

## THE TEACHING AGENCY

### Decision of a Professional Conduct Panel

**Teacher:** Eileen Mary Scott

**Teacher ref no:** 7610646

**Teacher date of birth:** 13 August 1954

**TA Case ref no:** 8929

**Date of Determination:** 13 March 2013

**Former Employer:** Walter Daw Primary School, Exeter

#### **A. Introduction**

A Professional Conduct Panel ("the Panel") of the Teaching Agency convened on Monday 11 March, Tuesday 12 March and Wednesday 13 March 2013 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH for the first day and at the Ramada Hotel, The Butts, Earlsdon, Coventry CV1 3GG, for the second and third days to consider the case of Ms Eileen Mary Scott.

The Panel members were Dr Geoffrey Penzer (Lay Panellist - in the Chair), Councillor Gail Goodman (Professional Panellist) and Mr John Elliott (Lay Panellist).

The Legal Adviser to the Panel was Mr Tom Rider of Field Fisher Waterhouse LLP Solicitors.

The Presenting Officer for the Teaching Agency was Ms Katherine Tyler of Kingsley Napley Solicitors.

Ms Scott 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 7 January 2013.

It was alleged that Ms Scott was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as Headteacher at Walter Daw Primary School, Exeter, she:

- (1) Caused breaches of financial policies and/or procedures applicable to the management of the school budgets in that:

- (a) she deposited over £61,000 into the 'unofficial fund' (Lloyds TSB account) that should have been deposited into the school budget and is therefore unaccounted for in the school budget;
  - (b) she distorted the school budget so that the Local Authority and/or the Governors did not have a full understanding of the school budget;
  - (c) she failed to ensure that cash amounts withdrawn from the school's 'unofficial fund' (Lloyds TSB account) were accounted for;
  - (d) she failed to disclose a direct or indirect pecuniary interest in a matter where a person living with her had a direct or indirect pecuniary interest;
  - (e) she failed to disclose that she had an indirect pecuniary interest in some of the contracts that were awarded;
  - (f) she failed to ensure that proper tenders and/or quotes were obtained for contracts and/or work undertaken on the school premises; and
- (2) Her conduct as set out at Particulars 1(a) to (f) was (a) deliberate and (b) dishonest.

Ms Scott denied all the particulars of the allegation and further denied that she was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

### **C. Preliminary Applications**

#### **Proof of Service and Proceeding in the absence of the Teacher**

With Ms Scott neither present nor represented, the Chair requested evidence that the Notice of Proceedings had been sent to Ms Scott in compliance with paragraph 4.10 of the Disciplinary Procedures for the Regulation of the Teaching Profession, and enquired whether any reasons for Ms Scott's absence had been communicated to the Teaching Agency or the Presenting Officer.

The Presenting Officer drew the Panel's attention to the copy of the Notice of Proceedings dated 7 January 2013 at pages 6-8 of the bundle, which she said was sent to Ms Scott's representative, Ms Buxton, on that date. Further, the Presenting Officer produced to the Panel a copy of Ms Buxton's email to her firm on 8 March 2013, explaining that she had been rushed into hospital on 28 February 2013 and was therefore too ill to attend the hearing to represent Ms Scott. The email further referred to Ms Scott's own ill health and inability to attend the hearing. Attached to the email was a sickness certificate relating to Ms Buxton confirming that she had been signed off work.

The Presenting Officer further produced to the Panel a copy of her firm's email in reply to Ms Buxton of 8 March 2013 explaining that, if the hearing proceeded, the Presenting Officer's witnesses would still attend to give oral evidence and the Panel may be prepared to treat an application for an adjournment by Ms Buxton sympathetically. Ms Buxton replied by email the same day indicating that they still wished the hearing to proceed in their absence as they have "*lost faith and wish this to be over with before it affects my mum's health further*".

Before the Panel considered its decision, the Legal Adviser declared the following advice:

- Paragraph 4.26 of the Disciplinary Procedures for the Regulation of the Teaching Profession first requires the Panel to be satisfied that the Notice of Proceedings has been sent to the Teacher in compliance with paragraph 4.10. If the Panel is not so satisfied, Paragraph 4.27 requires the Panel to adjourn the hearing.
- If the Panel is satisfied, the Panel must go on to consider, in accordance with paragraph 4.27, whether it is appropriate to proceed with the hearing in the absence of the Teacher. In coming to this decision, the Panel needs to consider whether the Teacher has chosen voluntarily not to attend or to be represented at the hearing, whether an adjournment has been requested or whether an adjournment would serve a useful purpose, the extent to which the Teacher may be disadvantaged in not being able to present their case, and generally the public interest.
- In this case, the Panel may feel there is evidence that Ms Scott has chosen voluntarily not to attend or be represented.

