



National College for
Teaching & Leadership

Mr Alan Robert Pibworth: Professional conduct panel outcome

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

April 2015

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

Teacher:	Mr Alan Robert Pibworth
Teacher ref no:	87/71934
Teacher date of birth:	6 December 1964
NCTL Case ref no:	11463
Date of Determination:	17 April 2015
Former employer:	Lode Heath School, West Midlands

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 15, 16 and 17 April 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Alan Robert Pibworth.

The panel members were Mary Speakman (teacher panellist – in the chair), Michael Lesser (teacher panellist) and William Brown (lay panellist).

The legal adviser to the panel was Mr Peter Shervington of Eversheds LLP Solicitors.

The presenting officer for the National College was Mr Andrew Coleman of Counsel.

Mr Pibworth was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 5 November 2014.

It was alleged that Mr Pibworth was guilty of unacceptable professional conduct / conduct that may bring the profession into, in that:

1. When applying for the position of Science Teacher at Lode Heath School ("the School"):
 - a. in his application form he:
 - i. inaccurately recorded his reason for leaving Woodhouse BEC as "change of role",
 - ii. inaccurately recorded his leaving date as March 2009,
 - b. during the interview when asked why he left Woodhouse BEC, he failed to disclose that he had been dismissed;
2. Whilst employed at the School he engaged in inappropriate communication in that:
 - a. on various dates, on one or more occasions, he shouted at and/or invaded the personal space of one or more pupils in an aggressive manner including:
 - i. Child D,
 - ii. Child E,
 - iii. Child H,
 - iv. Child O,
 - v. Child K2 on 23 October 2013,
 - vi. Child L on 4 November 2013,
 - vii. Child S,
 - viii. Child K,
 - b. on an unknown date he called Child S2 a "prat" or "twat" or words to that effect,
 - c. in or around November 2013 in relation to Child L he:
 - i. told her to "stop being pathetic", or words to that effect,
 - ii. told her to "grow up", or words to that effect,
 - iii. threw a pen at her,
 - d. in or around November 2013, whilst teaching a class of pupils:
 - i. when informed by Child H that there was water on the floor, he stated, "I hope you slip on it and die", or words to that effect,

- ii. told Child M, "your hair looks nice today, are you going to do it like that for me at break", or words to that effect,
 - e. in late 2013 whilst teaching a class of pupils:
 - i. on one or more occasions, he called children in the class "retards", or words to that effect,
 - ii. on one or more occasions, he called the class "idiots", or words to that effect,
 - iii. he stated that they "must have mental health problems", or words to that effect, if they needed help,
 - iv. he stated that they needed "medical help", or words to that effect,
 - v. on one or more occasions, he told the class to "shut up" in an aggressive tone, or words to that effect,
 - f. on an unknown date whilst teaching a class of pupils, he stated to a teaching assistant, "I see you have your size 20 jacket on", or words to that effect,
 - g. his actions as described at paragraph 2(f) above caused the teaching assistant to be:
 - i. upset,
 - ii. embarrassed,
 - h. on one or more occasions, he acted in an intimidating and/or aggressive manner towards colleagues, including during meetings on:
 - i. 20 September 2013,
 - ii. 30 September 2013,
 - iii. 23 October 2013;
- 3. His actions as described at paragraph 1 above were:
 - a. misleading,
 - b. dishonest.

In the absence of Mr Pibworth, and taking into account the written representations he had provided, each and every allegation was taken to be denied and it was also taken that Mr Pibworth denied unacceptable professional conduct or conduct that may bring the profession into disrepute.

C. Preliminary applications

Applications for Child H and Child S2 to give evidence by video-link were considered at a case management hearing prior to the substantive hearing and were approved by the panel. In the event, Child H and Child S2 both indicated they were happy to give

evidence in the hearing room and on consideration the panel decided to proceed on this basis.

The panel heard an application from the presenting officer to proceed in the absence of Mr Pibworth. Having received legal advice it made the following decision:

1. The panel has considered whether this hearing should continue in the absence of the teacher and his representative.
2. The panel is satisfied that the National College has complied with the service requirements of Regulation 19 a to c of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations"). The panel notes from page 8 the indication that the Notice of Proceedings was sent on 5 November 2014. Mr Pibworth responded and his response is contained at page 135-136. There is also an email dated 14 March by which Mr Pibworth sent evidence in response to the allegations.
3. The panel is also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Procedures.
4. The panel has determined to exercise its discretion under Paragraph 4.28 of the Procedures to proceed with the hearing in the absence of the teacher.
5. 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.
6. In making its decision, the panel has noted that the teacher may waive his 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.
7. The panel is satisfied that the teacher is aware of the proceedings, as he has returned a blank response form and has indicated in a letter at page 136 his intention not to attend in the knowledge that the hearing was taking place.
8. The panel therefore considers that the teacher has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place. The panel consider it unlikely based on the representations received from Mr Pibworth that he would in fact attend a hearing at a later date if it were to be adjourned.

