



Teaching  
Regulation  
Agency

# **Mrs Sarah Brown Professional conduct panel outcome**

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

**May 2021**

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

<b>Teacher:</b>	Sarah Brown
<b>Teacher ref number:</b>	0653110
<b>Teacher date of birth:</b>	24 December 1970
<b>TRA reference:</b>	18022
<b>Date of determination:</b>	28 May 2021
<b>Former employer:</b>	Burton-upon-Stather Primary School (“the School”), Scunthorpe

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by virtual means on 25, 26, 27 and 28 May 2021 to consider the case of Mrs Sarah Brown.

The panel members were Mr John Armstrong, lay panellist in the chair, Mrs Melissa West, teacher panellist and Mr Paul Millett, lay panellist.

The legal adviser to the panel was Mr Matthew Corrie, barrister, of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Andrew Cullen, counsel, of Brown Jacobson LLP Solicitors.

Mrs Brown was not present or represented.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 18 March 2021:

It was alleged that Mrs Brown is guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as headteacher of Burton-upon-Stather Primary School between 1 September 2013 and 9 November 2018, she:

1. on or around 8 January 2018, engaged in inappropriate physical contact with Pupil A, including by using her leg(s) during a hold and/or restraint of Pupil A.
2. failed to maintain appropriate professional boundaries on one or more occasions with Pupil C, including by:
  - a. removing Pupil C from School premises unsupervised for a period of approximately 3 hours;
  - b. purchasing Pupil C gifts and/or meals on one or more occasions.
3. failed to comply with the School's financial policies and/or procedures, including by:
  - a. authorising and/or making inappropriate purchases using the School's funds on one or more occasions;
  - b. authorising and/or making inappropriate payments for overtime on one or more occasions.
4. failed to comply with the School's recruitment policies and/or procedures, including in respect to the employment of:
  - a. Individual C, for the role of [redacted];
  - b. Individual D, for the role of [redacted].
5. Her conduct as may be found proven at allegations 3 and/or 4 above lacked integrity.

Although there were some admissions to certain aspects of the conduct alleged against Mrs Brown the panel did not consider these to be unambiguous, unequivocal or full admissions and approached the case on the basis of requiring the TRA to prove each of the allegations to the balance of probabilities.

## Preliminary applications

Mrs Brown did not attend the hearing and at the outset of proceedings on 25 May 2021, an application was made to proceed in her absence, pursuant to paragraphs 4.27 – 4.29 of the Teacher Misconduct: disciplinary procedures for the teaching profession 2018 ("the Disciplinary Procedures").

The panel considered and accepted the advice of the legal adviser.

The panel was satisfied that the Notice of Proceedings had been sent to Mrs Brown by email dated 18 March 2021 and that the notice contained the information required by paragraph 4.11 of the Disciplinary Procedures.

In its consideration of whether to exercise its discretion under paragraph 4.29 of the disciplinary procedures the panel took the view that it was in the interests of justice for the hearing to proceed.

Mrs Brown stated within her written response, the relevant section of which appears at page 818, that she would not attend due to health reasons. Mrs Brown also stated that:

*"I am aware that this puts the panel at a disadvantage and I apologise for that. I am also aware that my defence will be harmed as I am unable to defend my position and/or challenge some of the witnesses who are misleading the panel in their testimony."*

Further, the panel were taken to an email from Mrs Brown to Mr Cullen dated 21 April 2021 in which Mrs Brown stated that:

*"1. I voluntarily waive my right to attend the final hearing.*

*2. I wish the panel to proceed in my absence.*

*3. I do not wish to make an adjournment application."*

Further, Mrs Brown has indicated within her response to the Notice of Proceedings that she did not intend to attend the hearing.

The panel concluded that it was clear that Mrs Brown was aware of these proceedings and had decided not to attend despite having the opportunity to do so.

Further, the panel noted that Mrs Brown had expressly stated that she was not seeking an adjournment. In the circumstances, the panel had no reason to consider that an adjournment would be likely to secure Mrs Brown's attendance at a future date.

The panel also took into consideration the general public interest that the hearing takes place within a reasonable time and was mindful that the subject matter of the allegations

dates back to 2017 to 2018. Further, the panel also took into account that five witnesses were warned to attend.