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

*"We are satisfied that the Notice of Proceedings dated 7 January 2013 has been sent to the Teacher in accordance with paragraph 4.10 of the Teacher Misconduct-Disciplinary Procedures for the Regulation of the Teaching Profession. We have seen the Notice itself, which complies with the paragraph. We have also seen the written form of response dated 28 January 2013 from the Teacher's representative, Ms Buxton, confirming its receipt.*

*We are further satisfied that it is appropriate to proceed with the hearing today in the absence of Ms Scott and her representative. We have seen the exchanges of email between Ms Buxton and the Presenting Officer's firm on 8 March 2013, which make clear that she and Ms Scott want today's hearing to proceed in their absence and they do not wish to seek an adjournment, notwithstanding that there is evidence to indicate that they are both unwell."*

#### Submission of Late/Additional Documents

The Presenting Officer informed the Panel that Ms Buxton had submitted an indexed bundle of documents on behalf of Ms Scott. Sets of the bundle were provided to the Panel, who adjourned the hearing to read the documents.

On resuming the hearing, the Presenting Officer confirmed that she had no objection to the Panel receiving the documents and the Panel agreed to accept them.

#### Request for and/or consideration of private hearing

The Chair noted that in the form of response from Ms Buxton to the Notice of Proceedings, she stated that she knew of a reason why the hearing should not be held in public. However, the Chair also noted that nothing further had been submitted on the point by Ms Scott or Ms Buxton in the Teacher's bundle that the Panel had just read. Therefore, no explanation had been given as to why they considered that the hearing should not be held in public.

The Panel decided that the whole of the hearing should proceed in public.

#### Jurisdiction of the Panel

The Chair noted that, at the start of Ms Scott's documents bundle, in the letter to the Teaching Agency from Ms Scott's then legal representative, Gillian Howard, dated 19 July 2012, it was asserted that the Teaching Agency did not have jurisdiction to consider the case, which in turn raised a question as to the Panel's jurisdiction to conduct the hearing. The Presenting Officer was invited to address the Panel.

The Presenting Officer stated that Gillian Howard's argument was that the Teaching Agency lacked jurisdiction because, while the General Teaching Council for England had received the case prior to its abolition, no investigation had been commenced by the time the case was taken over by the Teaching Agency, and so the case did not come within the transitional provisions contained in the Education Act 2011. Further, there had been no notification given by the Teaching Agency to Ms Scott of a decision to proceed with an active investigation.

The Presenting Officer handed to the Panel copies of the surrounding correspondence: the Teaching Agency's letter to Ms Scott of 9 May 2012 informing her of the Teaching Agency's decision to proceed with a formal investigation and inviting her comments, the Teaching Agency's email to Ms Howard of 20 July 2012 responding to Ms Howard's letter of 19 July 2012 in relation to the jurisdiction issue, Ms Howard's letter in response to the Teaching Agency of 24 July 2012, the Teaching Agency's email in reply of 25 July 2012, and finally the Teaching Agency's letter to Ms Scott of 9 August 2012 informing her of the decision to refer her case to a Professional Conduct Panel.

The Legal Adviser declared the following advice:

- It was apparent that this case had been received by the Teaching Agency from the General Teaching Council for England at a point when no decision had been taken by the GTCE to commence an investigation.
- Section 2 of the Disciplinary Procedures for the Regulation of the Teaching Profession set out the action to be taken on receipt of a case and it contained

a useful flow chart. This indicated that, on receipt, the Teaching Agency checks to see whether the case relates to a teacher in England and whether it is a case of serious misconduct.

- If the Teaching Agency is satisfied that those criteria are met, it proceeds with a formal investigation and, by Regulation 5(2) of the Teachers' Disciplinary (England) Regulations 2012, the Teaching Agency is required to inform the teacher of the decision to investigate and to invite the teacher to submit written representations before a further decision is taken on whether the case should be referred to a Professional Conduct Panel for a hearing. The Teaching Agency's letter of 9 May 2012 was sent pursuant to this regulation.
- Ms Howard's letter to the Teaching Agency of 19 July 2012 contained the Teacher's written representations in response to this notice. The Teaching Agency explained its position in relation to its jurisdiction in the subsequent exchange of emails with Ms Howard. However, it was not until 9 August 2012 that a decision was made by a Determination Panel, acting under delegated authority from the Secretary of State, to refer this case to a Professional Conduct Panel. The decision was made pursuant to Regulation 5(4).
- If Ms Scott wished to challenge the decision to refer the case to a Professional Conduct Panel then her remedy lay by way of a claim for judicial review to the Administrative Court. It was not a decision that this Panel could review. No claim for judicial review had been made.
- Further, notwithstanding the absence of a claim for judicial review, it appeared from this copy correspondence that the Regulations and Section 2 of the Disciplinary Procedures for the Regulation of the Teaching Profession had been complied with.

