



National College for
Teaching & Leadership

Mr Ian McCann: Professional conduct panel outcome

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

June 2017

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

Teacher:	Mr Ian McCann
Teacher ref number:	7656723
Teacher date of birth:	23 September 1957
NCTL case reference:	15466
Date of determination:	27 June 2017
Former employer:	Rosewood Primary School

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 26 and 27 June 2017 at The Ramada Hotel and Suites, The Butts, Coventry CV1 3GG to consider the case of Mr Ian McCann.

The panel members were Mr Ian Hughes (lay panellist – in the Chair), Ms Gail Goodman (teacher panellist), and Mr Chris Rushton (lay panellist).

The legal adviser to the panel was Mr Robin Havard of Blake Morgan LLP solicitors.

The presenting officer was Ms Laura Stephenson, Counsel, on the instruction of CMS LLP.

Mr McCann was neither present nor represented.

The hearing took place in public other than those parts of the evidence which related to medical issues which took place in private. The hearing was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 28 March 2017.

It was alleged that Mr Ian McCann was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that he failed to maintain appropriate professional standards whilst working as headteacher at Rosewood Primary School in that:

1. He obtained a doctor's note stating he was unable to work due to sickness between 12 October and 2 November 2015;
2. He was absent from work between 12 – 25 October 2015;
3. His actions at 1 and 2 above were undertaken in order to enable him to participate in a charity cycle ride in Cuba;
4. His actions set out above were dishonest.

Mr McCann admitted the facts of allegations 1 and 2. He denied the facts of allegations 3 and 4. He did not indicate whether he admitted that the facts of allegations 1 and 2 amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. Consequently, the panel proceeded on the basis that both were denied.

C. Preliminary applications

Proceeding in Absence

The Notice of Proceedings was sent to Mr McCann by letter of 28 March 2017. The Notice is in compliance with the Teacher Misconduct – Disciplinary Procedures and provided in excess of eight weeks notice of today's hearing.

The panel also notes that Mr McCann completed and returned the Notice of Proceedings form which is signed by him and dated 2 April 2017.

The panel is satisfied that the proceedings have been properly served.

The panel has gone on to consider whether it would be appropriate to proceed in the absence of Mr McCann. In accordance with paragraph 4.29 of the Teacher Misconduct – Disciplinary Procedures, the panel has a discretion whether to proceed with the hearing in the absence of the teacher or to adjourn the hearing.

In the Notice of Proceedings form, Mr McCann confirms that he does not intend to appear at the hearing nor does he intend to be represented.

In the statement he has provided and dated 5 June 2017, he apologises for his absence at the hearing and he states that, through physical and mental health issues, he is not fit to attend. However, Mr McCann does not make any request for the hearing to be adjourned to a future date nor does he give any indication that, were the matter to be adjourned, he would attend at the

adjourned hearing. Indeed, Mr McCann's representative has sent an email dated 5 June 2017 confirming that Mr McCann is content for the matter to proceed in his absence.

Mr McCann is clearly aware of today's hearing and, in the absence of any request for an adjournment, the panel concludes that he has waived his right to attend. There is no guarantee that, if the matter were to be adjourned, Mr McCann would attend at the adjourned hearing.

Whilst the allegations are serious, Mr McCann has submitted a detailed response and therefore the panel is satisfied that it is able to fully understand the issues involved in this case and that it can reach findings of fact on the evidence before it.

Taking account of the public interest in proceedings taking place within a reasonable time, and the public interest in this case, the panel has decided that it is appropriate to proceed with the hearing in the absence of Mr McCann.

Relevance of evidence of good character

In reaching its findings of fact, the panel accepts the submissions of the presenting officer that Mr McCann's competence and track record as a teacher are not relevant to his propensity to act dishonestly.

However, the panel finds that the evidence that Mr McCann is someone of good character and that he has an unblemished regulatory history is relevant and represent factors to be taken into account when reaching its findings of fact in respect of the allegation of dishonesty.

