Teaching Regulation Agency

Mr Neil Wilkinson-McKie: Professional conduct panel outcome

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

November 2018

Contents

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

Teacher:	Mr Neil Wilkinson-McKie
Teacher ref number:	9943579
Teacher date of birth:	12 April 1974
TRA reference:	15826
Date of determination:	30 November 2018
Former employer:	Roseland Academy (formerly known as the Roseland Community College), Tregony, Truro, Cornwall.

A. Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 10 to 14, 17, 18, 20, 21 and 24 to 28 September at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH and on 22, 23, 26, 27, 28 and 30 November 2018 at Cheylesmore House, 5 Quinton Rd, Coventry CV1 2WT to consider the case of Mr Neil Wilkinson-McKie.

The panel members were Mr Martin Pilkington (lay panellist – in the chair), Ms Fiona Tankard (teacher panellist) and Mr Chris Rushton (lay panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Melinka Berridge of Kingsley Napley LLP solicitors.

Mr Wilkinson-McKie was present and was represented by Mr Andrew Faux, of Counsel, instructed by Ms Sarah Linden of ASCL.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 19 February 2018.

It was alleged that Mr Neil Wilkinson-McKie was guilty of unprofessional conduct and/or conduct that may bring the profession into disrepute in that he failed to maintain appropriate professional standards whilst working as the headteacher at the Roseland Academy (formerly known as the Roseland Community College) in the period between 1 September 2012 to 25 May 2016 in that he:

1. Bullied and/or treated unfairly the following members of staff (as detailed in schedule 1:

    a. Witness B;

    b. Witness A;

    c. Witness F;

    d. Individual G;

    e. Witness K;

    f. Witness I.

Schedule 1

Fact	Subject	Date	Action/Conduct
1.a	Witness B	September 2012	Removed Witness B from PASS office.
	Witness B	May – September 2015	Demoted Witness B [redacted].
	Witness B	2015/2016 academic year	Overloaded Witness B with teaching hours
	Witness B	2015/2016 academic year	Set unrealistic performance management targets.
1.b	Witness A	November 2013 – January 2014	Opposed Witness A moving up a pay scale when he had met his targets and/or demonstrated he was making good progress towards them.
1.c	Witness F	Various	Unfairly treated/bullied Witness F.
1.d	Individual G	Various	Unfairly treated/bullied Individual G.

1.e	Witness K	2015/2016 academic year	Unfairly treated/bullied Witness K.
1.f	Witness I	September 2012 – 6 July 2015	Unfairly treated/bullied Witness I.

2. Did not use fair systems for addressing either purported under-performance and/or disciplinary matters and/or threatened the use of disciplinary procedures when such action was not warranted, in relation to the following members of staff (as detailed in schedule 2):

   a. Witness B;

   b. Individual G;

   c. Witness K;

   d. Witness I;

   e. Witness H;

   f. Member of staff/mother of Pupil D

Schedule 2

Fact	Subject	Date	Action/Conduct
2.a	Witness B	September - December 2012	A disciplinary investigation into Witness B regarding his conduct towards Family B/Pupil B.
	Witness B	September 2012	A disciplinary investigation into Witness B regarding his conduct towards Family A.
	Witness B	October 2013	A disciplinary investigation into Witness B regarding his conduct towards Family D.
	Witness B	June 2014	A disciplinary investigation into Witness B regarding his conduct towards Family C.
	Witness B	23 March 2016	Suspended Witness B on 23 March 2016 over an incident concerning Pupil X when such a suspension was unwarranted.
	Witness B	March – May 2016	Interfered and/or improperly influenced or sought to influence disciplinary investigation into Witness B regarding his conduct towards Pupil X.

2.b	Individual G	January 2015 – April 2016	Improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into Individual G.
2.c	Witness K	Autumn term 2015	Instructed Witness D to put Witness K on a support plan when such an action was unwarranted.
2.d	Witness I	March – July 2015	Threatened Witness I with a disciplinary investigation and gave an untruthful explanation to Witness I as the basis for that investigation (and this conduct was misleading and/or dishonest).
2.e	Witness H	December 2015	Told Witness H that Witness E had wanted you to initiate disciplinary proceedings against Witness H but you had persuaded Witness E not to proceed, when you knew that to be untrue (and this conduct was misleading and/or dishonest).
2.f	Member of staff/mother of Pupil D	January – May 2016	Improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into Member of staff/mother of Pupil D.

3. Used inappropriate and/or offensive language to describe staff regarding the following members of staff (as detailed in schedule 3):

   a. Witness B;

   b. Individual G;

   c. Witness F;

   d. Witness K;

   e. Individual M;

Schedule 3

Fact	Subject	Date	Action/Conduct
3.a	Witness B	March 2016	Told Witness D that Witness B was 'evil' and 'Teflon coated' and 'should not be anywhere around children'.
	Witness B	March 2016	Told Witness D that Witness B was and/or was a 'nasty, nasty [piece] of work; and/or 'will make up anything to get [herself] out of something and other people into it'; or words to that effect.

3.b	Individual G	Unknown	Told Witness D that Individual G was 'unpleasant' and/or 'evil' and/or 'shouldn't be in a school'; or words to that effect.
	Individual G	Unknown	Told Witness A that Individual G is 'trouble' and/or 'she sticks her nose in other people's business' and/or 'she thinks she's above her station'; or words to that effect.
3.c	Witness F	March	Told Witness D that Witness F was 'the same as Witness B' and/or was a 'nasty, nasty [piece] of work; and/or 'will make up anything to get [herself] out of something and other people into it'; or words to that effect.
3.d	Witness K	April 2016	Told Witness D that Witness K was 'playing the discrimination card' because of her pregnancy and maternity, or words to that effect.
3.f	Indivudal M	Unknown	Told Witness E that Witness K was 'a bit of a skiver', or words to that effect.

4. On an unknown date at a Senior Leadership Team Meeting he stated to Witness N 'you need to be on top of this, your job or your neck is on the line' or words to that effect.

5. On 7 December 2015, did not accurately report to the governors the reason for the low level of attendance in the 2014-2015 academic year.

6. Between March 2016 and May 2016, improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into five members of staff.

7. In May 2016, in respect of Witness B, he made an offer of voluntary severance with the intention of inducing Witness B to drop the grievance against him.

8. In January 2014 he submitted a resignation letter to the Roseland Academy on behalf of Witness S dated December 2013 and at that time he claimed:

   a. it had previously been submitted by her in December 2013;

   b. that he had found the letter in the post file in the headteacher's PA's office.

9. In March 2015, he presented the results of the staff survey of December 2014 to the Board of Trustees he did not reveal the extent and the seriousness of the concerns about his behaviour that were recorded in the survey.

10. His conduct at 2.d, 2.e, 5, 6, 8 and 9 was:

    a. misleading; and/or

b. dishonest.

In relation to allegation 3, Mr Wilkinson-McKie admitted that he used inappropriate and/or offensive language as follows:

a. Witness B, as regards the use of the words 'nasty, nasty [piece] of work and/or will make up anything to get [himself] out of something and other people into it', or words to that effect.

b. Witness F, as regards the use of the words 'nasty, nasty [piece] of work and/or will make up anything to get [herself] out of something and other people into it', or words to that effect.

c. Witness K, as regards use of the words, 'playing the discrimination card' because of her pregnancy and maternity, or word to that effect.

Save for these admissions, the alleged factual particulars of the allegations were denied. Mr Wilkinson-McKie denied that he was guilty of unacceptable professional conduct or conduct that may bring the profession into disrepute.

C. Preliminary applications

Application to amend allegations

Ms Berridge made an application to amend the allegations and accompanying schedules. Mr Faux did not object to this application. After receiving legal advice, the panel made the following amendments:

- In the preamble to the allegations, deletion of the word 'unprofessional' and replacement by the words 'unacceptable professional';
- Allegation 2 – inclusion of the words 'and/or proportionate' between the words 'fair' and 'systems';
- Allegation 2.f – deletion of the name of the individual referred to in that particular and replacement by the words 'Member of staff/mother of Pupil D';
- Allegation 9 – substitution of 'November' for 'December' and inclusion of the words 'or governors';
- Schedule 2 – in relation to particular 2.a, deletion of the last item referring to Witness B on the basis that this was a duplication of allegation 6;
- Schedule 3 – in relation to particular 3.a, in the second reference to Witness B, the word 'herself' in square brackets be replaced by 'himself';

- Schedule 3 – the reference in the action/conduct section to 'Witness K' be replaced by 'Individual M'.

Application to admit additional documents

Ms Berridge made an application to admit replacement pages D664 to D668A and D827 to D830, to include pages missing from the original bundle. Mr Faux did not object to this application, and, after receiving legal advice, the panel agreed to the admission of these documents.

Mr Faux made an application to admit additional statements and documents. Ms Berridge did not object to the admission of these additional documents and, after receiving legal advice, the panel agreed to the admission of these documents as pages 725 to 1012.

Application to admit statement of Individual G

The statement of Individual G had initially been included in the bundle in redacted form. On day 3 of the hearing, following submission of medical evidence relating to her unfitness to attend the hearing, application was made by the presenting officer for this statement and accompanying exhibit to be admitted in unredacted form. This application was not opposed by Mr Faux. After receiving legal advice, the panel agreed to admit the statement of Individual G in unredacted form. The unredacted statement was included in section 3 of the bundle as pages C39 to C43. Exhibit LH3 to the statement was added in unredacted form to section 4 of the bundle as pages D294 to D302.

Application for witness to give evidence via Skype

Mr Faux made an application for Witness R to give oral evidence remotely via Skype. Mr Faux referred to difficulties in the witness being able to attend to give evidence in person due to the distance involved in travelling to the hearing in the context of other commitments. Mr Faux doubted that it would be possible to secure his attendance in person this week. After hearing submissions from Ms Berridge and receiving legal advice, the chair announced the decision of the panel, as follows:

The panel has considered an application by Mr Faux that Witness R should be permitted to give evidence by Skype video link. The panel would prefer to hear oral evidence from Witness R in person. However, it is important that there should be an opportunity to question Witness R. Accordingly, if Witness R is unable to attend in person, the panel will agree to hear evidence from Witness R via Skype.

Further application to amend allegations

At the conclusion of the TRA's evidence, Ms Berridge made an application to amend allegation 2 and schedule 2 as follows:

- Inclusion of the words, 'complaints and/or' before 'disciplinary matters' in the stem of allegation 2;

- Deletion of the whole of particular 2.a.ii;

- Deletion of the word 'disciplinary' in particulars 2.a.i, iii, and iv.