9. The panel has had regard to the requirement that it be only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place.
10. The panel has had regard to the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him. In this case:
 - The panel has the benefit of written representations made by the teacher explaining his position and providing context in relation to a number of the allegations.
 - The panel will also be hearing oral evidence from a number of witnesses and will be able to test their evidence itself.
 - The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account through oral evidence.
11. 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 his 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.
12. Finally we wish to make clear that this is an experienced panel and we will make no adverse inferences from the teacher's decision not to attend.

Finally, the panel considered an application by the presenting officer at the hearing to remove allegation 2(c) and to make amendments to allegations 1(b) 2(d) (f) and (h). The panel accepted the application to remove allegation 2(c) but rejected the remainder of the proposed amendments in the interests of fairness to Mr Pibworth.

D. Summary of evidence

Documents

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

Section 1	Chronology and Anonymised Pupil List	Pages 2-6
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Section 2	Notice of Proceedings and Response	Pages 8-19
Section 3	NCTL witness statements	Pages 21-56
Section 4	NCTL documents	Pages 58-133
Section 5	Teacher documents	Pages 135-279

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

Witnesses

The panel heard the following oral evidence on behalf of the National College:

Witness A, Teacher

Witness B, Teacher

Witness C, Teaching Assistant

Witness D, Teacher

Child H

Child S2

Mr Pibworth did not attend to give evidence nor was any other witness called on his behalf.

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.

Mr Pibworth's employment as a science teacher at Lode Heath School commenced in September 2013. He had applied for the post in April that year. It was alleged that in applying for the position he had inaccurately recorded his reason for leaving a previous school, and the date of his departure from that school. It was further alleged that he had engaged in inappropriate communication with a number of pupils, that he had upset a teaching assistant by making reference to the size of her clothing, and that he had acted in an intimidating and/or aggressive manner towards colleagues on various occasions. The details are particularised in the allegations.

Findings of Fact

Our findings of fact are as follows. We consider each allegation in turn:

1. When applying for the position of Science Teacher at Lode Heath School ("the School"):

a. in your application form you:

i. inaccurately recorded your reason for leaving Woodhouse BEC as "change of role",

ii. inaccurately recorded your leaving date as March 2009,

The panel was directed to the application form found from page 58. At page 64 it can be seen that Mr Pibworth wrote 'change of role' under the heading 'reason for leaving' in relation to 'Woodhouse BEC'. He also gave the date '3/09' for the end of this employment.

Witness D, acting assistant head teacher, who initially investigated the issues, gave oral evidence. He stated that Mr Pibworth admitted not having identified his reason for leaving in the application form when he was asked during the school's investigations. This evidence is corroborated by a record of the meeting, found from page 92. At page 93 Mr Pibworth is recorded setting out the circumstances which led to him being dismissed from Woodhouse BEC. Mr Pibworth is recorded at page 94 as stating, by way of explanation for the non-disclosure, that the reason for his departure from Woodhouse BEC was 'not something he wanted to advertise'.

In relation to the date of departure, in the notes of the disciplinary investigation meeting at page 92, Witness D is recorded as stating that he had evidence that the actual leaving date from Woodhouse BEC was 11 September 2008. Mr Pibworth is recorded as stating that he did not know 'where 11 September comes from' and no longer had the paperwork. In his statement (paragraph 9 page 45) Witness D refers to having received a letter identifying the date of his departure as 11 September 2008. However, no such letter has been included in the hearing bundle provided to the panel.

Considering the material put before it, the panel find that there is sufficient evidence to establish that Mr Pibworth incorrectly stated the reason for his departure from Woodhouse BEC. However, it does not consider that there is sufficient evidence before it to reach a conclusion as to the date of Mr Pibworth's actual date of departure from Woodhouse BEC.

The panel therefore finds Allegation 1(a)(i) proved, but Allegation 1(a)(ii) not proved.

b. during the interview when asked why you left Woodhouse BEC, you failed to disclose that you had been dismissed;

There is no evidence that Mr Pibworth was asked why he left Woodhouse BEC during an

interview with the school, save for a comment made by Witness D in oral evidence that, when presented with the findings of the school's disciplinary process, the headteacher had stated that Mr Pibworth had been asked the question in interview. Witness D confirmed that he had seen no notes of any interview of Mr Pibworth. The headteacher has not given evidence in these proceedings.