The Panel decided that it was entitled to proceed with the hearing.

#### Application for the withdrawal of Ms A's witness statement

The Panel noted that in Ms Scott's documents bundle, at paragraph 15 of Ms Scott's statement in response to the witness statement of Ms A, a challenge was made to the admissibility of Ms A's witness statement on the basis that it contained "*gross errors, unsubstantiated comments, reliance of hearsay and spurious allegations*" and it was submitted that the statement should be withdrawn as inadmissible.

At the invitation of the Panel, the Presenting Officer responded that the Panel would be hearing oral evidence from Ms A and it would be for the Panel to determine what weight to attach to her evidence.

Before the Panel considered its decision, the Legal Adviser declared the following advice:

- Paragraph 4.16 of the Disciplinary Procedures for the Regulation of the Teaching Profession 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 case. This permits the Panel to admit hearsay evidence, and Ms A's statement does contain hearsay evidence. It will be for the Panel to decide after hearing her which evidence to accept and what weight to attach to such evidence. Normally, less weight is attached to hearsay evidence than to direct evidence.

The Panel announced its decision not to grant Ms Scott's request for Ms A's statement to be withdrawn.

## **D. 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 and Response (pages 5 – 11)
- Section 3: Witness statements (pages 12 – 43)
- Section 4: Teaching Agency Documents (pages 44 – 887)

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

In addition, as stated above, the Panel agreed to accept the bundle of Ms Scott's document to be referred to as the Bundle of Teacher Documents, with page numbers 1-123.

### Preliminary Legal Advice

The Legal Adviser declared that he had given the following advice to the Panel during its pre-hearing meeting:

- In considering the allegation of dishonesty, the Panel should apply the test in *R v Ghosh* [1982] 2All ER 689, as adopted in civil proceedings following the decision in *Twinsectra v Yardley*.
- This imposed an objective and a subjective test. The objective test was whether what was done was dishonest according to the standards of reasonable honest people. If that test is met, the Panel should go on to consider whether Ms Scott realised that reasonable and honest people would regard what she did as dishonest.

### Brief summary of evidence given

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

## Witness A

The Presenting Officer's first witness was Witness A, a Schools' Senior Auditor employed by Devon Audit Partnership at the Devon County Council ("DCC"). She confirmed her witness statement at pages 13-27 of the bundle. In the course of her oral evidence she stated that:

- She undertook an audit investigation into the allegations against Ms Scott and produced a report in April 2011 (pages 57-67).
- DCC had in place the Schools Finance Manual that set out the minimum standards to be followed by its schools.
- DCC also had in place a system of capping surpluses in a school's budget. For schools the size of Walter Daw Primary School, the cap applied at 8% of the budget. The cap could be waived but there was an expectation that if it was waived the money would be used for the purpose identified in the request for waiver.
- A school's voluntary unofficial fund should be audited annually. Walter Daw Primary School used an independent person for that purpose.
- The School had in place a Finance Policy that was approved by its governing body. The governing body had ultimate accountability for the School's finances. Under the Finance Policy, Ms Scott as the Headteacher was responsible for ensuring regular monitoring of all budget lines and formal reporting to the Governors. This included responsibility for the unofficial fund.
- Under the School's Finance Policy, there was a need to demonstrate best value in the deployment of financial resources.
- Section 7.13 of DCC's School Finance Manual set out the procurement thresholds to be applied for purchases. These were the minimum standards for all schools and were to be applied to ensure best value. There was a requirement to obtain two oral quotations for goods and services over £1,000 and up to £2,500. Three written quotations were required for goods and services over £2,500 and up to £10,000.
- Sections 13.4 and 13.5 of the School Finance Manual required schools to maintain a register of Business Interests for governors and the Headteacher. This extended to pecuniary and conflicts of interest. A pecuniary interest was defined as "*having a monetary interest in the result of any particular decision*".
- In the course of her audit investigation, she found that invoices were being paid from the School budget but income collected by the School relating to those invoices was being banked in the unofficial fund.

