



Teaching
Regulation
Agency

Mrs Jane Scown: Professional conduct panel outcome

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

September 2019

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

Teacher: Mrs Jane Scown

Teacher ref number: 7329852

Teacher date of birth: 30 July 1953

TRA reference: 17313

Date of determination: 11 September 2019

Former employer: Indian Queens Community Primary School and Nursery,
Cornwall

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 September 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mrs Jane Scown.

The panel members were Mrs Kathy Thomson (former teacher panellist – in the chair), Mr Martin Pilkington (lay panellist) and Mr Peter Cooper (teacher panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Caroline Dean of DAC Beachcroft solicitors.

Mrs Scown was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 11 June 2019 ("the Notice").

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

1. On an unknown date between 8 May 2017 and 11 May 2017 whilst employed as a Head Teacher at Indian Queens Community Primary School and Nursery, she reviewed and/or amended the answers given by pupils in the Key Stage 2 2017 in English reading and/or English grammar punctuation and spelling (Paper 2), and/or Mathematics (Paper 3).
2. By her actions set out in paragraph 1 she was in breach of the Administrators guide to Key Stage 2 national curriculum assessments.
3. In or around December 2017 she knowingly passed inaccurate examination data during a governors meeting (as a result inaccurate information was publically available).
4. By her conduct set out in paragraph 2, she:
 - a. Failed to maintain high standards of behaviour:
 - b. Failed to act within statutory frameworks setting out her professional duties and responsibilities.
5. By her conduct set out in paragraph 1 and 2, she:
 - a. Was dishonest;
 - b. Failed to act with integrity.

Mrs Scown had not responded to the Notice. In those circumstances, all of the allegations were treated as denied.

C. Preliminary applications

Application to proceed in the absence of Mrs Scown

The panel considered an application from the presenting officer to proceed in the absence of Mrs Scown.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the

case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice had been sent in accordance with Rules 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures") and that the requirements for service had been satisfied.

The Notice and hearing documentation had been sent to Mrs Scown's last known address and had been signed for.

Mrs Scown had not responded to the Notice or to other correspondence sent to her. Mrs Scown had previously been represented by the NAHT. However, in recent correspondence a representative of the NAHT had confirmed that they were without instructions. An email from the NAHT to the presenting officer dated 28 August 2019 confirmed that Mrs Scown had been told that she would not be represented at the hearing.

In the circumstances, the panel was satisfied that all reasonable efforts had been made to bring the hearing to Mrs Scown's attention.

The panel went on to consider whether to proceed in Mrs Scown's absence or to adjourn, in accordance with Rule 4.29 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mrs Scown is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to her as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mrs Scown for the following reasons:

- Mrs Scown had not sought an adjournment and there was no evidence before the panel which indicated that Mrs Scown was unfit to attend the hearing.
- The panel was satisfied that Mrs Scown's absence was voluntary and she had waived her right to attend.
- Mrs Scown had previously had the benefit of legal advice and had been expressly told that she would not be represented at the hearing. The panel was, therefore, satisfied that Mrs Scown had waived her right to be represented.
- There was no indication that Mrs Scown might attend at a future date and no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.

- There is an obligation on all professionals who are subject to a regulatory regime to engage with their regulator.
- There are witnesses present to give evidence to the panel who would be significantly inconvenienced were the hearing to be adjourned, given the distance they had travelled to attend.

Having decided that it was appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mrs Scown is neither present nor represented.

Application to admit additional documentation

The panel considered an application on behalf of the TRA to admit:

1. Additional papers relating to service of the Notice and the hearing papers.
2. Key Stage 2 ("KS2") guidance documentation.

The panel had regard to the submissions made and accepted the legal advice provided.

In relation to the papers relating to service, the panel decided that these documents ought to be admitted. They were relevant to its decision whether to proceed in the absence of Mrs Scown. There was no prejudice to Mrs Scown, given that the documents were not evidential in nature.

In relation to the KS2 guidance documentation, whilst it was regrettable that these documents had not been included within the hearing bundle, the panel concluded that they were relevant to the issues to be determined and they ought to be admitted on the basis that it was fair to do so. Whilst copies had not been provided to Mrs Scown, there was no prejudice given that these were publically available documents which would have been available to her at the time of the assessments in question.

The panel, therefore, decided to admit all of the documents.

Application by the TRA to amend allegations 1, 4 and 5

The presenting officer applied to make the following amendments to the allegations set out in the Notice:

1. In allegation 1, to correct a misspelling of 'nursery'.
2. In allegation 4, to substitute "*paragraphs 1 and 3*" for "*paragraph 2*".
3. In allegation 5, to substitute "*paragraphs 1 and 3*" for "*paragraphs 1 and 2*".