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 – page 2

Section 2: Notice of Proceedings and response – pages 4 to 10

Section 3: NCTL witness statements – pages 12 to 30

Section 4: NCTL documents – pages 32 to 150

Section 5: Teacher documents – pages 152 to 186

On the morning of the hearing, the presenting officer provided the panel with a service bundle which is labelled bundle B, and a bundle of email exchanges between the presenting officer's instructing solicitors and Mr McCann's representatives which was labelled bundle C.

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

Witnesses

The panel heard evidence from the following witnesses called on behalf of the NCTL:

Witness A – Governor Services Officer at Lancashire County Council;

Witness B – Principal Human Resources Manager at East Lancashire County Council;

Witness C – retired teacher at Rosewood Primary School.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing together with those documents introduced at the start of the hearing.

Brief Summary

Mr McCann began his teaching career in 1981 at Haslingden Primary School.

In 2005, Mr McCann joined Rosewood Primary School ("the school") as headteacher.

In or about autumn 2014, Mr McCann's father passed away following illness.

On 19 March 2015, Mr McCann submitted a written application to the Governors requesting eight days unpaid leave to go on a charity bike ride in Cuba from 15 October 2015 to 23 October 2015. Following a meeting of the governing body on 19 March 2015, that request was denied.

In or about April 2015, Mr McCann requested the governing body to reconsider his request.

On 30 April 2015, the governing body reconsidered Mr McCann's request for leave but, again, the decision of the governing body was to refuse his request.

On 13 October 2015, Mr McCann submitted a statement from his GP following a consultation on 12 October 2015. This confirmed that, according to an assessment made by the GP, Mr McCann was not fit for work for a, "*stress related problem*".

Mr McCann duly went on the charity bike ride to Cuba from 15 October 2015 to 23 October 2015.

On 26 October 2015, Mr McCann was suspended from his role as headteacher on full pay.

On 10 November 2015, Mr McCann was invited to a formal interview in accordance with the school's Disciplinary and Dismissal Procedure 2015. The interview did not take place until 14 January 2016. Subsequently, on 20 January 2016, Mr McCann submitted a statement and responded to questions which had been put to him in writing and a decision was taken that there was a disciplinary case to answer before a Disciplinary and Dismissal Committee of the governing body.

However, before such a hearing could take place, and by letter dated 28 February 2016, Mr McCann resigned from his post.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against Mr McCann proven, for these reasons:

That you failed to maintain appropriate professional standards whilst working as Headteacher at Rosewood Primary School in that:

1. You obtained a doctor's note stating you were unable to work due to sickness between 12 October and 2 November 2015;

The facts of this allegation are admitted by Mr McCann in his witness statement and the panel has also been referred to the document entitled, "Statement of Fitness for Work". This document has been completed by Mr McCann's GP. It confirms that, on 12 October 2015, Mr McCann's GP assessed that Mr McCann was not fit for work from 12 October 2015 to 2 November 2015 because of a "stress related problem".

The panel therefore finds this allegation proved.

2. You were absent from work between 12 – 25 October 2015;

The fact of this allegation is admitted by Mr McCann in his witness statement and the school has also confirmed that he was absent from work between 12 and 25 October 2015. The panel therefore finds the fact of this allegation proved.

3. Your actions at 1 and 2 above were undertaken in order to enable you to participate in a charity cycle ride in Cuba;

Mr McCann admits the following:

- (i) that he obtained a doctor's note confirming that he was unable to work due to sickness between 12 October and 2 November 2015
- (ii) that he was absent from work between 12 and 25 October 2015
- (iii) that he went to Cuba to take part in a charity cycle ride between 15 and 23 October 2015

Mr McCann denies that there is any link between the timing of his assessment as being unfit for work and his participation in the charity cycle ride in Cuba.

