



Teaching
Regulation
Agency

Mr Imtiaz Nabi: Professional conduct panel outcome

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

May 2018

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

Teacher:	Mr Imtiaz Nabi
Teacher ref number:	9460109
Teacher date of birth:	27 June 1971
TRA case reference:	11779
Date of determination:	29 May 2018
Former employer:	Langdon School, Newham

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Authority (“TRA”) convened on 29 May 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Imtiaz Nabi.

The panel members were Ms Kathy Thomson (teacher panellist – in the chair), Ms Jean Carter (lay panellist) and Mr Martin Pilkington (lay panellist).

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

The presenting officer for TRA was Mr Ben Bentley of Browne Jacobson LLP, solicitors.

Mr Nabi was present and was not represented.

Save for those parts of the hearing which the panel directed should take place in private, the hearing took place in public. The hearing was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 2 February 2018.

It was alleged that Mr Imtiaz Nabi was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst employed by Langdon School ("the School") as an Assistant Head Teacher and a member of the Senior Leadership Team between April 2007 and 2009, he:

1. Caused and/or permitted and/or were aware but failed to prevent the inappropriate coding of pupil attendance within statutory registration documents in order to improve the attendance data of the School.
2. His conduct, as may be found proved at allegation 1 above,
 - a. was dishonest, in that he knew that information being recorded was deliberately falsified and/or inaccurate, and he appreciated this at the time that such information as being provided;
 - b. demonstrated a lack of integrity, in that as a school leader he failed to act to prevent the recording of information in circumstances where he knew, or ought to have known, or had the opportunity to challenge or prevent such information being misrepresented.

Mr Nabi had admitted the facts of the allegations and that such facts amounted to unacceptable professional conduct.

C. Preliminary applications

Public/Private

The panel considered an application from Mr Nabi for the hearing to be held in private. [redacted].

Even though there was no [redacted] evidence before it, the panel understood that there was no objection from Mr Bentley to the application.

There was a presumption that TRA hearings shall be heard in public but the panel can decide that the hearing, or part of it, should take place in private if it did not consider it to be contrary to the public interest.

On the basis that any decision of the panel must be announced in public, and taking account of the basis on which the application has been made, [redacted] the panel

decided that those parts of the hearing which relate to Mr Nabi's [redacted] should be heard in private. Otherwise, the hearing shall proceed in public.

D. Summary of evidence

Documents

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

Section 1: Notice of Proceedings and Response – pages 2 to 6

Section 2: Statement of Agreed Facts – pages 8 to 14

Section 3: Witness statements – pages 16 to 42

Section 4: TRA documents – pages 43 to 99

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

Witnesses

The panel did not hear any oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel had carefully considered the case before it and had reached a decision.

The panel confirmed that it had read all the documents provided in the bundle in advance of the hearing.

By way of brief summary, the following paragraph had been taken from the Agreed Statement of Facts ("the Statement"):

"1. *Mr Imtiaz Nabi was employed as a teacher at Langdon School ("the School") from July 1995. In 2004 he was appointed as an Assistant Head Teacher and was part of the Senior Leadership Team until he resigned from the School in February 2009.*"

Findings of fact

Our findings of fact are as follows:

The panel found the following particulars of the allegations against you proven, for these reasons:

Whilst employed by Langdon School ("the School") as an Assistant Head Teacher and a member of the Senior Leadership Team between April 2007 and 2009, you:

- 1. Caused and/or permitted and/or were aware but failed to prevent the inappropriate coding of pupil attendance within statutory registration documents in order to improve the attendance data of the School.**

The facts of this particular were admitted by Mr Nabi and the panel found them proved.

