

NATIONAL COLLEGE FOR TEACHING AND LEADERSHIP

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

Teacher: Mrs Assumpta NWACHUKWU
Teacher ref no: 8617032
Teacher date of birth: 19 September 1960
TA Case ref no: 0009525
Date of Determination: 15 August 2013
Former Employer: Woodside High School, London

A. Introduction

A Professional Conduct Panel ('the Panel') of the National College for Teaching and Leadership ('the National College') convened on 8 and 9 July and 14 August 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mrs Assumpta Nwachukwu.

The Panel members were:

Mrs Kathy Thompson (Teacher Panellist – in the Chair);
Mr Mark Tweedle (Teacher Panellist); and
Mr William Brown OBE (Lay Panellist)

The Legal Adviser to the Panel was Mr Michael Williams of Counsel [8 and 9 July 2013] and Stephen Murfitt of Blake Laphorn Solicitors (14 and 15 August 2013)

The Presenting Officer for the National College for Teaching and Leadership was Ms Lucy Alicea of Kinglsey Napley, Solicitors.

Mrs Nwachukwu was present and represented by Mr J Ukaemenam of The Reform Corporation.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegation set out in the Notice of Proceedings dated 26 March 2013.

It was alleged that Mrs Nwachukwu was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, whilst employed at Woodside High School, London, in around May 2011, she failed in her duty to act in accordance with her safeguarding/child protection responsibilities, in that she;

1. failed to report to a responsible authority when Child A and/or Child A's mother provided her with information which indicated that there may have been inappropriate physical contact between Child A's step-father and Child A;
2. left Child A in a house with Child A's stepfather after she had been provided with the information referred to in paragraph 1;
3. told Child A not to tell the police about the information referred to in paragraph 1, or words to that effect.

C. Summary of Evidence

Documents

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

Section 1	Chronology	pages 1 - 4
Section 2	Notice of Proceedings & Response	pages 5 - 12
Section 3	National College Witness Statements	pages 13 - 26
Section 4	National College Documents	pages 27 – 121
Section 5	Teacher Documents	pages 122 - 133

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

Submission of Late/Additional Documents

In addition, in the course the hearing, Mr Ukaemenam sought to adduce the following additional documents:

1. Email dated 8 July 2013 from Mr Ukaemenam (page 134).
2. Minutes of School Appeal Hearing (pages 135 – 143).
3. Witness statement of Witness F (pages 144 – 145).

Ms Alicea did not oppose those documents being produced and, in the light of advice from the Legal Adviser as to their relevance, agreed to receive them.

Brief summary of evidence given

Please note that this is intended to be a summary – it does not reflect the complete evidence given.

The following witnesses gave evidence on behalf of the National College:

1. **Witness D**

Witness D, the acting Head Teacher of the School (in the absence of Witness E) from September 2011, gave evidence regarding a strategy meeting held on 28 September 2011, in consequence of which he arranged a formal investigatory meeting on 11 November 2011. Mrs Nwachukwu was present at the investigatory meeting. She denied telling Child A not to talk to the police or repeat the accusations against her step-father.

Witness D described a child protection training session that he attended on 19 May 2011 – which he believed Mrs Nwachukwu ‘would have also attended’ – and described that which he believed Mrs Nwachukwu ought to have done in the circumstances, as he understood them. He believed that the training sessions that took place at various times made clear that teachers have a duty to safeguard all children, not only those within the school. His view was that Mrs Nwachukwu had an obligation to protect Child A, ought to have informed social services and ensured that Child A was not left alone with her brother (Child A’s step-father) after Child A had told her that she was being abused.

Witness D could not recall specifically whether Mrs Nwachukwu was in attendance at any of the child safeguarding sessions, although he said that attendance registers taken and action taken to ensure that absentees attended later sessions.

2. **Witness E**

Witness E, the Head Teacher of the School gave evidence regarding a strategy meeting held on 25 May 2011, her presentation of the case against Mrs Nwachukwu at a disciplinary hearing held in two parts on 5 and March 2012 (which took place in Mrs Nwachukwu’s absence) and the child protection training said to have been attended by Mrs Nwachukwu on various dates between September 2006 and May 2011. She also detailed training provided by the School on ‘key issues – said to have included child protection – and five ‘twilight’ sessions provided by the Local Authority to reinforce child protection issues, at which attendance was said to be compulsory for all staff. She said that she could recall being present at some of the training sessions.