Given the lack of clear evidence, the panel finds this allegation has not been proved on the balance of probabilities.

2. Whilst employed at the School you engaged in inappropriate communication in that:

a. on various dates, on one or more occasions, you shouted at and/or invaded the personal space of one or more pupils in an aggressive manner including:

i. Child D,

The panel heard from Witness B, then Director of Teaching and Learning, who witnessed this incident. She said that she recalled seeing Mr Pibworth confronting Child D in a manner which she considered inappropriate. She stated that Mr Pibworth was standing about one foot away from the child's face. She said that Mr Pibworth was shouting loudly for a significant period of time whilst she left her office and walked down the corridor. She described the volume and proximity to the pupil as 'awful'. Child D was 'clearly upset'. Witness B intervened and asked the child to go with her. She stated that Mr Pibworth identified to her that the child had referred to him by his first name having seen a mug with his name on it. When she asked Child D to explain the circumstances he conveyed to her that Mr Pibworth had 'gone mental' when Child D had referred to him by his first name. Witness B felt that Mr Pibworth had 'gone over the top'.

In her statement at paragraph 17 (page 24) Witness A records Mr Pibworth's response in a meeting to discuss the incident. She records him as being 'immediately defensive' and that he 'explained that he was having problems with Child D and that he consistently winds other pupils up and interrupts him'.

In her statement at paragraph 17 (page 31) Witness B stated that she was 'shocked by the force of Mr Pibworth's fury'. She states 'it was the shouting and anger in Mr Pibworth's voice that brought me out of my room to see what was happening'.

Having considered all the evidence, the panel considers it to have been proved that Mr Pibworth shouted at Pupil D in an aggressive manner, invading his personal space, and that this was inappropriate. The panel therefore finds Allegation 2(a)(i) proved.

ii. Child E,

Witness C told the panel in her oral evidence that she had seen Mr Pibworth shout at Child E at quite close range, within one foot, although she could not recall any specific incidents in detail. She stated that Child E would argue back and there would be an ongoing argument before Mr Pibworth sent her out of the room without providing any

work.

The panel considered a handwritten statement provided by Child E in the context of the school disciplinary investigation. This alleges, amongst other things, that Mr Pibworth had shouted at Child E for doing nothing, and that she was being picked on.

The panel notes Mr Pibworth's case as stated in his disciplinary meeting (page 95) is that he was 'animated' rather than aggressive.

The panel has no reason to doubt that Child E's concerns were honestly held, or that Witness C observed Mr Pibworth shouting at Child E. Nevertheless, without a broader understanding of the context in which the issue arose, the panel does not consider that it has sufficient evidence before it to establish that Mr Pibworth's communications with Child E were aggressive. As such, this element of the allegation is found not proved.

iii. Child H,

The panel heard oral evidence from Child H. Child H said that Mr Pibworth would shout at him in response to minor incidents. Child H recalled that on one occasion, having dropped his pen, he stepped down to pick it up and Mr Pibworth immediately shouted at him for being out of his chair.

Mr Pibworth's position was set out in his statement at page 138. He stated that he had to have conversations about Child H's behaviour, but denied using the language alleged. As indicated previously, Mr Pibworth asserted in his disciplinary meeting (page 95) that his behaviour was sometimes animated, but not aggressive.

Child H accepted, in oral evidence, that he was sometimes rude to Mr Pibworth in the classroom. Child H also accepted that sometimes he provoked the teacher.

The panel found Child H a credible witness, that the facts he described happened and that Mr Pibworth's behaviour towards Child H can properly be characterised as aggressive and inappropriate. The panel finds this particular proved on the balance of probabilities.

iv. Child O,

The panel had sight of a handwritten statement prepared by Child O in relation to the school disciplinary investigation. This is found at pages 102 and 103. It refers to being sent out of the room for half an hour with no work to do, and being told to shut up when she was speaking to others. Child O states that 'he always picks on me' and that she had been sent out for asking a question.

In another statement (page 107) Child O refers to having been kept behind after a lesson and being shouted at by Mr Pibworth when she refused to sit down at his request.

There is an email from Mr Pibworth to Witness A dated 23 October 2013 at page 133. He identifies certain misbehaviour on the part of Child O. He states that he asked Child O to stay behind at the end of the lesson but that Child O 'started ranting at me' when he tried to have a conversation with her.