Mr Faux opposed the application, save in relation to the proposed amendment to particular 2.a.ii. After hearing submissions from Ms Berridge and Mr Faux and receiving legal advice, the chair announced the decision of the panel, as follows:

The presenting officer has made an application to amend allegation 2 and schedule 2.

The panel has given careful consideration to this application and the submissions in response from Mr Faux. The panel has accepted the legal advice that it has discretion to amend an allegation or the particulars of an allegation in the interest of justice at any time prior to making a decision about whether the alleged facts have been proved. This discretion must be exercised in accordance with the principles of fairness.

The panel has taken into account the fact that Mr Faux has questioned some witnesses on the basis that the particulars of the allegation relating to Witness B concerning Pupils B, C and D covered complaints as well as 'disciplinary matters', as set out in the allegation which was amended at the outset of the hearing. However, this questioning did not extend to all relevant witnesses by reference to the Academy's complaints procedure. The panel considered that allowing the amendments would give rise to an element of prejudice. The panel also considered whether any unfairness could be addressed by permitting a further statement from Mr Wilkinson-McKie to be admitted at this stage. The panel concluded that this would minimise, rather than eliminate, any unfairness.

The panel has determined that the proposed amendments to the stem of allegation 2 and particulars i, iii, and iv of schedule 2 cannot be made without unfairness to Mr Wilkinson-McKie. In making this decision, the panel has also taken into account the stage that the proceedings have reached. The panel has heard oral evidence from 13 witnesses over a period of nine days. Furthermore, the allegations set out in the Notice of Proceedings have already been amended following an application at the outset of the hearing.

Accordingly, the panel refuses the application for further amendment, save in relation to particular 2.a.ii of schedule 2.

Decision not to proceed with particulars 2.a.i, iii, and iv

After the panel announced its decision in relation to the application to further amend the allegations, Ms Berridge stated that the TRA would not be proceeding with particulars 2.a.i, iii, and, iv of allegation 2.

Paragraphs 579 to 585 of the statement of Mr Wilkinson-McKie

After Mr Wilkinson-McKie had commenced his evidence, but before cross-examination, the panel heard submissions from Ms Berridge and Mr Faux as to the status of paragraphs 579 to 585 of the statement of Mr Wilkinson-McKie. These paragraphs related to Mr Wilkinson-McKie's employment at North Kesteven Academy after leaving the Academy. After hearing submissions from Mr Faux and Ms Berridge and receiving legal advice, the chair announced the decision of the panel as follows:

The panel has considered the submissions of both parties as regards the status of paragraphs 579 to 585 of the statement of Mr Wilkinson-McKie. Mr Faux initially indicated that those paragraphs would be relied upon as to propensity at the facts stage. In the light of this indication, Ms Berridge stated that it would be her intention to question Mr Wilkinson-McKie in relation to these paragraphs and that there might be an application for admission of rebuttal evidence. After some discussion between the advocates, Mr Faux stated that paragraphs 579 to 585 will not be relied upon at the facts stage and Ms Berridge confirmed that she would not question Mr Wilkinson-McKie about those paragraphs unless Mr Wilkinson-McKie referred to his work at North Kesteven Academy in the course of his oral evidence.

The panel is content to proceed on this basis, but wishes to reserve its own position at this stage as to whether any panel questions are asked of Mr Wilkinson-McKie about those paragraphs.

At this stage, the panel has determined that the evidence of Mr Wilkinson-McKie should continue without an indication as to the issues discussed following Ms Berridge's submission.

Paragraphs 579 to 585 of the statement of Mr Wilkinson-McKie

Before the conclusion of Mr Wilkinson-McKie's evidence, but in his absence, the chair informed the parties that the panel was minded to ask Mr Wilkinson-McKie some questions in relation to paragraphs 579 to 585 of his statement. After hearing submissions from Mr Faux and Ms Berridge and receiving legal advice, the chair announced the decision of the panel as follows:

In its earlier decision, the panel reserved its position on whether to ask any questions of Mr Wilkinson-McKie in relation to paragraphs 579 to 585 of his statement. After considering Mr Wilkinson-McKie's evidence the panel concluded that it wanted to ask questions in relation to those paragraphs. Despite the confirmation from Mr Faux that those paragraphs of the statement are not relied upon as to propensity at the first stage of the decision-making process, the panel was left with the impression that there was a challenge to the factual accuracy of those paragraphs and that it would be unfair not to address the issue at this stage. The paragraphs had already raised questions in the minds of the panellists and it had intended to ask questions which remained relevant.

The panel has considered the further submissions from Mr Faux and Ms Berridge and concluded that those paragraphs are relevant to the issue of credibility and, on that basis, are relevant to the factual determinations that the panel has to make. Having reached that conclusion, the panel agreed with the suggestion proposed by the parties that a fair approach would be for Mr Wilkinson-McKie to be provided with the relevant documents from North Kesteven Academy and have an opportunity to read them before the hearing resumes. The panel has also received the documents and read them. These documents have been added to the bundle at pages D1286 to D1293. The panel has also agreed that it would be fair to allow Mr Faux to conduct initial questioning of Mr Wilkinson-McKie.

Application for admission of further documents

Application was made by Mr Faux for admission of further documents. No objection was made by the presenting officer and the panel agreed to admit the further documents as follows:

- Minutes of meetings on 5 December 2013 concerning Witness S's appeal, which were added to bundle as pages D1294 to D1301.

- Ofsted publication entitled, 'Positive environments where children can flourish', which was added to the teacher's bundle as pages 1013 to 1027

Directions

On 28 September 2018, the panel concluded that there was insufficient time to hear the evidence of Witness R and it was determined that the hearing would be adjourned to a later date to be fixed. After hearing submissions from the parties and receiving legal advice, the panel made the following directions:

1. Within 14 days from today, Mr Faux should disclose to Ms Berridge any further documents upon which he seeks to rely in these proceedings.

2. Ms Berridge should respond to Mr Faux within 7 days of receiving any further documents from Mr Faux.

3. In relation to the evidence of Witness R.

    a. The panel directs that Witness R should attend and give evidence in person on the resumed hearing date. The panel makes this direction on the basis that this is the usual way in which oral evidence is given. There are no exceptional circumstances for adopting a different approach in relation to the evidence of Witness R on the resumed hearing date. Although the panel has previously determined that Witness R could give his evidence by Skype, it has now been made aware of practical issues which require his attendance in person.

b. Witness R should return the unopened hearing papers to Ms Sarah Linden of ASCL.

c. As with any other witness, Witness R is not permitted to use any information contained in the evidence disclosed in relation to this hearing other than for the purpose of giving evidence in these proceedings.

Application to admit additional documents in mitigation

On 30 November 2018, Mr Faux made an application to admit a bundle of documents in mitigation. This application was not opposed by Ms Berridge and the panel agreed to admit the documents as Mitigation Bundle, pages 1 to 35.

D. Summary of evidence

Documents

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

Section 1: Chronology, schedule of proceedings & anonymisation key – pages A1 to A7

Section 2: Notice of Proceedings, response form and amended allegations – pages B1 to B15

Section 3: Teaching Regulation Agency witness statements – pages C1 to C112

Section 4: Teaching Regulation Agency documents – pages D1 to D1285 (pages D1286 D1301 were added to this section of the bundle during the course of the hearing, as described above).

Section 5: Teacher documents, including a statement of Mr Neil Wilkinson-McKie pages 1 to 144, a statement of Witness T pages 1 to 8 and other documents - pages 1 to 724.

In addition, the panel agreed to accept additional statements and other documents on behalf of Mr Wilkinson-McKie, which were added to section 5 of the bundle as pages 725 to 1012.

The panel members confirmed that they had read all of the documents in advance of the hearing, with the exception of pages 725 to 1012. With the agreement of the parties, the panel read these additional documents after commencement of the hearing, but before the panel's questioning of the first witness.

During the course of the hearing, pages 1013 to 1027 were added to section 5 of the bundle as described above.

The chair confirmed that, prior to the commencement of the hearing, the panel members had:

- listened to the audio recordings for which written transcripts were included in the bundle at pages D187 to D236.
- viewed the CCTV footage relating to Pupil X, including footage with sound provided on behalf of Mr Wilkinson-McKie.

Witnesses

The panel heard oral evidence from the following witnesses called by the presenting officer:

- Witness A, former member of senior leadership team, the Academy.
- Witness B, former member of senior leadership team, the Academy.
- Witness C, former member of senior leadership team, the Academy
- Witness D, member of senior leadership team, the Academy.
- Witness E, member of senior leadership team, the Academy.
- Witness F, member of staff , the Academy.
- Witness H, member of senior leadership team.
- Witness I, former member of staff, the Academy.
- Witness J, member of staff at the Academy.
- Witness K, former member of staff, the Academy.
- Witness N, member of senior leadership team, the Academy.
- Witness U, member of senior leadership team, the Academy.
- Member of staff/mother of Pupil D, former member of staff, the Academy

The panel also heard oral evidence from the following witnesses called on behalf of Mr Wilkinson-McKie:

- Neil Wilkinson-McKie, former Headteacher, the Academy.
- Witness P, former member of the governing body, the Academy.
- Witness R, Neo People Management.

- Witness S, former member of staff at the Academy.
- Witness T, retired Headteacher.

Decision and reasons

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

The panel confirmed that it read all the documents provided in the bundle in advance of the hearing, with the exception of the additional documents at pages 725 to 1012. The panel confirms that it read these additional documents prior to the evidence of the first witness.

In the summer of 2011, Mr Neil Wilkinson-McKie applied for and was successful in his application for the post of temporary deputy headteacher at Roseland Community College. This appointment was for a fixed term of one year commencing in September 2011. Roseland Community College was a small secondary school in the rural Roseland peninsula of Cornwall, which became an academy school in 2011. For convenience, the school is referred to as 'the Academy' throughout this decision. In 2016, the Academy became part of The Roseland Multi-Academy Trust with two local primary schools.

[Redacted]

In Spring 2012, Mr Wilkinson-McKie was told that his contract would not be extended. Shortly afterwards, the existing headteacher announced her intention to resign at the end of the academic year and her post became available with effect from September 2012. Mr Wilkinson-McKie applied for the post and was shortlisted along with two external candidates. As part of the appointment process, the candidates made presentations to the staff. Despite adverse feedback to the interview panel from many members of staff, Mr Wilkinson-McKie was selected and his appointment was ratified by the governors. Mr Wilkinson-McKie became headteacher with effect from September 2012. On 1 March 2016, he became the executive headteacher and CEO of the Roseland Multi-Academy Trust ('the MAT').