Mr Cullen made a further application to admit evidence in relation to the following:

1. A full copy of the notes from the internal disciplinary meeting interview of Witness C dated 5 March 2018.
2. A copy of North Lincolnshire Council's Recruitment and Selection Policy A.2a, A2 and C6.
3. A copy of North Lincolnshire Council's pay policy.

In respect of document 1, a section of this already appeared in the bundle at pages 291 and 292. Document 1 was the full version of this and three pages of it had been omitted from the bundle in error. It was submitted that the document was relevant to allegation 1 and that its admission was fair in that it caused no prejudice to Mrs Brown as she had already been provided with it at an earlier stage of proceedings.

The panel was satisfied that Witness C was a witness who gives evidence which is of relevance to the allegations, in particular allegation 1. Further, the panel was satisfied that the evidence within document 1 was relevant to the issues in this case.

In terms of fairness, it is clear from Mrs Brown's response at page 822, where reference is made to passages contained within the missing sections of document 1, that she had previously had the full version. Further, it was confirmed by Mr Cullen that it had been disclosed at a previous stage of proceedings. On this basis the panel concluded that no prejudice arose from its admission and allowed the document to be admitted into evidence.

In regard to documents 2 and 3, it was submitted that these documents were relevant to allegations 3 and 4 respectively which asserted a failure to comply with the School's recruitment and/or financial policies and/or procedures. The panel accepted that these documents were of relevance in respect of what the School's financial and/or recruitment policies and/or procedures were at the material time.

In terms of fairness, Mr Cullen set out that these documents had been provided to Mrs Brown in early May and referred the panel to an email exchange on 16 and 17 May 2021 in which he had sought whether Mrs Brown consented to the admission of the documents into evidence. Mrs Brown's response was that:

*"I do not object to them being included if it is going to slow the matter down and create unnecessary complication. I would like it to be noted, however, that I am unable to understand how an allegation that specifically mentions my failing to comply with '...the School's recruitment policies and/or procedures...' can be pursued when those making*

*the allegations do not have the recruitment policies and/or procedure in their possession. The allegations was formed and pursued without access to the documentation. I don't understand how this can be fair or proper..."*

The panel noted and took into account Mrs Brown's comments as to how it is allegations making specific reference to policies and procedures can be pursued without reference to those documents. The panel considered carefully whether the admission of these documents caused Mrs Brown any undue prejudice and concluded that it did not. The panel took into account that Mrs Brown had been provided with the documents sufficiently in advance of the hearing to allow for her to respond to them and the fact that she did not oppose the admission of the documents.

The panel was also provided with the following emails:

1. An email dated 18 March 2021 from the TRA to Mrs Brown attaching the Notice of Proceedings;
2. An email dated 31 March 2021 from Mrs Brown to the TRA attaching her response to the Notice of Proceedings;
3. An email chain between Mrs Brown and Mr Cullen between 16 and 17 May 2021.
4. An email chain between Mrs Brown and Mr Cullen on 21 April 2021.

The panel agreed to admit these into evidence. 1, 2 and 3 were relevant to the application to proceed in the absence of Mrs Brown. 4 was relevant to the application to admit the recruitment and the pay policies and procedures. As these were emails with Mrs Brown this was material that was in her possession and so their admission caused, in the panel's view, no unfairness to Mrs Brown.

There was a further application for any parts of the evidence which related to the health of either Mrs Brown, any of the witnesses or other parties to be in private session. The panel considered that the starting point was that the principle of open justice applied and that the proceedings should be in public. However, the panel was satisfied that it was appropriate and in the interests of justice for any passages of evidence which relate to the health of the parties concerned should be in private session.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology, list of key people and anonymised pupil list – pages 2 to 6

Section 2: Notice of proceedings and response – pages 8 to 20

Section 3: Teaching Regulation Agency witness statements – pages 22 to 145

Section 4: Teaching Regulation Agency documents – pages 147 to 700

Section 5: Teacher documents – pages 703 to 837

In addition, the panel agreed to accept the following:

1. An email dated 18 March 2021 from the TRA to Mrs Brown attaching the Notice of Proceedings;
2. An email dated 31 March 2021 from Mrs Brown to the TRA attaching her response to the Notice of Proceedings;
3. A full copy of the notes from the internal disciplinary meeting interview of Witness C dated 5 March 2018.
4. A copy of North Lincolnshire Council's Recruitment and Selection Policy A.2a, A2 and C6.
5. A copy of North Lincolnshire Council's pay policy.
6. An email chain between Mrs Brown and Mr Cullen between 16 and 17 May 2021.
7. An email chain between Mrs Brown and Mr Cullen on 21 April 2021.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

## **Witnesses**

On 25 May 2021 Witness A was called to give evidence.