In her oral evidence, Witness C stated that Mr Pibworth would shout at Child O when Child O wound him up. She stated that she remembered him getting very close to Child O when shouting. Again, however, she could not provide any more specific details of incidents when this occurred.

Whilst the panel has no reason to doubt that Child O's concerns were honestly held, without a broader understanding of the context in which the issue arose, the panel does not consider that it has sufficient evidence before it to establish that Mr Pibworth's communications with Child O were inappropriate or aggressive. As such this element of the allegation is found not proved.

v. Child K2 on 23 October 2013,

The panel was referred by the presenting officer to a handwritten statement by Child K2, dated 23 October 2013 (page 109), in which Child K2 states that they were told off 'for absolutely nothing', and 'screamed at' in response to a question. Child K2 states that she was being constantly picked on.

Again, whilst the panel has no reason to doubt Child K2's concerns, without a broader understanding of the context in which the issue arose, the panel does not consider that it has sufficient evidence before it to establish that Mr Pibworth's communications with Child K2 were inappropriate or aggressive. As such this element of the allegation is found not proved.

vi. Child L on 4 November 2013,

Witness A's statement relays the comments made by a teaching assistant in relation to this incident, at paragraph 23 (page 25). She recounts the teaching assistant describing Mr Pibworth as 'aggressively shout[ing] into the face of [Child L]'. She also records the comments of Child L 'in science today Mr Pibworth shouted at me telling me to stop talking but got very close to my face whilst shouting at me in front of the whole class. I felt very embarrassed [sic] and uncomfortable'.

Witness B also gave an account of events conveyed to her by Pupil L on 4 November 2013. This is referred to in her statement at page 35 paragraph 34. Pupil L stated that Mr Pibworth had thrown a pen at her.

The panel has not seen any more detailed evidence as to the circumstances or context to this incident. Mr Pibworth's account, recorded at paragraph 23 of Witness A's statement (page 25) was that 'he was not in her face but did speak to her sternly'. In her statement, Witness B records Mr Pibworth as responding that he had 'rolled' the pen along the table back to her' (page 35 paragraph 34). In the minutes of the disciplinary investigation meeting at page 96, Mr Pibworth is recorded as having 'slid' the pen back to Child L.

Whilst the panel has no reason to doubt that Child L's concerns were honestly held, without a broader understanding of the context in which the issue arose, the panel does not consider that it has sufficient evidence before it to establish that Mr Pibworth's communications with Child L were inappropriate or aggressive. As such this element of

the allegation is found not proved.

vii. Child S,

Witness C recalled an incident with Child S in which Child S made an inappropriate comment to Mr Pibworth in response to which Mr Pibworth 'got in Child S's face and shouted at him very, very loudly'. This is described at paragraph 10 of her statement on page 40. In her oral evidence Witness C said that she could not remember in detail what had provoked Mr Pibworth.

At page 73, in Witness B's notes of the incident, Mr Pibworth is recorded as having recalled the incident but stating that 'he had not been in [Child S's] face – they had been having a conversation', going on to explain that he had had his elbows on Child S's desk and told him that there would be consequences if he moved away from the desk.

The panel has considered the evidence carefully, and in particular have had regard to Mr Pibworth's own account. On balance, the panel considers the account given by Witness C, an experienced teaching assistant who had worked with this child for some time, to be credible. The panel is satisfied that Mr Pibworth shouted at Child S very loudly and in an aggressive and inappropriate manner. The panel find allegation 2(a)(vii) proved.

viii. Child K,

Witness B's notes at page 72 record Child S identifying that Mr Pibworth had been 'screaming in Child K's face', and that, when Witness B spoke to Child K she stated she was 'not used to getting shouted at' and that Mr Pibworth's actions had been 'scary' and had made her feel 'embarrassed'.

At page 73 of the same document there is a record of a discussion between Witness B and Mr Pibworth. It is not clear how much detail of the incident was given. Mr Pibworth is recorded as stating that he did not remember the incident.

The evidence in relation to Child K is hearsay. Without a broader understanding of the context in which the issue arose, the panel does not consider that it has sufficient evidence before it to establish that Mr Pibworth's communications with Child K were inappropriate or aggressive. As such this element of the allegation is found not proved.

b. on an unknown date you called Child S2 a "prat" or "twat" or words to that effect,

The panel heard oral evidence from Child S2, who also provided a statement found at page 52. A copy of this statement was signed by the witness during the course of the hearing.