The panel took account of the submissions made by the presenting officer and accepted the legal advice provided.

In relation to the first amendment sought, the panel was content to allow the application on the basis that this simply corrected a typographical error. There was, plainly, no prejudice to Mrs Scown and it was in the public interest for the amendment to be made.

However, in relation to the second and third amendments sought, the panel did not agree to the application.

There was no good reason for the timing of the application which had not been raised in correspondence with the teacher or her representative.

Further, the panel was satisfied that there was a risk of prejudice to Mrs Scown on the basis that the proposed amendments did change the substance of what was alleged against her. In those circumstances, whilst the panel took account of the fact that Mrs Scown had waived her right to be present, it would not be fair to permit these amendments which were not appropriate in the interests of justice.

D. Summary of evidence

Documents

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

Section 1: Chronology, identification key and list of roles – pages 1 to 2

Section 2: Notice of hearing – pages 3 to 9

Section 3: Teaching Regulation Agency witness statements – pages 10 to 26

Section 4: Teaching Regulation Agency documents – pages 27 to 117

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

In addition, as noted above, the panel agreed to accept the following:

1. Additional papers relating to the proof of service of the Notice of Proceedings and the hearing papers; and
2. KS2 guidance documentation.

These documents were added to the case papers marked pages 118 to 257.

Witnesses

The panel heard oral evidence from:

- Witness A, [REDACTED].
- Witness B, [REDACTED].
- Witness C, [REDACTED].
- Witness D, [REDACTED].
- Witness E, [REDACTED].

Mrs Scown did not attend to give evidence to the panel.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered this case and reached a decision.

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

Introduction

At the relevant time, for the purposes of these proceedings, Mrs Scown was employed as head teacher of Indian Queens Community Primary School and Nursery ("the School").

These proceedings concern Key Stage 2 2017 Statutory Attainment Tests ("SATs") undertaken by a cohort of year 6 pupils at the School in May 2017.

On 19 December 2017, the Standards & Testing Agency ("STA") maladministration team contacted Cornwall Council ("the Council") to request a visit to the School. This followed a script investigation which had identified evidence of amendments to a number of the SATs scripts completed by the pupils. The relevant email from the STA to the Council stated that:

"Amendments have been identified within the key stage 2 test(s) which could not have occurred under test conditions."

On 11 January 2018, Mrs Scown was contacted by the Council to confirm that an investigation into allegations of maladministration would commence the following day.

Officers from the Council duly attended the School on 12 January 2018 and interviewed all members of staff who had been involved in the administration of the SATs.

On 29 January 2018, prior to the conclusion of the Council's investigation, Mrs Scown resigned from her position.

As a result of its findings and the Council's visit to the School, the STA reported that the results for Key Stage 2 ("KS2") English reading, English grammar, punctuation and spelling (Paper 2) and Mathematics (Paper 3) results would be annulled for all of the pupils within the cohort.

The Council subsequently referred Mrs Scown's conduct to the TRA.

Evidence considered by the panel

The panel carefully considered all of the written and oral evidence presented. It accepted the legal advice provided.

The panel heard oral evidence from the above-named individuals called by the presenting officer, all of whom were staff members at the School at the relevant time.

The panel considered that all of the witnesses were credible and gave clear evidence. They endeavoured to assist the panel in relation to events that took place some time ago and were very fair and balanced in their testimonies.

Mrs Scown did not attend to give evidence and nor did she provide a witness statement specifically addressing the allegations set out in the Notice.

The panel confirms that it has not relied upon any findings made, or opinions expressed, during the Council's investigation. It formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

The panel's findings of fact are as follows:

- 1. On an unknown date between 8 May 2017 and 11 May 2017 whilst employed as a Head Teacher at Indian Queens Community Primary School and Nursery, you reviewed and/or amended the answers given by pupils in the Key Stage 2 2017 in English reading and/or English grammar punctuation and spelling (Paper 2), and/or Mathematics (Paper 3).**

The panel heard that, on 8 May 2017, the School's year 6 pupils undertook their SATs assessments. There were approximately 36 pupils in that particular year group.

The panel was provided with extensive evidence in relation to the procedures in place at the School for the conduct of these assessments.

Witness E explained her role in receiving the test papers and the steps that were undertaken to ensure the integrity of the process in advance of the assessments taking place. Witness B and Witness D both provided evidence of the administration arrangements for the examinations.

Insofar as they had direct knowledge of events, all of the witnesses were clear as to the fact that, following the completion of the relevant assessments, the papers were provided to Mrs Scown. Mrs Scown then assumed responsibility for the papers prior to their being checked, sealed and eventually collected. There were understood to be a total of six SATs assessments over a four-day period.

