-mails exchanged between 16 July 2015 to 27 August 2015 and it is within the e-mail dated 27 August 2015 (timed 19:00) that Mrs Horton raises her concerns. Witness B denied ever receiving this e-mail and denied sending the response (timed 19:11). The panel heard representations that this document was fabricated with reference to the following anomalies:

- The format of the Date and Time was different, as the e-mail in question contained an "at" separating the date and time.
- Within the Subject field, the title of the e-mail was emboldened unlike the other titles.
- In the response, reference is made to the "PowerPoint", emphasis on the capital P and this being one word. In her oral evidence, Witness B stated that she would never use capital Ps and would write this phrase as two separate words, as noted in her previous responses, which she does recall sending. The panel found the

evidence of Witness B to be credible, cogent, honest and consistent. Furthermore, the evidence did not appear to be exaggerated in any way.

Mrs Horton denied producing a false document and robustly contended that she had sent the e-mail on the time and at the date indicated.

Having examined the document and upon detailed review of the evidence, the panel preferred the evidence of Witness B and believed that the e-mail dated 27 August 2015 timed 19:00 were never sent to Witness B and indeed Witness B did not respond at 19:11, noting that the presentation of a false document to the panel is of serious concern.

In addition, during her oral evidence Mrs Horton surmised that pupils may have cheated, noting that the exam papers for Section 2 of the ISA had gone missing. However, both Pupils Q and M robustly, and in the panel's opinion believably, denied cheating.

The panel had regard to the AQA – 'Your guide to GCSE controlled assessment' and AQA – GCSE Sciences Guidance on controlled assessment' (together the "Guidelines") which stated that Sections 1 and 2 of the ISA ought to be completed under "high control". This means that the "students must complete all work independently, students must not communicate with each other [and] no assistance can be given to students". Mrs Horton appears to be aware of the distinction between those elements of the ISA that were to be undertaken under "limited control" and those to be undertaken under "high control". Therefore, it is accepted that as a teacher of 12 years' experience of controlled assessments, Mrs Horton was aware of the conditions in which the different elements of the ISA were required to have been conducted.

Having considered all the evidence, the panel preferred the evidence of Pupils Q and M to that of Mrs Horton. The panel felt that Mrs Horton explanation that the near identical answers on the ISA scripts were either a result of the contents of the PowerPoint presentation or that the pupils cheated, lacked credibility. Addressing the PowerPoint presentation, the panel noted that the scripts from the other classes do not contain near identical answers, which suggests that the PowerPoint and teaching cannot be said to have attributed to the creation of identical answers. Whilst key phrases have been noted from the PowerPoint presentation in the scripts completed by other classes, this would be expected. Turning to the allegation that the pupils cheated, the panel considered that the pupils would have needed to devise and execute a sophisticated and co-ordinated plan. The panel found it incredulous that despite being present during the assessment Mrs Horton would have failed to pick up on this. As noted earlier, the panel prefer the evidence of Pupils Q and M, who robustly denied cheating. Furthermore, the panel noted Mrs Horton's contention that when she began to teach the pupils they did not possess the basic knowledge does not support the contention that the same pupils could have devised a cunning and sophisticated plan to cheat and to prepare answers to such a high standard.

Therefore, on the balance of probabilities, the panel believed that Mrs Horton provided the pupils in her class with the answers to be copied in breach of the Guidelines; this amounting to an improper level of assistance. Consequently, the panel find this particular of the allegation to be proved.

**b. Allowing additional time;**

Mrs Horton accepted that she granted pupils additional time during their GCSE ISA re-sit although explained this was to make up for lost time at the beginning of the class and therefore the pupils did not receive time beyond that specified in the Guidelines. Mrs Horton explained that pupils were permitted to attend after school to complete Section 2 of the ISA, although accepts only a limited number of pupils attended after school, something which was corroborated by the oral evidence of Pupils Q and M.

The panel referred to the contemporaneous accounts taken from the pupils on 14 October 2015 and the headteacher's note of his discussion with the pupils dated 10 November 2015, where many pupils refer to being given "extra time". Additionally, the panel considered Witness B's response to the AQA report where she denies directing Mrs Horton to complete the ISA's after school noting that "[t]he lesson was immediately before lunch ... and any extra time provided was an uninterrupted continuation of the lesson ... [Mrs Horton] did continue the lesson into the lunch period which was witnessed by Individual A and myself". This account being consistent with her oral evidence to the panel.