For the panel to reach its conclusion in respect of this allegation, it is necessary to make findings of fact with regard to the chronology of Mr McCann's conduct over the months leading up to him travelling to Cuba to take part in the bike ride from 15 to 23 October 2015.

The panel listened to the evidence of Witness A. Throughout the material time, Witness A was the Chair of Governors at the school. The panel found her to be a credible and reliable witness. She has provided a detailed account of the events both prior to, and following, Mr McCann's absence from school in October 2015. The panel therefore relies on the chronology of Witness A and reaches the following findings of fact.

In the autumn term of 2014, Mr McCann approached Witness A stating that he intended to request a leave of absence to go to Cuba on a charity bike ride to commemorate the death of his father who had died in September 2014.

On 19 March 2015, the governors received a letter from Mr McCann formally requesting eight days leave to go on the charity bike ride to Cuba from 15 October 2015 to 23 October 2015. This would be during term time as the half term break took place in the week commencing 26 October 2015.

The school has a Leave of Absence Policy which confirms that the governors have a discretionary power to grant leave but, if during term time, it would only be allowed in exceptional circumstances. The criteria are clearly set out at paragraph 4.d. of the Policy and include, for example, a consideration whether any precedent would be set by granting such leave.

Having given the matter due consideration at its meeting on 19 March 2015, the governing body denied Mr McCann's request as the governors concluded by a majority that, "*it could not be approved due to the precedent it would be setting*". Mr McCann was informed by Witness A on the following day.

There is no procedure enabling Mr McCann to appeal against that decision. However, and unusually, in late April 2015, Mr McCann asked Witness A if he could renew his request for leave. He was allowed to do so.

On 30 April 2015, a second governing body meeting took place at which Mr McCann's request for leave was reconsidered. Mr McCann attended that meeting and read aloud a personal statement expressing his disappointment that his first request had been denied and adding further submissions why his request should be approved. Furthermore, Mr McCann requested that the governors should vote on his request by secret ballot, which the governing body agreed to do. Once again, after deliberation, and by a majority, Mr McCann's request for leave was denied.

On 2 October 2015, Witness A was approached by a teacher at the school, Witness C, who informed her of a conversation she had held with Mr McCann. The panel had been provided with a statement from Witness C dated 4 March 2017 and she attended to give evidence to the panel. Again, the panel found Witness C to be a credible and reliable witness.

Witness C says, and the panel finds, that, on 28 September 2015, she went to see Mr McCann in his office to hand in her letter of resignation as she was looking to retire at the end of the year. When she spoke to Mr McCann, he said words to the effect of, "*I may not be at the school myself by then as I intend to go on my planned bike ride to Cuba*". He also said to Witness C that he had, "*already spent £2,000*" as a deposit which he had paid earlier in the year and that he was "*going to go, regardless of the consequences*". He then said words to the effect that he had, "*not*

decided whether to go on the sick or not" and he requested Witness C not to discuss their conversation with anyone else.

When giving her evidence, Witness C was pressed on the account of her conversation with Mr McCann and she said that she was certain of what he had said. Indeed, whilst she went to see him to hand in her resignation, Witness C found the conversation became more about Mr McCann's situation than her own and the fact that he had not been allowed to go on the trip to Cuba. Witness C was shocked at what he said to her.

On 3 November 2015, Witness C provided a written account of the conversation which is consistent with her written statement and oral evidence.

In his responses, the only reference made by Mr McCann of his conversation with Witness C was that he had no clear recollection of what was said.

On 12 October 2015, Witness A contacted Witness B, the Principal Human Resources Manager at Lancashire County Council, to inform her of the position and Witness B advised that Witness A should send a letter to Mr McCann confirming that he should not contravene the decision of the governors and go on the trip to Cuba.

On 12 October 2015, Witness A took the letter into the school to give to Mr McCann but was informed that Mr McCann had called in sick that day.