- Between 2 October 2007 and 31 March 2011, she found that £68,146 of income had been banked to the unofficial fund of which £61,212 was official income that had been wrongly banked to the unofficial fund. Her summary at page 272 gave a breakdown of this figure and she explained her conclusions.
- Sections 9.2, 9.4 and 15 of the School Finance Manual stressed the importance of maintaining a strict separation of funds.
- DCC's internal audit report of March 2009 had previously identified the inappropriate practice of mixing funds in relation to school trips and the need for this to be rectified. The Governors had approved the recommendations in this report at their meeting on 5 October 2009. For a period afterwards, income from parents for school trips was paid into the school budget but the practice of paying it into the unofficial fund resumed in February 2010.
- Income paid into the unofficial fund is not accounted for in the school budget statements that are presented for acceptance by the Governors and Local Authority.
- Ms Scott presented the budget projections for 2009/10 and 2010/11 (page 553). They made no reference to the money in the unofficial fund. The income wrongly paid into the unofficial fund therefore distorted the projections.
- At page 588, there was a list Witness A had prepared of all the cheques for cash drawn from the unofficial fund totalling £4,450 and the extent to which she had been able to find a full audit trail for these cheques. She could only find supporting records for £1,768.59.
- Paragraph 5.4 of the DCC's Management of Voluntary Unofficial Funds was not followed in that it was not possible to identify how the remaining cash had been used.
- The School's Register of Business Interests (pages 269-270) contained no interest declared by Ms Scott.
- Her investigation revealed that Individual A trading as Baltic Trading provided contracting services to the School. He was Ms Scott's partner and they lived together. Ms Scott had authorised these services and had also arranged for a number of the payments to be made to Individual A. This interest had not been declared by her in the Register of Business Interest.
- Ms Scott had also authorised the acceptance of quotes from Five Star Security Limited at a time when her son, Individual B, had been a director. This interest had not been declared by Ms Scott in the Register of Business Interest.
- Later, Ms Scott authorised acceptance of services from Digi Security Limited at a time when Individual B had moved to work for them, and this interest had not been declared by her in the Register.



- Witness A's investigation revealed instances when only one quotation from Baltic Trading had been obtained for work in excess of £1,000 and there were also occasions where it appeared Baltic Trading had broken down their invoices to keep them below the £1,000 threshold.

### Witness B

The Presenting Officer's second witness was Witness B, the Acting Head of Teaching and Learning at Walter Daw Primary School. She confirmed her witness statement at pages 28-35 of the bundle. In her oral evidence she stated that:

- She joined the School in September 2009.
- By March 2011, she was the Assistant Headteacher responsible for the Early Years team and the Year 3/4 team.
- In March 2011, the School underwent an Ofsted inspection, following which the School went into special measures and the Governors made her the Acting Headteacher.
- After taking on this role, she looked at the School's finances and noted that there was £81,000 in the unofficial fund. The administrative staff told her that the unofficial fund had been used to deposit money for school trips, training, book club and payments for rentals. They also told her of contracts being placed with Individual A, Five Star Security Limited and Digi Security Limited.
- On 7 April 2011, she wrote to the School Improvement Officer at DCC to report her concerns.
- She did speak to the Chair of Governors but was aware that the Ofsted inspectors had been critical of the Governors. She believed her role was to report her concerns to Devon County Council.

### Ms A

The Presenting Officer proceeded to call Ms A as her third witness. She confirmed her witness statement at pages 36-43 of the bundle. In her oral evidence she stated that:

- She started working at the School in around February 2005 as a part-time Teaching Assistant. She later took on administrative tasks as another part-time role, thereby becoming full time overall.
- One of her administrative tasks was procurement.
- She found Ms Scott very intimidating and she had not felt able to question the way Ms Scott did things.

- Ms Scott handled the School budget.
- She kept an orders file so that there was a full written record of everything ordered. She gave the file to Witness B during the investigation.
- She had been told that any quotations over £3,000 needed the approval of the Governors' Finance Committee. They would sign the quotes to show they had approved it.
- On one occasion, she recalled obtaining a verbal quotation from Eibe for the supply of a water tray and wrote the amount of their quote on a post-it note (page 865). However, Ms Scott bypassed her and obtained a quotation from Individual A, which she accepted even though it was for more than the amount quoted by Eibe. She accepted though the comment made by Ms Scott that Eibe's quote described slightly different work.
- She had been "gobsmacked" when she heard Ms Scott tell the School's Auditor that she used Baltic Trading because "she trusted all Baltic Trading's workers" because Baltic Trading had no employees, only Individual A.
- She knew Individual B was Ms Scott's son as he told her the first time she met him. He did not hide it.
- She agreed with Ms Scott's comment that Five Star Security had not been fulfilling their part of the contract.
- In about June 2009, she recalled Ms Scott telling administrative staff to change the practice of paying all money received for school trips into the unofficial fund and instead pay all money received into the school budget. She implied that they should not previously have been paying it into the unofficial fund. Later, in about January 2010, Ms Scott became aggressive and said that they had been doing it incorrectly and should go back to receipting monies into the unofficial fund'