On 26 May 2021 the following witnesses were called to give evidence:

- i. Witness B
- ii. Witness C
- iii. Witness D

On 27 May 2021 Witness E was called to give evidence.



## Decision and reasons

### Background

The allegations arise from a period during which Mrs Brown was the headteacher of the School.

Allegation 1 concerned an incident which was said to have taken place on 8 January 2018 in which Mrs Brown restrained Pupil A. The TRA alleged that this restraint was an inappropriate use of physical contact.

Allegation 2 a concerned an incident which took place on 10 November 2017 where it was asserted that Mrs Brown took Pupil C out of the School's premises and took her to a park, McDonalds and shopping. Allegation 2 b related to the same incident and it was further alleged that during this period, Mrs Brown bought Pupil C a happy meal and something from Toys R Us. The TRA contended that the conduct alleged was a failure to maintain appropriate professional boundaries.

Allegation 3 a related to Mrs Brown authorising the purchase of sports clothing and a fleece for two staff members to be paid for by the School. It was asserted that these purchases were inappropriate and their authorisation was contrary the School's financial policies and/or procedures.

Allegation 3 b was in respect of Mrs Brown authorising overtime payments for two staff members between October and December 2017. It was alleged that the payments were inappropriate in that some or all of the overtime had not been worked and/or that the correct procedures for the approval of overtime had not been followed. It was also contended that in authorising the payments, there had been a failure to comply with the School's financial policies and/or procedures.

Allegations 4 a and b concerned the recruitment of staff members and it was alleged that there had been a failure to follow the School's recruitment policies and/or procedures.

In relation to allegation 4 a, this related to the recruitment of Individual C into a role [redacted] and then as [redacted]. In regard to allegation 4 b this concerned the recruitment of Individual D [redacted].

The panel carefully considered the case before it and reached a decision in relation to the matters alleged taking into account that the TRA bore the burden of proof and that the standard of proof was the balance of probabilities.

As set out above, Mrs Brown did not attend this hearing and so did not give evidence. The TRA did not seek any adverse inference arising from Mrs Brown not giving evidence and the panel considered that to draw any such inference would have been inappropriate in the circumstances of this case and drew no such inference.

The panel considered all of the evidence adduced in this matter including the evidence submitted by Mrs Brown.

The panel heard evidence from five witnesses who worked at the School. The panel was impressed with these witnesses and considered that each witness had done their best to assist the panel and had provided clear and credible evidence. The panel noted that the witnesses' accounts were consistent with the evidence in their written statements and were mutually reinforcing. Further, all witnesses were open and clear as to when their knowledge was direct or as a result of what they had been told by others.

The panel considered that there was no evidence that any of the witnesses had any agenda against Mrs Brown. Moreover, the panel was satisfied that none of their accounts had been the result of any untoward collusion or had been fabricated maliciously or otherwise. The panel noted in particular that Witness A was asked whether this was the case and her evidence was absolutely not and that there was no agenda in place.

[redacted] There was evidence from each of the witnesses to the effect that during the course of 2017 Mrs Brown became close to members of [redacted]. Both Witness D and Witness E gave evidence that Individual D acted as a mother figure to Mrs Brown. The account given by each of the witnesses was that other members of staff were concerned with how close Mrs Brown was with [redacted] and how much time she spent with them [redacted].

**1. On or around 8 January 2018, engaged in inappropriate physical contact with Pupil A, including by using your leg(s) during a hold and/or restraint of Pupil A.**

The first issue the panel considered was whether the allegation was particularised in a way that it related solely to Mrs Brown using her leg(s) to hold or restrain Pupil A or whether it encompassed the entirety of the physical contact involved in the incident.

The panel considered that it was open to it to consider the entirety of the physical contact involved in the incident. The reasoning behind this was that in the panel's view that was how, logically, the allegation read. Moreover, it was apparent from an examination of Mrs Brown's response to the allegation that she had understood this to be the case in that she had addressed the entire incident rather than just the issue of whether she used her leg or legs to restrain Pupil A.

In relation to the incident on 8 January 2018, the panel heard evidence from Witness C, who had directly witnessed the incident under consideration.