Her view was that the training sessions that took place at various times, including National College training, made clear that teachers have a duty to safeguard all children, not only those within the school.

Mrs Nwachukwu gave evidence on her own behalf:

Mrs Nwachukwu said that at about 9.30pm on 14 May 2011, Mrs C telephoned her and then took Child A (and her younger sibling) to her home, where both she and her husband were at home.

She said that when Mrs C arrived she was 'hysterical and crying'. When questioned as to that she said that Mrs C's eyes were moist and she was tapping her feet.

The contemporaneous police notes record that Mrs Nwachukwu said that Child A had told her that Mr B had 'kissed her but the way she said it made it sound deeper'. Mrs Nwachukwu denied that she had said that. According to her, Child A herself did not say anything whilst at Mrs Nwachukwu's house, she spoke to Mrs C alone in her bedroom and Mrs C did not tell her that Mr B had actually kissed Child A. It was, she said, Mrs C and not her who felt that there might have been 'something deeper'.

Mrs Nwachukwu said that she, her husband, Mrs C and Mrs C's two children returned to Mrs C's home to tell Mr B to leave. When they arrived, Mr B was present. At Mrs Nwachukwu's behest, Mrs C repeated Child A's allegation to Mr B. Mrs Nwachukwu asked him three times whether it was true and he denied that it was.

Mrs Nwachukwu said that she told Child A at that point not to say anything – meaning that she should not say anything to Mr B – but denied that she had at any time told Child C not to speak to or to lie to the police about what had happened.

Both Mrs Nwachukwu and her husband spoke further with Mr B before leaving Child A with her mother. Mr B had left the room by that time, although he may still have been somewhere in the building.

Mrs Nwachukwu disputed the accuracy of the notes of the Investigation Meeting, which was held on 11 November 2011. She said that she had provided written objections to that record for the purposes of her Employment Tribunal hearing.

Mrs Nwachukwu could not recall attending a number of the training sessions that took place during her time at the school but accepted that she received 'information' about child protection issues at various times, although that related specifically to such issues within the school.

The following witnesses gave evidence on behalf of Mrs Nwachukwu:

1. Witness F

Witness F, a Regional Officer at the National Union of Teachers, represented Mrs Nwachukwu at the School's investigation meeting on 11 November 2011 and at the disciplinary hearing held on 5 and 26 March 2012. His view was that Mrs Nwachukwu's failure to report matters involving her step-niece (Child

A) was due in part due to a lack of relevant training and in part because of the close relationship she has with her brother (Child A's step-father). He believes that Mrs Nwachukwu has learned a 'bitter lesson' and would be unlikely to behave in the same way again.

2. **Witness G**

Witness G, Mrs Nwachukwu's husband, said that between 9.30 and 10.00pm on 14 May 2011 he was at home when Mrs C and her two children came to their home. He did not see her as she went upstairs with his wife whilst he stayed in the lounge with the children. They were upstairs for quite a while.

When the two women came downstairs two friends of the family were also present. Mrs Nwachukwu and Mrs C exchanged pleasantries with the friends. After the friends had left, Mrs Nwachukwu asked if he would accompany her to her brother's (Mr B) house. He was reluctant as he did not get on with Mr B but agreed after Mrs Nwachukwu 'begged him' as there had been a 'misunderstanding' between Mr B and Mrs C. However, neither woman seemed particularly upset.

He accompanied his wife to Child A's familial home. Mrs C repeated to Mr B Child A's allegation that he (Mr B) had kissed Child A. Mrs Nwachukwu asked Mr B three times whether it was true and he denied that it was. He heard his wife tell Child C not to say anything to her father after he had tried to ask her a question.

Mrs C then asked Mr B to leave the house so that she could ask questions of Child A. Mr B did as he was asked, although Witness G does not know where he went. Shortly thereafter, Mr and Mrs Nwachukwu returned to their home.

Witness G said that he had known Mrs C since before she married Mr B and knows that she has a sister living in Tottenham, which he said was about three miles away.