Witness D stated:

"Once the exams were over, I collected the question and answer papers from all students ... and I then took those question and answer papers to Ms Scown's office. I handed over those papers to her in person and returned to the classroom to administer the exams for students with special needs.

...

Once the exams for those students with special needs were also completed, I took those question and answer papers to Ms Scown too. Once I had collected all of the papers, Ms Scown told me that she would be calling Witness E to pack the papers for collection."

Witness D provided further detail of this process during her oral evidence. She confirmed, for example, that there was a, "*booster group*" of pupils and that Mrs Scown administered the SATs for those pupils. Witness D was clear that Mrs Scown took possession of all of the papers from her within a matter of minutes following the conclusion of the assessments. As far as she could recall, there was never anyone with Mrs Scown in her office when the papers were provided to her.

Witness E stated that the location of her office within the School was such that she would not be aware that the assessments had concluded unless and until she was specifically told by Mrs Scown.

On the evidence before the panel, there was, accordingly, a period of time when the papers were left in the sole custody of Mrs Scown prior to Witness E's involvement in the next stage of the process.

Once notified by Mrs Scown, Witness E then joined her to check and package the SATs papers prior to their collection. Witness E stated:

"Once the exams were over each day, Ms Scown would have all of the exam papers and would call me to check the names and dates of birth on the front of each paper against the register. This would usually have been around lunchtime. We would then put the papers in the bags provided and then seal the bags.

I would then take the sealed bags and lock them in the same cupboard as they were kept prior to the tests to await collection by Parcelforce. The keys to this cupboard remained with me at all times."

Witness E could not recall precisely when the papers were collected by Parcelforce. However, she thought the collections may have taken place around lunchtime or in the afternoon. All of the SATs assessments were said to have taken place in the mornings.

Witness E also stated that, on one of the days during this assessment week, she notified Mrs Scown that a Parcelforce driver had arrived, only to be told to send the driver away on the basis that *"the papers were not ready"*. This was further evidenced by a collection log within the hearing papers indicating that on 9 May 2017 there was no collection of that day's SATs assessments; this is in contrast to the other days that week.

It was clear, and the panel found as a matter of fact, that, at some point in the examination process, amendments to SATs scripts were made.

As noted above, the investigation undertaken by the STA identified clear evidence of amendments to a number of test scripts and a detailed breakdown was included within the papers. For example, in relation to the English grammar, punctuation and spelling paper 2, the STA identified that *"26 matches (of push through (PT) of amendments and corresponding indentations) were identified"*. The panel was also provided with examples of pupils' work which had been amended.

A letter from the STA dated 7 February 2018, sent to the Chair of Governors at the School, confirmed:

"The nature of the evidence identified from this review shows that the amendments can only have occurred after completion of the tests and outside of test conditions."

In light of its findings, and following the Council's visit to the School, the STA concluded that:

"Based on the evidence identified from the KS2 test script review, it was considered that there was significant doubt over the English reading, English grammar, punctuation and spelling: Paper 2, and Mathematics: Paper 3 results for the School. IT was decided that these results would be annulled for all pupils within the cohort."

As a consequence, the pupils did not receive an overall standard for English reading, English grammar, punctuation and spelling or mathematics.

The findings of the STA investigation had not been challenged by Mrs Scown and were accepted by the panel.

The panel noted and took account of the fact that there was no direct evidence that the amendments identified had been made by Mrs Scown.

However, the panel, nevertheless, concluded that this was the appropriate inference to draw, based on the following:

- On the basis of the evidence before the panel, it concluded, on the balance of probabilities, that the only realistic opportunity available to anyone from the School to tamper with, or alter, the SATs papers was during the period after the papers had been provided to Mrs Scown and prior to Witness E having been called to complete the checking and sealing process. Witness D confirmed that Mrs Scown would, initially, be left alone with the papers for at least as long as it took to complete the assessments for those pupils with additional learning requirements (between 30 minutes and 1 hour depending on what assessment was taking place on each particular day).
- There was then a further a period of time following Mrs Scown's being in receipt of all of the papers and prior to Witness E having been asked to attend Mrs Scown's office to complete the checking and sealing process; the precise length of this period of time was unknown. Witness D also provided an account of the layout of Mrs Scown's office and an inner room. She confirmed that this afforded Mrs Scown privacy. Witness D stated that she was told by Mrs Scown that the papers would be kept in a locked filing cabinet in the inner room of Mrs Scown's office, pending Witness E's arrival. However, Witness D did not witness this.
- Witness E confirmed that, "*nine times out of ten*" Mrs Scown would be alone with the papers when she attended her office to carry out the final checks and sealing of the papers.
- In relation to the final checks and sealing process following the assessments, Witness E confirmed that once the papers had been checked against the register, the papers were placed in a bag and sealed by her. Witness E added her signature across the seal. There was no evidence, and nor was it suggested, that these sealed bags were ever tampered with.
- There was no evidence that anyone other than Mrs Scown was, at any stage, in unsupervised possession of the papers. Although Witness D delivered the papers

to Mrs Scown, it was clear that this would have taken no more than a few minutes as she was required to return to administer the assessments for the final group of pupils.