On 23 March 2016, five members of staff were suspended from duty following an incident with a student, Pupil X, that had occurred on 16 March 2016. Mr Wilkinson-McKie appointed Witness D, [redacted], to conduct an internal investigation. Witness D stated that he had serious concerns about the way that Mr Wilkinson-McKie was behaving towards some of the members of staff and he started to secretly record some of his conversations with Mr Wilkinson-McKie. During this investigation, Witness D and [redacted], Witness E, reported their concerns about Mr Wilkinson-McKie's alleged interference in the investigation to the trustees of the MAT under the whistleblowing policy. On 25 May 2016, the trustees decided to suspend Mr Wilkinson-McKie. An independent investigator was appointed by the trustees to carry out an investigation into

Mr Wilkinson-McKie's conduct. During the investigation, further alleged improper conduct on the part of Mr Wilkinson-McKie was identified.

On 13 July 2016, as a result of a settlement agreement, Mr Wilkinson-McKie's employment with the Academy came to an end and disciplinary proceedings against him were discontinued. Mr Wilkinson-McKie was subsequently referred to the National College of Teaching and Leadership, as it then was.

The panel has considered oral evidence from a total of 18 witnesses in addition to documentary evidence. In evaluating the evidence of witnesses called by the TRA, the panel has, throughout the hearing, been conscious of Mr Wilkinson-McKie's position that he was seeking to bring about change at the Academy and that those who were resistant to change may have harboured ill-will towards him.

The panel had the benefit of hearing evidence from witnesses who were, or are, members of the senior leadership team, other teachers, teaching assistants and other members of the support staff. The panel also found it helpful to hear evidence from witnesses who are no longer working at the Academy, in addition to those still working there.

In his statement at paragraphs 579 to 585, Mr Wilkinson-McKie described his time as headteacher at North Kesteven Academy, where he worked after leaving the Academy. Whilst Mr Wilkinson-McKie was giving evidence, the presenting officer applied to admit documents from North Kesteven Academy after confirming with Mr Faux that paragraphs 579 to 585 were being relied upon as evidence of propensity, i.e. the tendency to act in a particular way. The presenting officer wished to admit the documents from North Kesteven to rebut any inference that might be drawn from paragraphs 579 to 585 as to propensity. The panel had already been proposing to ask questions about those paragraphs at the fact-finding stage of these proceedings.

In the light of Mr Faux's subsequent submission that the specified paragraphs were not after all to be relied upon as to propensity at the facts stage, the panel did not rely on those paragraphs or the rebuttal evidence to make any finding in relation to propensity. However, the panel concluded that paragraphs 579 to 585 were relevant to the issue of the credibility of Mr Wilkinson-McKie's evidence. In paragraph 585 of his statement, Mr Wilkinson-McKie stated that he left North Kesteven Academy by mutual consent at the end of August 2018 and that he was told by the Chair of Governors that the 'school would not survive a three-week public hearing'. In the same paragraph, he stated that the school was 'beginning to gather pace' and he felt they were 'on course to achieving great success'. The panel noted that the documents from North Kesteven Academy confirmed that the Chair of Governors did give the main reason for termination of Mr Wilkinson-McKie's employment (which was by mutual consent) as being the impact of the surrounding publicity on the Academy. However, it was also pointed out that a letter was given to Mr Wilkinson-McKie on 12 July 2018 which informed him of his suspension and set out concerns around his performance, about which there was no mention in Mr

Wilkinson-McKie's statement. The panel noted that North Kesteven Academy disagreed with Mr Wilkinson-McKie's assertion that the school was beginning to gather pace and referred to concerns in relation to declining student numbers, poor GCSE results, poor behaviour standards and a fall in the level of attendance. While the panel did not reach a conclusion on any of these matters, the panel was concerned that paragraph 585 of Mr Wilkinson-McKie's statement in particular, was inaccurate and misleading, despite Mr Wilkinson-McKie's confirming on oath his belief in the truth of the facts in his witness statement. The panel took this into account in assessing the credibility and reliability of his evidence.

Findings of fact

The panel's findings of fact were as follows:

It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that you failed to maintain appropriate professional standards whilst working as the headteacher at the Roseland Academy (formerly known as the Roseland Community College) in the period between 1 September 2012 to 25 May 2016 in that you:

1. **Bullied and/or treated unfairly the following members of staff (as detailed in schedule 1:**

    a. **Witness B;**

Schedule 1

1.a	September 2012	Removed Witness B from PASS office.
	May – September 2015	Demoted Witness B [redacted].
	2015/2016 academic year	Overloaded Witness B with teaching hours
	2015/2016 academic year	Set unrealistic performance management targets.

In considering allegation 1, the panel applied the definition of bullying set out in the Academy's model grievance procedure, namely, 'the effect of threatening, humiliating, undermining or demeaning the recipient. Typically it consists of a series of incidents which may be trivial in themselves but have a cumulative effect on the recipient...Bullying differs from harassment in that the focus is less likely to be on a specific feature of an individual, such as gender, race or disability, than on the competence, or alleged lack of competence, of the person being bullied'.

The panel considered, in turn, each of the four particulars in schedule 1 relating to Witness B.

Removal from the Parent and Student Support (PASS) office

Witness B gave evidence that he was moved from the PASS office where he sat with the rest of the PASS team and was placed in a separate room, which he felt made him less effective.

Mr Wilkinson-McKie gave evidence that he did not think that the PASS office functioned as well as it needed to for all students, including students who were upset. He referred to the concerns about meeting spaces, including quiet and confidential spaces. Mr Wilkinson-McKie also stated that Witness B asked him to consider not moving him when he first became headteacher in September 2012 and he agreed to wait until the following year.

Witness B clearly felt that the move was unfair. However, the panel noted that Mr Wilkinson-McKie had what appeared to be a legitimate rationale for the proposed move. The panel was not satisfied that removing Witness B from the PASS office amounted to unfair treatment or bullying. In any event, the panel noted that the move did not take place in September 2012, as alleged.

The panel found this particular of allegation 1.a not proved.

Demotion [redacted]

Mr Witness B gave evidence that he had been appointed the role of [redacted] in early 2011 by the previous headteacher. He acknowledged that he was never formally appointed permanently. However, he had fulfilled that role for four years and was described as [redacted] in official documents.

Witness B stated that Mr Wilkinson-McKie devised a new leadership team structure without any discussion with other members of staff. He stated that he sent Mr Wilkinson-McKie a letter in May 2015 setting out his concerns in relation to the proposed new system, but Mr Wilkinson-McKie did not respond, so he asked to see Mr Wilkinson-McKie in his office. Witness B stated that when he was eventually able to meet with Mr Wilkinson-McKie, he was given a list of jobs which outlined his new responsibilities and a letter which showed that he would have a lower status. Witness B said that he made representations at that meeting and Mr Wilkinson-McKie promised to give it some further thought. However, Witness B stated that Mr Wilkinson-McKie wrote a letter almost immediately denying all of his requests. Witness B also said that the letter was sent to his home address at the end of term, when it was not possible to contact Mr Wilkinson-McKie to discuss.

Mr Wilkinson-McKie stated that he spoke frequently with Witness B and that, as part of a consultation, Witness B was informed that his acting role would cease in September 2015 when a new structure would be put in place. Mr Wilkinson-McKie stated that Witness B was informed that he would revert to the lower status post if he did not apply for or was not appointed to either of the associate headteacher or the deputy

headteacher positions in the new structure. Mr Wilkinson-McKie also stated that he took advice from Witness R, [redacted] and was advised that Witness B had not been downgraded, but his acting role had come to an end. In oral evidence, Witness R said he had not realised how long Witness B had been acting up.

In considering the conflict of evidence between Witness B and Mr Wilkinson-McKie, the panel preferred the evidence of Witness B.

The panel recognised that Witness B was not formally appointed as a permanent post. However, it was significant that he had been acting in that role for four years and was the de facto [redacted]. The panel concluded that Mr Wilkinson-McKie did not pay sufficient regard to the fact that Witness B and others in the school considered him to be a [redacted]. The panel noted that Mr Wilkinson-McKie sought advice and implemented a process involving change from Witness B's de facto role. The panel was satisfied that Mr Wilkinson-McKie conducted this process very badly.

The panel was satisfied that Witness B was treated unfairly by Mr Wilkinson-McKie in the manner in which he was demoted.

Overloading with teaching hours

The panel approached consideration of this allegation on the basis that it was appropriate for Witness B to have some teaching hours. However, Witness B gave evidence that his teaching hours were initially increased from five hours to 32 hours per fortnight and other work was not taken from him to compensate for this. Witness B said that the teaching requirement was subsequently reduced to 28 hours, but that this was still not manageable in the light of his other commitments. In particular, Witness B was still required to perform the role of [redacted].

The panel noted the evidence of Witness D. Witness D stated that his current [redacted] only teaches five lessons per week.

Mr Wilkinson-McKie gave evidence that, if Witness B had chosen to apply for and been appointed to the associate headteacher post, he would only have been teaching 10 hours per fortnight. Further, if he had been appointed to the deputy headteacher post, he would only have been teaching 16 hours per fortnight. Mr Wilkinson-McKie stated that Witness B had the lowest teaching commitment of all of the [redacted]. However, the panel considered that this response did not take account of the other duties that Witness B had.

The panel was satisfied that Witness B was overloaded with teaching hours because of the particular nature of his role as [redacted] and that this represented unfair treatment by Mr Wilkinson-McKie.

Setting unrealistic performance targets

Witness D stated that Mr Wilkinson-McKie set new performance management targets for Witness B in January 2016 that were more akin to a job description and, in his view, were not achievable. The panel had sight of the targets and, in its judgment, concluded that they were unworkable.

Mr Wilkinson-McKie referred to an email with revised performance management targets to other members of the leadership team, in addition to Witness B. However, other members of the leadership team who gave evidence did not recall the imposition of such targets.

Witness D also gave evidence that Mr Wilkinson-McKie informed him that he did not want Witness B to reach his performance management targets so that he would fail and Mr Wilkinson-McKie could then put him in formal capability proceedings. This was denied by Mr Wilkinson-McKie, but the panel preferred the evidence of Witness D.

The panel was satisfied that unrealistic performance targets were set for Witness B by Mr Wilkinson-McKie and that this amounted to unfair treatment of Witness B.