E. Legal Advice

Before the Panel went into private session to consider its decision, the Legal Adviser declared the following advice:

1. Under the Teachers' Disciplinary (England) Regulations 2012 and the Disciplinary Procedures for the Regulation of the Teaching Profession, the decision-making process has two stages: In the first instance, the Panel must be satisfied:
 - (i) that the facts of the case have been proved; and, if so
 - (ii) that those facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

2. Only if it is satisfied as to those two matters will the Panel hear further evidence, receive further submissions and determine whether to recommend to the Secretary of State that a Prohibition Order should be imposed.
3. The burden of proving the allegation rests with the Teaching Agency; the Respondent Teacher need not prove anything.
4. The standard of proof applied in these proceedings is the civil standard, “on the balance of probabilities”. This means that before finding a factual allegation proved, the Panel must be satisfied that an event is more likely to have happened than not.
5. The Panel has heard submissions from the Presenting Officer and from the teacher’s representative and should have regard to them. However, they are just that – submissions – and do not form part of the evidence in the case.
6. Whilst the Panel must reach its decision only on the basis of the evidence that has been presented, it should also have regard to any relevant mitigating circumstances and to Section 5 of the Department of Education’s guidance entitled ‘Teacher Misconduct - the Prohibition of Teachers’, which is intended to aid the Panel in its deliberations and in the making of fair, consistent and transparent decisions. Further, it may take into account the personal and conduct elements of the May 2012 Teachers’ Standards – which apply by virtue of paragraph 18 of that document – in order to determine whether the teacher has failed to comply with those standards. The Teachers Standards require teachers to demonstrate consistently high standards of personal and professional conduct. They are expected to uphold public trust in the profession and maintain high standards of ethics and behaviour, within and without the School.
7. In coming to its determination, the Panel must consider all of the evidence insofar as it is relevant and form its own judgement about the credibility of witnesses and as to which evidence is reliable and which is not; and give that evidence the weight that it feels is appropriate in all of the circumstances. The Panel can place complete weight on a particular piece of evidence; it can place absolutely no weight on it; or it may decide that it falls somewhere between those two extremes. That is entirely a matter for the Panel.
8. You have heard that Mrs Nwachukwu has no previous convictions and no adverse findings so far as her conduct or competence is concerned. Hence, she comes before you as a person of good character.
9. Good character is not a defence to the allegations but it is relevant to your consideration of the case in two ways. Generally, good character is relevant to credibility as well as to propensity. Credibility is in issue when a person has given evidence. It is a factor which she is entitled to have taken into account when it comes to deciding whether or not she is to be believed.

10. Secondly, the fact that Mrs Nwachukwu has not offended in the past may make it less likely that she acted as is now alleged against her.
11. On her behalf, it might have been submitted that for the first time in her life she has been accused of acting in an unacceptable and disreputable manner but is not the sort of person who would be likely to cast her good character aside in this way. That is a matter to which you should pay particular attention.
12. However, the judgement as to what weight should be given to Ms Nwachukwu's good character and the extent to which it assists on the facts of this particular case are for you to make. In making that assessment you are entitled to take account of all of the circumstances of the case, and of everything you have heard about her.
13. The evidence which has been put before the Panel includes hearsay evidence; that is a statement made by a person who has not given evidence in these proceedings but which has been adduced as evidence of the matters stated by that person. So, for example, the statement of PC N is, of itself, hearsay because the officer is not here to give evidence of her conversation with Child A. That which is said by the officer as regards statements said to have been made by Child A is multiple, second-hand hearsay. As you are well aware, the rules of evidence in these proceedings do not require you to exclude evidence merely on the ground that it is hearsay. However, the fact that it has been admitted does not mean that you must accept it. You should have regard to the fact that what you have been given is only the 'edited highlights' – for want of a better term – of the ABE (Achieving Best Evidence) interview conducted with Child A.
14. The details of the police investigation that you have at pages 78 to 92 is, in its entirety, hearsay. It is an on-going record made by at least five police officers that purports to record what has been done in the course of the investigation and, in some cases, that which the officers have been told by various people. It is a computer record and you do not know how long after the various interviews took place that the record was made. There is no evidence that the statements attributed to the witnesses were read over to them in order to confirm their accuracy.
15. The Panel has found that there has been "conduct that may bring the profession into disrepute", it must make a judgement about whether to recommend the imposition of a Prohibition Order by the Secretary of State.
16. A Prohibition Order aims to protect pupils and to maintain public confidence in the profession. A Panel should consider what is in the public interest and whether a Prohibition Order is proportionate measure. Prohibition Orders should not be given in order to be punitive or show that blame has been apportioned, although they are likely to have a punitive effect.
17. Public interest considerations would usually include:
 - The protection of children and other members of the public