As noted above, the panel considered that the answer in the scripts completed by Mrs Horton's class, were of a high quality, detailed and lengthy, in some cases, requiring the use of supplemental sheets. With this in mind, given the delayed start, and as many pupils did not attend after school to continue with the ISA, the panel finds that these answers could not have been prepared within the time suggested by Mrs Horton. Therefore, on the balance of probabilities, the panel finds that Mrs Horton gave the pupils additional time beyond that allowed in the Guidelines. Having considered the Guidelines, the panel finds that by allowing pupils additional time to complete the "high control" elements of the ISA, Mrs Horton gave the pupils an improper level of assistance in breach of the Guidelines. Consequently, the panel find this particular of the allegation to be proved.

**d. Marking and returning work to pupils for improvement;**

Mrs Horton accepted that she marked and returned the work completed by pupils following Section 1 of the ISA, however, denied that this was to allow the pupils to improve upon their work. Mrs Horton explained that she annotated the papers in red pen and had also recorded the mark for Section 1 on the front of the paper, thereby making it difficult to alter the mark, removing any opportunity for the students to improve upon their work. In his written evidence, Individual B said that Mrs Horton had used a red pen to make annotations to a set of papers.

The panel considered the evidence of Pupil Q who explained that having completed Section 1 of the ISA, pupils were provided with corrections on post-it notes. She described that once the corrections had been made, pupils lined up to “see Mrs Horton so that she could check it and if it was correct it would be put into a plastic wallet”. This account was consistent with the oral account given by the pupil, who was firm in her recollection that post-it notes were placed on Section 1 of the ISA and the account relayed by the pupil to the headteacher on 10 November 2015. Whilst the panel noted that Pupil Q was confused as to what she was instructed to correct, the panel note that witnesses cannot be expected to recall with clarity events that took place over a year ago. Furthermore, Pupil Q’s account was corroborated by oral evidence of Pupil M who recalled Mrs Horton marking Section 1 and placing corrections on post-it notes. As stated above, the panel found the evidence of Pupil Q and Pupil M to be credible, cogent and honest and the evidence did not appear to be exaggerated in any way.

The evidence of Pupil Q and M was consistent with the account of other pupils, namely Pupil A and Pupil S who stated in the contemporaneous accounts taken on 14 October 2015 that Mrs Horton marked the Section 1 ISAs and returned the papers with corrections. This account was consistent with the accounts relayed to the headteacher on 10 November 2015.

In her oral evidence, Mrs Horton explained that she used the post-it notes when the pupils were considering the exemplars and they are confused in their recollection of events. During their cross-examination, Pupil Q and M were asked about the use of the post-it notes. It was put to them that their recollection was confused. Both pupils were adamant that they were aware of the difference between a lesson and a “high-control” assessment and were firm in their recollections.

The panel had regard to the Guidelines which emphasise that during those elements to be completed under “high-control” that the “students must complete all work independently [and] no assistance can be given to students”. No support from the teacher is permitted in these sections. The Guidelines provide that the teacher should “record the marks for each candidate’s table and graph/chart” suggesting that Section 1 ought to be marked by the teacher before the pupils commence Section 2.

The panel considered all of the evidence, and on the balance of probabilities the panel believed that Mrs Horton was more likely than not to have marked and returned the work to the pupils for improvement. The panel felt that Mrs Horton’s explanation that the pupils were confused as to when the post-it notes were used, lacked credibility, given that a number of them specifically recall the use of the post-it notes after completion of Section 1. The panel finds that Mrs Horton’s actions amount to a failure to comply with the Guidelines. Consequently, the panel find this particular to be proved.

- 2. Acted dishonestly in that you intentionally provided improper assistance in an attempt to ensure that one or more pupils in your class would receive a better mark that they would otherwise have received;**

This allegation is denied by Mrs Horton.

The panel acknowledge that having found the facts of particulars 1(a), 1(b) and 1(d) proven, that such actions would amount to improper assistance, a consequence of which would see the pupils receive a better mark than they would otherwise have received. Indeed, the panel noted from the tracking data that Mrs Horton's class (Set 4) achieved higher marks than pupils in higher sets

The panel considered that Mrs Horton's actions; through providing answers to pupils, allowing additional time and marking and returning work to pupils for improvement, were intentional. This would have required planning and preparing sets of answers for the pupils to copy.

Having determined that, on a balance of probabilities, Mrs Horton intentionally provided improper assistance in an attempt to ensure that one or more pupils in her class would receive a better mark that they would otherwise have received, the panel went onto consider the two stage test in deciding whether Mrs Horton's actions were dishonest.