Child S2 recalled Mr Pibworth using the word 'twat' on one occasion, after an incident described at paragraph 21 of his statement. In his oral evidence Child S2 said that at first he thought that he had misheard the comment, but the reaction of the other pupils in the class convinced him that he had heard correctly.

The panel found the evidence of Child S2 convincing and does not agree with Mr Pibworth's suggestion (at page 140) that it was 'fabricated'. The panel is satisfied that the word 'twat' was directed by Mr Pibworth to Child S2 and that it is inappropriate for him to have used this language in the classroom. Allegation 2(b) is therefore found proved.

d. in or around November 2013, whilst teaching a class of pupils:

- i. when informed by Child H that there was water on the floor, you stated, "I hope you slip on it and die", or words to that effect,**

Child H recounts in his statement (at page 51) that Mr Pibworth said this to him. Child H gave oral evidence in which he described being shocked.

Mr Pibworth, in his submissions at page 139 stated that this was a false allegation and not something he would have said. This is consistent with his response during the school's disciplinary investigation, recorded at page 95.

Having considered the evidence, the panel finds it most unlikely that Child H would have made up the wording used by Mr Pibworth. There is, however, no evidence that Child H informed Mr Pibworth that there was water on the floor. Consequently, the panel finds that the allegation as put forward has not been proved on the balance of probabilities.

- ii. told Child M, "your hair looks nice today, are you going to do it like that for me at break", or words to that effect,**

In his statement at page 50 Child H states that Mr Pibworth asked Child M 'do you want to stay behind and do my hair for me?'. He goes on to state that Mr Pibworth appeared serious when he made this comment, and giggled afterwards.

Child H gave oral evidence in relation to this incident. Child H said that he thought it was 'a bit weird even for Mr Pibworth'.

The record of Mr Pibworth's interview during the school disciplinary process records him stating, having been asked about this incident, that he might have asked 'can you do that with mine' which he said would be 'just being stupid, having a laugh'.

Whilst it considers it more likely than not that the comment was made, the panel is not satisfied that it has been proved on the balance of probabilities that his statement in relation to this incident was necessarily inappropriate – it is prepared to accept the possibility that it was no more than an innocent, perhaps poor, attempt at joviality. The allegation is therefore found not proved.

e. in late 2013 whilst teaching a class of pupils:

- i. on one or more occasions, you called children in the class "retards", or words to that effect,**

Witness B states in her witness statement (page 35 paragraph 35) that Child E3 told her Mr Pibworth had called the class generally, and Child S2 specifically, a 'retard', in the latter case in response to Child S2 whistling. In his oral evidence, referred to Witness B's statement, Child S2 stated that he did recall this incident and that he recollected that it had been provoked by his whistling.

The notes of the disciplinary investigation meeting at page 96 record Mr Pibworth stating that the word 'retard' 'wouldn't enter his vocabulary'.

In his oral evidence, Child S2 said that Mr Pibworth used the word retard 'quite often'. He explained that because of Mr Pibworth's style of teaching, which involved him talking more than using presentations, children sometimes took longer to understand the point he was making. When children asked for clarification he would sometimes call them 'retards'.

The panel has been referred to a redacted copy of a previous GTCE decision in which Mr Pibworth admitted using the word 'retard'. However, the panel does not consider it necessary to take the GTCE decision into account in reaching its decision in relation to this allegation. Although it has considered Mr Pibworth's denial, the panel is quite satisfied on the balance of probabilities, based on the clear and cogent description given by Child S2 in his oral evidence, that Mr Pibworth did call him a 'retard'. The panel is further satisfied that it was inappropriate for him to have done so. The allegation is found proved.

ii. on one or more occasions, you called the class "idiots", or words to that effect,

Witness B identifies in her witness statement (page 36 paragraph 36) that she spoke to Child S2 who stated that Mr Pibworth 'frequently called the class "idiots"'.

In his oral evidence, Child S2 told the panel that he did not recall the word 'idiot' being directed at any individual pupil. He did recall it being directed at the whole class where pupils did not understand what was required of them. This reflects his witness statement at page 55 paragraph 19.