- The maintenance of public confidence in the profession
 - Declaring and upholding proper standards of conduct
18. In deciding whether or not the recommendation of a Prohibition Order is appropriate, professional Conduct Panels should apply the principle of proportionality, weighing the interests of the public (as above) against those of the teacher. In addition they will need to consider any mitigation in relation to the seriousness of the behaviour in question.
19. The Panel should consider the advice set out in Teacher Misconduct – The Prohibition of Teachers.
20. The Panel should, if making a recommendation for Prohibition to the secretary of State, consider recommending if an application should be allowed for a review. The minimal period of that recommendation is a period of two years.

F. 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.

Mrs Nwachukwu commenced employment as a Science Teacher at Woodside High School, White Hart Lane, London on 10 January 2005. The Notice of Proceedings in this case makes an allegation of unacceptable professional conduct and or conduct that may bring the profession into disrepute. The three particulars of the allegation allege that Mrs Nwachukwu failed in her duty to act in accordance with her safeguarding and child protection responsibilities.

The Presenting Officer called as witnesses Witness E, Headteacher, Witness D, Headteacher, and relied on the witness statement of Police Constable N. Mr Jeo Ukaemenam, on behalf of Mrs Nwachukwu, called Mrs Nwachukwu, Witness F and Witness G as witnesses.

Findings of fact

The Notice of Proceedings dated 26 March 2013 set out the following allegations namely that Mrs Nwachukwu is guilty of unacceptable professional conduct and or conduct that may bring the profession into disrepute. Whilst employed at Woodside High School, London, in around May 2011, Mrs Nwachukwu failed in her duty to act in accordance with her safeguarding and child protection responsibilities in that she:

1. Failed to report to a responsible authority when Child A and or Child A's mother provided Mrs Nwachukwu with information which indicated that there may have been inappropriate physical contact between Child A's step-father and Child A;

2. Left Child A in a house with Child A's stepfather after Mrs Nwachukwu had been provided with the information provided in paragraph 1;
3. Told Child A not to tell the police about the information referred to in paragraph 1, or words to that effect.

In the Notice of Proceedings Form, and in answer to the Chair on the first day of the hearing, Mrs Nwachukwu denied the three particularised factual allegations.

The Panel make the following findings of fact by reference to the allegations set out in the Notice of Proceedings.

1. Failed to report to a responsible authority information which indicated there may have been inappropriate physical contact between Child A's stepfather and Child A.

It is common ground that Mrs Nwachukwu is the step aunt of Child A who at all material times was aged 7 years and 4 months. Mr B is the brother of Mrs Nwachukwu and he is married to Mrs C who is Child A's natural mother.

At about 9pm on 14 May 2011 Mrs C returned from work and shortly after her arrival Child A stated that Mr B had made inappropriate physical contact with her. Mrs C telephoned Mrs Nwachukwu and then took Child A (and her younger sibling) to the home of Mrs Nwachukwu when both Mrs Nwachukwu and her husband were present. In evidence Mrs Nwachukwu told us that Mrs C had said her daughter stated she had been kissed by Mr B 'but I think there is something deeper'. The minutes of the investigation meeting subsequently held at the school record that Mrs C was described by Mrs Nwachukwu as, 'hysterical and crying' at the time. The minutes were accepted as accurate by the Teacher's representative, Witness F and by the Headteacher, Witness D who were both present; although Mr Ukaemenam urged caution regarding Mrs Nwachukwu's choice of words because English is not her first language. However, the Panel found Mrs Nwachukwu to have a good command of English when she gave evidence reflecting the 26 years she had spent in this country as a teacher.

At the request of Mrs C, Mrs Nwachukwu, her husband, Child A and Child A's younger sibling all returned to Mrs C's house to find Mr B hovering. According to Mrs Nwachukwu, she asked Mrs C to repeat Child's A's allegations to Mr B, and on three occasions Mr B denied the allegations. Child A was present throughout this exchange.