- The assessments for the SATs that were annulled took place on different days. The panel considered this reduced the likelihood of an opportunistic intervention by someone other than Mrs Scown.
- Pupils from Mrs Scown's 'booster group', which she supervised, were amongst the pupils whose papers had been found to have been amended outside of test conditions.
- On at least one occasion, as noted above, there was a delay prior to Witness E' being called upon by Mrs Scown, which resulted in the Parcelforce driver being turned away.

The panel also took into account the evidence before it of Mrs Scown's reaction following the investigation being notified to her. It concluded that this evidence supported the panel's finding that Mrs Scown was responsible for the changes made to the pupils' scripts.

Whilst the panel did not hear from Mrs Scown, orally or in writing, it did hear first-hand evidence of what Mrs Scown had said to her colleagues.

It is only right to note that Mrs Scown did not specifically confirm that she did amend or alter the papers. All of the witnesses were consistent in that regard.

However, all of the witnesses were similarly consistent as to the fact that Mrs Scown made comments to them alluding to her involvement in wrongdoing.

Witness A, Witness D and Witness B all gave evidence of Mrs Scown's reaction to the notification of the Council's investigation, which was described as "*panicked*". At the time, the basis for the investigation was unknown and the staff who were involved in the SATs were called to a lengthy, eight hour meeting by Mrs Scown to prepare for the investigation. They were very surprised by Mrs Scown's actions and demeanour during that meeting, given that, so far as they were aware, there was no cause for concern as they each believed that the applicable guidance had been rigorously followed.

Following the staff interviews with the Council on 12 January 2018, Witness A gave evidence that, during a phone call with Mrs Scown on 16 January 2018, Mrs Scown had stated words to the effect of "*I have done things you know nothing about, you're going to have to get on with it*" and "*this has finished me*". At this stage, the reason for the investigation was still not known to Witness A, or the other staff at the School, and the outcome had yet to be reported.

Witness B also gave evidence that she attended Mrs Scown's home on 19 January 2018. Witness B stated that when she asked Mrs Scown what she had done, Mrs Scown

replied "*I can see myself doing it but I don't believe I did it*". During a second visit the following week, accompanied by Witness C, Witness B said that Mrs Scown spoke of doing "*something wrong*", though she did not provide specific details. Witness B further stated that, in response to Witness C's asking Mrs Scown how she knew the outcome of the investigation was going to be negative, Mrs Scown replied "*they will do a forensic test*".

In oral evidence, Witness B stated that she left Mrs Scown's property, on this second occasion, certain, in her mind, that Mrs Scown was alluding, in her responses, to her involvement in the examinations.

Witness B further volunteered that, having later reviewed the papers in question, she recognised Mrs Scown's handwriting. However, the panel recognised that this was a matter of opinion rather than fact and no expert handwriting evidence was available. Whilst Witness B was clearly well intentioned and seeking to assist the panel, her view on this specific issue was accordingly not determinative. However, it was nevertheless, persuasive given that Witness B had worked with Mrs Scown for almost 20 years.

Witness C also gave evidence about her visit, with Witness B, to see Mrs Scown. Whilst Witness C's evidence was not entirely consistent with Witness B's account of this visit, it was not conflicting. The panel was prepared to accept that the variations between their recollections of events was explainable, given the passage of time. Witness C stated that, during this visit:

"I asked Mrs Scown if she thought the STA would return a guilty verdict. Mrs Scown said "yes". I then asked, "you know this because you had something to do with this?", again Ms Scown said "yes"."

Witness C also stated that she was told by Mrs Scown that "*there is no one else in the School that needs to be investigated*".

Witness C also referred to a conversation she had with Mrs Scown on 16 January 2018 when she directly asked Mrs Scown if she was concerned that the investigation would reveal something untoward. In response, Witness C stated that Mrs Scown replied "*don't make me say it Vanessa*".

The panel concluded that the inescapable conclusion to be drawn from these various comments, when considered in totality, was that Mrs Scown was intimating, albeit not expressly, her direct involvement in amending the scripts at a time when her colleagues were unclear as to the basis for the investigation.

For all these reasons, the panel concluded that, on one or more dates between 8 and 11 May 2017, Mrs Scown did review and amend answers given by pupils in the SATs assessments identified.

The panel therefore found allegation 1 proven.

2. By your actions set out in paragraph 1 you were in breach of the Administrators guide to Key Stage 2 national curriculum assessments.