On 13 October 2015, Witness A requested the school to send the letter to Mr McCann's home address by signed delivery. Later that same day, Witness A was told that Mr McCann had sent in a sick note confirming that he would be on the sick from 12 October 2015 to 2 November 2015.

On 14 October 2015, the letter was delivered to Mr McCann who confirms that he signed for it but denies that he read the letter. The panel finds, on the balance of probabilities, that he did read the letter. The panel finds it wholly implausible that Mr McCann would sign for a letter which was delivered to his home address and then simply put it to one side without opening it to await his return some ten days later.

Suspecting that Mr McCann had indeed gone on the trip to Cuba, Witness A researched the trip and found evidence on the social media site Facebook which confirmed Mr McCann as going on the trip.

On 22 October 2015, Witness B, who is the Principal Human Resources Manager at East Lancashire County Council, and who also attended the hearing to give evidence, contacted Witness A to inform her that she had discovered that a national newspaper intended to publish a story of Mr McCann going on a trip against the governors' instructions.

On 25 October 2015, Witness A again visited Facebook and found a video clip showing images of Mr McCann present at the event. Indeed, pictures of Mr McCann on the trip in Cuba had been taken from Mr McCann's own Facebook page and published in various newspapers. It is not denied by Mr McCann that he did go on the charity cycle ride to Cuba between 15 and 23 October 2015.

The panel has read carefully the account provided by Mr McCann in his statement and the various written submissions made by him and served on his behalf. The panel has noted Mr McCann's assertion that he had been suffering from stress brought on by not only the death of his father in Autumn 2014 but also the fact that certain pupils had presented with very challenging behaviour throughout 2015.

Nevertheless, whilst the panel does not underestimate the effect the loss of his father had upon Mr McCann, the other issues to which he refers, such as the challenging behaviour of a small number of pupils, were as much, if not more, of an issue for other members of staff as for Mr McCann. Indeed, Witness C stated that she personally had been assaulted on two occasions by pupils during 2015 and this was one of the reasons for her decision to retire early. Also, Witness A confirmed it was an issue at the school at that time but it was being managed by a team of people including the deputy head, the Special Educational Needs Co-ordinator, and the form teachers.

The panel finds that it had always been the intention of Mr McCann to go on the cycle trip to Cuba during the autumn term of 2015 irrespective of the decisions of the governing body in March and April 2015 refusing his request for authorised leave of absence.

The panel also finds that it is no coincidence that Mr McCann obtained a doctor's note stating that he was unable to work due to a stress related problem between 12 October and 2 November 2015 to coincide with the dates of the trip to Cuba. In support of this finding, the panel considers the evidence of Witness C to be of particular importance, namely that Mr McCann made it clear to her that he intended to go on his planned bike ride to Cuba, he had already spent some £2,000.00 in respect of the trip, and he was going to go regardless of the consequences. He also said to Witness C words to the effect that he had, "*not decided whether to go on the sick or not*". The panel is satisfied that he made the decision to "*go on the sick*", hence obtaining the sick note from his GP.

Witness C's evidence is also supported by the GP notes which had been provided by Mr McCann. Whilst Mr McCann had consulted his GP on 8 September 2015 with regard to suffering stress at work, there is then a reference in the GP records on 11 September 2015 relating to, "*Foreign travel risk assessment*".

On 18 September 2015, there is the following entry, "*Telephone encounter – rang to discuss travel vaccines for Cuba – for 3rd hep A/B and also typhoid. Discussed rabies vaccine as cycling holiday, declines this. Appt given for other travel vaccs.*"(sic)

On 21 September 2015, there is the following entry, "*Seen by practice nurse – attended for travel vaccines as discussed.*"

Then, on 12 October 2015, there is an entry which includes the following, "*still a lot of stress at work feels he needs time off*".