PC N spoke to Mrs Nwachukwu on 17 May 2011 and in her contemporaneous notes recorded that Mrs Nwachukwu had said that Child A had told Mrs Nwachukwu that Mr B had kissed Child A, but the way Child A said it, 'made it sound deeper'. Mrs Nwachukwu denies that such a conversation took place with PC N.

Witness E told the Panel that Mrs Nwachukwu said during the disciplinary hearing at the school that she had been told by Child A's mother that there had been a kiss between Child A and Mr B, and Mrs C had thought there may have been, 'something

deeper'. Witness E suggested that the reference to, 'something deeper' was a step beyond an inappropriate kiss.

The Panel sought to understand with greater clarity what might have been said on 14 May, conscious of the submission of Mr Ukaemenam that Mrs Nwachukwu's information was, at the relevant time, limited. The Panel found Mrs Nwachukwu to be evasive in her answers to the questions put to her by the Presenting Officer and then the Panel.

Mrs Nwachukwu accepted in evidence that she had made no report to any responsible authority with regard to the events described above, maintaining that the training received in child safeguarding protocols did not make clear the obligation to report cases outside the school environment.

The Panel is satisfied that Mrs Nwachukwu was aware from her involvement in the events of 14 May 2011 and subsequent events on 15, 16 and 17 May that there may have been inappropriate physical contact between Child A and Mr B, conduct which Mrs Nwachukwu should have, but failed to report to a responsible authority. It was only on the 17 May when Child A made a disclosure to a teacher at her primary school that the appropriate authorities were made aware. The Panel accepts that Mrs Nwachukwu might not have been aware of the full extent of the serious nature of Mr B's conduct in May 2011 which eventually resulted in a custodial sentence of 20 years. However, this case serves as a good example of why it is important for all issues relevant to the safeguarding of children to be reported in a timely manner to the relevant authorities for an investigation to take place.

The Panel find particular 1 of the allegation proved.

2. Left Child A in a house with Child A's stepfather

Mr Ukaemenam in his final submissions asserted that Child A and her family lived in a single room in a shared house; the family did not have sole control of the rest of the house and facilities. Mr Ukaemenam submitted that the evidence supports a finding that Mrs Nwachukwu left Child A with Child A's mother who was a fit and proper person. By the time Mrs Nwachukwu left Child A, Mr B had already left the room occupied by the family which Mr Ukaemenam described as the home. Mr B may still have been in the house but had left the room which was the family home.

In evidence Mrs Nwachukwu told the Panel that she did not know whether Mr B had left the house. In her evidence to the Investigating Committee at her school (page 44 of the hearing bundle) Mrs Nwachukwu stated that she had left the house with Mr B still there.

Mrs Nwachukwu in her evidence to the Panel stated that she did not think it appropriate to offer accommodation to Mr B in her own house because her own children would have also been present. Her reasoning was that if Mr B had carried out inappropriate action then she would be placing her own children at risk.

The Panel sought to examine in some detail the layout of the accommodation of Child A and the arrangements for the premises as a whole.

The Panel is satisfied that when Mrs Nwachukwu and her husband left Child A on 14 May 2011, Mr B was still somewhere in the building. The Panel does not accept that the single room constitutes the family home since there was further shared accommodation used by the family. At page 84 of the hearing bundle Child A's mother confirmed to the police that it was agreed with her aunt that it was too late for Mr B to go anywhere and that he should leave in the morning. Mr B slept in the double bed with Child A's mother and her son whilst Child A slept on the single bed in the same room.

The Panel reminds itself that it has found that Mrs Nwachukwu did have sufficient information of possible inappropriate physical contact with Child A. The allegations of inappropriate contact were put to Mr B in the presence of Child A by Mrs Nwachukwu, and Mr B subsequently questioned Child A. Mrs Nwachukwu told Child A not to say anything and told Child A to go to sleep.

The Panel are satisfied that particular 2 of the allegation is proved.

