



National College for
Teaching & Leadership

Mrs Jean Millham: Professional Conduct Panel outcome

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

September 2013

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	4
D. Summary of evidence	6
Documents	6
Witnesses	8
E. Decision and reasons	9
Panel's recommendation to the Secretary of State	14
Decision and reasons on behalf of the Secretary of State	16

Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mrs Jean Millham
Teacher ref no:	6654725
Teacher date of birth:	14 September 1947
NCTL Case ref no:	9640
Date of Determination:	9 September 2013
Former employer:	Morningside Primary School, Hackney

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 9 September 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mrs Jean Millham.

The Panel members were Mr Tony Woodward (Teacher Panellist – in the chair), Mr Martin Pilkington (Lay Panellist) and Ms Selina Stewart (Teacher Panellist).

The Legal Adviser to the Panel was Isabelle Mitchell of Eversheds Solicitors.

The Presenting Officer for the National College was Louisa Atkin of Browne Jacobson Solicitors.

Mrs Jean Millham was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 25 June 2013.

It was alleged that Mrs Jean Millham was guilty of unacceptable professional conduct/ conduct that may bring the profession into disrepute, in that:

Whilst employed as Head Teacher at Morningside Primary School, Mrs Jean Millham:-

1. Failed to take any appropriate action when she witnessed Pupil A physically assaulted by his grandfather on 18 January 2011;
2. Allowed Pupil A to leave with his grandfather despite the apparent threat to his welfare and safety;
3. Dishonestly misrepresented the circumstances of the incident on at least one occasion. Namely:-
 - a. When interviewed at Morningside Primary School on or around 10 May 2012; and
 - b. In a letter to Pupil A's mother on or around 7 February 2011.

In the absence of and non-response from Mrs Jean Millham, the allegations are taken to have not been admitted.

C. Preliminary applications

Proof of service / Proceeding in the absence of the teacher

The Panel considered an application from the Presenting Officer to proceed in the absence of Mrs Jean Millham. The Presenting Officer referred to the Notice of Proceedings at pages 5 to 7 in the case papers, which were sent to Mrs Millham's home address on 25 June 2013, this being her last known address. The Presenting Officer also referred to the fact that this was the address used by the Disclosure and Barring Service in the correspondence contained in the case papers. The Presenting Officer submitted that the Notice of Proceedings contained the information required by the Regulations and had been sent to Mrs Millham at least eight weeks before the hearing date.

The Presenting Officer referred the panel to the attendance note at page 77 of the case papers recording a telephone conversation which took place on 27 June 2013 between Mrs Jean Millham and Laura Hackney of Browne Jacobson, a representative of the Presenting Officer, during which Mrs Jean Millham confirmed that she had received the Notice of Proceedings. The Presenting Officer also referred to the statement of Mrs Millham sent to the Presenting Officer on 5 September 2013, in which Mrs Millham states

that she has made a decision not to appear at the hearing today. The Presenting Officer submitted that Mrs Millham has voluntarily waived her right to appear. The Presenting Officer also made reference to the two witnesses in attendance today and asked the Panel to consider their interests when exercising their discretion as to whether to proceed. Further, the Presenting Officer submitted that delay would not be desirable given the passage of time from the events being considered.

The legal adviser gave the Panel advice.

The Panel adjourned to consider its decision.

The Panel reconvened and announced its decision and reasons for that decision as follows:-

“We are asked to consider proceeding with this case in the absence of the teacher, Mrs Jean Millham.

We have been advised by the Presenting Officer that the Notice of Proceedings was sent to Mrs Jean Millham on 25 June 2013. It is exhibited at pages 5 to 7 of the case papers. We have viewed the Notice of Proceedings and are satisfied that it contains the information required under paragraph 4.10 of the Teacher Misconduct Disciplinary Procedures for the Regulation of the Teaching Profession, which we refer to as the ‘Procedures’. We are also satisfied that the Notice of Proceedings has been served in accordance with the service requirements at Regulation 19 of the Teachers’ Disciplinary (England) Regulations 2012, including serving the Notice of Proceedings with at least eight weeks’ notice of the hearing.

We are therefore advised that we have discretion to proceed in Mrs Millham’s absence in accordance with paragraph 4.26 of the Procedures.