The panel also considers it is relevant that, ordinarily, Mr McCann would plan to complete Performance Management for senior leadership by the end of October. By contrast, in 2015, it had been noticed by Witness A that he had finished this process earlier than usual. Witness A also confirmed, and the panel finds, that at no stage prior to 12 October 2015 did Mr McCann

approach her to say that he was suffering from stress and needed support. Indeed, whilst Witness A and Mr McCann had enjoyed a constructive working relationship for many years, Mr McCann stopped engaging with her once the governors had decided to refuse his second application for leave. Indeed, Witness A noticed that, whilst beforehand Mr McCann would address her and the other governors by their first names, following the governors' second decision, he started to address them by their surnames.

The panel is satisfied that obtaining a doctor's note stating that he is unable to work due to sickness between 12 October and 2 November 2015 and his subsequent absence from work between 12 and 25 October 2015 was a deliberate course of conduct on his part to enable him to participate in the charity cycle ride in Cuba.

For these reasons, the panel finds the facts of allegation 3 proved.

4. Your actions set out above were dishonest.

The panel relies on its findings of fact in relation to allegation 3 above.

In deciding whether Mr McCann's actions were dishonest, first, the panel has considered whether his conduct would be considered to be dishonest by the standards of reasonable and honest people.

The panel is satisfied that, by such standards, a headteacher who has been refused permission on not one, but two, occasions by the governing body to go on a charity cycle ride in Cuba during term time, but who then goes on to do so having persuaded a GP to sign him off work due to a stress-related condition would be considered to be dishonest conduct.

The panel considers that Mr McCann also knew that, by those standards, his conduct was dishonest. The panel has taken into consideration what Mr McCann has to say about his conduct in his statement, saying that he bitterly regrets the decision he took but that he was suffering from stress at the time. However, the panel has made findings of fact which support the conclusion that he had quite clearly made up his mind that, whatever the decision of the governing body, he was going to go on the trip. The panel is also particularly concerned at the discussion held with Witness C when he stated that he was going to go on the trip, regardless of the consequences and also that he had not yet decided whether he intended to go on the sick or not to cover the period during which the trip took place. Clearly he had reached this decision well before the trip was due to take place and he had already invested money in the trip. The GP notes also confirm that he had arranged to receive the necessary vaccinations in the course of September 2015.

In his statement, Mr McCann also attempts to justify his decision by saying that, *"this would not only be a tribute to my father, it would also be an activity of curriculum enrichment, extending children's learning and forging links between the school and other schools in the Caribbean"*. The panel finds the latter part of this submission to be wholly disingenuous.

The panel reiterates that it finds that, by the standards of reasonable and honest people, Mr McCann's conduct was dishonest and that he knew that, by those standards, he acted dishonestly in the way that he conducted himself up to and during his unauthorised leave of absence in October 2015.

Consequently, the panel finds Mr McCann's actions to be dishonest and therefore finds the fact of allegation 4 proved.

On the basis of its findings, the panel also finds that he failed to maintain appropriate professional standards whilst working as Headteacher at Rosewood Primary School.

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

Having found the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel has had regard to the document entitled Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”, and the Teachers' Standards.

The panel is satisfied that the conduct of Mr McCann in relation to the facts found proved, involve breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr McCann is in breach of the following standards:

A teacher is expected to demonstrate consistently high standards of personal and professional conduct.

- teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach and maintain high standards in their own attendance and punctuality
- teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The panel is satisfied that Mr McCann is guilty of unacceptable professional conduct in that his conduct fell significantly short of the standards expected of the profession.

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 pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct are very serious. The panel is particularly concerned that Mr McCann, as headteacher, had deliberately flouted the authority of the governing body and taken leave of absence to go to Cuba during term time which had not been authorised by the governing body.