The panel considered that Witness C gave evidence in a calm measured manner. Further, the fact that she readily accepted that she did not know how Mrs Brown and Pupil A had ended up on the floor or exactly how long the incident had lasted lent

credibility to her account. The panel was impressed with Witness C's evidence and accepted her account in relation to this incident.

The panel accepted that Pupil A had behavioural issues [redacted]. His behaviour in class could be disruptive and included throwing objects at others and that he could present a risk of harm to himself and others.

The panel heard that there had been a previous occasion in which there had been a positive handling intervention with Pupil A on 19 December 2017. On this occasion, a two single elbow technique had been used to move Pupil A and he was removed from the classroom and then, after some resistance, allowed to run to an area of the School premises described as the wildlife area.

The panel found that on 8 January 2018, Pupil A was being disruptive and was throwing objects at others. Witness C's evidence was that she sought assistance from Mrs Brown and they escorted Pupil A from the classroom. Witness C stated that the next thing she knew was that Pupil A and Mrs Brown were on the floor with Pupil A between Mrs Brown's legs with Mrs Brown trying to hold Pupil A down with her arms around his body. Witness C stated that Pupil A was visibly distressed and was kicking and resisting. She recalled that Pupil A said that Mrs Brown was hurting him and that he wanted her to get off and Witness C said that she thought it would have been unpleasant for Pupil A.

In her investigatory interview with the School, Witness C described the period during which Mrs Brown was holding Pupil A on the floor as being around 30 minutes. In oral evidence she could not be sure exactly how long the hold lasted and stated that she thought the whole incident was longer than 30 minutes and that it seemed like forever. Witness C also said in oral evidence that she recalled that Pupil A was, at some point, being held down by Mrs Brown's leg or legs, she could not say which leg or whether it was just one or both legs. Witness C also gave evidence that Pupil A was hot, sweaty and flustered and that because of this she was asked by Mrs Brown to remove Pupil A's tie.

Witness C also gave evidence that she did not consider the restraint to be appropriate. In oral evidence she said that she had received Team Teach training and refresher training and said that she had never seen a hold like that. Further, Witness C stated that her understanding of an appropriate hold would be the least force for the shortest time required to get the child somewhere safe and that she did not consider that Pupil A was safe during the hold.

Witness C was asked what she would have done in Mrs Brown's position and she said that she would have opened the door and let Pupil A go outside as he was out of the classroom and was not a danger to himself or others. She said that it was an enclosed area and it would have been safe for Pupil A to do this. The panel noted that allowing Pupil A to run outdoors in the School's wildlife area in its grounds had been effective in

calming Pupil's A behaviour in the previous positive handling incident on 19 December 2017.

Although the panel did not hear from Individual E directly and so her evidence, which was contained in notes of the School's investigatory interview, was hearsay, the panel considered that it corroborated Witness C's account in that it set out that the handling seemed to last for ages, 15 or 20 minutes, and that she felt that Pupil A should have been let go. Further, the panel considered that Witness D's account that she heard Pupil A screaming and that it was horrendous to support Witness C's account that Pupil A was in distress.

The panel noted an account of the incident was jointly recorded by both Witness C and Mrs Brown on an incident report form. Whilst there was no common agreement between Mrs Brown and Witness C as to exactly when the report was compiled, it was evident that the report was written no later than the following day. That report recorded the incident as lasting for 35 minutes and the panel found this to corroborate the account of Witness C.

The panel accepted Witness C's account of events and concluded that Pupil A had been held down or restrained by Mrs Brown on the floor and in between her legs. The panel accepted that at some point Mrs Brown used her legs, in some fashion, to hold down Pupil A. The panel considered that it was difficult to determine exactly how long Pupil A was restrained for and whether it was actually as long as 30 minutes. However, the panel accepted the evidence of Witness C that it was for what felt like too long a time.

In respect of whether the physical contact was appropriate or not, the panel took into account the dynamism of physical handling incidents and that teachers cannot be expected to weigh to a nicety exactly what level of force and what type of restraint is required. The panel did not consider that there was adequate evidence from which to conclude that Mrs Brown's conduct was in breach of Team Teach techniques. Moreover, the panel did not consider that the use of the leg or legs to restrain Pupil A was, in or of itself, necessarily inappropriate. Notwithstanding this, the panel considered that the physical contact was inappropriate. The panel accepted that physical contact was necessary at the outset of the incident but found it impossible to envisage any circumstances in which it can have been reasonable for Pupil A to be held for as long as he was. Further, the panel was concerned by Witness C's account of how uncomfortable Pupil A was and that he was in distress. Therefore, the panel concluded that at some point during the incident, it is not possible to pinpoint exactly when, it was no longer necessary or proportionate to restrain Pupil A and he should have been released and allowed to go outside. At this point the physical contact became inappropriate.