In exercising this discretion we understand that we must proceed with great care and caution and with close regard to the overall fairness of the proceedings. Fairness to Mrs Millham is of prime importance, but fairness to the National College and the requirement for proper regulation of the profession should also be taken into account.

We have also been advised to have regard to the guidance given in the case of R v Jones.

In particular we have considered the following to be relevant:-

- The nature and circumstances of Mrs Millham’s behaviour in absenting herself from today’s hearing. We have seen evidence that Mrs Jean Millham confirmed receipt of the Notice of Proceedings to the Presenting Officer. We have also reviewed the statement provided by Mrs Millham submitted to the Presenting Officer on 5th September 2013, and provided to us this morning. In that document Mrs Millham states that she has made a decision not to appear at the hearing today. We consider this to be a clear and unqualified statement that Mrs Millham has voluntarily absented herself from today’s hearing.

- Whether or not an adjournment might result in Mrs Millham attending voluntarily or whether Mrs Millham, although absent, wishes to be represented. We note that Mrs Millham has not requested an adjournment, has not requested that she be represented and has deliberately chosen not to attend today.
- The general public interest and the particular interests of the witnesses attending today that a hearing should take place within a reasonable time of the events to which it relates. We consider that the interest of witnesses and the public would not best be served if the hearing was adjourned and the witnesses were asked to come back on a later date.
- The seriousness of the case against Mrs Millham and the risk of reaching the wrong conclusion in her absence today.

Mrs Millham has voluntarily absented herself from today and she is not asking for an adjournment. In other respects she has however engaged with the National College in preparation for the hearing as we have received a number of documents this morning which Mrs Millham asked be placed before us today.

We conclude therefore that Mrs Millham has no intention of attending the hearing and has waived her right to be present. We have therefore decided to proceed with the hearing today. We consider it is in the public interest that the case should not be delayed.

In making this decision we have every intention of exercising caution and care in examining the evidence adduced by the National College and the absent teacher in relation to this allegation.”

The Presenting Officer confirmed that there were no other preliminary applications.

D. Summary of evidence

Documents

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

Section 1: Anonymised Pupil List and Chronology (Pages 2 to 3)

Section 2: Notice of Proceedings and Response (Pages 5 to 10)

Section 3: Witness Statements (Pages 12 to 16)

Section 4: Teaching Agency (National College of Teaching and Leadership) Documents (Pages 18 to 77)

Section 5: Teacher’s Documents (Pages 79 to 108)

Application to admit further evidence

The Panel understands that on 5 September 2013, Mrs Jean Millham provided the Presenting Officer with four documents which Mrs Millham considered to be relevant to her case and asked that these be placed before the Panel today. These documents have not been served in accordance with paragraphs 4.18 to 4.22 of the Procedures, relating to the service and inspection of documents. The Panel therefore considered this to be a request on behalf of Mrs Jean Millham that the Panel consider admitting these documents at their discretion, under 4.24 of the Procedures.

The Panel sought representations from the Presenting Officer in relation to the request. The Presenting Officer confirmed that the National College had no objection to the first three documents being admitted into evidence, but objected to the fourth document being admitted, being the document which starts "Hi Jean" and purports to be written by "Individual A". The Presenting Officer submitted that the document was provided in a word document format, with no explanation as to the source. The Presenting Officer also submitted that if the Panel decide to admit the document, that they take great care and caution with the weight they attach to that evidence.

The Legal Adviser gave advice to the Panel in respect of the application.

The Panel adjourned to consider the request.

The Panel reconvened and announced its decision and reasons for that decision as follows:-

"We are asked to consider admitting four further documents into evidence at the request of Mrs Jean Millham, who is absent today. The request has been communicated via the Presenting Officer.

We have been advised that under paragraph 4.24, if either party wishes to rely on any document not served in accordance with paragraphs 4.18 to 4.22 of the Procedures, then those documents can only be admitted at the discretion of the Panel.

Paragraph 4.16 of the Procedure provides that the Panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the evidence.

We have considered the first three documents put before us today, namely the letter from the Hackney Learning Trust dated 25 July 2013, the letter from the Disclosure and Barring Serviced dated 14 December 2012 and the undated statement from Mrs Millham. We consider that these documents are relevant to the case and to issues of mitigation. We have also noted that the Presenting Officer does not object to these documents being admitted. We therefore consider that it is fair and reasonable to admit these documents and hereby do so.