The panel has given very careful consideration to this allegation. It is open to the possibility that on some occasions, it might not be inappropriate for a teacher to use the word 'idiot' in a boisterous classroom context. However, whilst conscious of the need to be fair to Mr Pibworth, the panel finds itself persuaded both that Mr Pibworth called the class 'idiots' but also that it was inappropriate for him to do so in the context of what the panel believes, on the evidence of Child S2, were genuine incidents of misunderstanding by the class in relation to material being taught by Mr Pibworth. This allegation is therefore found proved.

iii. you stated that they "must have mental health problems", or words to that effect, if they needed help,

Witness B identifies in her witness statement (page 36 paragraph 35) that she spoke to

Child E3 who stated that Mr Pibworth had suggested certain pupils 'must have mental health problems'. However, given the lack of direct evidence before it, the panel is not satisfied that there is sufficient evidence to prove this allegation on the balance of probabilities. The allegation is found not proved.

iv. you stated that they needed "medical help", or words to that effect,

Witness B identifies in her witness statement (page 36 paragraph 36) that she spoke to Child S2 who stated that Mr Pibworth had told pupils that they needed "medical help".

Child S2's account at paragraph 10 of his statement on page 53 is that on one occasion Mr Pibworth said that the class needed "medical help".

Having considered the matter carefully, the panel considers that it has insufficient evidence before it to find on the balance of probabilities that this allegation is proved.

v. on one or more occasions, you told the class to "shut up" in an aggressive tone, or words to that effect,

The panel considered paragraph 12 of Child S2's statement (page 54), which refers to Mr Pibworth telling the class to 'shut up'.

Having considered the matter carefully, the panel is prepared to accept the possibility that asking pupils to 'shut up' might not necessarily be inappropriate. The panel is also not persuaded that it has sufficiently clear evidence before it as to the context in which the comment was made, to conclude that Mr Pibworth was using an aggressive tone.

This allegation is therefore found not proved.

f. on an unknown date whilst teaching a class of pupils, you stated to a teaching assistant, "I see you have your size 20 jacket on", or words to that effect,

The panel heard oral evidence from the teaching assistant in question, Witness C. She stated that she was assisting a pupil. She had not realised, but the label was sticking out of her top. She stated that Mr Pibworth came up to her and said 'Miss you've got your size 20 top on today'. This is also reflected in her statement at paragraph 7 (page 39). Witness C stated that Mr Pibworth said these words quite loudly. The pupils asked her 'you're not that big are you?', and she told them not to worry about it.

Mr Pibworth, when asked in his disciplinary investigation meeting, denied having used these words (page 98).

Referred to her statement at page 84, Witness C said that she couldn't recall whether Mr Pibworth had said he was 'only joking' but she thought he might have done when he saw her reaction to his comment.

The panel is content from the evidence that Mr Pibworth made the remark alleged, or

words to that effect. The panel does not consider it material in this instance whether the specific item of clothing identified was in fact a 'top' or 'jacket' – the fact is that Mr Pibworth saw the label sticking out and the comment was made. The panel consider that, whether or not it was intended as a joke, in the classroom context, when children could hear, the comment was totally inappropriate. This allegation is therefore found proved.

g. your actions as described at paragraph 2(f) above caused the teaching assistant to be:

- i. upset,**
- ii. embarrassed,**

In her interview as part of the school's investigation (page 84), Witness C stated that she felt 'deflated, like somebody had punched me'.

In her oral evidence, Witness C stated that she considered Mr Pibworth's comments unprofessional, and felt deflated. She mentioned it to her line manager and some of the other teaching assistants because she was embarrassed. She did not think it was appropriate in the classroom.

The panel is satisfied that Witness C was upset and embarrassed. This particular is therefore found proved.

h. on one or more occasions, you acted in an intimidating and/or aggressive manner towards colleagues, including during meetings on:

- i. 20 September 2013,**

The account of this event is set out at paragraph 10 of the statement of Witness A (page 22). She records having informed Mr Pibworth of concerns regarding shouting at pupils, to which Mr Pibworth responded by stating that 'he was cross' and suggesting that Witness B should have supported him. When asked to develop a list of strategies to deal with poor pupil behaviour, Mr Pibworth asked for the request in writing, stating 'if [a colleague] is going to give me extra work, so will I. What about trusting a fellow professional?'. Witness A also states that he was not shouting.

Giving oral evidence, Witness A stated that she only remembered the end of the meeting, when she recalled Mr Pibworth being very cross.

Mr Pibworth, in his interview as part of the disciplinary investigation (page 95-96), stated that he was 'animated', or 'defensive' rather than 'aggressive'.

Having heard all the evidence, it is clear to the panel that this was a difficult meeting in which Mr Pibworth reacted negatively to a challenge. However, the panel is not satisfied that it has been proved on the balance of probabilities that Mr Pibworth's manner or communications crossed the threshold and became inappropriate, intimidating or aggressive. The allegation is therefore found not proved.

ii. 30 September 2013,

This incident is described in Witness B's statement from paragraph 21 at page 32. Witness B said that she was trying to help Mr Pibworth but that he was very aggressive and responded to a query about a procedural matter with the words 'I am telling you I have not received an email', and 'I did not do it'. He insisted that he did not need training. Witness B said that Mr Pibworth kept talking over her.