The panel, therefore, found allegation 1 proved.

**2. failed to maintain appropriate professional boundaries on one or more occasions with Pupil C, including by:**

- a. removing Pupil C from School premises unsupervised for a period of approximately 3 hours;**
- b. purchasing Pupil C gifts and/or meals on one or more occasions.**

The panel heard evidence from Witness B that in November 2017 she had organised a school trip to the cinema for years 3 to 6, Key Stage 2. She recalled that upon returning to School and the children disembarking from the coach that Mrs Brown picked up Pupil C, [redacted], and took her off the school premises for the afternoon in her car.

Mrs Brown admitted that this was the case and explained in her account that Pupil C had witnessed a traumatic event and required pastoral care. Mrs Brown stated that she had a good relationship with both the child and the parent and so with parental permission took Pupil C off site for the afternoon. Mrs Brown stated that they went to McDonalds where she bought Pupil C a happy meal which came with a toy, went to the park and returned to School. Mrs Brown denied buying a toy at Toys R Us as suggested by the TRA.

Mrs Brown emailed the School's admin email address at 9.35 on the morning of 10 November 2017 requesting that Pupil C be marked as being educated off site that afternoon.

The panel accepted, based upon the evidence of Witness B and the admissions of Mrs Brown, that she had taken Pupil C off site that afternoon and that she had been to the park and McDonalds and that Pupil C had been bought a happy meal.

The panel did not find it proven that Mrs Brown had bought anything from Toys R Us for Pupil C and noted that the only evidence of this was multiple hearsay.

The panel went on to consider whether these actions amounted to a failure to maintain appropriate professional boundaries.

Part two of the Teachers' Standards set out that:

*"Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:*

*- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position"*

The panel considered it fundamental that a headteacher adhered to these requirements.

The panel heard evidence from Witness A and Witness B that this type of support was not extended to other children in the School and that if children required pastoral support this would be provided on site and via a teaching assistant trained in [redacted] counselling.

Further, the panel noted that the email dated 10 November 2017 asking for Pupil C to be marked as educated off site that afternoon was not accurate in its characterisation of what took place. Pupil C was not being educated off site, but she was taken for an afternoon out. Witness D gave evidence that this should have been coded differently.

The panel considered that it had been inappropriate for Mrs Brown to take Pupil C off site on this occasion. The type of support she described had not been extended to other pupils. Even taken in isolation, this may well have been a failure to maintain appropriate professional boundaries but in the context of Mrs Brown's overly close relationship with [redacted], this crossed the threshold of what was proper by some way.

The panel found both allegations 2 a and b proved.

**3. failed to comply with the School's financial policies and/or procedures, including by:**

- a. authorising and/or making inappropriate purchases using the School's funds on one or more occasions;**
- b. authorising and/or making inappropriate payments for overtime on one or more occasions.**

In relation to allegation 3 a, Mrs Brown admitted that she had authorised the purchase of sports clothing and a fleece for Individuals C and F using School money. [redacted]

Moreover, the panel had sight of the receipts for these purchases and the cheques payable to Individuals C and F respectively at pages 319, 321 and 322 of the bundle.

The panel accepted that Mrs Brown had authorised the purchase of clothing for Individuals C and F.

The panel went on to consider whether it was inappropriate to have authorised payment for the clothing.

The panel found that it was inappropriate as alleged and in reaching this conclusion had particular regard to the evidence it heard from Witness A, Witness D and Witness E that the practice and custom at the School was that sports clothing for staff to run clubs was not paid for by the School.

The panel noted that the account from which payment was made was not from the School fund. The relevance of this is that the policy within the bundle related to the School fund and so was not applicable in this instance.

The TRA did not point specifically to the policy or procedure with which Mrs Brown had failed to comply. However, the panel was nonetheless satisfied that authorising payment by the School for items which the School would not purchase for other staff members was inappropriate, was obvious favouritism and was a failure of good and proper

governance. The panel considered, therefore, that such conduct must have been contrary to the School's financial policies and/or procedures.

The panel found allegation 3 a proved.