## **E. Decision and Reasons**

The Chair announced the Panel's decision as follows:

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

Eileen Scott was employed as the Headteacher of Walter Daw Primary School in Exeter (the School) between 1989 and 2011. In 2002, the School changed from being a first school to become a primary school, and by the time she left it had around 350 pupils. On 22-23 March 2011, the School underwent an Ofsted inspection and the inspectors recommended that the School be placed in special

measures. Ms Scott went on extended sick leave shortly afterwards and the Governors appointed Witness B to act as Headteacher. Up to that point, Witness B had been an Assistant Headteacher at the School since 2009.

After taking on the role, Witness B spent time looking at the School's budgets and was surprised to discover that the School's unofficial fund had over £81,000 in it. Her further enquiries caused her to have concern over the way the unofficial fund appeared to have been operated. Another area of concern to her was a series of contracts for building and maintenance work that Ms Scott had placed with her partner. Witness B therefore reported her concerns in April 2011 to the School Improvement Officer at Devon County Council and the Local Authority appointed Alexis Saffin, one of its Schools' senior auditors to investigate.

The allegations faced by Ms Scott in this case arise from Witness A's audit report. They fall broadly into two categories and relate to the period between 2007 and 2011. The first concerns the operation of the unofficial fund, particularly the alleged mixing of funds whereby invoices were paid from the school budget but money collected in relation to those invoices was paid into the unofficial fund. The second category relates to alleged failures to disclose an indirect pecuniary interest in some of the contracts that were awarded and not ensuring that procurement policies were correctly followed. It is further alleged that she acted dishonestly in connection with these matters.

Ms Scott denies all the allegations against her.

Ms Scott has not been present or represented at this hearing. Medical evidence was submitted stating that she and her representative were unwell. However, the representative confirmed that Ms Scott wanted the hearing to go ahead and at the beginning of the hearing we ruled that it was appropriate to proceed in the absence of Ms Scott and her representative.

We have heard oral evidence from three witnesses called on behalf of the Teaching Agency: Witness A; Witness B; and Ms A, a member of the School's administrative staff. In Ms Scott's absence, we sought to put to those witnesses questions that we believe she would have wanted to ask.

We confirm that we have read all the documents provided in the bundle in advance of the hearing. In addition, we have carefully considered the 123 page bundle of statements and other documents submitted to us on behalf of Eileen Scott. We adjourned for three hours at the start of the hearing in order to read these documents

## Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against Ms Scott proved:

Whilst employed as Headteacher at Walter Daw Primary School, Exeter, she:

1. Caused breaches of financial policies and/or procedures applicable to the management of the school budgets in that:
  - (a) she deposited over £61,000 into the 'unofficial fund' (Lloyds TSB account) that should have been deposited into the school budget and is therefore unaccounted for in the school budget;
  - (b) she distorted the school budget so that the Local Authority and/or the Governors did not have a full understanding of the school budget;
  - (c) she failed to ensure that cash amounts withdrawn from the school's 'unofficial fund' (Lloyds TSB account) were accounted for;
  - (d) she failed to disclose a direct or indirect pecuniary interest in a matter where a person living with her had a direct or indirect pecuniary interest;
  - (e) she failed to disclose that she had an indirect pecuniary interest in some of the contracts that were awarded;
  - (f) she failed to ensure that proper tenders and/or quotes were obtained for contracts and/or work undertaken on the school premises; and
  
- 2 Her conduct as set out at Particulars 1(a) to (f) was (a) deliberate and, except for Particular 1(c), (b) dishonest

We have found not proved in respect of Particular 2 that her conduct as set out in Particular 1(c) was dishonest.

In coming to our findings of fact, we have borne in mind that the burden of proof lies solely with the Teaching Agency's Presenting Officer and that the standard of proof to be applied is the civil standard of 'the balance of probabilities'.

We have also had regard to the different types of evidence before us. We have treated hearsay evidence with caution and considered the weight to be attached to it.

The Teaching Agency's case relies almost entirely on the evidence of Witness A and the documents that she produces. We found her to be an entirely credible witness and we accept her evidence. She was well-informed and gave her evidence

in a measured and consistent manner. We were impressed by the thoroughness of her investigation.