It is difficult to think of a worse example that he could have set to the staff and pupils at the school. The conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception. The panel therefore finds that Mr McCann'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 Advice and having done so has found a number of them to be relevant in this case, namely the public interest in the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel also acknowledges that there is a public interest in a teacher who is able to make a valuable contribution to the profession being able to continue in that profession, as outlined in the judgment in *Wallace v Secretary of State for Education* [2017] EWHC 109 (Admin). The Wallace judgment also stated that a finding of unacceptable professional conduct and the formal publication of the findings of misconduct are of themselves detrimental and illustrate that such misconduct is wholly unacceptable.

The panel's findings against Mr McCann involve a dishonest course of conduct which has had a significant adverse impact on the level of trust which is fundamental in respect of any teacher but particularly a headteacher and his relationship with his governing body. In the light of such findings, the panel considers that important elements of the public interest considerations are engaged, namely, maintaining the reputation of the profession and upholding proper standards of conduct.

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

Finally, the panel considers that a strong public interest consideration in declaring proper standards of conduct in the profession is also present as the conduct found against Mr McCann is far outside that which can 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 McCann.

Mr McCann's professional reputation has already been adversely affected by these proceedings. In the particular circumstances of this case, the public findings of unacceptable professional conduct and conduct that may bring the profession into disrepute are sanctions in themselves. Such findings will remain with Mr McCann for the remainder of his life.

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 McCann. The panel has taken further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departures from the personal and professional conduct elements of the Teachers' Standards
- proven dishonesty which cannot be considered to be an isolated event and which the panel considers to be serious

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The panel notes that no pupils were directly affected, that his conduct may have been affected to an extent by stress and the loss of his father, and that he had expressed regret for his actions. The objectives of the trip to Cuba were also understandable and laudable.

However, there is no evidence to suggest that Mr McCann's actions were not deliberate, nor was he acting under duress.

The panel also rejects the suggestion that this was one grave error of judgment in an otherwise unblemished career. As stated, the panel does not accept that this was an isolated incident. First, he had indicated his wish to go on the trip to Cuba as early as the autumn term of 2014. Secondly, he had paid a deposit even though he had not received permission to go on the trip. Thirdly, irrespective of any decisions made by the governing body in March and April 2015 refusing his request, he still had every intention of going on the trip some five and a half months later. Fourthly, there is evidence that he was continuing to plan the trip well after the governors had refused his requests, as illustrated by his consultations and visits to his doctor's surgery during September 2015 for vaccinations.

The panel has read the testimonials and references submitted in support of Mr McCann which are dated in January 2016. Whilst they are supportive, they do suggest that, whilst Mr McCann may have been experiencing a stressful time in work, the primary reason for his distress was the refusal of the governors to grant him permission to go on the trip to Cuba.

The panel accepts that, prior to the circumstances giving rise to these proceedings, Mr McCann was a person of good character and that he was a competent and well-regarded headteacher.

Nevertheless, 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 McCann even though he has clearly suffered considerably already as a consequence of his behaviour.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel has gone on to consider whether or not it would be appropriate for it to decide to recommend that a review period of the order should be considered. The panel is mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours relates to dishonest conduct which is considered to be serious.

The panel has read carefully the most recent statement from Mr McCann dated 5 June 2017 in which he accepts that his actions at the time were, "*unwise*" and that he deeply regrets the negative impact his actions have had on the school and the community. He has apologised for "*handling matters poorly*" but he then says this, "*Never acting in bad faith, looking back, my decisions appear reckless and sub-par*".

The panel accepts that Mr McCann was suffering from stress at the time as this is the assessment of his GP. The panel also acknowledges that he had suffered a bereavement following the death of his father in September 2014. However, the panel considers that, at the heart of this is a refusal on the part of Mr McCann to accept a decision of the governing body, made on two occasions, on the second occasion Mr McCann taking the extraordinary step of requesting the governing body to vote by secret ballot.

The governing body quite properly took into account the criteria set out in the Leave of Absence Policy and came to a perfectly rational decision, as granting Mr McCann a leave of absence in this way would clearly set a precedent which it considered would lead to difficulties in the future. The issues with regard to pupil non-attendance at school is well publicised as are the consequences that parents can face if they take their children out of school without permission. It is crucial that a headteacher must set the highest of examples. Even if Mr McCann took great exception to the governors' decision, which he clearly did, he still had to respect their decision and abide by it.