The panel set out below the relevant extract from the Statement:

"Allegation 1

- 2. During the course of his time as part of the Senior Leadership Team ("SLT"), Mr Nabi confirms that he attended SLT meetings, at which weekly summaries of pupil attendances would be distributed. The Head Teacher would focus on any which recorded attendance below 95% and request to know what strategies were in place to improve pupil attendance.*
- 3. The School was split into three parts: Lower School, Middle School, and Upper School. Mr Nabi worked as an Assistant Head Teacher in the Lower School with Years 7 & 8.*
- 4. Mr Nabi admits that he would frequently falsify the attendance figures which were presented for the Lower School to ensure that these were above 95%.*
- 5. Between 2004 and 2009 the School recorded pupil attendance using paper attendance registers. The tactics adopted by Mr Nabi to improve attendance would include:*
 - a. Marking present on the register anyone who arrived late – for example if they arrived in the afternoon they would be marked as present all day.*

- b. Changing the letter 'E' in registers for pupils who had been excluded, to the letter 'B' representing 'Education off-site' because Individual A explained that this wasn't an exclusion because work was being sent home.*
 - c. Changing the letter 'H' in the register which is an authorised holiday absence, also to the letter 'B' representing 'Education off-site' because this would also be counted as present for the purposes of attendance statistics.*
- 6. Mr Nabi admits that through his regular amending of classroom registers, which are a statutory document, information in relation to both a) pupil attendance and b) pupil exclusions was frequently misrepresented as inaccurate and falsified.*
- 7. Mr Nabi also admits that he was aware that the falsified information within the registers would then be used to report inaccurate information to both the school governors and the local authority, Newham Council.*
- 8. Mr Nabi admits that falsifying registers is a very serious matter, as these are statutory documents, and can be relied upon by courts in seeking to establish the whereabouts of a child. If a register is deliberately marked inaccurately, it could have the effect of disguising a safeguarding concern in relation to a child who is absent from school."*

The panel had also considered the redacted statement of Individual B and the redacted expert report of Individual C dated 30 August 2017. Individual B was Office Manager at the material time and her responsibilities included updating school attendance registers, and calculating attendance figures. This evidence supported the facts of the allegation and there was nothing within them that was inconsistent with the Statement of Agreed Facts.

- 2. Your conduct, as may be found proved at allegation 1 above,**
 - a. was dishonest, in that you knew that information being recorded was deliberately falsified and/or inaccurate, and you appreciated this at the time that such information as being provided;**
 - b. demonstrated a lack of integrity, in that as a school leader you failed to act to prevent the recording of information in circumstances where you knew, or ought to have known, or had the opportunity to challenge or prevent such information being misrepresented.**

The facts of this particular were admitted by Mr Nabi and the panel found them proved.

The panel set out below the relevant extract from the Statement:

"Allegation 2

9. *Mr Nabi admits that by virtue of his conduct as set out above, he acted in a way which a reasonable person apprised of the facts would consider to be both dishonest, and lacking in integrity. Mr Nabi appreciated this at the time that amendments were made to the registers by himself, and continues to acknowledge his dishonesty now."*

In light of the agreed facts, the panel was satisfied that Mr Nabi knew that his conduct was dishonest and that such conduct would be seen by a reasonable and honest person as dishonest.

Again, as a result of Mr Nabi's admissions, the panel found that Mr Nabi had failed to live up to the professional standards of his profession, nor had he adhered to the ethical standards expected of his profession.

In the circumstances, the panel concluded that Mr Nabi had acted dishonestly and with a lack of integrity.

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

Having found the allegations to have been proved, the panel had gone on to consider whether the facts of those proven allegations amounted 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 Teacher Misconduct: The Prohibition of Teachers, which the panel referred to as "the Advice".

The following admission was contained in the Statement:

"Unacceptable Professional Conduct

10. *Mr Nabi admits that his conduct in respect of allegations 1 and 2, amounts to Unacceptable Professional Conduct and/or conduct that may bring the profession into disrepute as set out in rules 2.3-2.4 of the Disciplinary Rules for the regulation of the teaching profession which may be defined as misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a*

teacher and which if proven, may bring the profession into disrepute in accordance with the guidance set out in the Department of Education advice document 'The Prohibition of Teachers'."

Whilst it noted, and took into account, Mr Nabi's admission, the panel recognised that this was a matter for its judgment.