On particular 1(a), Witness A told us that the School, like most schools, operated an unofficial fund. The School was maintained by Devon County Council (DCC) and section 14.1 of DCC's Schools Finance Manual (April 2003) defines a voluntary unofficial fund as:

*"Any fund (other than those of the Council) which exists for the purposes of a school and is established under the authority of the Governors of a College or School. This includes monies collected from students or pupils for activities arranged by the school."*

The Manual sets minimum standards of financial management and reporting in schools that must be adhered to. Sections 9 and 14 stress the importance of maintaining a strict separation of a school's private monies in its unofficial fund from the official funds of the DCC as contained in the school's budget.

Witness A further told us that although the School's unofficial fund was ultimately the responsibility of the Governors, the day to day management and operation of the fund was delegated at all material times by the Governors to Ms Scott as the Headteacher. In that capacity and as a Governor (because a Headteacher automatically takes the position of Governor unless they elect not to be), Ms Scott would have been well aware of the minimum standards set by the DCC's Schools Finance Manual.

Witness A told us that by reviewing all the paying-in slips (pages 274-343 of the bundle) in the course of her audit she found that between 2 October 2007 and 31 March 2011, income of £68,146 had been banked to the unofficial fund, of which £61,212 was official income that should have been banked to the school budget. This occurred in relation to book bags, educational trips, lettings, staff sickness/absence insurance, "Splash Club"/ "Green Team", donations from Friends of Walter Daw, University of Plymouth Student fees, recorders, milk donations and After School Club letting. She produced a summary of the sums deposited in this way (page 272 of the bundle). The payment for trips was the largest single item representing just over half of the money wrongly banked.

In the case of parents' payments for book bags, educational trips and milk, her audit found that invoices for these items had been paid from the school budget and so the payments should have been reimbursed into the school budget. She said the same applied to recorders. Friends of Walter Daw made donations to fund specific school projects such as financing play equipment and contributions towards the foundation stage extension. Expenditure for these items was paid for from the school budget and so again reimbursement should have been made to the school budget. As regards income from lettings, section 5.1 of DCC's Scheme for the Funding of Schools required that it be paid into the school budget. Further, payments by insurers under the Staff Sickness/ Absence policy were to pay for cover for staff absence through sickness and were to be set off against amounts paid from the school budget for teacher salaries. Consequently, those payments were similarly official income.

Ms Scott in her statements does not comment on these particular payments into the unofficial fund. However, she does make the point in her defence that the unofficial fund was independently audited each year and no concerns were raised. This was indeed the case. However, it is clear to us from the Auditor's reports that it was audited as an independent fund, rather than as a public fund forming part of the overall school budget and thus did not consider whether the receipts were appropriate for payment into the unofficial fund.

Particular 1(b) is an extension of particular 1(a). The evidence and applicable policies and procedures that should have been followed by Ms Scott are therefore the same.

As Witness A explained, the effect of wrongly paying this income into the unofficial fund is that it distorted the budget figures that were presented by the School for acceptance by the Governors and the Local Authority.

The DCC's internal audit report of March 2009 recorded in section 5 that educational trip income was being inappropriately paid into the unofficial fund and recommended that it be transferred to the school budget to meet the cost of the trips. The report further highlighted the concern that the effect was to reduce the school budget surplus and the risk of capping. It recommended that this be rectified. The School's Governors Finance Committee subsequently approved this recommendation at its meeting on 5 October 2009.

However, in the meantime, on 20 March 2009, the Local Authority agreed to waive the cap on the budget surplus shown in the financial projections prepared by Ms Scott for 2009/10 and 2010/11 (page 553 of the bundle).

Witness A told us that her analysis of the paying-in slips showed that the banking of money for school trips into the unofficial fund stopped between October 2009 and February 2010 but that the practice then resumed and continued until March 2011.

This was borne out by the evidence of Ms A. She told us that in around June 2009 Ms Scott told the Administrative Assistants that money received from parents for school trips should be paid into the school budget but that, in around January 2010, she denied saying this and told them to go back to paying it into the unofficial fund.

It is clear to us that at least by the time of receiving the internal audit report of March 2009 Ms Scott was well aware that money received in respect of expenditure from the school budget had to be paid into the school budget. Further, she was on notice of the concern that it distorted the school budget. Her decision to continue with this practice was therefore not only deliberate but we are satisfied that it was also dishonest. She was knowingly hiding money held by the School from the Local Authority, which she knew could affect the cap. There was therefore an intention on her part to deceive the Local Authority and it had the effect of potentially denying other schools the money that could have been in the Local Authority's possession. This was dishonest by the standards of reasonable honest people and she must have realised that this was the case.

On particular 1(c), paragraph 2.4 of DCC's Management of Voluntary Unofficial Funds required that cash drawn from the unofficial fund had to be fully accounted for. Witness A told us that she found a considerable discrepancy (£2,681.41) between the cheques drawn for cash from the unofficial fund (£4,450) and the receipts for expenditure that she was able to identify (£1,768.59). Her summary at page 588 of the bundle indicates that this discrepancy had occurred over the period between September 2007 and March 2011.