The panel was presented with copies of applicable administrators' guidance for the SATs, namely:

- Key stage 2: test administration guidance (the "STA Guidance").
- 2017 Assessment and Reporting Arrangements (the "ARA").
- Key stage 2 Mathematics: Administering the mathematics test.
- Key stage 2 English grammar, punctuation and spelling: Administering the English grammar, punctuation and spelling test Paper 2.
- Key stage 2 English reading: Administering the English reading test.

(together, the "Administrators' Guides")

The panel was satisfied that, as head teacher, Mrs Scown had a duty to comply with the requirements of each of the Administrators' Guides.

The subject specific guidance for each test and included with each set of test papers provided:

"Do not look at, review or amend pupils' answers in any way (unless it is necessary to make a transcript). If you tamper with or make changes to pupils' answers, it will be considered maladministration and results could be annulled."

In the STA Guidance, the panel noted, in particular, the following provisions:

- Section 2: Headteachers' responsibilities – *"You are responsible for ensuring all test administrators (anyone responsible for, or involved with, receiving test materials, test administration or returning scripts for marking) are familiar with, and comply with, all of the KS2 test administration guidance."*
- Paragraph 13.1 – *"Headteachers are responsible for making sure their school's test scripts are collated, packed and stored correctly, as soon as possible on the day of each test" and "Headteachers are responsible for ensuring pupils answers are their own and that they are not amended after the tests".*

In the ARA, the panel noted, in particular, the following provisions:

- Paragraph 6.7 – *"Headteachers are responsible for making sure the school's completed test scripts are immediately collated, packed and sealed correctly. All test papers must be collected, ensuring that every pupil is accounted for."*

Headteachers should be personally involved in packing the school's scripts. It is recommended that 2 members of staff are involved in this process."

- Paragraph 6.10 – *"Headteachers ... must keep the test materials secure and treat them as confidential before, during and after the test period".*

Further to the panel's findings pursuant to allegation 1, the panel concluded that Mrs Scown had breached each of these provisions of the Administrators' Guides.

The panel therefore found allegation 2 proven.

3. In or around December 2017 you knowingly passed inaccurate examination data during a governors meeting (as a result inaccurate information was publically available).

Witness C gave evidence about a meeting that took place in December 2017. She confirmed that:

"On 15th December 2017, I was involved in the head teacher management meeting with Ms Scown, [REDACTED], [REDACTED]. During this meeting, Ms Scown presented the data and provided a summary evaluation."

In oral evidence, Witness C stated that the data included the SATs results.

Witness C also gave evidence about an earlier meeting of the School's governors on 14 November 2017 when data was provided. She stated:

" Witness D, Ms Scown's [REDACTED] created a document which was simply a replication of nationally available statutory data for KS1 and KS2. This was a document produced by Ofsted called the Inspection and Data Summary Report. This document contained data that was nationally available on the DFE website ... "

Witness C went on to state that:

"Due to the STA findings on maladministration I now accept that the KS2 data presented to governors on 14th November 2017 was not accurate and therefore passed to governors knowingly as false information."

The panel had some difficulty with the wording of this allegation. That it was pleaded in unhelpful terms was conceded by the presenting officer in opening.

In terms of the panel's concerns, first, the allegation expressly alludes to the fact that inaccurate information was made publically available following the governors being given the relevant examination data. In fact, it was apparent that this data, namely the SATs

results, was already publically available by the time of the two meetings referred to above.

Secondly, at the time of both meetings, the SATs results had not yet been annulled by the STA. This happened in February 2018. Therefore, strictly speaking, the examination data had not yet been pronounced as inaccurate by the STA.

Nonetheless, further to the panel's findings pursuant to allegation 1, it was clear that Mrs Scown had amended answers given by pupils during the course of the SATs assessments. As such, the SATs results initially received, and later annulled, were not an accurate reflection of the relevant pupils' performance.

Further, by providing this information to the governors, Mrs Scown was implicitly confirming that the SATs assessments had been conducted properly and in accordance with the Administrators' Guides.

In those circumstances, the panel concluded that Mrs Scown did knowingly present inaccurate examination data during these governors meetings in November and December 2017.

However, the panel was not satisfied that, as a result of Mrs Scown's actions in these meetings, inaccurate information was made publicly available, given the chronology of events.

The panel therefore found allegation 3 proven in part on this specific basis.

4. By your conduct set out in paragraph 2, you:

- a. Failed to maintain high standards of behaviour;**
- b. Failed to act within statutory frameworks setting out your professional duties and responsibilities.**

Having concluded, pursuant to allegation 2, that Mrs Scown had breached specific requirements of the Administrators' Guides, the panel went on to consider whether Mrs Scown had, as a consequence:

- (a) failed to maintain high standards of behaviour; and/or
- (b) failed to act within statutory frameworks setting out her professional duties and responsibilities.