3. Told Child A not to tell the police about information referred in paragraph 1.

The Presenting Officer relied on the hearsay evidence of what Child A disclosed to the police on two occasions. The first occasion was a joint visit with Social Services on 17 May 2011 (page 82 of the hearing bundle) and secondly during an Achieving Best Evidence interview on 18 May 2011 (page 92 of the hearing bundle). On those occasions it is alleged that Child A stated she had been told by her Aunt to lie to the police if they asked her to tell the truth about what happened.

Mr Ukaemenam has submitted that the reference to the 'aunt' referred to by Child A may not be a reference to Mrs Nwachukwu. In evidence to the Panel Mrs Nwachukwu said that on the evening of 14 May 2011 she did say to Child A not to say anything, but that was a reference to speaking with Mr B and not a comment concerning the police.

The Panel is satisfied on the evidence that the reference to 'aunty' was to Mrs Nwachukwu. The Panel has considered the submissions advanced by Mr Ukaemenam but finds no credible evidence to support the submission that Child A was referring to somebody else other than Mrs Nwachukwu.

The Panel accepts that it has to approach with care the hearsay evidence of Child A accepting that the evidence has not been tested before it. The Panel considers that the evidence given by Child A was truthful because there was no reason why Child A should lie and her version of events was unchanged in the two interviews with the police. Looking at the evidence as a whole, the statements made by Child A were consistent with the remaining evidence. For example, during the police interview (at page 92) when asked whether she was telling the truth, Child A stated that it was the truth, 'because if she was lying she would have spoken about her dad's affair which was what the family told her to say'.

The Panel, in applying the civil standard of proof, concluded, on the balance of probabilities, that Mrs Nwachukwu had told Child A not to tell the police about the information referred to in paragraph 1 of the particulars of allegation. Child A's mother had sought the advice of Mrs Nwachukwu as to a safeguarding issue, and it was incumbent upon Mrs Nwachukwu as a teacher to offer appropriate advice and not to suggest to Child A that she should lie.

The Panel find particular three of the allegation proved.

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

The Panel accepts that the allegations it has found proved are outside the normal school environment and having had careful regard to the advice set out in Teacher Misconduct- the Prohibition of Teachers is satisfied that this does not constitute unacceptable professional conduct.

However, the Panel is satisfied that the allegations found proved are serious and are directly related to the individual's suitability to be a teacher, and may therefore bring the profession into disrepute. Child A's mother had gone to Mrs Nwachukwu for advice and help; in her response Mrs Nwachukwu failed to have regard to her safeguarding and child protection responsibilities. The Panel therefore find that Mrs Nwachukwu did not make Child A's safety and welfare a priority.

The Panel is satisfied that Mrs Nwachukwu received safeguarding and child protection training at her school. The Panel do not accept her submission that the school failed to provide appropriate training; the disclosure made by Child A's mother should have caused Mrs Nwachukwu to report the allegation to a responsible authority for investigation.

The Panel further finds that leaving Child A (a child of seven years of age) in the house on 14 May 2011 was an act that left Child A in a vulnerable position. Child A, having made the disclosures, would have been aware that they had been shared with her stepfather, and may have had justifiable concerns for her own safety.

By telling Child A not to tell the police the truth about the sexual assault by Mr B, Mrs Nwachukwu committed a serious error of judgement.

The Panel, having regard to all of these matters, finds that Mrs Nwachukwu's conduct was such as to may bring the profession into disrepute. Members of the public would expect teachers to uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school. Teachers should at all times have regard for the need to safeguard pupils' well-being.

Accordingly, the Panel is satisfied that Assumpta Nwachukwu is guilty of Conduct that may bring the profession into disrepute

G. Panel's Recommendation to the Secretary of State

The Panel have made factual findings as to conduct that may bring the profession into disrepute, and 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 a proportionate measure, and if it is in the public interest to do so. Prohibition Orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The Panel has considered the public interest, and in particular:

- The protection of children;
- The maintenance of public confidence in the profession;
- Declaring and upholding proper standards of conduct.

The Panel has considered the advice on Teachers Misconduct in relation to the Prohibition of Teachers, and has concluded that the following are relevant:

- Serious departure from the personal and professional conduct elements of latest teacher standards, as published by, or on behalf of, the Secretary of State;
- Misconduct seriously affecting the well being of pupils;
- Deliberate behaviour that undermines the profession, the school or colleagues.