As the Headteacher, Ms Scott was responsible for the organisation and control of all unofficial funds, as paragraph 14.1.4 of the DCC's School Finance Manual made clear. She therefore failed to ensure that these cash amounts were accounted for.

We note that the importance of being able to reconcile cash drawn from the School's funds with expenditure, together with the risk that this gives rise to incorrect accounting and/ or losses going undetected, was identified as an ongoing problem in the internal audit report of March 2009, albeit that this was in relation to the school budget. That report recommended that the Headteacher must review and certify the reconciliation at least once a term. The same principles apply to the unofficial fund as Ms Scott will have appreciated.

Given this and that the unofficial fund and the drawing of cheques for cash were under Ms Scott's direct control, we are satisfied that her failure to ensure the cash amounts drawn from the unofficial fund were accounted for was deliberate on her part. She knew that she should have done it. However, we do not find that she acted dishonestly in this respect. There is no evidence that either she or anyone connected to her gained financially as a result.

On particulars 1(d) and (e), section 13.4 of the DCC's School Finance Manual requires that schools maintain a Register of Business Interests, with Governors and the Headteacher listing any business interests they or any member of their immediate family have. The Register has to be kept up to date through an annual review. Section 13.5 of the Manual on pecuniary and conflicts of interests includes the following passage:

*"Members of staff will be in the position of sourcing goods and services. Where their family members are involved in businesses that transact with the school then this should be included in the register of interests."*

The Manual makes the point that the good reputation of a school depends on conflicts of interest being avoided, with the possibility of someone making a decision that is biased by the prospect of personal gain for themselves and their family being countered by the disclosure of that interest and the person concerned being excluded from the decision making process.

All these points and requirements are also set out in section 2.9 of the DCC's Scheme for the Financing of Schools.

Witness A told us that Ms Scott declared no business interests in the School's Register of Business Interests. We have seen a copy of that Register, and while Ms

Scott denies that she wrote the word "Nil" in it, she does not appear to dispute that she signed the Register each year without making any entry in it.

Particular 1(d) relates to the award of contracts to Individual A (trading as Baltic Trading). Witness A's audit confirmed that Ms Scott was directly involved in engaging Individual A to carry out general repairs and maintenance work at the School over a number of years. Between 2006 and 2011, invoices from him totalling over £37,000 were paid from the school budget, and there was evidence that Ms Scott personally authorised the payment of several of these invoices. Individual A was Ms Scott's partner and he was living with her throughout that time. There was no evidence that the intention to award each contract to Individual A was disclosed by Ms Scott to the Governors.

Ms Scott in her statement asserts that it was well known by Governors that Individual A was her partner and that she made oral declarations to that effect, which was a sufficient disclosure. Witness A found no record of this in the minutes of Governors or Governors Finance Committee meetings. Further, the evidence given by the former Governors whose statements are submitted by Ms Scott is to the effect that her relationship with Individual A was well-known. There is no suggestion though that they or the Governors generally were consulted in relation to the award of individual contracts to Individual A, which is what disclosure of her indirect pecuniary interest should have involved in practice.

Particular 1(e) relates to the awarding of contracts by Ms Scott to Five Star Security Limited, a company in which her son, Doug Scott, was a Director at the time, and later to Digi Security Limited, after her son had joined that company.

We have seen from the copy documents before us that Ms Scott personally signed the forms authorising the placing of the orders for these contracts. Further, she personally authorised payments to these companies.

Witness A found that Ms Scott did not disclose a conflict of interest in relation to these companies. As already noted, no business or pecuniary interests were entered by Ms Scott in the School's Register of Business Interests. Ms Scott asserts that this was not necessary as this Register did not apply to pecuniary interests. However, as we have said, section 13 of the DCC's School Finance Manual makes clear that it applied to both types of interest.

On particular 1(f), the School had a Procurement and Payment policy in place from January 2008. Section 7.13 of that policy set out the procurement thresholds. For goods and services, estimates over £1,000 and less than £2,500, two oral quotations were required. The School's Finance Policy further emphasised the importance that each proposal should demonstrate best value and of the need for the Headteacher to ensure close monitoring of all budget lines. Adherence to the procurement thresholds was an important element of being able to demonstrate best value

We have seen that the internal audit report of March 2009 found there to be incomplete evidence to show that the appropriate number of quotations were obtained for proposals in excess of £1,000. This was Ms Scott's responsibility and



the Auditor recommended that there be adherence to the policies and procedures for procurement going forward.