In respect of the fourth document, which starts "Hi Jean" and purports to be written by "Individual A", we have noted the Presenting Officer's objection to this document being admitted. Having reviewed the document, we do not consider its contents to be relevant to the issues in the case and we are also concerned with the provenance of the

document. We note that the document was provided to the Presenting Officer in a word document format, without any reference as to how that document was initially communicated to Mrs Millham. Therefore, the Panel has decided not to admit this fourth document on two grounds; first, that it is not relevant to the issues in the case and secondly, that it would not be fair to admit it, bearing in mind the concerns raised by the Panel and the fact that the document was not submitted in accordance with the provisions under the Procedures.

The Panel therefore agreed to accept the following:

- Statement from Mrs Jean Millham, undated (pages 109 to 110)
- Letter from the Disclosure and Barring Serviced dated 14 December 2012 (pages 111 to 112)
- Hackney Learning Trust dated 25 July 2013 (pages 113 to 114)

No further requests for late/additional documents were received.

The Presenting Officer made the Panel aware that she had a copy of the CCTV evidence on CD available to present to the Panel today, and confirmed that this was served on Mrs Millham in accordance with the provisions under the Procedures.

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

Witnesses

The Presenting Officer made an opening statement.

The Panel viewed the CCTV evidence from the general office at Morningside Primary School on 18 January 2011.

The Panel heard oral evidence from the following witnesses called by the Presenting Officer:

Witness A, the former Special Educational Needs Coordinator at Morningside Primary School, who gave evidence concerning the events that occurred on 18 January 2011.

Witness B, a Consultant HR Business Partner at Hackney Learning Trust, who was involved in investigating the allegations against Mrs Jean Millham.

The Panel then viewed the CCTV evidence again.

The Presenting Officer made a closing statement.

E. Decision and reasons

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing, including the three additional documents admitted into evidence this morning.

Summary of Evidence

Please note this is intended to be a summary. It does not reflect the complete evidence.

Mrs Jean Millham was employed at Morningside Primary School as Head Teacher from 1 September 1995 until her retirement on 1 June 2012. On 18 January 2011, Pupil A was sent to see Mrs Jean Millham, in her capacity as Head Teacher, on account of his bad behaviour in class and an instruction was given for his home to be contacted to attend the school. Pupil A's grandfather attended the school in response to the request. It is alleged that Pupil A's grandfather then physically assaulted Pupil A in the presence of Mrs Jean Millham, who failed to take any appropriate action in response to the assault. Witness A, the former Special Educational Needs Coordinator, witnessed part of the assault. The Data Management Officer and Premises Manager from the school were also present in the school's general office during the assault and say in written evidence that Mrs Jean Millham did not take steps to curb the assault.

It is alleged that following this incident, Mrs Jean Millham allowed Pupil A to return home to his grandfather, despite the apparent threat to the welfare and safety of Pupil A.

Following the incident, Pupil A's mother wrote to the school on 24 January 2011. Mrs Jean Millham replied to this letter on 7 February 2011. It is alleged that Mrs Jean Millham's response dishonestly misrepresented the circumstances of the incident on 18 January 2011.

In May 2012, the Hackney Learning Trust undertook an investigation into the allegations, which involved interviewing Mrs Jean Millham on 10 May 2012. It is alleged that in interview Mrs Jean Millham dishonestly misrepresented the events of 18 January 2011.

Witness A. On 18 January 2011, Witness A confirmed that as he was leaving the Head's office, he saw in the hallway some sort of physical contact that grandfather was imposing on Pupil A in the hallway, although he cannot recall exactly what the extent of the contact was. Witness A could see that Pupil A was in distress. He believes Mrs Millham could see what he saw in the hallway, as she was sat right by the hatch to the general office and it happened in her line of sight. Witness A was concerned by the way Pupil A was being handled, and approached Mrs Millham to express concern and offer assistance. Mrs Millham waved Witness A away and he demonstrated this action to the Panel. Mrs

Millham did not discuss with Witness A what had happened that day and did not ask him what he had seen.