In relation to allegation 4(a), the panel concluded that it was clearly incumbent upon Mrs Scown to maintain high standards of behaviour and this included ensuring compliance with all applicable guidance. As the panel had found, Mrs Scown had failed to comply

with the specific requirements of the Administrators' Guides. In those circumstances, the panel was satisfied that she had failed to maintain high standards of behaviour.

In relation to allegation 4(b), the panel was referred, in particular, to the ARA which sets out that it "*details the statutory requirements for key stage 2 (KS2) national curriculum assessment and reporting for the 2016 to 2017 academic year*" and further that:

"The ARA contains provisions made pursuant to Article 11 of The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 ... This Order is made under section 87 of the Education Act 2002.

This document gives full effect to, or otherwise supplements, the provisions made in the Order."

Paragraph 11.2 of the ARA expressly provides that head teachers have a duty to ensure that the requirements of the ARA are implemented in their school.

As stated above, the panel concluded that Mrs Scown had breached key provisions of the ARA. It accordingly concluded that she had failed to act with the statutory frameworks setting out her professional duties and responsibilities in the context of her administration of the SATs.

The panel therefore found allegations 4(a) and 4(b) proven.

5. By your conduct set out in paragraphs 1 and 2, you:

- a. Were dishonest;**
- b. Failed to act with integrity.**

Having found the facts of allegations 1 and 2 proven, the panel went on to consider whether Mrs Scown's conduct was dishonest and/or lacked integrity.

In determining whether her conduct was dishonest, the panel considered Mrs Scown's state of knowledge or belief as to the facts before determining whether her conduct was dishonest by the standards of ordinary decent people.

In light of the panel's findings in relation to allegations 1 and 2, and having carefully considered the evidence before it, the panel was satisfied that, in relation to each of these allegations, Mrs Scown's conduct was dishonest by the standards of reasonable and honest people.

Given the panel's findings, it concluded that Mrs Scown must have known what she was doing, in circumstances where she was fully aware of the expectations upon her as head teacher. Her actions were deliberate and pre-meditated and the comments she made to her colleagues, once she had been notified of the investigation, were telling.

As regards lack of integrity, the panel had regard to the decision of the Court of Appeal in *Wingate v SRA; SRA v Mallins* [2018] EWCA Civ 366. The panel recognised that professional integrity denotes adherence to the standards of the profession and the panel therefore considered whether, by her actions, Mrs Scown had failed to adhere to those standards.

The panel concluded that, by her actions, Mrs Scown had, plainly, failed to adhere to the ethical and professional standards expected of her as a teacher and as a head teacher. These standards are explicit in that they state that "*teachers must ... always act within the statutory frameworks which set out their professional duties and responsibilities*". Not only had Mrs Scown failed to do so, she had acted dishonestly.

Accordingly, the panel found allegations 5(a) and 5(b) proven.

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

Having found all of the allegations proven, the panel went on to consider whether the facts of those proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document *Teacher Misconduct: The Prohibition of Teachers*, which is referred to as "the Advice".

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

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

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

Mrs Scown had amended answers given by pupils in the course of public examinations. This was an egregious failing on her part. She had disregarded statutory guidance, of which she was undoubtedly aware, and her conduct had serious repercussions for the pupils concerned, for her colleagues and for the School. She had behaved dishonestly and without integrity.

The panel also considered whether Mrs Scown's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found that, from this list, Mrs Scown has displayed behaviour associated with "fraud or serious dishonesty", not least in circumstances where her dishonest conduct occurred in the context of public examinations.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

Accordingly, the panel was satisfied that Mrs Scown was guilty of unacceptable professional conduct.

In relation to whether Mrs Scown's conduct may bring the profession into disrepute, the panel took into account the way that 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 also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception of the teaching profession. In this instance, Mrs Scown's conduct would also be likely to have a negative impact on public confidence in national examination systems.

The panel therefore found that Mrs Scown's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2, 3, 4(a), 4(b), 5(a) and 5(b) proven, the panel further found that Mrs Scown's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be 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 to the particular public interest considerations set out in the Advice and, having done so, found all of them to be relevant in this case.

In light of the panel's findings against Mrs Scown, which involved a lack of integrity and dishonesty, her conduct did give rise to public interest considerations in respect of the protection of pupils. As a direct result of Mrs Scown's actions, there had been a detrimental impact upon the School's pupils.