Witness A told us that her audit identified a number of occasions where alternative quotations were not obtained before placing orders with Individual A (trading as Baltic Trading), and they were detailed in her report. Further, she said she found instances in March 2011 when Baltic Trading broke invoices down for the same job so that each invoice would be less than the £1,000 threshold.

Ms Scott was responsible, as the Headteacher, for managing and monitoring the budget. She was directly involved in authorising the award of contracts to Individual A and to the companies for which her son worked and in many instances for authorising the payment of their invoices. As an experienced Headteacher, Ms Scott must have been aware of the requirements for declaring her indirect pecuniary interest and following the School's procurement policy. She repeatedly failed to adhere to them. In so doing, we find collectively in respect of particulars 1(d), (e) and (f) that her failure was both deliberate and dishonest, notwithstanding there is no evidence that she personally gained financially as a result.

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

We have found that Ms Scott repeatedly and over a number of years caused breaches of the financial policies and/ or procedures applicable to the management of the School's funds. As a teacher and particularly as the Headteacher, Ms Scott had a particular responsibility for ensuring a proper and professional regard for the ethos, policies and practices of the School.

Further, as both a teacher and the Headteacher of the School, she not only failed to uphold the public trust placed in her in the management of public money but we have found that she acted dishonestly.

For these reasons, we find that she is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute. The misconduct is of a serious nature and falls significantly short of the standard of behaviour expected of a teacher. In coming to this finding, we have had regard to the Teacher's Standards as published by the Department for Education.

#### **Panel's Recommendation to the Secretary of State**

We recommend that a Prohibition Order is appropriate in this case.

In coming to our recommendation, we have had regard to "The Prohibition of Teachers – DfE advice on factors relating to decision leading to the prohibition of the teaching profession".

We recognise that a Prohibition Order aims to protect pupils and to maintain public confidence in the profession. We also have to consider what is in the public interest and whether a Prohibition Order is a proportionate measure, weighing the public interest against those of the teacher.

In this case, the public interest includes the protection of the public, maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

We have considered the previous history and character of Ms Scott and the mitigating circumstances. Ms Scott has a good previous history and to the best of our knowledge has had a long unblemished career. She was the Headteacher of the School for 21 years and we have seen a number of testimonials from former Governors and colleagues. They speak highly of her and of her dedication to the School throughout her time there. Further, while we have found Ms Scott to have acted dishonestly, she did not personally gain financially from her actions. It was not a case of serious dishonesty.

Nevertheless, we have found that Ms Scott repeatedly over a number of years was responsible for the breaching of financial policies and procedures relating to the management of public funds. As a Headteacher, she was a role model and was in a position of trust. She had a particular responsibility for ensuring that school monies were properly managed. She abused that position of trust, thereby seriously damaging the reputation of the profession. Further, her actions were deliberate and she was not acting under duress. This was a serious departure from the personal and professional conduct elements of the latest teachers' standards.

It is in all these circumstances that we consider, on balance, that it is in the public interest and proportionate to recommend that a Prohibition Order is imposed.

However, in view of the mitigating factors and her previous good history, we recommend that the minimum period after the end of which Ms Scott may apply for a review of the Prohibition Order should be two years.

## **Secretary of State's Decision and Reasons**

### **Secretary of State decision**

**I have given very careful consideration to this case and to the recommendations of the panel in respect of both sanction and review period.**

**The panel have found a number of breaches of financial procedures and policies and moreover they have found dishonesty, albeit not serious dishonesty.**

**Ms Scott was a headteacher and she failed to adhere to financial procedures relating to school monies. She failed to follow procedures, failed to do so consistently and repeatedly, and failed to do so knowingly. Her behaviour was deliberate.**

**Ms Scott's conduct falls seriously short of that expected by the public. The public has a right to expect that headteachers in particular account properly for public funds and follow the proper procedures for procurement.**

**Ms Scott abused the position of trust in which she found herself. I have considered the published teachers' standards and it is clear that her behaviour is a serious departure from those standards.**

**I have considered the need to take into account the public interest and the need to be proportionate. In my judgement I support the recommendation of the panel that Ms Scott be prohibited from teaching.**

**I have also given careful consideration to the matter of a review period and have taken into account the panel's recommendation.**

**On balance I accept the recommendation of the panel which I believe reflects a proper balance of the public interest and proportionality and takes into account the seriousness of the misconduct and the previous mitigating factors.**

This means that Ms Eileen Scott 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 21 March 2015, 2 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, Ms Eileen Scott remains barred from teaching indefinitely.

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

Ms Eileen Scott 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: 14 March 2013**