The panel was also satisfied that, taken together, Mr Wilkinson-McKie's actions in demoting Witness B, overloading him with teaching hours and imposing unrealistic performance targets, amounted to bullying.

The panel found allegation 1.a proved on the basis that Witness B was treated unfairly and bullied.

b. Witness A;

Schedule 1

1.b	November 2013 – January 2014	Opposed Witness A moving up a pay scale when he had met his targets and/or demonstrated he was making good progress towards them.

Witness A gave evidence that, in November 2013, he went on paternity leave. When he returned he stated that he received a letter from Mr Wilkinson-McKie informing him that he would not be eligible to move up the pay scale because he had not met his targets. The panel was presented with the minutes of the Finance, Premises and Personnel Committee Meeting on 18 November 2013 which stated that Mr Wilkinson-McKie had confirmed that Witness A was not eligible for pay progression as he had not met his targets. The minute also stated that Witness A 'was not surprised and had accepted this before their discussions'. However, Witness A stated that no conversation had taken place between him and Mr Wilkinson-McKie and that the letter from Mr Wilkinson-McKie had come as a real shock.

Witness A stated that he decided to appeal this decision. The appeal took place in January 2014, and the panel was provided with the minutes of the meeting of the governing body sub-committee of 8 January 2014. Witness A's appeal was allowed on the basis that, of his five targets one of them had been put on hold and, although one of them had not been prioritised, the others had been met.

Mr Wilkinson-McKie stated that in a review meeting Witness A had presented the most brief of notes in relation to his targets and had shown little attempt to substantiate his actions. Mr Wilkinson-McKie stated that Witness A agreed in that meeting and said that he understood. Mr Wilkinson-McKie also stated that the documentation that Witness A presented at the appeal was much more detailed.

Witness A did not accept Mr Wilkinson-McKie's account of his review meeting with Mr Wilkinson-McKie. Witness A also stated that Mr Wilkinson-McKie continued to oppose his appeal despite the evidence that Witness A presented to show that he had met his targets. The panel carefully considered the detailed minutes of the appeal hearing and noted that Mr Wilkinson-McKie continued to oppose Witness A's arguments throughout. The panel found Witness A to be a credible witness and preferred his evidence to that of Mr Wilkinson-McKie.

The panel was satisfied that Witness A was treated unfairly by Mr Wilkinson-McKie in opposing his moving up a pay scale when he had met his targets and/or demonstrated he was making good progress towards them. The panel was not satisfied that this could be described as bullying.

The panel found allegation 1.b proved

c. Witness F

Schedule 1

1.c	Various	Unfairly treated/bullied Witness F.

Witness F was a member of staff. Witness D gave evidence that Mr Wilkinson-McKie made derogatory comments about Witness F, further details of which are provided in relation to allegation 3.c.

Witness F was one of the five members of staff suspended in relation to the incident concerning Pupil X. The panel was provided with a secret recording of a conversation between Mr Wilkinson-McKie and Witness D in which there was a discussion about the possibility of staff being reintroduced to work after their suspension. The panel noted that Mr Wilkinson-McKie stated that 'we could do to lose Witness F'. Witness D also stated that Mr Wilkinson-McKie told him that he wanted to remove Witness F from the school.

For the reasons given in more detail in relation to allegation 6, the panel is satisfied that Mr Wilkinson-McKie improperly sought to influence the outcome of the investigation into the five members of staff, including Witness F. In telling Witness D, who was the investigating officer in relation to that investigation, that the Academy 'could lose Witness F', the panel was satisfied that Mr Wilkinson-McKie was treating Witness F unfairly. The panel was not satisfied that this also amounted to bullying.

The panel found allegation 1.c proved

d. Individual G

Schedule 1

1.d	Various	Unfairly treated/bullied Individual G.

In her written statement, Individual G stated that she got the impression that Mr Wilkinson-McKie did not want her at the school. She stated that, Mr Wilkinson-McKie never said this to her directly, but that she felt this because of the way he treated her.

Witness A, Witness D, Witness E and Witness H all gave evidence to the effect that Mr Wilkinson-McKie did not like Individual G. Witness A and Witness D stated that Mr Wilkinson-McKie referred to Individual G in derogatory terms, as referred to in more detail in relation to allegation 3. Witness H gave evidence that he heard Mr Wilkinson-McKie say that Individual G was not the type of personality that he wanted in his school. Witness H said that he believed that Mr Wilkinson-McKie had formed this view because Individual G did not hide her opinions and had been critical of Mr Wilkinson-McKie and he was aware of these criticisms. Witness E stated that, on a number of occasions, Mr Wilkinson-McKie stated that he wanted to get rid of Individual G, although she was unable to recall the exact words used by him.

Witness D also gave evidence that Mr Wilkinson-McKie wanted him to conduct an investigation into how Individual G coordinated cover. Witness D stated that Mr Wilkinson-McKie repeatedly asked him to do this, but he did not get round to starting a disciplinary investigation. Instead, Witness D stated that he sat down with Individual G and discussed with her how she organised cover and he did not start a formal process. Witness D stated that all that Mr Wilkinson-McKie needed to do was to sit down with Individual G and put the right structures in place, but Witness D felt that Mr Wilkinson-McKie was not interested in doing so.

Witness A gave evidence that Mr Wilkinson-McKie made a request that Individual G's time be tracked and that, to his knowledge, Individual G was not aware that her work was being tracked in this way.

Witness A also gave evidence that, in January 2015, Mr Wilkinson-McKie asked him to investigate an allegation that Individual G had not paid for a meal in the dining hall.

Witness A stated that he was of the view that it was a 'ridiculous' investigation. The panel noted that section 7 of the Academy's disciplinary procedure stated that an informal approach should be adopted in relation to 'minor failures to achieve standards of conduct or adhere to established rules' and that the informal approach 'will normally be the first step unless the offence is repeated or serious enough to warrant recourse to the formal procedure'.

Mr Wilkinson-McKie denied bullying Individual G or treating her unfairly. In his oral evidence, Mr Wilkinson-McKie acknowledged that he did not like Individual G. He stated that he would not describe her as a 'troublemaker', but that if she had left he 'would not have been unhappy'. Mr Wilkinson-McKie stated that it was Witness D who tried to get him to instigate an investigation into how she organised cover. However, the panel preferred the evidence of Witness D on this issue.

The panel was satisfied that Mr Wilkinson-McKie treated Individual G unfairly in relation to his approach to scrutinising the way in which she was managing cover and in the tracking of her time without discussion with her. The panel was also satisfied that it was unfair and disproportionate to instruct Witness A to conduct a formal investigation instead of adopting an informal approach, at least in the first instance. The panel was satisfied that Mr Wilkinson-McKie's actions were motivated by his desire to get rid of Individual G and that, taken together, his actions amounted to bullying.

The panel found allegation 1.d proved on the basis that Mr Wilkinson-McKie bullied Individual G and treated her unfairly.

e. Witness K;

Schedule 1

1.e	2015/2016 academic year	Unfairly treated/bullied Witness K.

Witness K gave evidence that she joined the Academy in September 2013 and was promoted to the senior leadership team in September 2015. Witness K stated that, when she was promoted, Mr Wilkinson-McKie was very demanding in relation to the amount of work that he expected and the timescales that he set for this. She stated that he was hostile towards her when requiring data analysis at SLT meetings.

Witness K stated that the English GCSE results for 2015 were lower than the Academy had been hoping for. Witness K stated that, during weekly meetings and in her performance management meeting with Witness D in September 2015 they discussed the results and how to improve them for the following year. Nonetheless, Witness K stated that, after October half-term, she was told by Witness D that she was being put on informal capability, even though in her opinion, the issues were already being addressed.

Witness D gave evidence confirming that in October Witness K was placed on what he described as 'a support plan'. The panel was satisfied that the terms 'informal capability' and 'support plan' were used interchangeably by the Academy. Witness D stated that he did not think that Witness K needed to be put on a support plan and he felt that the issue of the poor results could simply be managed through performance targets.

Witness K stated that she went on maternity leave [redacted]. Witness D stated that, when Witness K was on maternity leave, Mr Wilkinson-McKie informed him that he was going to progress the support plan / informal capability to a formal capability process when Witness K returned from maternity leave. Witness D stated that Mr Wilkinson-McKie insisted that Witness D should speak to her on one of her 'keeping in touch' days, in [redacted], which he did.

Mr Wilkinson-McKie gave evidence that he did not know in advance that Witness D was going to suggest to Witness K that she would potentially be placed on formal capability when she returned from maternity leave. He stated that Witness D had not discussed this with him in advance and he did not consider it appropriate for Witness D to have raised this during a keeping in touch day. Mr Wilkinson-McKie also denied that he had made any decision about formal capability.

The panel was also presented with a secret recording of a conversation between Witness D and Mr Wilkinson-McKie in which the meeting between Witness K and Witness D was discussed. The panel noted that Witness D explained to Mr Wilkinson-McKie that he had spoken to Witness K and informed her that if there was no progress on the support plan it could turn into a formal capability. The panel noted that Mr Wilkinson-McKie did not express surprise at this action, which the panel would have expected if Witness D had acted without his knowledge. Indeed, the conversation that followed indicated that Mr Wilkinson-McKie supported the action taken by Witness D. The panel also noted that, later in the conversation, Mr Wilkinson-McKie stated, 'we don’t need that individual in that role because she's not performing. She's not the right person for it'.

The panel regarded Witness K and Witness D as credible witnesses and preferred their evidence to that of Mr Wilkinson-McKie.

Witness K gave evidence that she felt that Mr Wilkinson-McKie adopted a bullying approach towards her and that the way in which she was treated caused her to leave teaching permanently.

The panel was satisfied that Mr Wilkinson-McKie treated Witness K unfairly and that his escalating conduct towards her was undermining and amounted to bullying.

The panel, therefore, found allegation 1.e proved on the basis that Mr Wilkinson-McKie bullied Witness K and treated her unfairly.

f. Witness I

Schedule 1

1F	September 2012 – 6 July 2015	Unfairly treated/bullied Witness I

Witness I gave evidence in which he expressed concerns about Mr Wilkinson-McKie's response to the Charlie Hebdo attack. The specific criticism was that Mr Wilkinson-McKie did not show empathy. The panel recognised that this was an extremely upsetting event, particularly for Witness I. Even if Mr Wilkinson-McKie had failed to demonstrate sufficient empathy, the panel was not satisfied that this could be regarded as bullying or unfair treatment.

Witness I also complained about a lesson observation conducted by Mr Wilkinson-McKie, but it was established that this occurred prior to Mr Wilkinson-McKie's becoming headteacher and the panel disregarded this evidence.