The panel was advised that the first limb of the traditional test to which panels are referred is "whether the panel is satisfied on the balance of probabilities that Mrs Horton's actions would be regarded as dishonest according to the standard of a reasonable and honest man". This is the objective test.

The panel was informed of a High Court case of May 2015 concerning the appeal against a decision of a professional conduct panel which stated that the tribunal should first determine whether, on the balance of probabilities, a defendant acted dishonestly by the standards of ordinary and honest members of that profession. If so, it was advised that it must then go on to determine whether or not it is more than likely that the defendant realised that what he or she was doing was, by those standards, dishonest. The panel accepted that only if the answer to both these questions is yes can the allegation of dishonesty be established in this case. The panel was also informed that the Court of Appeal, in an appeal against a criminal conviction in December 2015, held that the required standard under the objective limb was said to be the ordinary standards of reasonable and honest people. However, the panel understands that it has yet to be seen whether that decision will be applied in the context of professional discipline proceedings, given the shift away from that test by the High Court.

If the panel finds the objective limb satisfied, it must go on to determine whether it is more likely than not that the teacher realised that what she was doing was by those standards, dishonest. This is the subjective test.

First the panel considered the objective limb of the two limb test. The panel did not determine that there would be any difference between the standards of the reasonable and honest person and the standards of the reasonable and honest teacher. In reaching this conclusion the panel considered that everyone, teacher or not, would view providing

improper assistance to pupils as amounting to cheating. Due to the sacrosanct nature of examinations the panel concluded the reasonable and honest person (and teacher) would find Mrs Horton's actions dishonest. In addition, the panel considered that the reasonable and honest person (and teacher) would compare Mrs Horton's pupils with pupils within a school nearby and judge her actions to have been dishonest because the latter did not receive the benefit of the advantage.

The panel went on to consider the subjective limb of the test. The panel considered that the use of the post-it notes, providing answers to pupils and by instructing them not to tell anyone, that Mrs Horton knew her actions were dishonest.

Having reviewed all of the evidence, the panel finds allegation 2 to be proved.

### **3. Acted dishonestly in that she instructed pupils not to tell anyone how the GCSE science ISA re-sit had been conducted in order to conceal your wrongdoing in relation to it.**

Mrs Horton accepted that she instructed pupils not to discuss the ISA with other children. However, denied this was in an attempt to conceal her wrongdoing and that she acted dishonestly. She explained that as the pupils had been "afforded extra time they should not discuss the ISA with other students, as this could taint their outcomes ... [and the] students could have been penalised for discussing the ISA with peers, when they were only part way through completing it". She also accepted that she told pupils that as they were completing the ISA in two sittings "it would cost me my job if anyone found out and it would cost them their results".

The panel noted the evidence of the pupils, all of whom make reference to Mrs Horton instructing the pupils not to tell anyone about how the ISA was conducted and that Mrs Horton said she may lose her job and it would jeopardise their GCSE mark. Indeed, in her oral evidence, Pupil Q said that they were told not to "tell our parents".

The panel considered the signed declaration noting the wording which provides "I have received no help from my teacher. I have worked on all parts of my ISA independently and have received no help from my peers, my teacher and any other member of staff ...". Mrs Horton accepted that she asked the pupils to sign the declaration. This is confirmed by a number of pupils as noted in the contemporaneous note of the meeting on 14 October 2015 and the notes taken by the headteacher on 10 November 2015. This was also verified during the oral evidence provided by Pupils Q and M. In her oral evidence, Mrs Horton explained that she had prepared the declarations ahead of the ISA and had placed a sheet at the front of the class. The pupils recalled that they were instructed to sign before they were allowed to leave the classroom, which encroached on their lunch break. In her oral evidence, Mrs Horton did state that in accordance with school policy, teachers were not permitted to retain pupils into their lunch break. However, this account conflicts with that relayed by the pupils, who have been consistent and also the oral

evidence of Witness B and her response to the AQA report. The panel preferred the evidence of the pupils and Witness B.

Therefore, the instruction to ask pupils to sign the declaration and not to discuss the ISA is, in the panel's view, an attempt by Mrs Horton to conceal her wrongdoing. In particular, the panel note the repeated reference within the declaration that the pupil has not received assistance from their teacher, this being Mrs Horton.