The Panel's findings against Mrs Nwachukwu involve serious omissions and commissions with regard to her safeguarding and child protection responsibilities, and therefore there is a public interest consideration for the protection of children. Similarly, the Panel considers that public confidence in the profession could be weakened if such conduct, as the Panel has found proved, was not treated with seriousness when regulating the conduct of the profession. The factual findings against Mrs Nwachukwu raise important public interest considerations in declaring proper standards of conduct for the teaching profession.

Mrs Nwachukwu failed to report to the responsible authority's information gained by her on the 14 May 2011 and subsequently, thus leaving a child of 7 years in a vulnerable position for a period that was longer than necessary. It is a worrying feature of this case that Child A having made disclosures in the presence of both her Mother and her Aunt, found herself in a position where it was Child A who was the person who reported the abuse to a teacher at her school some three days later. These matters of concern are compounded in relation to the public interest when Mrs Nwachukwu told Child A not to tell the police about the events of 14 May, conduct that must have had a considerable impact on a child of 7. Child A was vulnerable and seeking help and protection from an abusing step father who had committed a very serious sexual assault upon her. Mrs Nwachukwu appears to have no understanding of the impact of her actions upon Child A, and the Panel consider that

such a lack of insight on her part is a substantial public interest consideration. Teachers should be role models for pupils and for colleagues in the teaching profession, and Mrs Nwachukwu in the conduct the Panel has found proved, failed in a substantial way to be such a role model.

Notwithstanding the public interest considerations that were present, the Panel has to consider carefully whether or not it would be proportionate to impose a Prohibition Order. In forming that judgement the Panel took into account such mitigation that had been provided by Mrs Nwachukwu. The Panel noted in particular the letters of reference at pages 129 to 133 of the hearing bundle. The Panel accept that on the 14 May 2011 Mrs Nwachukwu was placed in a position of having to make unexpected judgements about what she should do in circumstances when she was subject to conflicting family loyalties. Whilst that position may suggest mitigating factors the difficulty for Mrs Nwachukwu is that she continued to fail to report her knowledge to the relevant authorities over a period of time, and then took steps to hinder any investigation, by telling Child A not to tell the police about her disclosures.

In carrying out the balancing exercise the Panel has decided that the public interest considerations outweigh by some margin the interests of Mrs Nwachukwu. Accordingly a consideration of the public interest requires the Panel to make 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 to recommend that a review period of the order should be considered. The Panel was mindful that the advice given is that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate for a review period of not less than two years to be recommended, in order for the teacher to apply to set aside the Order.

The Panel has a concern as to Mrs Nwachukwu's lack of insight and her failure to accept any responsibility for her actions. The Panel considers that a period of time for reflection on the part of Mrs Nwachukwu may allow her to demonstrate that she has acquired an insight as to the impact of her actions, and the changes she needs to adopt in order to make a future contribution to the teaching profession. Accordingly, the Panel makes a recommendation to the Secretary of State that Mrs Nwachukwu be allowed a review in five years from the date of this decision.

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 regarding both sanction and review period.

This is a complex case where the Panel has found the teacher to be guilty of conduct that may bring the profession into disrepute.

The actions and the omissions set out in this case and which have led to this finding are serious ones and Mrs Assumpta Nwachukwu's behaviour falls seriously short of that expected of a teacher.

In particular this conduct was centred around the issue of the welfare of children. The conduct found was serious and showed very poor judgement. I have given careful consideration to the need to balance the public interest with the interest of Mrs Nwachukwu and to the need to be proportionate.

In my judgement it is right that Mrs Nwachukwu should be prohibited from teaching. The public expect high standards of teachers especially in this area of behaviour.

I have also given careful consideration to the issue of a review period.

Mrs Nwachukwu has not shown insight or remorse for her behaviour. Recognising that a Prohibition Order is for life, and that therefore a review period will still require Mrs Nwachukwu to show that she is a suitable person to be a teacher, I support the recommendation that the review period is longer than the minimum that is possible, and that it is set at five years.

This means that Mrs Assumpta Nwachukwu 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 2018, 5 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 Assumpta Nwachukwu remains barred from teaching indefinitely.

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

Mrs Assumpta Nwachukwu 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: 16 August 2013

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