The panel was satisfied that the conduct of Mr Nabi in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Nabi was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Nabi amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel had taken into account how the teaching profession was viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel had 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 were serious and 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 found that Mr Nabi's actions constituted conduct that amounted to both unacceptable professional conduct and 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 document entitled Teacher Misconduct: The prohibition of teachers ("the Advice") and, having done so, has found all three to be relevant in this case, namely: the protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel also acknowledged 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 dishonesty 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 Nabi involved dishonesty in the manipulation of highly important statutory information. His dishonest conduct was designed to mislead. Such behaviour had been sustained over a period of some three years. The panel considers that pupils' well-being was put at risk in that it is of vital importance that schools are as informed as possible with regard to a pupil's whereabouts. The maintenance of accurate registers is central to that process. This is reflected in paragraph 8 of the Statement. The panel also accepted the general comments in paragraphs 5 and 6 of Individual C's report which set out further reasons why the efficient keeping of pupils' records is so important.

"Acceptable procedures and proper practices

- 5. In my experience it is well recognised that the efficient keeping of pupils' records are paramount in providing accurate and reliable information both for internal use and for the wider audience such as DFE and Ofsted. This is also a legal requirement as set out in The Education (Pupil Registration) Regulations.*
- 6. Pupil registers and the information gathered from them are fundamental in providing data for funding, statistical evidence of the national perspective and targets which can also be used to identify areas of need, outstanding schools and those that fall short of national targets."*

Public confidence in the profession could be seriously weakened if conduct such as that found were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Nabi was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mr Nabi. In considering the issue of proportionality, the panel applied the following test, namely whether a less intrusive measure could be used without unacceptably compromising the achievement of the relevant objective and whether, having regard to these matters and the severity of the consequences for Mr Nabi, a fair balance can be struck between the rights of Mr Nabi and the interests of the public.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition. The panel took 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;
- dishonesty, especially where it has been repeated.

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 heard submissions from Mr Nabi relating to his situation at the School throughout the material time when holding the post of Assistant Head Teacher. In the panel's view, whilst it does not in any way excuse his conduct, the circumstances in which Mr Nabi found himself when Assistant Head teacher at the School may explain why, wrongly, he decided to behave dishonestly.

The panel recognises that Mr Nabi was operating at the time under significant pressure. He made submissions which described an environment which made him feel scared and he did not want to be shouted at. He said that he is not the sort of person to speak up and the atmosphere in the school was one which affected his self-confidence.

Whilst the panel was not satisfied that the account portrayed by Mr Nabi amounted to a situation where he was acting under duress, it did accept that he was working under great pressure.

The panel noted that Mr Nabi is a person of previous good character, although it had not been provided with any character references or testimonials.

Mr Nabi'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 is a sanction in itself and will remain with Mr Nabi throughout his career as a teacher.

However, the panel had to weigh in the balance the seriousness of the findings against Mr Nabi. The acts of dishonesty were deliberate and sustained over a substantial period. The acts of dishonesty related to the collection of data which is a statutory requirement that was then systematically and deliberately falsified. It is essential that such data is accurately and honestly recorded so that those who need to receive that data can rely on it. As stated, whilst there is no evidence that pupils were placed at risk, there is a need for attendance records to be accurate from a safeguarding perspective.

The panel considered whether the public announcement of the panel's findings of unacceptable professional conduct and conduct that may bring the profession into disrepute would unacceptably compromise the achievement of the relevant objective, namely, the protection of the public interest, having regard to the severity of the consequences for Mr Nabi. However, this case involves dishonesty which, in the panel's view, compromises the integrity of the profession.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect. Indeed, in fairness to him, Mr Nabi had conceded that this was likely, taking account of the panel's findings, as set out in paragraph 11 of the Statement.

"11. Furthermore, in view of the seriousness of the admitted allegations and the fact that Mr Nabi is no longer working in the teaching profession, Mr Nabi acknowledges that he is likely to be prohibited from the teaching profession because his dishonesty was serious and extended over a significant period of time. Mr Nabi understands that a Panel may make a recommendation that he be permitted a review of any prohibition order made after a period of not less than two years, and this has been explained to him before signing this Statement of Agreed Facts."