In her oral evidence Witness B referred to Mr Pibworth crossing his arms and adopting a sarcastic tone. Witness B stated that the tone adopted by Mr Pibworth was such that she came out and went to her office feeling upset.

The panel notes Mr Pibworth's account (at page 96) that he was being 'defensive' rather than 'aggressive'. However, the panel is persuaded by the account of Witness B. Witness B appeared to the panel a very strong and experienced leader. The panel considers her account credible and regards it as significant that such a person was upset by Mr Pibworth's manner. The panel is persuaded that, on this occasion, Mr Pibworth's behaviour was more likely than not to have been aggressive, intimidating and inappropriate. This allegation is therefore found proved.

iii. 23 October 2013;

This meeting is recorded in Witness B's statement from paragraph 31 at page 34. Giving oral evidence, Witness B recounted that Mr Pibworth was contending that if children were badly behaved he shouldn't have to deal with it. She tried to explain that the way he dealt with bad behaviour determined how well the children would behave. Witness B said that during the meeting Mr Pibworth pointed a pen very close to her face. At paragraph 32 of her statement at page 34 she states that the pen was so close to her face that 'I had to move my head back to avoid being touched with it'. She also states that Mr Pibworth subsequently apologised for his actions and put the pen down. She states 'I am quite a strong person so was not going to be intimidated by Mr Pibworth pointing the pen in my face; however it was an intimidating action'.

Mr Pibworth, in his disciplinary meeting at page 95, stated that 'it was a complete exaggeration that he invaded her space – he was just animated in his response'. Mr Pibworth described the allegation as 'pathetic'.

The panel has considered the evidence carefully. On balance the panel found Witness B to be a credible witness and is persuaded that Mr Pibworth's behaviour on this occasion is properly characterised as aggressive, intimidating and inappropriate. The allegation is found proved.

3. Your actions as described at paragraph 1 above were:

- a. misleading,**
- b. dishonest.**

The panel has found allegations 1(a)(ii) and 1(b) not proved. It has therefore considered allegation 3 only in relation to 1(a)(i).

As stated above, in his application form Mr Pibworth identified, as his reason for departure, 'change of role'. The panel is satisfied that Mr Pibworth knew this to be incorrect. Witness D stated in his oral evidence that Mr Pibworth admitted not having identified his reason for leaving in the application form when he was asked during the school's investigations. This evidence is corroborated by a record of the meeting, found from page 92. Further, Mr Pibworth is recorded at page 94 as stating, by way of explanation for the non-disclosure, that the reason for his departure from Woodhouse BEC was 'not something he wanted to advertise'.

The panel considers, in the light of this evidence, that Mr Pibworth was aware that the correct reason for his departure was relevant and significant information and that his decision to write 'change of role' was more than a mere omission. Based on the evidence before it, the panel is satisfied that Mr Pibworth's actions as described at paragraph 1(a)(i) were misleading.

The panel is further satisfied that Mr Pibworth's actions described in Allegation 1(a)(i) would be considered dishonest by the ordinary and reasonable teacher, and that Mr Pibworth himself appreciated them to be dishonest.

Allegation 3 is therefore found proved.

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

In considering the allegations that the panel has found proved, the panel has had regard to the definitions in the *Teacher Misconduct – The Prohibition of Teachers* advice, which we refer to as the 'Guidance'.

The panel is satisfied that the conduct of Mr Pibworth in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Pibworth 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, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others;

The panel is satisfied that the conduct of Mr Pibworth fell significantly short of the standards expected of the profession. His behaviour towards colleagues and children was at times aggressive and inappropriate. It had the effect of intimidating others. The panel considers that Mr Pibworth failed to adhere to appropriate boundaries in dealing with behavioural situations in the classroom, and when confronted by colleagues in relation to his behaviour he acted in a way which fell short of what would be expected of a professional. This behaviour, and his dishonesty in incorrectly stating his reason for departure from a previous school, risks undermining public trust in the profession.

The panel has also considered whether the teacher's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance. We have found that none of these offences are relevant.

Accordingly, the panel is satisfied that Mr Pibworth is guilty of unacceptable professional conduct.

The panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel has taken account of the uniquely influential role that teachers can hold in pupil's lives and that pupils must be able to view teachers as role models in the way they behave. The panel is concerned that the behaviour directed by Mr Pibworth towards children, his dishonesty in giving an incorrect reason for leaving previous employment and his behaviour when challenged by colleagues, are sufficiently concerning that they may have an impact on the way teachers are viewed by pupils, parents and the public at large.