Having determined that, on a balance of probabilities, Mrs Horton instructed pupils not to tell anyone how the ISA was conducted in order to conceal her wrongdoing, the panel went onto consider the two stage test in deciding whether Mrs Horton's actions were dishonest.

First the panel considered the objective limb of the two limb test. The panel did not determine that there would be any difference between the standards of the reasonable and honest person and the standards of the reasonable and honest teacher. In reaching this conclusion the panel considered that everyone, teacher or not, would view Mrs Horton's actions as an attempt to conceal her wrongdoing. In light of the circumstance and due to the importance of GCSEs, the panel concluded the reasonable and honest person (and teacher) would find Mrs Horton's actions dishonest.

The panel went on to consider the subjective limb of the test. The panel considered that the preparation of the declaration and insisting that pupils sign the declaration before being allowed to leave the classroom, Mrs Horton must have known that her actions were dishonest.

Having reviewed all of the evidence, the panel finds allegation 3 to be proved.

We have found the following particulars of the allegation against you not proven, for these reasons:

**1. Provided an improper level of assistance to one or more pupils in respect of the GCSE ISA resits, including by:**

**c. Altering their practical results;**

This particular of the allegation is denied by Mrs Horton.

The panel referred to the contemporaneous account taken from Pupil S on 14 October 2015, where he states that Mrs Horton "also changed our practical results". The panel noted that he is the only pupil to mention alteration to the practical results throughout the various investigations that have ensued.

The panel have not heard direct oral evidence from Pupil S and therefore have not had the opportunity to question or assess his evidence. Equally, the evidence was not tested by cross-examination, and thus the panel has not had the opportunity to see how it



withstood that form of challenge. In view of this, and in light of the limited documentary evidence presented in respect of this allegation, the panel find that this particular of the allegation is not proved.

## **Findings as to unacceptable professional conduct**

Having found allegations 1a, 1b, 1d, 2 and 3 to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”. The panel is satisfied that the conduct of Mrs Horton in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mrs Horton 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.

Not only did Mrs Horton fail to comply with Guidelines for the ISA, she deliberately acted in a manner inconsistent with that expected of a teacher responsible for conducting controlled assessments. By her actions, through providing answers to pupils, allowing additional time, and marking and correcting work for improvement, Mrs Horton undermined the integrity of the national examination system, and jeopardised the reputation of the pupils and the School. The panel is satisfied that the conduct of Mrs Horton fell significantly short of the standards expected of the profession and amount to serious misconduct.

The panel has also considered whether Mrs Horton’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and the panel has found that none of these offences are relevant. Whilst the panel found allegations 2 and 3 proven, noting that Mrs Horton acted dishonestly, the panel do not consider her conduct to be of such a serious nature.

Accordingly, the panel is satisfied that Mrs Horton is guilty of unacceptable professional conduct.

## **Panel’s recommendation to the Secretary of State**

Given the panel's findings in respect of unacceptable professional conduct, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

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

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

The panel's findings against Mrs Horton involved a failure to adhere to the Guidelines of the examination board by providing pupils with answers to ISA questions, allowing additional time and by marking and returning work for improvement. Furthermore, Mrs Horton sought to conceal her wrongdoing by insisting pupils sign a declaration. The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Horton were not treated with the utmost seriousness when regulating the conduct of the profession. Furthermore, the panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mrs Horton was outside that which could reasonably be tolerated. In particular, Mrs Horton's actions resulted in the pupils themselves being caught up in the dishonesty and breach of Guidelines with them having to copy answers and Mrs Horton coercing them to sign the declaration.

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

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mrs Horton. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards.

The panel has found that Mrs Horton's conduct involved serious departures from the personal and professional conduct elements of the Teachers' Standards, as the panel has already detailed above.

- Misconduct disrupting the education and/or well-being of pupils.

The panel considered that Mrs Horton's conduct disrupted the education and well-being of pupils. The panel noted that the pupils were worried and concerned about the impact the misconduct would have on their final GCSE grade.

- Abuse of position or trust.

The panel considered that Mrs Horton's conduct, in relation to the proven allegations, involved abuse of position or trust. Only as their teacher, could Mrs Horton have implemented and executed the breach of the Guidelines instructing pupils to copy answers.

- Dishonesty especially where there have been serious consequences, and covered up.

The panel has found allegations 2 and 3 proven, noting that Mrs Horton acted dishonestly when she provided improper assistance and sought to conceal her wrongdoing.