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The panel had considered the Advice which indicates that there are behaviours that, if proven, would militate against a review period being recommended. This includes cases of fraud and serious dishonesty. However, the panel has taken a step back and considered the overall circumstances of this case. Whilst serious, the dishonesty does not include acts of financial impropriety with the aim of any personal financial gain by Mr Nabi and the panel accepts the motives for Mr Nabi behaving in this way.

The panel also accepts that Mr Nabi has shown insight and contrition which it found to be genuine. The Statement contains full admissions and an acceptance on the part of Mr Nabi of the seriousness of his conduct.

The panel also takes into consideration the fact that the commencement of the conduct giving rise to these proceedings started over ten years ago and lasted for two years. No explanation has been provided to indicate why it was not until February 2018 that Notice of Proceedings was served on Mr Nabi. The panel noted that Individual B had been interviewed as long ago as July 2011 as part of the investigation into the School.

In its judgement, and having listened carefully to Mr Nabi, 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 Mr Nabi entitled to apply for a review after a period of two years. This would adequately and sufficiently mark to the public the seriousness of the panel's findings.

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 also 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 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 Nabi should be the subject of a prohibition order, with a review period of two years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Mr Nabi fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty in the manipulation of highly important statutory information. The panel said Mr Nabi's, "dishonest conduct was designed to mislead. Such behaviour had been sustained over a period of some three years."

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 Nabi, 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, "that pupils' well-being was put at risk in that it is of vital importance that schools are as informed as possible with regard to a pupil's whereabouts." The panel went on to say, "The maintenance of accurate registers is central to that process." A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "The panel also accepts that Mr Nabi has shown insight and contrition which it found to be genuine. The Statement contains full admissions and an acceptance on the part of Mr Nabi of the seriousness of his conduct." I have noted the panel's comments concerning mitigation, "The panel heard submissions from Mr Nabi relating to his situation at the School throughout the material time when holding the post of Assistant Head Teacher. In the panel's view, whilst it does not in any way excuse his conduct, the circumstances in which Mr Nabi found himself when Assistant Head teacher at the School may explain why, wrongly, he decided to behave dishonestly."

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, "Public confidence in the profession

could be seriously weakened if conduct such as that found were not treated with the utmost seriousness when regulating the conduct of the profession.” 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 placed considerable weight on the panel’s consideration of the satisfying the public interest test, “The panel considered whether the public announcement of the panel's findings of unacceptable professional conduct and conduct that may bring the profession into disrepute would unacceptably compromise the achievement of the relevant objective, namely, the protection of the public interest, having regard to the severity of the consequences for Mr Nabi. However, this case involves dishonesty which, in the panel's view, compromises the integrity of the profession.

Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect. Indeed, in fairness to him, Mr Nabi had conceded that this was likely”.

I have also considered the impact of a prohibition order on Mr Nabi himself. The panel note, “that Mr Nabi is a person of previous good character, although it had not been provided with any character references or testimonials.” The panel also say, “Whilst the panel was not satisfied that the account portrayed by Mr Nabi amounted to a situation where he was acting under duress, it did accept that he was working under great pressure.”

A prohibition order would prevent Mr Nabi from returning to the teaching profession. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Nabi 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.

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 2 year review period.

I have considered the panel's comments on insight and remorse.

The panel has also said that a 2 year review period, "would be proportionate in all the circumstances." The panel felt this would, "adequately and sufficiently mark to the public the seriousness of the panel's findings."

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. This includes cases of fraud and serious dishonesty. I have placed weight on the panel's view that, "Whilst serious, the dishonesty does not include acts of financial impropriety with the aim of any personal financial gain by Mr Nabi and the panel accepts the motives for Mr Nabi behaving in this way."

I have considered whether a 2 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, taking into account the circumstances outlined, I am of the same view as the panel and consider that a two year review period is sufficient to achieve the aim of maintaining public confidence in the profession.

This means that Mr Imtiaz Nabi 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 14 June 2020, 2 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 Nabi remains prohibited from teaching indefinitely.

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

Mr Nabi 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: Sarah Lewis

Date: 8 June 2018

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