The panel therefore finds that Mr Pibworth's actions constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it 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 *Teacher Misconduct – The Prohibition of Teachers* advice and having done so has found a number of them to be relevant in this case, namely the protection of pupils, the

maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Mr Pibworth involved findings that he had been dishonest in incorrectly stating his reasons for departure from a previous employment, and had shown aggressive and intimidating behaviour towards pupils and colleagues. In the light of these findings, there is a strong public interest consideration in respect of the protection of pupils, the need to ensure the confidence of the public in the professionalism of teachers and in respect of the maintenance of appropriate standards of conduct within the school setting.

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

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 Mr Pibworth was outside that which could reasonably be tolerated.

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 Mr Pibworth.

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 Mr Pibworth. The panel took further account of the guidance, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been displayed. 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
- misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- a deep-seated attitude that leads to harmful behaviour
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- dishonesty especially where there have been serious consequences
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

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. In this case, the teacher's actions were deliberate. There is no evidence that the teacher was acting under duress.

The panel has also seen evidence that shows the teacher was previously given a 2 year reprimand by the GTCE dated 2 February 2010. An unredacted copy of the GTCE decision was presented to the panel by the presenting officer in giving his submissions in relation to prohibition. It is apparent from the content of this previous decision that the behaviours displayed by Mr Pibworth in that case were strikingly similar to those elements of Allegation 2 which the panel has found proven in this case. The panel is concerned that the repetition of behavioural patterns suggests Mr Pibworth has not shown significant insight into his previous behaviour or taken adequate steps to modify his approach when interacting with pupils and colleagues.

The panel has not been presented with any specific good character evidence, although it takes note of the indications given by Witness A and Witness B that Mr Pibworth showed enthusiasm for working with children in his interview and appeared to be performing well in the classroom when they observed his teaching or called into his classroom at an early stage in his time at the school. However, his performance appears to have deteriorated subsequently.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Pibworth. The repeated nature of Mr Pibworth's behavioural difficulties in relation to Allegation 2, the similarity of those behaviours to the matters dealt with by the GTCE, as well as the dishonesty shown by Mr Pibworth in inaccurately stating his reason for departure from a previous school, were all significant factors in forming that opinion. 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 *Teacher Misconduct – The 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 *Teacher Misconduct – The Prohibition of Teachers* advice indicates that there are behaviours that, if present, would militate against a review period being recommended. One of these behaviours is serious dishonesty. The panel has found that Mr Pibworth has been responsible for dishonestly misleading the school as to the reasons for his departure from a previous job. It is important that schools can have confidence in the accuracy of teachers' applications, in particular as regards their reasons for departing previous employment. Mr Pibworth's misleading statement as to his reasons for departure from Woodhouse BEC had the potential to raise significant safeguarding risks.

Although he acknowledged at one stage that the school had him ‘bang to rights’ in relation to his application (page 96), the panel is concerned that Mr Pibworth has shown no real insight into his actions either in relation to this aspect, or as regards the behaviours found proven under Allegation 2, which bear a striking resemblance to those for which he was previously reprimanded by the GTCE.

The panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case. The panel have found a number of allegations proven relating to Mr Pibworth’s communications with pupils and staff along with an allegation relating to him inaccurately recording his reason for leaving a previous post on his application form.

The panel have found that Mr Pibworth’s behaviour amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute. In considering whether to recommend a prohibition order as an appropriate and proportionate sanction the panel have properly balanced the public interest considerations with the interests of Mr Pibworth. They have found a number of public interest considerations to be relevant to this case, namely:

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

The panel have further found Mr Pibworth’s actions to be deliberate. There is no evidence that he was acting under duress. They have seen no specific evidence of his good character.

The panel have recommended that prohibition is an appropriate and proportionate sanction and I agree with that recommendation.

The behaviours found proven under allegation 2 are very similar to those for which Mr Pibworth received a reprimand from the GTCE. The panel are extremely concerned that he has shown no real insight into any of his behaviours and therefore recommend that the order should be without the opportunity to apply to have it set aside, I agree.

This means that Mr Alan Robert Pibworth is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Alan Robert Pibworth shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Alan Robert Pibworth has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

NAME OF DECISION MAKER: Paul Heathcote

A handwritten signature in black ink, appearing to read 'P Heathcote', with a large, sweeping flourish extending to the right.

Date: 20 April 2015

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