In regard to allegation 3 b it was accepted by Mrs Brown that she had authorised overtime payments for Individuals C and F and asserted that all the overtime was properly incurred and was carried out flexibly both over the weekends and as an extension of the working day.

Further, the panel had sight of the overtime sheets for October, November and December 2017 at pages 311 to 313 of the bundle.

The panel heard and accepted evidence from Witness E and from Witness D that Mrs Brown had instructed them not to ask either Individual C or F for their overtime hours as they would get it wrong and that Mrs Brown would tell them the overtime worked.

The panel went on to consider whether the payments were inappropriate and in breach of the School's financial policies and procedures.

Witness D gave evidence that the usual process for [redacted] overtime was that they would either complete an overtime form or would inform her of the overtime completed. However, this did not happen with Individuals C and F because Mrs Brown had instructed them not to ask either Individual C or F for their overtime hours as they would get it wrong and that Mrs Brown would tell them the overtime worked. That this instruction had been given was supported by the evidence of Witness E and the emails at pages 418 and 419 of the bundle. The panel found it concerning that a headteacher would not ensure there to be full accountability on the part of any person claiming overtime to record the number of hours worked, when and reason for the overtime.

Both Witness A and Witness D stated in evidence that it was rare for there to be overtime [redacted] and indicated that there had been an investigation into whether Individuals C and F had been on the School premises during the relevant times. Witness A stated that the entry log had been examined and that it did not show an access to the School by Individuals C and F. Witness D stated that she did not see any evidence of work being required and carried out so as to justify the overtime figures. The panel also heard evidence from Witness E to the effect that given how many breaks were taken during the days [redacted] there were concerns that Individual C was not even working her contracted hours, let alone working overtime. The panel accepted that these concerns were justified.

Between October and December 2017 Individual C claimed 70 hours overtime and Individual F claimed 60 hours. The panel was satisfied that there was no need for the amount of overtime claimed to be carried out and that some of the hours claimed for were not undertaken in respect of both individuals.

Further, the panel was satisfied that no proper, auditable process for the claiming of overtime was followed and that it was inappropriate for Mrs Brown simply to authorise payments in the way she did. The panel was not taken specifically to the policy or procedure with which Mrs Brown was alleged to have failed to comply. However, it was satisfied that authorising payment for work not done and/or not following standard custom and practice was conduct that must have been contrary to the School's financial policies and/or procedures.

The panel found allegation 3 b proved.

**4. failed to comply with the School's recruitment policies and/or procedures, including in respect to the employment of:**

**a. Individual C, for the role of [redacted]**

**b. Individual D, for the role of [redacted].**

In relation to allegation 4 a there were two separate roles which Individual C was recruited for. [redacted]

Witness D and Witness E both gave evidence that Individual C had made it plain that she was unhappy in her current job and that one day [redacted] she went into Mrs Brown's office and came out shortly after having been offered a job as [redacted]. The panel accepted this evidence and inferred from this that the job was not advertised, candidates were not shortlisted and interviews of candidates did not take place.

Witness D also gave evidence that she had been involved in completing both Individual C and D's application forms and that this had been done retrospectively. The panel accepted this evidence as in relation to Individual C it was supported by the paper work in the bundle. On 16 July 2017 Mrs Brown emailed the governors seeking approval to employ a part time [redacted]. The application form of Individual C was dated 18 July [redacted]. The new starter form, which Witness D stated was issued once the job offer had been made, was dated 18 July [redacted].

The panel concluded that there could not possibly have been sufficient time for the role to have been advertised, for a shortlist to be identified or for an interview to take place in this period. The panel accepted that the application forms were completed retrospectively in respect of both Individuals C and D.

The panel went on to consider whether there had been a failure to comply with the School's recruitment policies and/or procedures and found that there had. In reaching this conclusion the panel relied upon the evidence of Witness A who gave evidence of the process for recruitment. She stated that the process involved seeking authority from the governors, advertising the role, shortlisting candidates, invitations to interview by a team of people including the prospective line manager and interviewing the candidates. The



panel was also provided with a copy of North Lincolnshire Council's Recruitment and Selection document which was consistent with Witness A's account.

The panel found that Mrs Brown had failed to comply with the School's recruitment policies and/or procedures and so allegations 4 a and b were proven.