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

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

To the contrary, the panel did not consider that there was a strong public interest consideration in retaining Mrs Scown in the profession. Whilst no doubt had been cast upon her abilities as a classroom teacher, there were no references or testimonials before the panel and Mrs Scown had not attended to give evidence. In addition, although the witnesses in this case, who were Mrs Scown's former colleagues at the School, gave evidence to the panel of some positive aspects of her practice, the overall impression they gave was that Mrs Scown had various shortcomings as a leader. She was variously described as someone who did not take kindly to being challenged and who was very dominant and controlling.

In addition, Mrs Scown had given no indication as to her future intentions.

In view of the clear public interest considerations that were present in this case, the panel considered very carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mrs Scown.

In carrying out the balancing exercise, the panel had regard to the public interest considerations present as well as the interests of Mrs Scown.

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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education of pupils; and

- dishonesty, especially where there have been serious consequences.

Even though some of the behaviour found proven in this case indicated that a prohibition order would be appropriate, the panel went on to consider mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel considered that the following mitigating factors were present in this case:

- Mrs Scown was an experienced practitioner and had an otherwise unblemished record. There was no evidence that Mrs Scown had been subject to any previous regulatory or disciplinary proceedings.
- The panel was presented with some, albeit limited, evidence of positive aspects of Mrs Scown's practice. It was clear that she was very well regarded within the Council and had a role in mentoring and supporting senior leadership teams in other schools. Witness B stated that Mrs Scown was driven towards achieving success for the School, albeit that her methods led to a difficult working environment for her colleagues. There was also a reference to Mrs Scown having had health issues and it was indicated that she had delayed treatment in order to continue in her role.
- It was clear that Mrs Scown's colleagues were shocked by what had occurred. It therefore appeared that her actions were out of character.
- Although Mrs Scown had never admitted her actions, she had at least specified that there was no need for anyone else at the School to be subject to an investigation. Mrs Scown had also sought to ensure a smooth transition following her departure as head teacher by providing her colleagues with her laptop computer.

Weighed against this, the aggravating features in this case were that:

- Mrs Scown's actions were deliberate and she was not acting under duress. The panel's findings were that Mrs Scown's behaviour was calculated and motivated.
- She was a senior and experienced head teacher who ought to have known better.
- Mrs Scown had shown no regret or remorse. Whilst Witness B alluded to sensing shame on the part of Mrs Scown and expressed the view that she was "*devastated*", this had never been formally articulated by Mrs Scown.
- It was not apparent that Mrs Scown had demonstrated any insight into her failings.
- Mrs Scown had not participated in these proceedings, to any extent, and had made no admissions.

- Mrs Scown had an obligation to act as a role model to pupils and colleagues and she failed in her duties in that regard.
- Mrs Scown's actions amounted to a clear breach of the Teachers' Standards. She had acted dishonestly and without integrity. She had ample time and opportunity to come forward and confess to her actions in advance of the Council's investigation and did not do so. As a result, the School, and her former colleagues, were subject to a prolonged investigation and a difficult period of uncertainty. It was described as "*an awful year*" for the School.
- Mrs Scown's actions had a lasting and detrimental impact on the pupils affected, her former colleagues and the School.
- Mrs Scown had presented no evidence in mitigation. There were no character references or testimonials before the panel. Whilst the witnesses who gave evidence alluded to some positive aspects of Mrs Scown's practice as a head teacher, as noted above, the accounts of her practice from the witnesses were consistently negative.

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.

Having carefully considered the specific circumstances of this case and, taking into account the mitigating and aggravating features present, the panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present, despite the severity of the consequences for Mrs Scown of prohibition.

The panel was of the view that prohibition would be both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs Scown.

The panel's findings in relation to Mrs Scown's dishonesty and lack of integrity were a significant factor in forming that opinion.

Mrs Scown's dishonest conduct consisted of amending answers given by pupils in the course of public examinations. Mrs Scown also sought to benefit from her actions. Had her misconduct not been uncovered, the School would have achieved better results than some of the pupils deserved and a higher national ranking as a consequence.

The pupils in question were adversely affected as they did not receive an overall standard for English reading, English grammar, punctuation and spelling or mathematics.

However, the panel considered that the pupils would have been affected even if Mrs Scown's actions had not been discovered. Decisions would have been made, and likely were made, when they transferred to secondary school, as to the levels of some of those pupils. This would have been in circumstances where their results did not reflect their true abilities in these subjects and may have led to them being placed in classes that were not commensurate with their actual level of ability.

This was an act of serious dishonesty where Mrs Scown had flagrantly disregarded statutory guidance.

There was also a clear impact on the School and on Mrs Scown's former colleagues, about which Mrs Scown had exhibited no regret or remorse.

Dishonesty was not easily remediated and in this instance there was no evidence of any remediation on the part of Mrs Scown or of any insight she had gained.

To compound matters, Mrs Scown had taken no part in these proceedings. She had not taken any responsibility for her actions.