Witness A does recall speaking to Pupil A's mother the day following the incident. Until that point he was not aware that Pupil A had been hit. Witness A did not see Pupil A leaving the school with his grandfather on 18 January 2011. However, Pupil A's mother confirmed to him during their discussion the following day that Pupil A had left school with his grandfather.

Witness B. Witness B confirmed that he jointly conducted the investigation referred to in the case papers with Individual C and was an independent consultant engaged by the Hackney Learning Trust.

Individual D was interviewed by Witness B and was a witness to the incident on 18 January 2011. Individual D had told him she was shocked by the incident and arranged to retrieve the CCTV in case matters were taken further. Individual D did not bring the recording to anyone's attention until a later date due to the bullying culture at the time and fear of repercussions. Similarly, the Premises Manager was present during the incident and was interviewed during the investigation.

Witness B confirmed he made notes of his discussions with witnesses, and sent the statements to them to verify. Witness B agreed that the wording of the statements of Individual D and Individual E are similar, and Witness B believes that is due to the notes he made and the expressions he has used when preparing the statements.

Witness B explained that the evidence in respect of Pupil A being allowed to go home with grandfather came from Individual D, although recognised that this was not mentioned in her statement at page 38 of the case papers. Individual D told Witness B she had seen Pupil A leave with the grandfather and that he did not return to class. Witness B asked Mrs Millham during the investigation why this had been permitted and Mrs Millham said in interview at page 34 of the case papers that as far as she was aware, Pupil A did not go home with his grandfather.

Witness B confirmed that Mrs Millham was not aware of the existence of the CCTV prior to being shown it in May 2012 and appeared in shock upon viewing it. Witness B did not believe it was possible that she was shocked as she had not seen the gravity of the assault until that time. He believes that Mrs Millham was in line of sight of the assault in a small office. He believes she was shocked at this was evidence that she did not know existed and it did not sit well with her description of events. Witness B considers that Mrs Millham's letter to Pupil A's mother was misleading in describing the circumstances of the incident.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Mrs Jean Millham proven, for these reasons:

Whilst employed as Head Teacher at Morningside Primary School, Mrs Jean Millham:

1. Failed to take any appropriate action when she witnessed that Pupil A was physically assaulted by his grandfather on 18 January 2011;

The Panel has found the CCTV evidence compelling in respect of this particular allegation. It is clear from the CCTV evidence that Mrs Millham saw at least two slaps at the beginning of the sequence of physical assaults against Pupil A. Mrs Millham also admitted in her evidence given to Witness B during the disciplinary investigation that she saw one slap. It is less clear whether Mrs Millham saw the remainder of the assaults, given her line of sight. However, the Panel is satisfied that despite her seated position, Mrs Millham did in fact witness at least two of the assaults.

The Panel has considered carefully whether Mrs Millham failed to take any appropriate action in response to the assaults. The Panel has considered whether, as an experienced Head Teacher who had experience of dealing with Pupil A and his grandfather, it may have been appropriate for Mrs Millham to form a judgement, based on that experience, that it would be appropriate to let the incident run its course and then take action following the incident. However, in light of the gravity of the assault, the Panel considered that some form of intervention should have been at least attempted and that it was not appropriate to do nothing during the incident.

The Panel are persuaded by the CCTV evidence which shows that Mrs Millham did not make an attempt to stop the assault. The Panel in fact finds that Mrs Millham failed to take any action in response to the assault, as the CCTV evidence shows that she did not react at all when the assault was taking place.

The Panel finds this allegation proven.

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

2. Allowed Pupil A to leave with his grandfather despite the apparent threat to his welfare and safety;

During the evidence of Witness B, the Panel was referred to the disciplinary interview of Mrs Millham on 10 May 2012, and particularly pages 33 and 34 of the case papers. In that interview Mrs Millham says that “[Pupil A] did not display any concerns regarding going home with his granddad. I did not consider him to be in danger”. However, Mrs Millham is then asked, “Are you certain that [Pupil A] did not go home with his granddad” to which Mrs Millham responds, “As far as I am aware, but you are putting doubts in my mind now.” The Panel considers that the evidence suggests that Pupil A may have gone home with the grandfather, or at least that Pupil A would not have been concerned to go home with his grandfather. The Panel does not find this evidence conclusive.