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

The panel has found that Mrs Horton's actions were deliberate, and have seen no evidence to suggest that she was acting under duress, and in fact the panel found the teacher's actions to be calculated and motivated. The panel noted that, in her role as a teacher, Mrs Horton had not been subject to any formal disciplinary proceedings, prior to the events underlying these allegations. The panel noted that Mrs Horton did have a previously good history and the panel accepts that the incident was out of character. In particular, the panel noted the vast evidence presented in support of Mrs Horton's good character, her abilities as a teacher and her professionalism. The panel also noted that Mrs Horton was dealing with health issues.

Nevertheless, it is the panel's view that the public interest considerations outweigh the interests of Mrs Horton. Maintaining the integrity of public examinations is of fundamental importance both to the nation and the profession. Mrs Horton's actions resulted in her pupils obtaining an unfair advantage, which undermined confidence in controlled assessments and the examination system. This not only had an adverse impact on the individual pupils concerned but also saw Mrs Horton attempting to lay blame on those pupils and also on her former colleagues.

In the circumstances the panel is of the view that prohibition is a proportionate and appropriate response. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for them to decide to recommend that a review period of the order should be considered. The panel were mindful that the Advice provides 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 also indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes fraud or serious dishonesty. Whilst the panel found that Mrs Horton acted dishonestly, they consider her conduct to be at the lower end of the spectrum when considering behaviours associated with the offences of fraud and serious dishonestly. Therefore, they do not consider the Advice to be applicable in these circumstances.

The panel felt the findings indicated a situation in which a review period would be appropriate. The panel noted that Mrs Horton has denied the allegations raised, and the panel noted she has not demonstrated any insight into her inappropriate conduct or the impact on the pupils, albeit she has expressed remorse for the resultant consequences of her actions.

The panel was mindful that a prohibition order is not intended to be punitive and considered that Mrs Horton should be given the opportunity to re-enter the profession in the future should she wish to do so, having reflected on her actions and demonstrated an insight into their consequences.

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

## **Decision and reasons on behalf of the Secretary of State**

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found all except one of the allegations proven. Where this allegation has not been found proven I have put this from my mind. The panel is satisfied that Mrs Horton is guilty of unacceptable professional conduct.

The panel's findings against Mrs Horton involved a failure to adhere to the guidelines of the examination board by providing pupils with answers to ISA questions, allowing additional time and by marking and returning work for improvement. I note Mrs Horton sought to conceal her wrongdoing by insisting pupils sign a declaration.

The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Horton were not treated with the utmost seriousness when regulating the conduct of the profession. I agree with the panel's view.

I note that the panel took account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. I agree with the panel's view that the following Teachers' Standards are relevant to this case:

- 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, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

I have noted the panel's consideration of the public interest in this case, and their consideration that public confidence in the profession could be seriously weakened if the conduct found proved in this case was not treated with the utmost seriousness. I note the panel's careful consideration of the public interest both in favour of and against prohibition as well as the interests of Mrs Horton. The panel found Mrs Horton's actions were deliberate, and there was no evidence to suggest that she was acting under duress. In fact, the panel found the teacher's actions to be calculated and motivated.

The panel concluded that the public interest considerations outweighed the interests of Mrs Horton, and that prohibition is both proportionate and appropriate. I agree with that view.

I now turn to the matter of the review period. The panel felt the findings indicated a situation in which a review period would be appropriate, and in this case, has recommended a review period of three years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes fraud or serious dishonesty. The panel found that Mrs Horton acted dishonestly, however they consider her conduct to be at the lower end of the spectrum when considering behaviours associated with the offences of fraud and serious dishonestly.

I note the panel found that Mrs Horton has denied the allegations raised, and that she has not demonstrated any insight into her inappropriate conduct or the impact on the pupils, albeit she has expressed remorse for the resultant consequences of her actions.

Mrs Horton's actions resulted in the pupils being caught up in the dishonesty and breach of Guidelines with them having to copy answers and Mrs Horton coercing them to sign the declaration.

I agree with the panel's recommendation that a three year review period is an appropriate response. Mrs Horton should be given the opportunity to re-enter the profession in the future should she wish to do so, having reflected on her actions and demonstrated an insight into their consequences.

**This means that Mrs Lisa Horton is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** She may apply for the prohibition order to be set aside, but not until 12 December 2019, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Horton remains prohibited from teaching indefinitely.

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

Mrs Horton 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 'JM', with a small dot at the end of the signature.

**Decision maker: Jayne Millions**

**Date: 5 December 2016**

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