The panel gave careful consideration to Witness I's request for a sabbatical. Witness I clearly felt that this had not been dealt with fairly. The panel recognised that there was a process to be followed in considering Witness I's request and that it was appropriate to follow that process. However, the panel noted that there were aspects of poor communication between Mr Wilkinson-McKie and Witness I. Witness I explained that his job was advertised both locally and nationally without his being told. The delay that had occurred following submission of his request meant that Mr Wilkinson-McKie should have communicated with Witness I before the adverts were placed to ensure that his plans had not changed and to warn him that the advertisements were being placed.

In addition, Witness I gave evidence of his attendance at the meeting on 6 July 2015, which is considered in more detail in relation to allegation 2.d. The outcome of that meeting was that Mr Wilkinson-McKie required Witness I to leave the school immediately without allowing him to speak to anyone or return to his classroom to collect his belongings. The panel was satisfied that these actions amounted to unfair treatment.

The panel found allegation 1.f proved.

2. Did not use fair and/or proportionate systems for addressing either purported under-performance and/or disciplinary matters and/or threatened the use of disciplinary procedures when such action was not warranted, in relation to the following members of staff (as detailed in schedule 2):

a. Witness B;

Schedule 2

Fact	Subject	Date	Action/Conduct
2.a	Witness B	23 March 2016	Suspended Witness B on 23 March 2016 over an incident concerning Pupil X when such a suspension was unwarranted.

The panel noted that this allegation was confined to Mr Wilkinson-McKie's decision to suspend Witness B on 23 March 2016 as distinct from determining whether the continued suspension was fair or proportionate. In order to find this allegation proved, the panel would have to be satisfied that the initial suspension was unwarranted. The panel has taken into consideration the information that was available on 23 March 2016 and the dialogue with the Local Authority Designated Officer (LADO). The panel was not satisfied that the decision to suspend Witness B and the other members of staff at that point was unwarranted.

The panel found allegation 2.a not proved.

b. Individual G

Schedule 2

2.b	January 2015 – April 2015	Improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into Individual G.

Witness A gave evidence that, after conducting his investigation into the allegation that Individual G had not paid for a meal, he concluded that there was no case to answer. Witness A stated that he prepared a draft report and gave this to Mr Wilkinson-McKie to review, but Mr Wilkinson-McKie was not happy with it and asked him to investigate another issue relating to Individual G which Witness A regarded as a further allegation.

Mr Wilkinson-McKie gave evidence that Witness A's report was 'riddled with loose ends that didn't support or lay to rest what happened'. The panel was presented with an exchange of emails between Mr Wilkinson-McKie and Witness R about the draft report prepared by Witness A. In his email to Witness R dated 23 January 2015, Mr Wilkinson-McKie identified a number of issues that he felt had not been resolved and he requested

advice from Witness R with a view to Witness A continuing his investigation. The panel noted that Witness R replied by email to say that he agreed with Mr Wilkinson-McKie's analysis and that there were gaps and inconsistencies that needed to be resolved. Advice was given that Witness A could be asked to complete the investigation with clear instruction where to look or that a second investigator be appointed. Mr Wilkinson-McKie took the former option and gave instructions to Witness A.

The panel noted that paragraph 9.3 of the Academy's disciplinary procedure stated:

'In cases of alleged gross misconduct where the headteacher may be responsible for making the decision to dismiss (i.e. as part of the Disciplinary Panel), the headteacher should not be involved in the investigation nor have sight of the investigatory report prior to the hearing'.

Mr Wilkinson-McKie stated in his oral evidence that, after receiving the report, 'it looked like she [Individual G] might have stolen something', which indicated that he viewed it as a case of alleged gross misconduct, which should have precluded him from having sight of the investigation report.

The TRA's case, without reference to paragraph 9.3 of the disciplinary procedure, was that Mr Wilkinson-McKie was the commissioning officer of this investigation and that he should not have been in the position of reviewing the investigation report and evidence or providing Witness A, as investigating officer, with further direction as to additional matters for investigation. The panel recognised, however, that the email from Witness R did not advise Mr Wilkinson-McKie that it would be inappropriate to ask Witness A to conduct further investigation.

The panel then considered whether Mr Wilkinson-McKie's intervention could be regarded as a genuine attempt to 'tie up loose ends' as Mr Wilkinson-McKie claimed or an attempt to strengthen the evidence against Individual G. In this context, Mr Wilkinson-McKie stated in his oral evidence that he 'was concerned about being fair to Individual G to make sure that she was exonerated'. In light of the panel's findings in relation to allegation 1.d, the panel did not believe this explanation. The panel also noted that the areas of investigation that Mr Wilkinson-McKie wished to pursue were indicative of an attempt to strengthen the evidence against her rather than exonerate her. Taking all of this evidence into account, the panel was satisfied that Mr Wilkinson-McKie improperly sought to influence the conduct and outcome of the investigation. The panel was also satisfied that this was not a fair or proportionate system for addressing a disciplinary matter.

The panel found allegation 2.b. proved.

c. Witness K

Schedule 2

2.c	Autumn term 2015	Instructed Witness D to put Witness K on a support plan when such an action was unwarranted.

The panel made a finding in allegation 1.e that Witness K was treated unfairly and bullied. For the reasons given in relation to allegation 1.e, the panel was satisfied that Mr Wilkinson-McKie instructed Witness D to put Witness K on a support plan/ informal capability in October 2015. The panel was also satisfied that placing her on this plan was unwarranted. The panel noted that Witness K gave evidence that she regarded this action as 'heartbreaking' and that she felt 'demoralised' as a consequence. Although Witness K was upset when giving her evidence, the panel found her to be a fair and balanced witness. The panel was satisfied that this was not a fair or proportionate system for addressing underperformance.

The panel found allegation 2.c proved.

d. Witness I;

Schedule 2

2.d	March – July 2015	Threatened Witness I with a disciplinary investigation and gave an untruthful explanation to Witness I as the basis for that investigation (and this conduct was misleading and/or dishonest).

Witness I gave evidence that, prior to 6 July 2015, he had been signed off sick by his doctor because he was suffering from stress and anxiety. He stated that he received an email from Witness E telling him to come into the Academy for a 'return to work' meeting. Witness I stated that he was told that this was the purpose of the meeting and that the Academy wanted see how he was and how they could support him in returning to work. Witness I stated that he asked Witness C to attend the meeting with him as a supportive colleague.

Witness I gave evidence that at the start of the meeting, Mr Wilkinson-McKie said that he had received many complaints from parents and they were complaining that Witness I had brought the school's name into disrepute.

Witness C gave evidence that he challenged Mr Wilkinson-McKie as to the detail of the allegations and how many had been made. Witness C and Witness I both stated that, when pressed, Mr Wilkinson-McKie stated that there had only been one complaint.

Witness I stated that Mr Wilkinson-McKie then said that there were two options available. Mr Wilkinson-McKie could suspend him immediately while the allegation would be investigated by way of a disciplinary investigation and that the allegation would then go on his permanent record. Alternatively, Mr Wilkinson-McKie stated that Witness I could go on 'gardening leave' until the end of term and that a neutral reference could be provided. Witness I stated that he decided to take the gardening leave option.

The panel was presented with copies of two emails sent to Mr Wilkinson-McKie on the evening of 5 July 2015 by Witness H. In one of these emails, Witness H raised a concern as a parent about Witness I's conduct in discussing his reason for leaving the Academy being the fact that he was not given a sabbatical. In the other email, there was a summary of 'house concerns', which related to the election of prefects.

Mr Wilkinson-McKie admitted that at the meeting with Witness I he stated that there had been 'many complaints'. He said that he was anxious at the meeting and was stumbling with his words and that he then checked his notes and said that there were two complaints.

The panel was satisfied that Mr Wilkinson-McKie threatened Witness I with a disciplinary investigation at the meeting when such action was not warranted. The panel was also satisfied that Mr Wilkinson-McKie gave an inaccurate explanation of the number of complaints that had been received.

The panel found allegation 2.d proved.

e. Witness H;

Schedule 2

2.e	December 2015	Told Witness H that Witness E had wanted you to initiate disciplinary proceedings against Witness H but you had persuaded Witness E not to proceed, when you knew that to be untrue (and this conduct was misleading and/or dishonest).

Witness H gave evidence that he organised the annual ski trip for students in December 2015. [Redacted], who was in his final year at the Academy, had not wanted to go on the trip, but changed his mind later. Witness H stated that he was offered a concessionary price by the ski company as [redacted]. The invoice was forwarded to the Academy. Witness E stated that when she received the invoice she drew it to Mr Wilkinson-McKie's attention as she felt that it would not have looked good to other parents if they found out that a member of the senior leadership team was getting a reduced price ticket for a member of their own family. Witness E said that she just thought that Mr Wilkinson-McKie should have a conversation with Witness H and there was no suggestion that Mr Wilkinson-McKie should commence a disciplinary investigation.

Witness H gave evidence that Mr Wilkinson-McKie spoke to him and he was concerned about the tone of the meeting which caused him to send a detailed email explaining his conduct. Witness H stated that Mr Wilkinson-McKie spoke to him the following day and said, 'I talked to Witness E…she said she wanted a disciplinary but I said no'.

Mr Wilkinson-McKie stated that Witness E had made the remarks to him, but he had not passed on those comments to Witness H.

The panel was satisfied by the evidence of Witness E that Mr Wilkinson-McKie was not being truthful in saying that Witness E had wanted a disciplinary. The panel did not regard this as a threat of disciplinary action as Mr Wilkinson-McKie's words confirmed that such action would not be taken. However, the panel was satisfied that to give a false account of what a colleague had said about commencing a disciplinary investigation was not the use of a fair or proportionate system for addressing a potential disciplinary matter.

The panel found allegation 2.e proved.

f. Member of staff and mother of Pupil D.

Schedule 2

2.f	January – May 2016	Improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into member of staff and mother of pupil D.

The panel heard evidence from the member of staff and mother of Pupil D concerning a fight that her son was involved in, which resulted in [redacted]. In the context of that incident, she attended a meeting with Mr Wilkinson-McKie in her capacity as mother of Pupil D, rather than as a staff member. During that meeting, it was mentioned that there was a video of the fight, which the mother of Pupil D stated that she had seen. Mr Wilkinson-McKie said that this was a disciplinary matter because she had not formally reported this.