The Panel also heard hearsay evidence from Witness B that Individual D told Witness B that she saw Pupil A go home with his grandfather. The Panel has noted that this evidence was not contained in Individual D ‘s statement at page 38 of the case papers. The Panel therefore places limited weight on this evidence.

The undated statement of Mrs Millham at pages 83 to 88 of the case papers states that Pupil A returned to the class after the incident.

Therefore, based on the evidence the Panel has seen and heard, the Panel does not believe that the evidence is sufficiently clear, on the balance of probabilities, to find that Pupil A was allowed by Mrs Millham to leave with his grandfather despite the apparent threat to his welfare and safety

This allegation is not found proven.

3. Dishonestly misrepresented the circumstances of the incident on at least one occasion. Namely:-

a. When interviewed at Morningside Primary School on or around 10 May 2012;

The Panel has considered a copy of the interview with Mrs Millham on 10 May 2012 set out at pages 28 to 34 of the case papers.

The Panel has found that this allegation has not been properly particularised in advance of today’s hearing and the National College has not sufficiently specified in what way, or ways, Mrs Millham is alleged to have been dishonest.

The Panel has heard evidence today from Witness B as to the version of events given to Witness B during the interview, and prior to viewing the CCTV evidence and then her reaction to that evidence. Therefore the Panel may be able to make an assumption as to what the specific allegation is supposed to be.

However, in the absence of Mrs Millham at the hearing, the Panel proceeded with particular care and caution. The Panel was concerned that as the allegation had not been fully particularised, Mrs Millham has not had the opportunity to address the proper

particulars of the allegation in respect of dishonesty, present evidence in response to this and challenge the evidence heard today.

The Panel therefore feels that it is not able to find the allegation proven on the balance of probabilities, on the basis that the Panel has not been able to hear Mrs Millham's evidence and undertake this balancing exercise.

The Panel therefore finds this allegation not proven.

b. In a letter to Pupil A's mother on or around 7 February 2011.

The Panel has considered a copy of the letter that Mrs Millham sent to Pupil A's mother set out at pages 36 to 37 of the case papers. The Panel also noted that the initial letter from Pupil A's mother, to which Mrs Millham was replying, was not available for them to consider.

The Panel has found that this allegation has not been properly particularised in advance of today's hearing and the National College has not sufficiently specified in what way or ways Mrs Millham is alleged to have been dishonest.

The Panel has heard evidence today from Witness B in which he explained that he believed that Mrs Millham was dishonest in the letter by saying "I personally saw him chuck [Pupil A] under the chin", and "We all moved around [Pupil A]". However, until that point the Panel was not clear of what the allegation of dishonesty consisted.

In the absence of Mrs Millham at the hearing, the Panel proceeded with particular care and caution. The Panel was concerned that as the allegation had not been fully particularised, Mrs Millham has not had the opportunity to address the proper particulars of the allegation in respect of dishonesty, present evidence in response to this and challenge the evidence heard today.

The Panel therefore feels that it is not able to find the allegation proven on the balance of probabilities, on the basis that the Panel has not been able to hear Mrs Millham's evidence and undertake this balancing exercise.

The Panel therefore finds this allegation not proven.

Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute

In considering the allegation of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, we have had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'. The Guidance states that unacceptable unprofessional conduct and conduct that may bring the profession into disrepute is misconduct of a serious nature, falling

significantly short of the standard of behaviour expected of a teacher and that this should be judged with reference to the latest standards published by the Secretary of State in June 2013.

We have considered the relevant standards, and in particular we consider that the following standards are relevant:

“A teacher is expected to demonstrate consistently high standards of personal and professional conduct. Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by... having regard for the need to safeguard pupils’ well-being in accordance with statutory provisions.”

We have used our knowledge and experience of the teaching profession and a person’s fitness to be a teacher and have taken into account how the teaching profession is viewed by others, and the influence that teachers may have on pupils, parents and others in the community.