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

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life. However, 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 period of time 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. In the circumstances of this case, the panel did consider that Mrs Scown's conduct could properly be categorised as serious dishonesty.

Nevertheless, having considered the mitigating factors set out above, the panel concluded that its findings did indicate a situation in which a review period would be appropriate.

Mrs Scown's behaviour was extremely concerning and at the serious end of the spectrum. It occurred in the context of public examinations and detrimentally affected pupils. However, the panel had in mind the fact that prohibition orders should not be given in order to be punitive. Mrs Scown had undoubtedly been punished for her actions. She had been forced to leave a position to which she had been extremely committed. The panel's findings would undoubtedly affect her professional reputation and future

employment prospects. Her conduct also took place in the wider context of an otherwise long and unblemished career.

For these reasons the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period.

The panel concluded that a review period of eight years was proportionate. This period was appropriately reflective of the seriousness of the conduct and the lack of insight, regret and remorse evidenced by Mrs Scown. It would allow Mrs Scown, should she wish to do so, to seek to remediate her misconduct and to demonstrate that she had gained insight into the nature, effect and implications of her conduct.

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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mrs Jane Scown should be the subject of a prohibition order, with a review period of eight years.

In particular, the panel has found that Mrs Scown is in breach of the following standards:

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

The panel was also satisfied that the conduct of Mrs Scown amounted to misconduct of a serious nature “which fell significantly short of the standards expected of the profession.”

The findings of misconduct are particularly serious in this case as they include a finding of dishonesty and lack of integrity on the part of a headteacher. The panel say, “Mrs

Scown has displayed behaviour associated with "fraud or serious dishonesty", not least in circumstances where her dishonest conduct occurred in the context of public examinations."

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 Mrs Scown, and the impact that will have on her, 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, "As a direct result of Mrs Scown's actions, there had been a detrimental impact upon the School's pupils." A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "There was also a clear impact on the School and on Mrs Scown's former colleagues, about which Mrs Scown had exhibited no regret or remorse. Dishonesty was not easily remediated and in this instance there was no evidence of any remediation on the part of Mrs Scown or of any insight she had gained."

In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the integrity of the public examination system. 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, "The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception of the teaching profession. In this instance, Mrs Scown's conduct would also be likely to have a negative impact on public confidence in national examination systems."

I am particularly mindful of the finding of dishonesty and lack of integrity 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 Mrs Scown herself. The panel say, “Mrs Scown was an experienced practitioner and had an otherwise unblemished record. There was no evidence that Mrs Scown had been subject to any previous regulatory or disciplinary proceedings.” The panel also refer to, “with some, albeit limited, evidence of positive aspects of Mrs Scown's practice. It was clear that she was very well regarded within the Council and had a role in mentoring and supporting senior leadership teams in other schools. Witness B stated that Mrs Scown was driven towards achieving success for the School, albeit that her methods led to a difficult working environment for her colleagues. There was also a reference to Mrs Scown having had health issues and it was indicated that she had delayed treatment in order to continue in her role.”

A prohibition order would prevent Mrs Scown from teaching and would also clearly deprive the public of her 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 or remorse. The panel has said, “Mrs Scown had shown no regret or remorse.”

I have also placed considerable weight on the finding of the panel that “ In the circumstances of this case, the panel did consider that Mrs Scown's conduct could properly be categorised as serious dishonesty.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Scown 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, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the 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 an 8 year review period.

I have considered the panel's comments, “Mrs Scown's behaviour was extremely concerning and at the serious end of the spectrum. It occurred in the context of public examinations and detrimentally affected pupils.”

The panel has also said, in respect of their recommendation, that, “This period was appropriately reflective of the seriousness of the conduct and the lack of insight, regret and remorse evidenced by Mrs Scown. It would allow Mrs Scown, should she wish to do so, to seek to remediate her misconduct and to demonstrate that she had gained insight into the nature, effect and implications of her conduct.”

I have considered whether an 8 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are factors which mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession, and which make an 8 year review proportionate and necessary. These elements are the serious dishonesty and lack of integrity found and the lack of either insight or remorse. As the panel say, “The pupils in question were adversely affected as they did not receive an overall standard for English reading, English grammar, punctuation and spelling or mathematics.” In addition, “Decisions would have been made, and likely were made, when they transferred to secondary school, as to the levels of some of those pupils. This would have been in circumstances where their results did not reflect their true abilities in these subjects and may have led to them being placed in classes that were not commensurate with their actual level of ability.”

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

This means that Mrs Jane Scown is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. She may apply for the prohibition order to be set aside, but not until 17 September 2027, 8 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Jane Scown remains prohibited from teaching indefinitely.

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

Mrs Jane Scown has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date she is given notice of this order.



Decision maker: Alan Meyrick

Date: 17 September 2019

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