#### **5. Your conduct as may be found proven at allegations 3 and/or 4 above lacked integrity.**

The panel considered that Mrs Brown's conduct as proven in allegations 3 a and b and 4 a and b lacked integrity.

As headteacher of the School, Mrs Brown was responsible for setting standards within the School, providing leadership and upholding the values of the teaching profession.

Mrs Brown inappropriately authorised purchases of items out of school monies to which staff were not entitled. She also approved overtime payments in circumstances where the proper claiming process had not been followed and not having satisfied herself that the hours had, in fact, been worked. In the panel's view this conduct lacked integrity in that Mrs Brown failed to meet the ethical standard required of a headteacher of a primary school.

Further, in circumventing the standard recruitment processes Mrs Brown's conduct clearly lacked integrity.

The panel also noted the context of Mrs Brown's relationship with [redacted] and that she had become overly close to them and considered that her proven conduct amounted to favouritism. This added to the degree to which her conduct lacked integrity.

The panel, therefore, found allegation 5 proven.

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

Having found the allegations proved, the panel went on to consider whether the facts of those proved 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 Brown, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mrs Brown was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

In relation to allegation 1, the panel considered that in restraining Pupil A in the way that she did and for the length of time of the application of the restraint, she used unnecessary force and caused distress to Pupil A. This conduct was a serious breach of what was appropriate in the circumstances.

In relation to allegation 2, the panel considered Mrs Brown's proven conduct to be a serious transgression of appropriate professional boundaries between a teacher and a student.

Moreover, in regard to allegations 3, 4 and 5 Mrs Brown's actions in authorising inappropriate payments and circumventing the proper recruitment process were grave errors of judgment and a significant departure from what was proper in the circumstances. The fact that the panel found that the conduct lacked integrity was an aggravating feature.

The panel also noted the context of Mrs Brown's relationship with [redacted] and that she had become overly close to them and considered that her proven conduct amounted to favouritism. This was an aggravating feature.

The panel considered that the proven conduct amounted to unacceptable professional conduct on the part of Mrs Brown.

The panel took 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 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. This is especially the case with headteachers.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher and on the reputation of the profession as a whole.

The panel found that Mrs Brown's actions constituted 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/or 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 a punitive effect.

The panel had regard to the public interest and in this case the panel considered that all the following public interest factors set out in the Advice were engaged, namely:

- i. the protection of pupils/the protection of other members of the public;
- ii. the maintenance of public confidence in the profession;
- iii. declaring and upholding proper standards of conduct;

The panel's findings against Mrs Brown were that:

- i. She had engaged in inappropriate physical contact with Pupil A during an incident on 8 January 2018;
- ii. She had failed to maintain appropriate professional boundaries with Pupil C on 10 November 2017 when she took Pupil C out of school to the park and McDonalds for the afternoon;
- iii. She had failed to comply with the School's financial policies and/or procedures in that:
  - a. She had authorised the payment out of the School's monies for clothing for staff when it was not appropriate for the cost of these items to be met by the School;
  - b. She had authorised overtime payments for staff members without following the usual and proper procedures and without satisfying herself that the overtime had been worked.

- iv. She had failed to comply with the School's recruitment policies and/or procedures in that she had circumvented the normal recruitment process in relation to the recruitment of two members [redacted].

Further, the panel found that Mrs Brown's conduct lacked integrity and it was aggravated by her overly close relationship with [redacted].

Mrs Brown's conduct in inappropriately restraining Pupil A engaged the public interest concern in relation to the protection of pupils from harm.

All of the proven conduct engaged the public interest concerns of maintaining public confidence in the profession and declaring and upholding proper standards of conduct.

The panel also considered the public interest of retaining Mrs Brown in the teaching profession.

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

Moreover, the panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mrs Brown 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 Mrs Brown.

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 Mrs Brown.

The panel took account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. 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 and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors.

The panel considered that Mrs Brown's actions were deliberate and that she was not acting under duress. However, the panel accepted that Mrs Brown had, hitherto, a previously good history.

The panel also took into account Mrs Brown's good record and the positive testimonials provided on her account. These testimonials were provided by, variously, governors of the School and Mrs Brown's previous school, former colleagues and parents of pupils who had attended schools where Mrs Brown had worked. These testimonials all spoke positively as to Mrs Brown's abilities as a teacher and headteacher. However, Mrs Brown stated in her representations that she had not told the parents upon whose testimonials she relied of the purpose of the statement. The panel accepted that the testimonials supported the conclusion that Mrs Brown had previously been a good headteacher. However, as it was unclear as to whether the character referees were aware of the TRA proceedings and the allegations made, there was a limit to the weight which could be placed upon the testimonials.