Having found the facts of Particular 1 proved, we find that Mrs Millham’s actions in failing to take appropriate action when she witnessed that Pupil A was physically assaulted by his grandfather on 18 January 2011 amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

We are concerned that Mrs Millham did not make any attempt to intervene at any stage during the incident. The Panel has found the CCTV disturbing in that Mrs Millham continued watching the assault unfold before her without intervening or making any attempt to intervene. There was a serious assault against a pupil and no attempt to intervene. We do not find that behaviour acceptable given the standards expected in safeguarding pupils’ well-being. We consider this demonstrates clear evidence that Mrs Millham neglected the need to safeguard a pupil’s well-being.

Panel’s recommendation to the Secretary of State

Given the Panel’s findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it is necessary for the Panel to go on to consider whether it would be appropriate to recommend the imposition of a Prohibition Order by the Secretary of State.

The Panel has been referred to a large number of character statements in the hearing bundle. The character references describe Mrs Millham as having a long-standing history as a supportive Head Teacher, who was concerned with Child Protection matters. Mrs Millham is clearly of previously good character and the Panel has taken this into account.

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 a 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 Teacher Misconduct – Prohibition of Teachers Advice and having done so has found a number of them to be relevant in this case, namely the protection of children, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the Panel's findings against Mrs Jean Millham, which involved failing to intervene to safeguard the well-being of a pupil who was subjected to a serious assault by his grandfather on school grounds, there is a strong public interest consideration in respect of the protection of children.

The Panel also considered that a strong public interest consideration in declaring proper standards of conduct in the profession was present. The Panel found that Mrs Millham's conduct could not reasonably be tolerated and that public confidence in the profession could be seriously weakened if such conduct were not treated with the utmost seriousness when regulating the profession. Mrs Millham was in a senior position in the school and should have demonstrated the proper standards that are compatible with being a teacher, by safeguarding the well-being of Pupil A, and intervening or attempting to intervene during the assault.

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 Jean Millham. In forming a judgement in this respect, the Panel took particular account of the mitigation evidence that was presented to it. The Panel was also mindful of the fact that prior to these findings being made against her, Mrs Jean Millham was considered to be a person of good character with no criminal or disciplinary sanctions recorded against her.

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 Jean Millham. The Panel took further account of the Teacher Misconduct – Prohibition of Teachers 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 are:

- serious departure from the personal and professional conduct elements of the latest teachers' standards
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk

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. The Panel finds that Mrs Millham's actions were deliberate, in that she deliberately failed to act. There was no evidence to suggest that she was acting under duress. The Panel did however take account of Mrs Millham's previous good record.

The Panel is of the view that prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Mrs Jean Millham. The seriousness of the assault and the failure to take any action were significant factors in forming that opinion and the Panel considered that Mrs Millham's behaviour in failing to respond to the incident was not compatible with the behaviours expected of a teacher. Accordingly, the Panel makes a recommendation to the Secretary of State that a Prohibition Order should be imposed.

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 Teacher Misconduct – Prohibition of Teachers Advice advises 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 Panel recognised that there was evidence of Mrs Millham's previous good conduct and supportive character references presented in mitigation.

The Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. The Panel has found that Mrs Millham has been responsible for failing to safeguard the well-being of a pupil, but this does not involve any of the behaviours that would militate against a review period being recommended, as set out in the Guidance.

The Panel notes that it has not seen any evidence of Mrs Millham expressing remorse in relation to the incident.

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 Mrs Millham to be in a position to apply for a review after a period of two years from the date of imposition of the Prohibition Order.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations of the panel both in respect of sanction and review period. This is a case where it is the failure to act that is at the heart of the misconduct. Mrs Millham's failure to intervene when

witnessing a serious assault against a pupil is a serious matter. Her conduct fell significantly short of that expected of a teacher and was misconduct seriously affecting the education and/or well-being of pupils. I have given careful consideration to the public interest as well as to the need to be proportionate and I have taken into account the interest of the teacher.

For these reasons, I support the recommendation of the panel that Mrs Millham should be prohibited from teaching.

I have also given careful consideration to the matter of a review period. I have taken into account the factors set out by the panel including taking into account matters of mitigation and insight. I support the recommendation that a two-year review period should be permitted.

This means that Mrs Jean Millham 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 17 September 2015, two years from the date of this Order at the earliest**. If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mrs Jean Millham remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Mrs Jean Millham 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.

NAME OF DECISION MAKER: Alan Meyrick

Date: 10 September 2013

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