Whilst he recognises the poor judgment he has shown, the panel is not convinced that Mr McCann fully appreciates, or has sufficient insight into, the seriousness of his behaviour, or the consequences it has had for the school in terms of adverse publicity, or the example he has set to pupils and staff alike.

The recommendation of the panel, whilst not in any way designed to be punitive, must take account of the risk of repetition of the sort of behaviour which has led to these proceedings against Mr McCann. The panel is not sufficiently reassured by what it has read and heard to enable it to find at this stage that there is no risk of repetition of this sort of behaviour.

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

Such a period would adequately mark the seriousness of Mr McCann's conduct. It will also provide a suitable period during which Mr McCann can further reflect on his behaviour and the consequences of his behaviour. Finally, it will enable Mr McCann to seek advice and support that he may need to ensure that the risk of a repetition of such behaviour and poor judgment is minimised.

Decision and reasons on behalf of the Secretary of State

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

In considering this case I have given very careful attention to the advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr McCann should be the subject of a prohibition order, with a review period of three years.

In particular the panel has found that Mr McCann is in breach of the following standards:

A teacher is expected to demonstrate consistently high standards of personal and professional conduct.

- teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach and maintain high standards in their own attendance and punctuality
- teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

These findings of misconduct are particularly serious as they include a finding of dishonesty on the part of a headteacher and involves a course of conduct designed to deliberately flout the decision of the governing body with regard to attendance at school.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim, taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr McCann, and the impact that will have on him, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed, “pupils must be able to view teachers as role models in the way they behave.” I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “the panel is not convinced that Mr McCann fully appreciates, or has sufficient insight into, the seriousness of his behaviour, or the consequences it has had for the school in terms of adverse publicity, or the example he has set to pupils and staff alike.”

In my judgement the lack of insight means that there is some considerable risk of the repetition of this behaviour. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that Mr McCann’s behaviour, “ has had a significant adverse impact on the level of trust which is fundamental in respect of any teacher but particularly a headteacher and his relationship with his governing body.”

I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr McCann himself. I have noted the comments made by the panel that “Mr McCann was a person of good character and that he was a competent and well-regarded headteacher.”

A prohibition order would prevent Mr McCann from continuing to work as a teacher.

In this case I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has said that it, “is not sufficiently reassured by what it has read and heard to enable it to find at this stage that there is no risk of repetition of this sort of behaviour.”

I have also placed considerable weight on the finding of the panel that Mr McCann’s dishonesty was deliberate, “The panel also rejects the suggestion that this was one grave error of judgment in an otherwise unblemished career. As stated, the panel does not accept that this was an isolated incident.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McCann has made to the profession. In my view it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by remorse or insight does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel has recommended a 3 year review period.

I have considered the panel's comments "It is crucial that a headteacher must set the highest of examples. Even if Mr McCann took great exception to the governors' decision, which he clearly did, he still had to respect their decision and abide by it."

The panel has also said that a 3 year review period would "adequately mark the seriousness of Mr McCann's conduct. It will also provide a suitable period during which Mr McCann can further reflect on his behaviour and the consequences of his behaviour. Finally, it will enable Mr McCann to seek advice and support that he may need to ensure that the risk of a repetition of such behaviour and poor judgment is minimised."

I have considered whether a 3 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are three factors that in my view mean that a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the lack of either insight or remorse, and the deliberate actions of Mr McCann to pursue his actions despite a clear instruction from the governing body.

I consider therefore that a three year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Ian McCann is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 2020, 3 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Ian McCann remains prohibited from teaching indefinitely.

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

Mr Ian McCann 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.



Decision maker: Alan Meyrick

Date: 4 July 2017

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