The panel also took into account the evidence it had heard, that of how prior to the period to which this case concerns Mrs Brown had a positive relationship with staff and was a hard-working headteacher with ambitions to achieve an outstanding Ofsted rating.

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 was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mrs Brown of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs Brown. The panel considered that the conduct found proven against Mrs Brown was serious in that it included an incident of inappropriate physical contact with a pupil, a failure to adhere to appropriate professional boundaries, authorising inappropriate payments and circumventing the proper recruitment processes. At the material time Mrs Brown was a headteacher in a position of responsibility and trust.

Moreover, although Mrs Brown previously had a good record as a teacher and a headteacher, the gravity of the conduct found proven meant that, in the panel's view, a prohibition order was required.

The panel considered that Mrs Brown had only very limited insight and understanding into her conduct and the reasons why she behaved as she did. For example, there appears to be no acknowledgement that her behaviour was not acceptable. In these circumstances, the panel considered that it was unable to conclude with any confidence that Mrs Brown would not behave in a similar way in the future.

The panel considered that in this case the need to protect pupils from harm, to maintain confidence in teaching and to declare proper standards outweighed the public interest in retaining Mrs Brown as a teacher.

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, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The panel did not consider that any of the factors set out at page 15 of the Advice applied in this case. Additionally, whilst very serious Mrs Brown's conduct was such that it was not of the most serious type to come before the TRA's disciplinary panels and that it was conduct that was capable of being remedied. The panel considered it appropriate that Mrs Brown be afforded an opportunity to reflect on her actions and to develop insight into why she behaved as she did.

The panel decided that 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 provisions for a review period of 4 years. Mrs Brown's lack of insight was a determinative factor in the panel's consideration of the length of the review period.

## **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 Sarah Brown should be the subject of a prohibition order, with a review period of four years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions

Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

The findings of misconduct are particularly serious as they include a finding of lack of integrity on the part of a headteacher, and also as the panel say, "in restraining Pupil A in the way that she did and for the length of time of the application of the restraint, she used unnecessary force and caused distress to Pupil A. This conduct was a serious breach of what was appropriate in the circumstances."

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 Brown, 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, "in restraining Pupil A in the way that she did and for the length of time of the application of the restraint, she used unnecessary force and caused distress to Pupil A. This conduct was a serious breach of what was appropriate in the circumstances."

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, "considered that Mrs Brown had only very limited insight and understanding into her conduct and the reasons why she behaved as she did. For example, there appears to be no acknowledgement that her behaviour was not

acceptable. In these circumstances, the panel considered that it was unable to conclude with any confidence that Mrs Brown would not behave in a similar way in the future.”

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 future well being of pupils. 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, “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. This is especially the case with head teachers.”

I am particularly mindful of the finding of 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 Brown herself. The panel comment that it, “took into account the evidence it had heard, that of how prior to the period to which this case concerns Mrs Brown had a positive relationship with staff and was a hard-working headteacher with ambitions to achieve an outstanding Ofsted rating.”

A prohibition order would prevent Mrs Brown 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.

I have also placed considerable weight on the finding of the panel that “in this case the need to protect pupils from harm, to maintain confidence in teaching and to declare proper standards outweighed the public interest in retaining Mrs Brown as a teacher.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Brown 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 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 4 year review period.

I have considered the panel's comments "The panel considered it appropriate that Mrs Brown be afforded an opportunity to reflect on her actions and to develop insight into why she behaved as she did."

The panel also say that it, "decided that 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 provisions for a review period of 4 years. Mrs Brown's lack of insight was a determinative factor in the panel's consideration of the length of the review period."

I have considered whether a 4 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, the factors which mean that a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession, are the seriousness of the allegations. These elements are "grave errors of judgement", the lack of integrity and the lack of full insight.

I consider therefore that a 4 year review period is required to satisfy the maintenance of public confidence in the profession.

**This means that Mrs Sarah Brown 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 9 June 2025, 4 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 Sarah Brown remains prohibited from teaching indefinitely.

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

Mrs Sarah Brown 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.

A handwritten signature in blue ink, appearing to be 'AL C M' followed by a flourish.

**Decision maker: Alan Meyrick**

**Date: 2 June 2021**

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