Witness D stated that he felt the [redacted] of Pupil D would have been sufficient, but Mr Wilkinson-McKie wanted to pursue it as a disciplinary investigation as he wanted a disciplinary sanction to be imposed on the mother of Pupil D. Mr Wilkinson-McKie commissioned the investigation and Witness D was the investigating officer.

Witness J stated that on 16 March 2016 she emailed Mr Wilkinson-McKie to point out that he should not have seen the investigation report. The Academy's disciplinary policy (as already referred to in relation to allegation 2.b stated that the headteacher should not be involved in the investigation nor have sight of the investigatory report prior to the hearing. This applied in cases of alleged gross misconduct where the headteacher may be responsible for making the decision as part of the disciplinary panel. Witness J stated that, at that time, Mr Wilkinson-McKie was intending to sit on the disciplinary panel.

Witness J also stated that Mr Wilkinson-McKie was adamant that the chair of the disciplinary panel should be Individual L, despite the fact that Individual L had previously sat on the [redacted] in relation to Pupil D. Witness J explained that a reason for her concern was that individual L had seen the video footage of the incident which was not part of the evidence to be considered at the disciplinary hearing.

The panel was satisfied that Mr Wilkinson-McKie improperly sought to influence the conduct and outcome of a disciplinary investigation. He commissioned a disciplinary investigation against the mother of Pupil D which was disproportionate. In addition, contrary to the Academy's disciplinary policy, he was improperly involved in reviewing an investigation report that he had commissioned. This was unfair. The panel was satisfied that Mr Wilkinson-McKie did not use fair and proportionate systems for addressing this disciplinary matter.

The panel found allegation 2.f proved.

3. Used inappropriate and/or offensive language to describe staff regarding the following members of staff (as detailed in schedule 3):

a. Witness B

Schedule 3

3.a	March 2016	Told Witness D that Witness B was 'evil' and 'Teflon coated' and 'should not be anywhere around children'.
	March 2016	Told Witness D that Witness B was and/or was a 'nasty, nasty [piece] of work; and/or 'will make up anything to get [himself] out of something and other people into it'; or words to that effect.

Mr Wilkinson-McKie admitted that he told Witness D that Witness B was a 'nasty, nasty piece of work' and that Witness B 'will make up anything to get himself out of something and other people into it'. In addition to this admission, the panel heard the recording of the conversation in which these words were used by Mr Wilkinson-McKie.

Witness D gave evidence that, in a conversation that was not recorded, Mr Wilkinson-McKie told him that Witness B was 'evil' and 'Teflon coated' and 'should not be anywhere around children'. This was denied by Mr Wilkinson-McKie. However, the panel preferred the evidence of Witness D. The panel took into account the fact that the alleged language is consistent with that which Mr Wilkinson-McKie admitted using in relation to Witness B and is consistent with the panel's findings in allegation 1.a. The panel was satisfied that it is more likely than not that Mr Wilkinson-McKie used the language alleged in both particulars in paragraph 3A of Schedule 3. The panel was also satisfied that the words used were both inappropriate and offensive.

The panel, therefore, found allegation 3.a proved.

b. Individual G

Schedule 3

3.b	Individual G	Unknown	Told Witness D that Individual G was 'unpleasant' and/or 'evil' and/or 'shouldn't be in a school'; or words to that effect.
	Individual G	Unknown	Told Witness A that Individual G is 'trouble' and/or 'she sticks her nose in other people's business' and/or 'she thinks she's above her station'; or words to that effect.

Witness D gave evidence that Wilkinson-McKie told him that Individual G was 'unpleasant' and 'evil' and 'should not be anywhere around children', or words to that effect. This was denied by Mr Wilkinson-McKie. However, the panel preferred the evidence of Witness D to that of Mr Wilkinson-McKie.

Witness A gave evidence that Mr Wilkinson-McKie told him that Individual G 'is trouble' and 'sticks her nose in other people's business' and 'thinks she is above her station'. The panel found Witness A to be a credible witness and preferred his evidence to that of Mr Wilkinson-McKie.

The panel was satisfied that it is more likely than not that Mr Wilkinson-McKie used the language alleged in both particulars in paragraph 3B of Schedule 3. The panel was also satisfied that the words used were both inappropriate and offensive.

The panel, therefore, found allegation 3.b proved.

c. Witness F

Schedule 3

3.c	March	Told Witness D that Witness F was 'the same as Witness B' and/or was a 'nasty, nasty [piece] of work; and/or 'will make up anything to get [herself] out of something and other people into it'; or words to that effect.

Mr Wilkinson-McKie has admitted that he told Witness D that Witness F was 'the same as Witness B' and was a 'nasty, nasty piece of work' and who 'will make up anything to get herself out of something and other people into it'. In addition to this admission, the panel

heard the recording of the conversation in which these words were used by Mr Wilkinson-McKie in relation to Witness F.

The panel was satisfied that the words used were both inappropriate and offensive.

The panel, therefore, found allegation 3.c proved.

d. Witness K

Schedule 3

3.d	April 2016	Told Witness D that Witness K was 'playing the discrimination card' because of her pregnancy and maternity, or words to that effect.

Mr Wilkinson-McKie admitted that he said to Witness D that Witness K was 'playing the discrimination card'. The panel also heard the recording of the conversation in which these words were used by Mr Wilkinson-McKie.

The panel was satisfied that the language used was both inappropriate and offensive.

The panel found allegation 3.d proved.

e. Individual M

Schedule 3

3.e	Unknown	Told Witness E that Individual M was 'a bit of a skiver', or words to that effect.

Witness E gave evidence that Mr Wilkinson-McKie referred to Individual M as 'a bit of a skiver' in a conversation with her about Individual M. The panel regarded Witness E as a credible witness. Mr Wilkinson-McKie denied using this language.

The panel was satisfied that it is more likely than not that these words were used by Mr Wilkinson-McKie in relation to Individual M. The panel was also satisfied that the language used was inappropriate.

The panel found allegation 3.e proved.

4. On an unknown date at a Senior Leadership Team Meeting you stated to Witness N 'you need to be on top of this, your job or your neck is on the line' or words to that effect.

Witness N was appointed by Mr Wilkinson-McKie to the senior leadership team in September 2015. In that role, one of the responsibilities Witness N had was [redacted]. Witness N gave evidence that, in a senior leadership team meeting when [redacted] was

being discussed, Mr Wilkinson-McKie asked him a question to which he did not know the answer. Witness N stated that Mr Wilkinson-McKie then told him that he needed to know the answer as his job was on the line, or words to that effect.

Mr Wilkinson-McKie gave evidence that, when he spoke to Witness N, he was trying to convey to him the need to get staff in the PE and DT departments to feel a sense of responsibility to get IT systems sorted. Mr Wilkinson-McKie said that it was in that context that he said to Witness N 'You could tell them that your neck is on the line too'. In his evidence, Witness N stated that this was not how he recalled the conversation and that he felt humiliated and belittled at the time and subsequently regarded the comment as threatening.

The panel regarded Witness N as a credible witness and preferred his evidence to that of Mr Wilkinson-McKie.

The panel found allegation 4 proved.

5. **On 7 December 2015, did not accurately report to the Governors the reason for the low level of attendance in the 2014-2015 academic year.**

The panel considered the written statement of Individual O, who was employed by the Academy. Individual O stated that, from September 2013, she took on an additional role but was then absent on maternity leave for 12 months. The panel also heard evidence from Witness B, who stated that part of his role was overseeing attendance and that, when Individual O went on maternity leave, she was not replaced. This meant that Witness B had to take on her duties in relation to attendance in addition to performing his other roles. Witness B stated that he sent numerous emails to Mr Wilkinson-McKie in relation to recruitment of a replacement. The panel was presented with copies of emails sent to Mr Wilkinson-McKie and Witness E, including one sent on 3 November 2014 containing draft wording for an advertisement for the role. Despite these emails, a replacement was not recruited. Witness B gave evidence that, in January 2015, there was a flu epidemic at the Academy which meant that there were approximately 100 students absent every day for a period of approximately three weeks. Witness B said that this had a huge impact on attendance numbers and it was not possible to chase up pupils due to the absence of Individual O and his own lack of capacity.

In her written statement, Individual O stated that she was present at the pay committee meeting of 7 December 2015 when the leadership team pay recommendations were considered and she was responsible for preparing the minutes of that meeting. The panel was presented with those minutes, which record that Mr Wilkinson-McKie stated at the meeting that there were concerns over Witness B's leadership of attendance in the last academic year, particularly relating to the SIMS attendance records. The minutes stated that Mr Wilkinson-McKie told the committee that Witness B had not met his performance target in relation to attendance. The minutes contained no reference to the fact that

Individual O had been on leave and Individual O confirmed in her statement that Mr Wilkinson-McKie did not mention this at the meeting.

Mr Wilkinson-McKie gave evidence that he did not raise Witness B's performance targets at the pay committee meeting and that he was asked to discuss Witness B by the chair of the committee. This was confirmed by the minutes of the meeting. Mr Wilkinson-McKie further stated that he did not report anything to do with the level of attendance. Instead, he reported that Witness B had failed in his leadership of attendance because of the poor maintenance of SIMS attendance records during 2014/15, including the recording of an unacceptably high level of 'N' codes, denoting absence. The panel was satisfied, based on Mr Wilkinson-McKie's own explanation, that he did report to the pay committee that Witness B's failure to meet his performance target for attendance was associated with the low level of recorded attendance in the 2014/15 academic year. The panel concluded Mr Wilkinson-McKie's failure to mention the absence of Individual O and the impact of this on the level of recorded attendance meant that his report to the pay committee was inaccurate and unfair to Witness B.

The panel finds allegation 5 proved.

6. **Between March 2016 and May 2016, improperly influenced or sought to influence the conduct and outcome of a disciplinary investigation into five members of staff.**

The panel heard evidence from Witness D that he was appointed by Mr Wilkinson-McKie to carry out a disciplinary investigation in relation to the five members of staff concerning the incident involving Pupil X. Witness D stated that the school had received a telephone call from the LADO on 22 March 2016, indicating that a complaint had been received about Pupil X and that Witness D then spoke to Mr Wilkinson-McKie about this complaint. Witness D stated that the reaction of Mr Wilkinson-McKie was that he had a smile on his face and said, 'some people would be excited by this happening'. Witness D said that Mr Wilkinson-McKie made the decision to suspend the five members of staff and subsequently told Witness D that the disciplinary investigation was too good an opportunity to miss to get Witness B out of the school.

Witness D stated that he had serious concerns about the way that Mr Wilkinson-McKie was behaving towards people at the school, including Witness B. Witness D stated that he decided that the only way that he could protect himself from accusations that he conspired with Mr Wilkinson-McKie was to secretly record his conversations with Mr Wilkinson-McKie. The panel considered the transcripts of six conversations, which the panel was informed took place on dates between 26 March 2016 and 18 May 2016. The panel also listened to the audio recordings of these conversations.

The panel heard evidence from Witness R. Witness R stated that his advice was always clear regarding the need for segregation of duties. Mr Wilkinson-McKie was the commissioning officer and Witness D was the investigating officer. Witness R stated that

it was the role of Witness D to investigate and produce a summary of the evidence and a conclusion. In addition, the panel had sight of an email to Mr Wilkinson-McKie from Witness J dated 16 March 2016 regarding a different disciplinary matter, which quoted paragraph 9.3 of the Academy's disciplinary procedure which stated:

'In cases of alleged gross misconduct where the headteacher may be responsible for making the decision to dismiss (i.e. as part of the Disciplinary Panel), the headteacher should not be involved in the investigation nor have sight of the investigatory report prior to the hearing'.

The panel noted that paragraph 9.3 referred to cases of alleged gross misconduct. In describing his view of the incident involving Pupil X, Mr Wilkinson-McKie gave evidence that he 'had never seen anything like it'. While the panel does not agree with Mr Wilkinson-McKie's analysis, he clearly felt that this was a case of alleged gross misconduct. Therefore, he should have complied with paragraph 9.3.

Despite the advice given by Witness R and the very recent reminder from Witness J, Witness D stated that Mr Wilkinson-McKie sat him down in his office and made him go through his draft report on a line by line basis. Witness D stated that Mr Wilkinson-McKie told him to rewrite parts of the report. This was in clear breach of the Academy's disciplinary procedure.

On listening to the relevant audio recording, the panel noted that Mr Wilkinson-McKie made a number of suggestions to Witness D about how the report should be altered, including suggesting an amended description of his own presence as an observer. Mr Wilkinson-McKie also referred to notes that he had made about the draft report and added, 'but I need to shred my notes 'cos I really ought not to have seen it'.

In his oral evidence, after hearing a recording of a conversation between Mr Wilkinson-McKie and Witness D, Witness R stated that this amounted to an inappropriate level of involvement in the investigation and an overstepping of Mr Wilkinson-McKie's role as commissioning officer.

The panel was satisfied that Mr Wilkinson-McKie sought to improperly influence the outcome of the disciplinary investigation.

The panel found allegation 6 proved.

7. **In May 2016, in respect of Witness B, you made an offer of voluntary severance with the intention of inducing Witness B to drop the grievance against you.**

The panel was presented with a copy of an email from Witness B to the chair of governors dated 20 May 2016, which represented a formal grievance against Mr Wilkinson-McKie.

The panel was also presented with a copy of an email from Witness R to the union representative of Witness B on 23 May 2016. Witness R confirmed that he would not have sent this email without instructions from either Mr Wilkinson-McKie alone or Mr Wilkinson-McKie and Witness E. Although he could not recall who had given him those instructions, the panel was satisfied, on the balance of probabilities, that the instruction was given by Mr Wilkinson-McKie. This email contained an offer of a 'severance payment' of £30,000 to Witness B on the basis that the termination date would be 30 June 2016. In the alternative, an offer of £27,500 was made on the basis that Witness B's termination date would be 31 August 2016. The email referred to a number of matters that would be part of a settlement agreement, including a proposal that Witness B would withdraw his grievance. The panel was satisfied that the offer of voluntary severance was made with the intention of inducing Witness B to agree to the terms proposed, including withdrawal of the grievance.

The panel found allegation 7 proved.

8. **In January 2014 you submitted a resignation letter to the Roseland Academy on behalf of Witness S dated December 2013 and at that time you claimed:**

    a. **it had previously been submitted by her in December 2013;**

    b. **that you had found the letter in the post file in the Headteacher's PA's office.**

Mr Wilkinson-McKie stated that, prior to Christmas 2013, Witness S decided that she wanted to leave her post at the school and she handed a resignation letter to him on the last day of term. The panel also heard evidence from Witness S who stated that she typed out her letter of resignation and gave it to Mr Wilkinson-McKie when they arrived at school together on the last day of term before Christmas. Mr Wilkinson-McKie stated that he did not mention to anyone the fact that Witness S had resigned as he did not wish to discuss Witness S's position with any member of staff. He stated that he put the resignation letter in a post file the same day. Mr Wilkinson-McKie stated that he mentioned the resignation letter to Witness J when he returned to school in January 2014, but Witness J said that she had not received it. He said that he then looked for the letter and found it in a post file.

Witness J gave evidence that, on the first day back in school in January 2014, Mr Wilkinson-McKie asked her if she had received the resignation letter. Witness J said that she had not seen this. Witness J said that she then checked her post files and was sure that there was no correspondence in any of them. Witness J stated that, later the same day, Mr Wilkinson-McKie told her that the letter had been in a post file before Christmas and he then went to where the post files were stored and selected a folder from which he produced the letter. Witness J stated that she had been in and out of the office in between the two conversations that she had with Mr Wilkinson-McKie that day. Witness J stated that there were 15 post files and she thought that it was odd that Mr Wilkinson-

McKie went straight to the post file containing the letter and produced it. Witness J stated that she felt that Mr Wilkinson-McKie had lied to her about the letter and that he was endeavouring to show that Witness S's resignation had been submitted before the Christmas break so that it was clear that her period of notice had started on the last day of term. The panel regarded Witness J as a credible witness and preferred her evidence to that of Mr Wilkinson-McKie. In the light of all of the evidence, the panel accepted that the letter of resignation might have been given to Mr Wilkinson-McKie on the last day of term. However, the panel was satisfied, on the balance of probabilities, that Mr Wilkinson-McKie did not place the letter in the post file until the first day of term in January 2014.

The panel finds allegation 8.a and 8.b proved.

9. In March 2015, you presented the results of the staff survey of November 2014 to the Board of Trustees and/or Governors you did not reveal the extent and the seriousness of the concerns about your behaviour that were recorded in the survey.

The panel confined consideration of this allegation to Mr Wilkinson-McKie's presentation to the formal meeting of the full governing body on 16 March 2015, as distinct from the meeting with two governors, Witness P and Individual Q, which preceded the formal meeting. The panel reviewed the staff survey and compared this with the executive summary which was provided to the meeting. The panel also reviewed paragraph 7.2 of the minutes of the meeting of the full governing body meeting on 16 March 2015, which referred to the results of the staff survey. Both Witness E and Witness P confirmed that paragraph 7.2 was an accurate reflection of the discussion at the formal meeting.

The panel noted that the staff survey included the following comments:

- 'It's not the whole leadership team who are doing a bad job, only the headteacher'
- 'The head tells so many lies, big and small'
- 'We are losing good staff and word is spreading that this is not a good place to work since the arrival of NWM'
- 'The governors need to act to move the headteacher on before the cracks become ravines'
- 'I feel the staff work harder than the head'
- 'The headteacher does not seem to have a long term plan or be able to communicate in an open and honest way'
- 'The deputy headteachers run the school. There is no confidence in the head'

- 'He has no leadership qualities at all and the staff (and students) do not respect him in any way'

- 'The main problem with the school is the headmaster. He is bad at making decisions, a fact often joked about in the staff room. Even when he does make a decision he does not take any advice into consideration in making that decision. The deputy heads do a brilliant job of running the school for him. He seems to delegate everything and take no responsibility for anything. He overrides opinion and is strongly disliked by staff. He delights in bullying certain members of staff – seemingly to undermine or scare those that are outspoken and had dared to challenge any of the few decisions that he has made. But also he bullies staff to give him information on other members of staff and what they are doing or saying'.

The panel noted that neither the executive summary prepared by Mr Wilkinson-McKie nor the minute of the meeting referred to the nature or extent of the staff criticisms. Indeed, in his executive summary report, in contrast to comments made in the staff survey, Mr Wilkinson-McKie stated:

'Staff are supported and well line managed, support each other and when we are under pressure we pull together. Staff enjoy working here and would recommend it as a good place to work'.

In her oral evidence, Witness P stated that she was not aware of the detail or quantity of criticism in the staff survey. Witness P said that if she had been so aware, she believed that she would have taken further action.

The panel was satisfied that Mr Wilkinson-McKie did not reveal to the board of trustees and/or governors the extent and seriousness of the concerns expressed by staff about him.

The panel found allegation 9 proved.

10. Your conduct at 2.d, 2.e, 5, 6, 8 and 9 was:

a. misleading; and/or

b. dishonest.

The panel considered whether the conduct found proven was misleading and/or dishonest. In determining whether the conduct was dishonest, the panel considered Mr Wilkinson-McKie's state of knowledge or belief as to the facts before determining whether his conduct was dishonest by the standards of ordinary decent people. The panel considered each proven allegation separately.

In relation to allegation 2.d, the panel was satisfied that Mr Wilkinson-McKie gave an untruthful account to Witness I of the number of complaints that had been made by

parents. He was aware of the number of complaints given that this information had been reported to him by email the evening before the meeting. Mr Wilkinson-McKie was also untruthful in suggesting that an investigation would require him to suspend Witness I, when the nature of the complaints would not have warranted such action. The matters that gave rise to the complaints did not amount to gross misconduct. The panel was satisfied that Mr Wilkinson-McKie's proven conduct was both misleading and dishonest.

In relation to allegation 2.e, the panel was satisfied that Mr Wilkinson-McKie told Witness H that Witness E had wanted him to initiate disciplinary proceedings but that he had persuaded her against this. Mr Wilkinson-McKie was aware that he was being untruthful and the panel was satisfied that his conduct was both misleading and dishonest.

In relation to allegation 5, the panel was satisfied that Mr Wilkinson-McKie was aware that Individual O had been absent during the 2014/15 academic year, as Witness B had raised concerns about his ability to properly manage attendance without support. The panel was satisfied that Mr Wilkinson-McKie's inaccurate reporting was both misleading and dishonest.

In relation to allegation 6, on listening to the relevant audio recording of a meeting with Witness D, the panel noted that Mr Wilkinson-McKie referred to notes that he had made about the draft report and added, 'but I need to shred my notes 'cos I really ought not to have seen it'. The panel was satisfied that Mr Wilkinson-McKie was aware that it was not appropriate for him to be involved in rewriting or trying to rewrite the investigation report. Furthermore, the reference to shredding his notes showed that Mr Wilkinson-McKie was endeavouring to conceal his attempt to improperly influence the outcome of the investigation. The panel was satisfied that Mr Wilkinson-McKie's actions in attempting to conceal his improper involvement were designed to mislead and were dishonest. The panel, therefore, finds that his conduct in allegation 6 was both misleading and dishonest.

In relation to allegation 8.a, the panel accepted that the letter of resignation might have been given to Mr Wilkinson-McKie on the last day of term. Therefore, Mr Wilkinson-McKie's assertion that the letter of resignation had been submitted to him in December 2013 may have been factually correct and neither misleading nor dishonest. However, the panel was satisfied that Mr Wilkinson-McKie did not present the letter of resignation until January 2014 and his claim to have found the letter in the post file having placed it there on the last day of term was false. The panel was satisfied that Mr Wilkinson-McKie's actions in allegation 8.b were misleading and dishonest.

In relation to allegation 9, the panel has found that Mr Wilkinson-McKie did not reveal the extent and seriousness of the concerns expressed by staff about him. The panel was satisfied that Mr Wilkinson-McKie's actions were misleading and dishonest.

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

The panel has found allegations 1 to 10, with the exception of allegation 2.a, 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 Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

In relation to allegation 3.e, the panel found that Mr Wilkinson-McKie referred to the member of staff concerned as 'a bit of a skiver' in a conversation with Witness E. Whilst the panel found that this was inappropriate, the panel did not consider that this reached the threshold for unacceptable professional conduct or conduct that may bring the profession into disrepute.

In relation to allegation 4, the panel found that Mr Wilkinson-McKie said to Witness N, 'you need to be on top of this, your job or your neck is on the line' or words to that effect. In and of itself, this episode did not meet the threshold for unacceptable professional conduct or conduct that may bring the profession into disrepute. However, the panel recognised the impact of this on Witness N.

In relation to allegation 7, the panel found that the offer of voluntary severance was made with the intention of inducing Witness B to agree to the terms proposed, including withdrawal of the grievance. The offer of voluntary severance was contained in an email dated 22 May 2016 sent by Witness R to Witness B's trade union representative. Witness R stated that Witness B's trade union representative initiated the discussions which led to the settlement offer. The email set out the terms of a potential settlement agreement, which included, 'Grievance to be withdrawn'. The purpose of the offer was to bring Witness B's employment to a conclusion and to settle all matters, including a provision that, 'Disciplinary process will cease'. The panel finds that these circumstances do not amount to misconduct of a serious nature.

With the exception of allegations 3.a, 4 and 7, the panel is satisfied that the conduct of Mr Wilkinson-McKie in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel has made findings that Mr Wilkinson-McKie treated six members of staff unfairly and, of those, he bullied three. He also used inappropriate and offensive language about four members of staff. The panel has also found that Mr Wilkinson-McKie was misleading and dishonest when reporting to the governing body about the reasons for the low attendance figures; that he was dishonest and acted improperly when seeking to influence a disciplinary investigation into five members of staff; that he acted dishonestly when submitting Witness S's resignation letter; and that he misled the governors and was dishonest when presenting the results of the staff survey.

The panel considers that by reference to Part Two, Mr Wilkinson-McKie 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach…

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

The panel also considered whether Mr Wilkinson-McKie's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and the panel found that none of these offences is relevant.

The panel was satisfied that Mr Wilkinson-McKie is guilty of unacceptable professional conduct.

The panel has taken into account the way 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 panel therefore found that Mr Wilkinson-McKie'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.

Although Mr Wilkinson-McKie did not attend the final stage of the hearing, Mr Faux provided an explanation for his absence and confirmed that he was content for the hearing to proceed in his absence. In addition to hearing submissions from Mr Faux, the panel had the benefit of considering a bundle of documents submitted in mitigation which contained some positive testimonials and other relevant documents. The panel gave careful consideration to these documents.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it was an appropriate and proportionate measure, and whether it was 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 had regard the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct and the interest of retaining the teacher in the profession.

The panel made findings that Mr Wilkinson-McKie treated six members of staff unfairly and, of those, he bullied three. He also used inappropriate and offensive language about four members of staff. The panel also found that Mr Wilkinson-McKie was misleading and dishonest when reporting to the governing body about the reasons for the low attendance figures; that he was dishonest and acted improperly when seeking to influence a disciplinary investigation into five members of staff; that he acted dishonestly when submitting Witness S's resignation letter; and that he misled the governors and was dishonest when presenting the results of the staff survey.

In light of these findings against Mr Wilkinson-McKie, there is a strong public interest in maintaining confidence in the profession and declaring and upholding proper standards of conduct.

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

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

In view of 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 Wilkinson-McKie.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of and against prohibition as well as the interests of Mr Wilkinson-McKie. 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 departure from the personal and professional conduct elements of the Teachers' Standards;
- a deep-seated attitude that leads to harmful behaviour;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;

- sustained or serious bullying, or other deliberate behaviour that undermines… colleagues;

The panel felt that Mr Wilkinson-McKie lacked the capacity to appreciate the warning signals, such as the staff survey, he was given about his inappropriate behaviour.

Even though there were behaviours that would point to the appropriateness of a prohibition order, the panel considered whether there were sufficient mitigating factors to militate against the appropriateness and proportionality of a prohibition order, particularly taking into account the nature and severity of the behaviour in this case.

There was no evidence to suggest that Mr Wilkinson-McKie was acting under duress.

The panel has found that, in several respects, Mr Wilkinson-McKie's conduct was dishonest. Therefore, his conduct was deliberate.

Mr Wilkinson-McKie has not been the subject of previous disciplinary proceedings by the TRA or its predecessors.

The bundle of documents relating to mitigation contained testimonials from Individual V, a retired member of the senior leadership team at North Kesteven Academy, and Individual W, headteacher of a local primary school which was a feeder school to the Roseland Academy.

Individual V's testimonial stated, 'In the role of headteacher…his primary focus was to improve the educational outcomes of the students at the Academy. He strongly believed that this would be achieved by raising the results and he pursued this goal to the exclusion of other priorities…Neil's relentless focus on results meant he spent a lot of time in his office.'

Individual W stated that she had regular contact with Mr Wilkinson-McKie when they were working towards a multi-academy trust. Individual W stated, 'At all times in my dealings with Neil Wilkinson-McKie, I found him to be completely focused on achieving the best outcomes for pupils in his school and those in the primary schools within the Roseland cluster.'

The panel accepted that Mr Wilkinson-McKie's ambition was to achieve the best possible results for students. However, the way in which he went about seeking to achieve this ambition was unacceptable and entirely misconceived. Striving for success should not encompass the types of misconduct that have been found proved in this case. The panel was particularly concerned by Mr Wilkinson-McKie's bullying and unfair treatment of his colleagues, especially through his repeated, dishonest misuse of the Academy's employment procedures. The panel heard evidence from two teachers who said that they felt unable to continue in the teaching profession as a result of Mr Wilkinson-McKie's actions.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel is of the view that, applying the standard of the ordinary intelligent citizen, a recommendation of no prohibition order would not be an appropriate response. Despite the severity of the consequences of prohibition for Mr Wilkinson-McKie, recommending that the publication of adverse findings was sufficient in the case would unacceptably compromise the public interest considerations present in this case.

The panel decided that the public interest considerations outweigh the interests of Mr Wilkinson-McKie. The panel's findings against Mr Wilkinson-McKie entail misconduct at the more serious end of the scale. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. The panel was mindful 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 the recommendation of a review period. These behaviours include serious dishonesty. Although there was no personal financial motive in Mr Wilkinson-McKie's misconduct, he dishonestly misused the Academy's employment procedures to take unjustified action against members of staff. He lied to and misled the governing body of the MAT. His misconduct amounted to serious dishonesty.

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 five years.

Mr Faux submitted that the findings were still 'raw' for Mr Wilkinson-McKie and that he would need time to accept them and develop insight. The panel agreed and was of the view that Mr Wilkinson-McKie must demonstrate clear and unequivocal insight into his behaviour and its consequences for other people. The panel, therefore, considered that an opportunity to apply for readmission to the profession after a period of five years would be appropriate and proportionate.

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 both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found the majority of the allegations proven and found that the majority of those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Where the panel has found the facts, including some of the facts in the schedule, unproven, or where the panel has found that the proven facts do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute, I have put those matters entirely from my mind in my consideration of the case. In this case the panel did not find every fact in the first two allegations proven, and it did not find the facts proven at 3a, 4 and 7 to amount to unacceptable professional conduct.

The panel has made a recommendation to the Secretary of State that Mr Wilskinson – McKie should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Mr Wilkinson-McKie 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

The panel finds that the conduct of Mr Wilkinson-McKie fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty on the part of a headteacher and also involves a course of conduct designed to mislead the governing body. It also involves bullying.

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 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 Wilkinson-McKie, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, " 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."

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, " Mr Wilkinson-McKie must demonstrate clear and unequivocal insight into his behaviour and its consequences for other people. " In my judgement, the lack of full insight means that there is some 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 it, " has taken into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community." 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 the public might regard a failure to impose a prohibition order 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 Wilkinson-McKie himself. The panel has considered the positive statements put forward by the teacher and they observe, " Mr Wilkinson-McKie's ambition was to achieve the best possible results for students. "

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight, and the serious dishonesty. The panel has said, "he dishonestly misused the Academy's employment procedures to take unjustified action against members of staff. He lied to and misled the governing body of the MAT. His misconduct amounted to serious dishonesty." I have also taken account of the comments made by the panel, "The

panel was particularly concerned by Mr Wilkinson-McKie's bullying and unfair treatment of his colleagues, especially through his repeated, dishonest misuse of the Academy's employment procedures. The panel heard evidence from two teachers who said that they felt unable to continue in the teaching profession as a result of Mr Wilkinson-McKie's actions."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Wilkinson-McKie 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 full 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 intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 5 year review period.

I have considered the panel's comments " the way in which he went about seeking to achieve this ambition was unacceptable and entirely misconceived. Striving for success should not encompass the types of misconduct that have been found proved in this case." The panel has also taken into account the comments made by Mr Wilkinson-McKie's rep who indicated, " the findings were still 'raw' for Mr Wilkinson-McKie and that he would need time to accept them and develop insight. "

I have considered whether a 5 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, three factors mean that a five year review period is proportionate and necessary to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the bullying behaviour and the lack of complete insight.

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

This means that Mr Wilkinson-McKie 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 December 2023, 5 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 Wilkinson-McKie remains prohibited from teaching indefinitely.

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

Mr Wilkinson-McKie 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 December 2018

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